



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

REGULAR MEETING OF THE TOWN COUNCIL

Friday, January 26, 2024

MEETING HELD VIA TELECONFERENCE

MINUTES

In Attendance

Town Council Members:

Mayor Magdeburger, Treasurer Rymer (via Zoom), Secretary Napolitano (via Zoom), Council Member Benn (via Zoom), Council Member Bishop, Council Member Bortner, Council Member Zanelotti (via Zoom)

Staff in Attendance:

Police Chief Morrissey, Building Official Locke, Finance Manager Gary, Town Clerk Ellinger, Administrative Assistant Dabbondanza.

Others in Attendance:

Along with the Town Council and Staff, there were an additional 13 on Zoom and 6 in-person participants.

MOTION to proceed as discussed in Executive Session.

Moved by: Ed Bishop

Seconded by: Janice Bortner

MOTION passed unanimously.

1. President's Report - Mayor Magdeburger

Mayor Magdeburger reported the town did not accept the offer of a Community Benefit Agreement from US Wind because the town wanted to reserve the ability to comment /share concerns without any contractual restriction imposed by the Community Benefits Agreement to take action to oppose the project. The Council feels the environmental impact on the marine environment will be devastating to our coastal community. Further, there is expert analysis suggesting a loss of 10% of property values as well as economic damage to the tourism industry. A third issue is public safety as the windfarms interfere with radar and sonar capabilities. Further, any monies offered to the towns would only be passed onto the consumer, making any energy received by the windfarms more expensive. Mayor Magdeburger said the Town Council is very firm and committed to continuing to advocate for the best interests of their community and Fenwick will not accept any offer of money from the windfarm companies in return for the town's silence on whether the project should go forward. Mayor Magdeburger stated that Fenwick had received many communications from citizens both within and outside Fenwick supporting the town's position.

2. Approval of Minutes from December 8, 2023, Regular Town Council Meeting

MOTION to approve the minutes from December 8, 2023, Town Council meeting.

Moved by: Kurt Zanelotti

Seconded by: Ed Bishop

MOTION passed unanimously.

3. For Discussion and Possible Action:

3.1 Action Form - Electronic Signs Ordinance - Dark Skies Initiative

The Charter and Ordinance Committee requests monies to hire a consultant to review and possibly draft an ordinance to permit electronic message boards while maintaining a low level of light pollution and possibly even reduce current light pollution levels. The Charter and Ordinance Committee is seeking \$6,000.00 to retain the consultant.

MOTION to secure funding to discuss lighting issues with consultant.

Moved by: Natlie Magdeburger

Seconded by: Jacque Napolitano

The MOTION was put to a vote.

In Favor: Mayor Magdeburger, Councilmember Benn, Secretary Napolitano, Councilmember Zanelotti

Against: Treasurer Rymer, Councilmember Bortner, Councilmember Bishop

MOTION passed 4-3.

Discussion: Councilmember Bortner doesn't feel this motion supports chapter 135 of the town code and this would not align with Dark Sky guidelines nor align with the Comprehensive Plan 2024. She suggests the Pedestrian Safety Committee and Police Chief should evaluate safety aspects. She also suggests surveying property owners host a community workshop. She requests the council wait and see what updated recommendations are from the Dark Skies working group of the Residential Concerns Committee.

Councilmember Benn feels the lighting ordinance needs to be updated and be compliant with Sussex County lighting ordinances. He said this would be money well spent to secure expert advice.

Mayor Magdeburger said this is about bringing in an expert to give us Dark Skies expertise so the ordinance can best balance both business and residential interest with the overall goal of decreasing light pollution if possible within the business district.

Treasurer Rymer would rather spend the town's money to work with business owners now to improve the current signage than spend the money on an expert at this time. He said the first step is to invest in the commercial district to reduce lighting.

Councilmember Zanelotti feels current signage should be enforced first. Businesses are willing to work with the town to be compliant. He said

we first need to update the current lighting codes and believes an expert to assist is appropriate.

Secretary Napolitano feels it's a good idea to bring in an expert to help the town with this matter.

Councilmember Bishop feels it's premature to bring in a consultant. He said we need more clarity about what the town wants and evaluate which signs are currently in or out of compliance.

3.2 **Councilmember Bortner – Benches on Beach Ends**

Councilmember Bortner stated that the Residential Concerns Committee is recommending benches at the beach ends of Fenwick so residents can sit while walking Bunting. The benches would be donated to the town with commemorative plaques. She said walking along Bunting Ave. can be challenging for seniors with nowhere to rest. The benches would be placed at the end of the parking lots on Bunting Ave. Public Works supervisor Locke and Beach Committee Chair/Secretary Napolitano have evaluated all streets and determined there is space for a bench on each. A divider would be on each bench to prevent people sleeping on them. The quote is \$1,400 per bench, including a plaque and shipping. The only town expense would be installation by public works.

MOTION to approve the purchase of commemorative benches on Bunting Ave. being purchased by the citizens of Fenwick Island.

Moved by: Janice Bortner

Seconded by: Bill Rymer

**MOTION was withdrawn by
Councilmember Bortner for further study at the committee level.**

Discussion: Councilmember Benn is worried this will be oversubscribed.

Secretary Napolitano said she has received several letters from residents saying they do not want more things on the dunes and want to keep the dunes more natural. She suggests trying out benches on some streets at first, not all streets.

Councilmember Zanelotti is not on board with the benches. There are already so many things already on the beach ends.

Treasurer Rymer feels we should start with a few. Some beach ends don't have the space. The benches would need to be closer to Bunting Ave. than the dunes. He says there are people that would benefit from having a place to sit along Bunting Ave.

Public Works Supervisor Locke clarified the benches would be placed close to Bunting Ave. on the no parking side of the lots, not on the dunes.

Councilmembers Bishop feels it could be a safety issue to have benches.

Mayor Magdeburger is very concerned with having large benches placed where cars back out. She suggests looking into a chair rather than a bench might be a better recommendation; however, she has concerns that any seating device could be a safety issue.

Councilmember Bortner said we should take this back to the committee to evaluate other options for size, street, and location on lots.

3.3 **Adoption of Town of Fenwick Island Comprehensive Plan Update 2024**

Mayor Magdeburger stated the Charter and Ordinance Committee has drafted an ordinance to approve the adoption of the Town of Fenwick Island Comprehensive Plan Update 2024. There will be a Public Hearing on February 22, 2024, at 9:00 a.m. She introduced the first reading of this ordinance.

MOTION to adopt the Town of Fenwick Island Comprehensive Plan Update 2024 through an ordinance.

Moved by: Natalie Magdeburger

Seconded by: Janice Bortner

Roll Call:

Councilmember Rymer votes in favor. The Comprehensive Plan is well done with thorough analysis.

Councilmember Napolitano votes in favor for the same reasons.

Councilmember Zanelotti votes in favor for the same reasons.

Councilmember Benn votes in favor for the same reasons.

Councilmember Bortner votes in favor for the same reasons.

Councilmember Bishop votes in favor for the same reasons.

Mayor Magdeburger votes in favor for the same reasons and further stated that the new Plan provides not only a framework for Fenwick's future but an implementation strategy that would ensure compliance.

MOTION passes unanimously.

3.4 **Chief Morrissey – Outstanding Parking Tickets**

Police Chief Morrissey asked the Town Council if the Police Department could immobilize vehicles in an effort to get outstanding parking tickets into compliance. Mayor Magdeburger would like to table this matter to gather information on the number of outstanding tickets, overall revenue and estimate costs to recover those tickets. The State of Delaware will not suspend registrations for outstanding tickets. Treasurer Rymer added that this is a very unusual year with the changeover of leadership in the Police Department and there are now much better procedures in place to ensure there won't be as many outstanding tickets in the future. Chief Morrissey will provide the Council with statistics and options at the next meeting.

4. **Treasurer's Report - Treasurer Rymer**

Reflected in the Town Council packages are the reports for both the month of November and the month of December. At the end of December, the overall cash balance was just shy of \$5.5 million. This keeps the town right around record levels. Overall operating revenues and expenses for the five months ending December 31 are consistent with expectations and inline with the annual budget. There have been no

taxable real estate transactions lately, so RTT revenues remain at \$278,000 which is still above the full year budget. There were two closings in the last few weeks so anticipated revenues will increase in January. Overall, the town's financial position remains very strong.

MOTION to accept the Treasurer's Report.

Moved by: Natalie Magdeburger

Seconded by: Bill Rymer

MOTION passed unanimously.

5. Committee Reports- Audit, Beach & Recreation, Budget & Finance, Commercial Planning & Building Review, Business Concerns, C&O, Dredging, Emergency Mgmt., Environmental, Information Technology, Infrastructure, Planning Commission, Residential Concerns, Pedestrian Safety

Audit-Treasurer Rymer reported there is a meeting coming up on February 8th to review the draft audited financial statements and required auditor communications. The goal is to review and approve these drafts so that they can be presented at the next Town Council Meeting.

Beach- Mayor Magdeburger reported that the Fenwick Freeze was a success. The committee will now be planning the Town Bonfire and Fenwick Flicks.

Budget & Finance- Treasurer Rymer reported there is a meeting in March to go through year-to-date operating results and discuss the budgeting process.

Building Review- Mayor Magdeburger stated the old Dairy Queen is starting construction on the new Surf Bagel shop.

Business- Council Member Zanelotti reported the next meeting will be February 6th at 9:00 a.m.

C&O- Mayor Magdeburger reported that the committee is working on the lighting issue relating to electronic message boards with an emphasis on doing so within the guidelines set forth from Dark Skies International. An expert provided information to the committee on how to do so. Further the committee is working on amending the noise ordinance. They have tabled the resiliency freeboard discussion and have coordinated with the Infrastructure Committee to form a working group to work on this matter so as to receive engineering expertise/input on how best to change the ordinance. Going forward, with resiliency issues at the forefront, it will be helpful to have a member of the C&O Committee participate in the working group of Infrastructure so that the town is coordinating efforts on this important topic. They are also drafting an ordinance on changing misdemeanors to civil fines.

Dredging- Treasurer Rymer said on the very good news front, our project is now fully permitted. We received the last remaining permit last week from the US Army Corps of Engineers. We were also excited to confirm that the permit will allow us to dredge

starting September one. We are still wrapping up the land access agreement and once that is completed, we feel we have a timeline that will allow us to complete a successful project by December 31. Our working group is pushing hard to complete the formal RFP/Bid proposal packet and expect to kick off the public bidding process in the next 4 weeks. Ultimately our goal is to complete the construction of the dewatering area by August 31 so that the actual dredging starts right after labor day.

Emergency Mgmt.- No Report

Environmental- Mayor Magdeburger reported the committee is working on the wind farm issues. They are currently planning Earth Day. The pollinator garden on Bunting Ave. is now fenced. Raised beds are being constructed and will be placed in the coming weeks.

Information Technology- Committee Chair Lisa Lange reported the infrastructure of the new website design is complete. The committee will start to see the new website in February, then testing will begin. They are working with town staff on finding a centralized database that can also be shared with the Police Department. The staff has identified the documents that will be digitized in phase one. Local vendors have been identified that have experience in municipality documents. The next meeting is February 20th at 10 a.m.

Infrastructure- Council Member Benn reported the University of Delaware consultants advised that \$410,000 is what will be needed to move forward with the BRIC grant. The original request for this was for \$400,000. \$102,500 will be the amount the town is responsible for.

MOTION to amend the original motion made at the December 8th Town Council meeting, to authorize up to \$102,500.

Moved by: Natalie Magdeburger

Seconded by: Ed Bishop

MOTION passed unanimously.

Planning Commission- Commission Chair Susan Brennan reported the state has approved the 2024 Comprehensive Plan. After the final reading the ordinance will be submitted to the governor. The approval letter from the governor will then be included in the plan which will make it official. This process is expected to be completed by April. The Public Hearing will be February 22 at 9:00 a.m.

Residential Concerns- Council Member Bortner shared the state park is planning on expanding south which will create safer access. The committee would like to plant a tree in the pollinator garden to celebrate Arbor Day. The committee has been approached by citizens about the drainage issues on Mermaid St. and Coastal Hwy. which has been addressed by Public Works. The welcome packets are being discussed to inform the community about who to talk to at town hall. Town hall staff will reach out to Casella to ensure trash receptacles are being turned over so water can't fill them

and make them hard to lift. Delmarva power is willing to change the light that has been an issue on S. Schulz Rd. The next meeting will be February 5th at 10 a.m.

Pedestrian Safety- No update.

6. Old Business

Chief Morrissey reported a \$35,000 grant offered from Sussex County was discovered and had not been pursued. He is now pursuing it and expects that the County will approve despite the fact that the time for doing so has expired. In addition, a number of grants that had been received in the last three years had not been closed out and he is working on getting those grants completed. The department received a \$1,000 donation from a property owner for departmental needs. The military vehicles that were parked behind Holly's Treasure Chest have been sold and removed. The town is now saving a considerable amount of money on maintenance and insurance on those vehicles, some of which were not operational. The department was able to obtain from the Special Law Enforcement Assistance Fund \$10,000 to purchase a generator and lighting to provide safety for town events on the beach. The director of the Criminal Justice Council offered \$15,000 in funding which will be used to purchase thermal imaging binoculars, upgrades to police vehicle and upgrading the evidence room to accreditation standards. The CJC awarded the department with \$5,500 for the bike patrol program to purchase 5 bicycles from the Fenwick Islander Bicycle Shoppe. A grant was approved for \$18,645 for a speed trailer. A total of \$141,000 has been obtained in grant funding in the last five months since Chief Morrissey started. Three speed studies have been conducted showing where the most violations occur and efforts will be made to target enforcement in those areas as well as making the crosswalks safer. Chief Morrissey will be making an offer to a candidate who was interviewed for the Corporal position. Officer Clift has been nominated for the Freeman Valor Award for his efforts in the Southern Exposure accident. A pick-up truck police vehicle was purchased (in lieu of the SUV) which will help the vehicle navigate better in the event high water emergency access is needed. The Police Policy Manual is being created by Lexipol and the Chief of Police and will be rolled out as received. The last approved manual was from 2012 and the manual that had been worked on in the last three years was a compilation of manuals from other towns. In order to assess the validity of the procedures adopted from other towns, one would have to research whether there were any updates and whether the updates complied with current law. Lexipol does that automatically and also has a legal/police review. Most of the other jurisdictions use Lexipol and it should comply with accreditation standards.

7. New Business

None

8. Upcoming Events and Meetings:

- 8.1 **Planning Commission (tentative)-February 1 @ 1:00pm**
- 8.2 **Beach Committee-February 2 @ 9:30am**
- 8.3 **Residential Concerns-February 5 @ 10:00am**

- 8.4 **Business Committee-February 6 @ 9:00am**
- 8.5 **Environmental Committee-February 7 @ 9:00am**
- 8.6 **Planning Commission (tentative)-February 8 @ 9:00am**
- 8.7 **Audit Committee-February 8 @ 10:30am**
- 8.8 **Infrastructure Committee-February 13 @ 10:00am**
- 8.9 **Planning Commission (tentative)-February 15 @ 9:00am**
- 8.10 **Town Hall Closed for Presidents Day-February 19 All Day**
- 8.11 **Information Technology Committee-February 20 @ 10:00am**
- 8.12 **Planning Commission (tentative)-February 22 @ 9:00 am**
- 8.13 **Town Council Executive Session-February 23 @ 1:00pm**
- 8.14 **Regular Town Council Meeting-February 23 @ 3:00pm**
- 8.15 **Planning Commission (tentative)-February 29 @ 9:00am**

9. Public Participation

Resident Ann Riley asked that everyone share the word about the Cesar Rodney Institute being at the forefront with expertise about what is happening with offshore wind. She encourages everyone to support their efforts.

Resident Rose Mary Hoy said she hopes the out of compliance signs will be addressed. She asked if there was a way the town could more effectively get property owners informed and involved. Mayor Magdeburger stated the ways the Town communicates currently with open meetings with Zoom access, Facebook and website updates and Messages from the Mayor but would welcome any additional suggestions Ms. Hoy thought would assist in getting the word out about town events.

Resident Lynn Andrews added that FISH would be a good resource for those who would like to stay informed.

Resident Scott Mumford asked that the town follow the beach replenishment study with DNREC as DNREC is looking to have municipalities help pay for beach replenishment. Mayor Magdeburger provided an explanation of the study DNREC was undertaking and how it might impact the town's receiving replenishment. She thanked Scott for bringing up the subject and let him know that Fenwick was receiving updates but encouraged everyone to keep informed.

11. Adjournment

MOTION to adjourn the meeting.

Moved by: Ed Bishop

Seconded by: Kurt Zanelotti

MOTION passed unanimously.