

*Approved with  
corrections  
8.28.2015*

**TOWN OF FENWICK ISLAND, DELAWARE**

Minutes of the July 24, 2015 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, Roy Williams, Richard Mais*

*Staff in Attendance: Town Clerk Poole, Building Official Schuchman, Public Works Supervisor Reed, Police Chief Boyden, Town Manager Burke, Beach Patrol Captain Ferry*

**PRESIDENT'S REPORT**

- **Mayor Serio** presented two items:
  1. Mayor Serio read a letter sent to Captain Tim Ferry. Tim was congratulated on the lifeguards for their extraordinary performance on Sunday June 28. The surf and rip currents made for a stressful ocean situation. Lifeguards Josh, Maria and Craig provided strong leadership while maintaining a safe beach environment. Captain Ferry responded by saying that every team member really stepped up, worked extra hard and did a good job. It was beautiful to see. I know that many team members voluntarily shortened their breaks, lunches and controlled the beach very well.
  2. Mayor Serio announced the passing of two Town of Fenwick residents: Arthur Borden, 17 W. Dagsboro Street and Peter Chaconus, 5 W. Cannon Street.

**TOPICS FOR DISCUSSION AND POSSIBLE ACTION**

- **Mayor Serio Recognition** – Vice-Mayor Langan – Presentation to honor Mayor Serio – 2003-2015 public service recognition.

**TOWN OF FENWICK ISLAND, DELAWARE  
PROCLAMATION**

**HONORING MAYOR AUDREY SERIO, FOR 12 YEARS OF DISTINGUISHED SERVICE TO THE  
TOWN OF FENWICK ISLAND, DELAWARE**

**WHEREAS, AUDREY SERIO** has served the Town of Fenwick Island with distinguished and outstanding service from **August 12, 2003** to **July 31, 2015**; and

**WHEREAS**, her length of service to the Town of Fenwick Island includes many worthwhile and lasting accomplishments and her outstanding service to the Town of Fenwick Island reflects well upon herself and the Town that she led for so many years; and

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**NOW, THEREFORE, BE IT RESOLVED** that former Mayor Audrey Serio, is hereby honored for her outstanding and dedicated service to the citizens of the Town of Fenwick Island, Delaware; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution become a permanent record of the Town and be prominently displayed at the Town Hall.

Passed this 24th day of July, 2015.

*COUNCIL PRESIDENT: Audrey Serio*

*VICE MAYOR, Gene Langan, SECRETARY, Diane Tingle, TREASURER: Gardner Bunting, MEMBER, Bill Weistling, MEMBER, Richard Mais, MEMBER, Roy Williams*

*ATTEST, Merritt Burke IV, Town Manager*

Town Manager Burke listed several major accomplishments of Mayor Serio's time in office:

- Cannon Street Park was completed with an ADA kayak launch, basketball court and rain garden.
- Fenwick Island Community Park was renovated.
- Mobi-mats were purchased by grant funding for every dune crossing.
- The Town has replaced equipment with quality brands to provide exemplary service to the Town.
- A committed and dedicated staff averaging seven years of service throughout each department.
- Rain gardens constructed along Coastal Highway to mitigate water runoff and pollution.
- A new sidewalk was constructed in front of Town Hall that continues to W. Cannon Street Park.
- A new Public Safety Building was constructed and opened in May, 2012.
- New landscaping around Town Hall.
- A new screen and projector for the Town Hall.
- Town Hall renovations completed

**FY 2016 Fee Schedule** – Town Manager Burke – Fee Schedule amendments:

- Increased license fees \$10
- Increased late payment of business fees \$25
- Increased special event deposit to \$250
- Beach bonfire permit raised to \$75
- Extra Resident (BLUE) Hang Tag raised to \$75
- Resident Merchant Employee Permit (ORANGE) raised to \$75
- Replacement of lost Permit (BLUE) \$75
- Revised the Special Event Police Coverage Fees (see fee schedule)
- Under Copy Fees, added PDF available for
  - Town Merchant Address List
  - Property Owner Address List
- Removed Property Owner Address Labels for \$150

Listing the official Fee Schedule to record:

**NOTICE**

On July 24, 2015, the Fenwick Island Town Council  
Passed the Following Resolution #66-2015 Fee Schedule

**L - ANNUAL BUSINESS LICENSE FEES**

- (1) Retail Merchant (100-3-A)
  - (a) \$185 + .10 per square foot of Floor Space.
  
- (2) Building or Service Contractor (100-3-B)
  - (a) \$75 if Revenue made in Town is less than \$1500 yearly.
  - (b) \$185 if Revenues made in Town are more than \$1500 yearly.
  - (c) \$5 for additional license decal.
  
- (3) Rental Landlord (100-3-C)
  - (a) \$185 for Residential and Commercial rentals.
  - (b) \$185 + \$7.20 per sleeping unit for motels/hotels.
  
- (4) Vending Machines (100-3-D)
  - (a) \$25 for newspaper & postage.
  - (b) \$50 for dispensing machines; such as drink, food, candy, ice etc.
  - (c) \$50 children's amusement.
  - (d) \$75 music.
  - (e) \$250 amusement & games.

**B – BUILDING PERMIT FEES**

- (1) 3% of estimated construction cost - \$100 minimum. (61-8)
- (2) \$350 - Permit for approved building move - (61-12-B)
- (3) Renewable Energy building permit fee – 2% ECC or \$100 whichever is less (160-7)

**S – SIGN PERMITS FEES (136-6-c)**

- (1) \$200 Multiple use identification sign - (135-6-c)
- (2) Single use identification sign \$2 per lineal foot up to maximum of \$100 - (135-6-c)
- (3) \$20 All other sign permits - (135-6-c)

**P – PARKING PERMIT FEES (112-11-P)**

- (1) \$10 Daily
- (2) \$60 Weekly
- (3) \$150 Monthly
- (4) \$300 Summer
- (5) \$75 Extra Resident Hang Tag (BLUE)
- (6) \$75 Resident Merchant Employee Permit (ORANGE)
- (7) \$75 Replacement of lost permit

**C - COPY FEES**

- (1) \$0.50 Xerox or computer printout copy
- (2) \$25 Audio cassette/CD/DVD
- (3) \$500 Town Code Book
- (4) \$50 Town Merchant Address List
- (5) \$100 Property Owner Address List

**F – FINANCIAL FEES**

- (1) \$100 Charge for checks returned for insufficient funds
- (2) \$100 Late payment of License Fee
- (3) \$200 Collection letter from Town Legal Counsel

**H – HEARING FEES**

- (1) \$750 Board of Adjustment & Zoning - (160-10-B)
- (2) \$275 Council Hearing/ House Move - (61-12-A)
- (3) \$275 Council Hearing/ Sub-Division - (142-2-A)
- (4) \$275 Council Hearing/ Code Variance - (160-10-B)

**O – OTHER FEES**

- (1) Beach Bonfire Permit - \$75 fee & \$100 deposit (73-2-B)
- (2) Villalon Hall Rental - \$40 fee + \$40 deposit
- (3) Special Events - \$150 fee + \$250
  - Events less than 75 persons 2 hour min., \$100 per hour
  - Events exceeding 75 persons 4 hours min., \$100 per hour

**R – REAL ESTATE TAX**

- \$1.92 per 100

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

\_\_\_\_\_  
*Audrey Serio, 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 Resolution passed by the President and Council its regular meeting on June 27, 2014, at which a quorum was present and voting throughout and the same is still in force and effect.*

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

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

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**Motion** – Motion made to accept the Fee Schedule – Council Member Bunting

**Second** – Council Member Langan

**Discussion** – Council Member Weistling stated that during the Town Budget Committee meeting it was discussed to increase the Resident Blue Hang Tag from \$50 to \$75 (passed). As of June 1<sup>st</sup>, 80 additional Blue Tags were sold. Town Council Member Weistling stated he was in favor of raising the fee to \$100 and reduce the amount available to residents from two to one per year.

**Vote** – (7-0)

- **FY 2016 Financial Plan** – Town Manager Burke

**SERVICE GOALS**

- Provide exemplary customer service to residents, visitors and businesses
- Provide year-round 24-hour police protection and highway safety
- Continue to update the town website and inform the community of town business through social media
- Collect solid waste, recycling, yard waste and bulk trash throughout the year to maintain a clean living environment
- Maintain Community Rating System (CRS) flood insurance discounts
- Provide maintenance and perform improvements to the Town's streets, drainage systems and right-of-ways, building and grounds
- Continue to fund and maintain public parks
- Engage with Municipal, County and State governments to protect and/or improve the quality of life in the Town of Fenwick Island
- Deliver high quality beach patrol services during the summer season

**FINANCIAL GOALS**

- Maintain real estate property tax rates at current levels
- Pursue opportunities for government grants
- Continue to identify and implement cost effective ways to provide municipal services
- Continue to save Realty Transfer Taxes (RTT) and surplus funds for capital improvement plan projects (street resurfacing, vehicle and equipment replacement, drainage projects)
- Use a portion of the income from Realty Transfer Tax to offset general funds deficits (if need in a specific fiscal year)
- Maintain long-term reserves
- Manage cash to maximize interest income
- Continue to seek reductions in workers' compensation insurance premiums
- Provide competitive salaries and benefits to maintain professional and competent personnel
- Coordinate and schedule informative workplace safety workshops to reduce workplace safety injuries
- Support professional development opportunities that enhance personnel competency with financial and property tax software programs

**FY 2016 Financial Plan Summary**

- Balanced Operating Budget

- Strategic Capital Improvement Plan (CIP) funding
- No increase in real estate property taxes
- Manage reserve accounts efficiently seeking high yields
- Continue to allocate 10% of Realty Transfer Tax (RTT) into Dedicated Street Fund
- Allocate 5% of RTT to Parks Fund
- Funding provided for 24/7 public safety coverage
- Nominal increase in health care insurance rates
- Add yard waste service collection during season (July and August)

**FY 2016 Operating Budget**

- The Town of Fenwick Island Operating Budget is the Financial Plan that guides the community over a fiscal year. The FY16 Operating Budget was drafted with input from management, staff and department supervisors to be considered by the Town Budget Committee. The Operating Budget addresses future municipal needs while responsibly meeting the daily demands and challenges of a coastal community.
- The proposed FY16 Operating Budget takes into consideration an improving local economy, yet is sensitive to nominal increases in health insurance rates, maintenance costs and personnel expenses.

● **FY 2016 Revenue Summary**

Increases

- Real Estate Property Taxes
- Rental Receipt Taxes
- Building Permit Fees
- Realty Transfer Taxes (pay for annual capital improvement plan budget projects)
- 2015 Beach Concession Service (State Line Beach)

Decreases

- Lifeguard Sponsorship Program

● **FY 2016 Expense Summary**

Departments	FY2015 (approved)	FY 2016 (proposed)
▪ Police	\$561,803	\$602,731
▪ Lifeguard	\$252,123	\$247,024
▪ Public Works	\$210,605	\$203,076
▪ Administration	\$324,891	\$322,496
▪ General Gov.	\$359,341	\$425,005

● **Primary Expense Categories**

- Insurance
- Operations
- Moved workers' compensation from department budgets to general government

● **Capital Improvement Plan (CIP) Budget Details**

- Public Works Department
  - Resurfacing and paving projects

- Drainage projects
- Stone projects
- Facilities maintenance
- Police Department
  - New motor vehicle (vehicle replacement program)
  - AED replacement
- Administration
  - Technology projects
  - Professional development
- **FY 2016 Financial Plan Summary**
  - No property tax increases proposed
  - Continued 24/7 public safety
  - Offer competitive personnel benefits
  - Provide professional growth opportunities
  - Provide high level of customer service
  - Effective resource allocation
  - Strategic reinvestment of capital improvement funds
  - Continue to search for alternative income sources
  - Town of Fenwick Island, Delaware – Fiscal Year 2016 Operating Budget (Available on the website - Document Center/View/2759)

**Motion** – Motion made to approve the FY 2016 Financial Plan as presented by Town Manager Burke – Council Member Langan

**Second** – Council Member Mais

**Discussion** – Mayor Serio and Town Council thanked Town Manager Burke for all his work in streamlining the budget process and presenting it in electronic format.

Richard Kline – 1305 Bunting Ave. – Mr. Kline asked if Town Manager Burke could explain why the Realty Transfer Tax (RTT) is not listed as income within the operating budget. Town Manager Burke stated that Council made the decision to not use RTT funds in the operating budget. Mayor Serio stated that it has been the practice since she has been on Town Council to use RTT funds as a savings account for use with capital improvement plan budget expenses.

Mike Quinn – 5 W. Houston – Under charges for service and administration the Town collects \$204,815 for solid waste collection and administration fees. He then stated on the last page it shows that the Town only pays \$99,000 for solid waste collection. Can Town Manager Burke explain the difference? Town Manager Burke stated that for a long time in Fenwick Island there has been an administrative mark-up on that fee to fund operations which includes funding admin., and managing several different contractors (solid waste (72 collections), recycling (37 collections), yard waste (10 collections) and bulk trash ( 3-day collections in May and September).

**Vote** – (7-0)

- **2015 DNREC Surface Water Matching Planning Grant** – Town Manager Burke – Mr. Burke asked for Council approval to apply for a 2015 DNREC Surface Water Matching Planning Grant. The deadline is August 26th. The grant would pay for engineering for the following proposed drainage projects: W. James Street adjacent to the Pottery Place, W. Indian Street adjacent to Just

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Hooked, and W. Farmington Street adjacent to the Claddagh on the Shore. The proposed project locations have experienced standing water for multiple years and were added to the priority list.

Council Member Weistling asked how much is the grant? Town Manager Burke said the grant is up to \$50,000.

**Motion** – Motion made to allow Town Manager Burke to apply for the 2015 DNREC Surface Water Matching Planning Grant to improve drainage in the above listed areas, as listed, not to exceed \$50,000 – Council Member Weistling  
**Second** – Council Member Langan  
**Discussion** – none  
**Vote** – (7-0)

### **APPROVAL OF MINUTES**

**Motion** – Motion made to approve the Minutes of June 26, 2015 - Council Member Weistling  
**Second** – Council Member Langan  
**Discussion** – none  
**Vote** – (7-0)

### **TREASURER'S REPORT**

Council Member Bunting reported: The monthly report is a summary of all account balances through **May 31, 2015** and other pertinent financial information since the prior month's Town Council meeting.

#### **Reserve Balance**

- \$2,417,623.74

#### **FY 2015 Operating Budget**

- 103.01% of Budgeted Income
- 95.09% of Budgeted Expenses

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

- \$382,995

#### **Outstanding Taxes and Late Fees (FY14 and FY15)**

- \$ 3,145.20

#### **Revenue Highlights**

- \$16.9k over real estate property tax budget
- \$12.6k over rental receipt tax budget
- \$6k over parking violations

#### **Municipal Street Aid Report**

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- No report/No expenditures

#### **Dedicated Street Fund**

- No report/No expenditures

#### **Parks & Recreation**

- Two new park benches were purchased for \$1,590 within the Fenwick Island Community Park

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

**Second** – Council Member Langan

**Discussion** – none

**Report accepted**

#### **TOWN MANAGER’S REPORT**

##### **Projects**

- **2015 Municipal Election**
  - Town management is preparing for the 2015 municipal election on August 1, 2015 from 1:00 pm to 5:00 pm at Town Hall.
  - Absentee ballots are available at Town Hall during regular hours.
- **FY 2016 Financial Plan (drafted and presented to Council at the meeting)**
- **General Rack Card (completed)**
- **Town Hall Telephone System (system installed)**
- **2015 Request for Proposals (RFPs) and Bids**
  - The 2015 Solid Waste and Recycling Collection Bid was awarded to Waste Industries of DE LLC. Collection service will commence September 1, 2015.
- **Town of Fenwick Island Newsletter (designed completed, next newsletter will be mailed no later than September 15)**
- **F.I. Community Park**
  - Improvements competed (landscaping, irrigation, fencing, garden, gazebo and mulch)

##### **Grant Applications (approved and pending)**

- **2014 DNREC Surface Water matching Planning Grant (\$22,000, 50% Town of Fenwick match)**
  - AECOM will publish bid document over the summer for a tentative October construction date.
- **2015 DNREC Surface Water Matching Planning Grant (\$13,000, 50% Town of Fenwick Island match)**
  - Town management will seek bids for an October construction date.

##### **Grant Applications (pending)**

- 2015 DNREC Recycling Grant was approved by DNREC. Town management is waiting for the project contract for execution.

##### **Grant Application (pending)**

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- Town management applied for a 2015 DNREC Parks Grant to construct a second playground at the F.I. Community Park.

#### **Parking Permit Update**

- May 109 permits sold for \$8,710
- June 53 permits sold for \$2,520
- July 109 permits sold for \$3,230

#### **Meetings and Workshops (representing the Town of Fenwick Island)**

- No meetings attended

#### **DEPARTMENT REPORTS**

- **Building Official** – The May Building Report was included in the Council meeting packet. At the end of June the Town had received 18 outside contractor license renewals. Building Official Schuchman noted that in July 33 new assessment letters were sent out to property owners for building permits issued April 2014 – May 2015. Tax bills will be mailed on or about August 1<sup>st</sup>. Also, the Town is involved with FEMA to elevate 3 houses that were severely damaged in Sandy. One resident has decided to pullout but 2 are going forward. Houses will be elevated 18” above the minimum requirement.
- **Public Works** – The monthly report was included in the Council meeting packet. Public Works Supervisor Reed noted the new emergency radio for the Beach Patrol will be here soon. Mr. Reed is waiting on the State for a radio ID and training.
- **Beach Patrol** – The monthly report was included in the Council meeting packet.
- **Police Department** – The monthly report was included in the Council meeting packet. The annual Bike Safety Checkpoint was very successful. The Checkpoint was sponsored by the Delaware Bike Alliance and the Delaware Department of Transportation.

#### **TOWN COMMITTEE REPORTS**

**Charter and Ordinance** – Council Member Weistling proposed a motion for Council to approve the following changes to Chapter 61 – Building and Utility Construction: First Reading read into the record.

*Proposed First Reading – June 26, 2015  
Proposed Second Reading – July 24, 2015*

**Chapter 61 – Building and Utility Construction:**

**Chapter 61-10D.**

**Insert:**

3. *In order to maintain effective surface water drainage systems in the Commercial Zone, pervious hard paving such as permeable concrete or asphalt shall be permitted along the Town’s rights-of-way adjacent to commercial properties with the approval of the Department of Public Works and paid by the*

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*commercial property owner. This paving or pervious paving will be allowed to continue until such time that the Department of Public Works determines that the paving or pervious paving needs to be removed or altered for the purpose of repairs or modifications to the road, drainage system or public utilities. At such time, the paving or pervious paving may be removed or altered by the Department of Public Works and, if necessary, the area restored with gray-colored crushed stone at the Town's expense. Use of any type of pervious hard paving such as permeable concrete or asphalt for restoration shall be permitted with the approval of the Department of Public Works and paid by the commercial property owner.*

*Re-number remaining section.*

**Motion** – Motion made to accept the proposed second reading Chapter 61 – Building and Utility Construction: Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – none

**Vote: Council Member Polled 2<sup>nd</sup> Reading** – 7 Ayes – Second Reading Passed

**Charter & Ordinance** – Council Member Weistling proposed a motion for Council to approve the following changes to Chapter 160 – Zoning: First Reading read into the record.

*Proposed First Reading – June 26, 2015  
Proposed Second Reading – July 24, 2015*

*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.”*

**Motion** – Motion made to accept the proposed first reading Chapter 160–2B – Definitions and word use: Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – none

**Vote: Council Member Polled 2<sup>nd</sup> Reading** – 7 Ayes – Second Reading Passed

*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').

**Motion** – Motion made to accept the proposed first reading Chapter 160–5C (1) - Council Member Weistling

**Second** – Council Member tingle

**Discussion** – none

**Vote: Council Member Polled 2<sup>nd</sup> Reading** – 7 Ayes – Second Reading

Chapter 160-5C:

*Existing:*

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

*Proposed:*

3. **Rear yard setback requirements:**
  - a) *The rear yard building limit line shall be set back from the rear lot line not less than ten feet (10'). 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 160-5C:

*Existing:*

4. *The area between the front lot line and the front building limit line may be used for driveways only.* The side yard and rear yard areas may be used for driveways and parking areas, provided, further, that only limited-access entrances and exits to such driveways and parking areas are permitted from the bordering streets. The limited-access entrances and exits shall be controlled by drop curbs *or, where no curbs exist, by a fence, wall or other such structure or planting* between such entrances and exits, and the parking areas shall comply with the parking regulations of this chapter. *No part of any required building setback area in the front, rear, or side of any lot in the Commercial Zone may be covered or paved with impervious or semi-impervious materials such as concrete, asphalt, brick, flagstone, etc. Such coverings or paving existing at the time of enactment of this subsection may continue to be used and repaired as a nonconforming use, but may not be expanded in any horizontal dimension nor rebuilt or replaced with such materials.*

*Proposed:*

4. The area between the front lot line and the front building limit line may be used for driveways *and/or parking spaces provided it complies with § 160-10B(2), (size of parking spaces in the Commercial Zone).* The side yard and rear yard areas may *also* be used for driveways and parking areas, provided, further, that only limited-access entrances and exits to such driveways and parking areas are permitted from the bordering streets. The limited-access entrances and exits shall be controlled by drop between such entrances and exits, and the parking areas shall comply with the parking regulations of this chapter.

*Re-number and Insert:*

5. *No part of any required building setback area in the front, rear, or side of any lot in the Commercial Zone may be covered or paved with impervious or semi-impervious materials such as concrete, asphalt, brick, flagstone, etc. Such coverings or paving existing at the time of enactment of this subsection may continue to be used and repaired as a nonconforming use, but may not be expanded in any horizontal dimension nor rebuilt or replaced with such materials.*

*Re-number remaining section.*

**Motion** – Motion made to accept the proposed first reading Chapter 160 – 5C - Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – none

**Vote: Council Members Polled 2<sup>nd</sup> Reading** – 7 ayes – Second Reading Passed

**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).*

**Motion** – Motion made to accept the proposed first reading Chapter 160–5F-Sidewalks - Council Member Weistling

**Second** – Council Member Langan

**Discussion** – none

**Vote: Council Members Polled 2<sup>nd</sup> Reading** – 7 ayes – Second Reading Passed

**Chapter 160-8A**

*Existing:*

(5) Open deck, not enclosed with any material of any kind, and open stairways, not enclosed with any material of any kind, may be permitted to encroach on the front building limit line not to exceed nine feet. Any open deck or open stairway which is constructed within the above-mentioned permitted nine-foot encroachment area, which is over the top of or in any way covers another deck or stairway shall not be constructed so as to provide a weatherproof or waterproof covering which would provide for a roof over the open deck or stairway below it. All decks must meet the minimum criteria for a deck as to ingress and egress and be structurally sound to support the use as a deck. The above-mentioned nine-foot encroachment shall not apply to any building which has a front building limit line of less than 25 feet.

*Proposed:*

(5) Open deck, not enclosed with any material of any kind, and open stairways, not enclosed with any material of any kind, may be permitted to encroach on the front building limit line not to exceed nine feet in the Residential Zone only. Any open deck or open stairway which is constructed within the above-mentioned permitted nine-foot encroachment area, which is over the top of or in any way covers another deck or stairway shall not be constructed so as to provide a weatherproof or waterproof covering which would provide for a roof over the open deck or stairway below it. All decks must meet the minimum criteria for a deck as to ingress and egress and be structurally sound to support the use as a deck. The above-mentioned nine-foot encroachment shall not apply to any building which has a front building limit line of less than 25 feet.

**Motion** – Motion made to accept the proposed first reading Chapter 160-8A (5) - Council Member Weistling

**Second** – Council Member Langan

**Discussion** – none

**Vote: Council Members Polled 2<sup>nd</sup> Reading** – 7 Ayes – Second Reading Passed

**Existing:**

(9)(b) 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.

**Motion** – Motion made to accept the proposed first reading Chapter 160–8A-(9) (b) – Fences - Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – none

**Vote: Council Members Polled 2<sup>nd</sup> Reading** – 7 Ayes – Second Reading Passed

[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

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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.

**Motion** – Motion made to accept the changes Chapter 160-8A-9(b) (2) a1 - Sidewalks - Council Member Weistling

**Second** – Council Member Langan

**Discussion** – none

**Vote: Council Members Polled 2<sup>nd</sup> Reading** – 7 Ayes – Second Reading Passed

- **Beach Committee** – The annual Town Bonfire was very successful. Over \$6,000 was raised from the 50/50 raffle and donations.
- **Environmental Committee** – The next meeting of the Environmental Committee will be August 6<sup>th</sup> at 2:30 p.m.
- **Technology Committee** – Council Member Langan said the next meeting of the Technology Committee will be in September. The Committee will look at a demo to duplicate our agendas and minutes as an alternative to the website.
- **Business Development Committee** – No scheduled meeting from now until the third Thursday in September at 10:30 a.m.
- **Ad hoc Parks Committee** – New landscaping and improvements to the F. I. Community Park has been completed. The Committee is looking into constructing a new playground for older children in the grassy, open area with a DNREC Park Grant.
- **Planning Commission** – none
- **Old Business** – Council Member Tingle pointed out that the residents were advised of the new voting laws in 2008, per the Town Newsletter. In February 2008 Council Meeting, Council Member

Weistling presented a first reading on election changes to the town Charter, and also an amendment to Chapter 13 Town Code. Council Member Carmean seconded. Council Member Weistling noted that these changes have been initiated in order to comply with the new State of Delaware municipal election law. After August 4, 2008, a new voter registration process will become effective. All eligible voters for the Town's general election were required to participate in the new process starting at this time for elections in 2009 (as printed in the FI Newsletter dated spring 2008).

- **New Business** – none

### **PUBLIC PARTICIPATION**

- Pete Frederick – 1605 Bunting Ave. – Mr. Frederick had an issue with the upcoming election. The new election laws have removed 60% of town's residents from voting if their property has been put into a trust. He feels this has not been implemented correctly.
- Mary Schrider-Fox – Town Solicitor - I was not working with the Town in 2008 / 2009 time frame when the charter and ordinance changes were made. However, I can say pursuant to my review of the historical information, there doesn't seem to be anything irregular about the process when that charter change was made. That is the time period when the Delaware State Election Laws were changing election laws pertaining to municipalities. The idea was to make the Town Code and Town Charter match up better with what State Law required. With respect to voter's qualifications, State law, when it comes to municipal elections, refers to the charter. It's not just up to this governing body to approve a charter change. It's an act of the General Assembly in the State of Delaware. Trusts are listed among the various artificial entities that require a Power of Attorney (POA). It is required for voting per the charter. Everything as far as I can see has been followed by the code.
- Richard Benn – 1306 Bunting Ave. – Mr. Benn questioned why people received voter cards that said they were eligible to vote and then received a letter stating that only one person is eligible to vote due to the fact that their property is in a trust. Town Solicitor Mary Schrider-Fox stated the Town has asked for the voters roll to be updated which has identified these issues. People change their residence status from time to time and the residents should come in and notify the town of these changes. Conversation continued on the issue of people that are listed on voters roll in reference to properties listed in a trusts, registration and qualification to vote. Council Member Weistling asked Mary Schrider-Fox if the election should be cancelled. Mary said she doesn't recommend cancelling the election but if the inclination is to cancel the election, for whatever reason, we will need to confer with the State Election Commission about that.
- Marlene Quinn – 5 W. Houston – Marlene Quinn asked who will be present at Town Hall to help with voter registration on Election Day. Lynn Andrews, Board of Election Inspector, stated that Town Manager Burke and Town Clerk Poole will be present for any questions or issues.
- Paula Mumford – 5 W. Indian St. – Paula Mumford stated that we all have learned something from this election, but at some point, like our society, the residents need to be responsible and make sure they are registered to vote. Everyone has been saying for months make sure you are registered, make sure you are registered. The residents need to be responsible.
- Mary Schrider-Fox – Town Solicitor – In reference to the list of May 29<sup>th</sup>, yes there is a requirement that the list be presented to Council for approval. But it also says that the Board of Elections keeps it up to date up until the time of the election. Plus the fact that registration is open in person and mail in

*Approved with  
corrections  
8.28.2015*

up until the dates before election. So the list is not frozen in time forever. The Town Code provides for the fact that it will be updated by the Board of Elections, as one of their duties, from time to time to be checking in with Town Staff with who is registered and who is not in trying to keep the list up-to-date prior to the election.

- Lynn Andrews – 1205 N. Schulz – The Town has not scheduled an election in several years and that is probably part of the confusion with election rules. She also stated there was new office staff. She asked Town Solicitor Schrider-Fox how to proceed? Town Solicitor Schrider-Fox, based on everything she has heard so far and everything she has reviewed, said she does not feel that anything is unlawful or out of line with the Town Charter and Town Code. Her recommendation was to proceed with the annual election. Lynn Andrews stated that the Board of Elections has asked Town Clerk Poole to work the election and Town Manager Burke has volunteered to work as well. The Town will be prepared with all the paperwork, qualifications to vote, requirements, and registrations to assist if needed. Town Clerk Poole, a notary public, will be available the day of the election.

### **UPCOMING MEETINGS AND EVENTS**

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

- |                                |   |
|--------------------------------|---|
| a. August 1 1-5:00 p.m.        | Town Election – Town Hall               |
| b. August 4 9:30 a.m.          | Charter and Ordinance Committee Meeting |
| c. August 4 Dusk               | Fenwick Flicks (Bayard Street)          |
| d. August 10 8:30 a.m.-12 noon | Barefoot Gardner Club Meeting           |
| e. August 28 3:30 p.m.         | Regular Council Meeting                 |

**Motion to adjourn** – Council Member Weistling

**Second** – Council Member Bunting

**Discussion** – none

**Vote** – (7-0)

Meeting adjourned at 5:50 p.m.

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