

Town Of Dewey Beach

Minutes of June 8, 2012

Town Council Meeting

A regular meeting of the Dewey Beach Town Council was held at 6:00 p.m. on Friday June 8, 2012, at the Dewey Beach Lifesaving Station.

Mayor Hanson called the meeting to order and led the Pledge of Allegiance.
Mayor Hanson asked for a Moment of Silence.

Present: Mayor Diane Hanson, Commissioners Jim Laird, Martin Seitz, Anna Legates, and Joy Howell, Town Attorney Fred Townsend, Town Manager Robert Stickels, and Chief Sam Mackert.

APPROVAL OF MINUTES

May 12 Meeting Minutes

Commissioner Seitz made the motion to approve the minutes. Commissioner Laird seconded.

The motion carried unanimously.

ADOPTION OF THE AGENDA

Mayor Hanson stated that item #4, item # 6 and the last part of item #10 – discuss and possibly vote to approve a new member of the Quality of Life Committee will be removed from the agenda.

**Commissioner Legates made the motion to accept the agenda as amended.
Commissioner Howell seconded.**

The motion carried unanimously.

ANNOUNCEMENTS

Commissioner Legates announced that the Sea Breeze Homeowners Association will have a formal presentation in July making a donation to the Police Department and Lifeguards. She stated that they would also be making a donation to the Fire Department.

Mayor Hanson thanked the Elections Committee for setting up the Voter Registration tryout to register voters before the meeting. She also stated that Yoga classes would be starting on July 2 at 6pm.

REGULAR AGENDA

- 1. Presentation of a report from the Police re noise complaints during the past month. Then discuss and possibly vote on recommendations from the Ad Hoc Noise Committee to modify Article II. Noise Control subsection 117-15, Maximum noise limits as measured by sound-level meter to: (a) establish decibel DbC (bass) levels for the noise ordinance or any other changes to the decibel levels, and (b) possibly change violations of the noise ordinance from criminal to civil violations**

Chief Sam Mackert gave a report on the list of noise complaints that came in from May 13 to May 19, May 29 to June 3 and the decibel readings that were taken.

Mayor Hanson stated that it may be helpful to give the businesses the feedback of what the noise readings are by having a written report that goes out every week. She stated that it would go to all the Commissioners, the businesses and the Noise Committee.

Chief Mackert stated that it would not be a problem to give the businesses a copy of the report that he submits to the Council and the Noise Committee.

Jim Dedes, Chair of the Noise Committee, stated that he had a meeting with the business owners and the committee has three recommendations.

- A. To remove the violation from criminal to be a civil violation.
- B. To amend the Ordinance 694 to read that between the hours of 10 pm to 7 am noise levels are not to exceed 65dba
- C. To establish 72dbc for 24 hours

He stated one dilemma is that some of the Coastal Highway businesses noise levels are coming in high and they do not have music. He stated that the committee is confident that the police will not be citing business on Highway one with all the ambient noise unless the music or base is substantially higher which is grounds to be cited. He also stated that this should be a complaint driven system.

Fred Townsend, Town Solicitor, stated that an amendment to line 22 would need to be made to reflect the 72dcb for 24 hours. He stated that at line 61 the language should be deleted. He stated that at line 51 was a recommendation that came from the Alderman. He stated that an option would be to refer to infractions within the same calendar year in

which the business license is issued. He stated that he recommended that if the ordinance is going to be modified it should include language that is complaint driven.

Commissioner Howell stated that she was able to go out with the police department and supports the changing from criminal to civil but thinks the hours should be looked at. She stated that she thinks the 65 decibels needs some more study and that all the commissioners and noise committee members should go out with the police and watch them do the noise readings to hear with their own ears.

Mayor Hanson stated that after listening to what the police, Commissioner Howell, and the businesses had to say and reading the noise report readings she recommended postponing any voting on this issue with the exception of changing the violation from criminal to civil.

There was a lengthy discussion on the topic.

Council decided to table this item.

2. Presentation of recommendations from the Budget and Finance Committee for a property tax:

David King, Budget and Finance Chair, gave a presentation on a proposal for what the committee thinks is necessary to establish sustainable financing for the Town of Dewey Beach.

David King stated that the Budget and Finance's recommendation is that this would be a binding referendum question.

Commissioner Seitz asked if this proposal would be included in the Budget and Finance's Strategic 10-Year Financial Plan that is to be presented to Council October 13, 2012.

David King stated that this proposal is the major element of the strategic financial plan.

Dale Cooke asked what the total increase to the budget was for the property owners.

David King stated that the amount was about \$421,000.

Dale Cooke asked if the town would be doing a re-assessment on the properties.

Mayor Hanson stated that Council was not sure about that at that time.

Claire Walsh asked since there was a review of Comprehensive Plan Development going on and has the Budget and Finance Committee looked at where it fits in with the existing language. David King stated yes. Claire asked if this needs to go before the state legislature. Fred Townsend, Town Solicitor, stated that it is his opinion that it does not. He stated the Commissioners do have the authority to impose a property tax.

Commissioner Legates stated that she thinks Budget and Finance or Council should look at the basis of what everyone is paying and make that fair. She stated that everything needed to be looked at and also give the Town Manager a chance to get through a budget cycle. She stated that she thinks that this is premature and to give the town manager a chance to do his job.

Mayor Hanson stated that she agreed with Commissioner Legates and knows that Budget and Finance has worked very hard on this and has come up with a lot of suggestions. She stated that the thing that concerns her is that the town was still not receiving any money from all the people who come and stay in the hotels in this town, payments from the customers of the businesses especially the short term visitors who walk in or take a taxi or public transportation. She said that they don't pay for a parking permit and pay nothing to this town. She also stated that the town manager does need to be able to see a full budget cycle and he has some really good ideas for the revenue sources and grants.

Commissioner Howell stated that she is concerned that she doesn't see proportionate numbers in the proposal and that the only option is a property tax. She stated that she was expecting to see a full menu of options. She stated that she also agreed that Mr. Stickels comes with a lot of talent and background and would like to give him a chance to do the job.

Commissioner Seitz stated that he thinks that there are other options. He stated that the town has a good opportunity to examine this and would like to see the town do this in the next year and maybe come up with a good referendum proposal in Sept or April 2013.

Commissioner Laird stated that if you look at the transfer tax and the building permits and start allocating who pays what, the statement about the tourists and the hotel patrons not paying anything is not true. He stated that he came up with \$1.3-\$1.4 million that came out of the tourists pockets that went to the \$2.4 million budget. He stated the town relies on tourists to run the town. He stated that it is always said that the town doesn't want people to misbehave and 22% of the entire budget, \$530,000, comes from fines. He stated that in order to move forward, to stop relying on poor behavior and to light up the streets so there is no public urination; this is the way to go.

Larry Silver, Budget and Finance, stated that the Accommodations Tax replaced the lost

Transfer Tax revenue. He stated that there was no increase in revenue. He stated that the business licenses do not support public safety. He stated that the beach patrol is \$300,000 police full time \$800,000 and seasonal police \$300,000. He stated that business licenses are at the most \$200,000. He stated that if the town is to be a great town it will be about \$3.00 a week in support of the property tax.

Mark Allen, Budget and Finance, stated that a lot has changed since 2007 when there was a consensus that a property tax was not needed. He stated that the economic environment of the country is different and the infrastructure issues with the storm drains. He stated that Town Manager, Bob Stickels doesn't need a year because he is very qualified to look at the town's budget and see where the opportunities are.

Rick Judge, Infrastructure Committee Chair, stated that he thinks that putting a referendum item on a ballot in two months for the September election is ridiculous and hopes Council will stand by the no property tax platform they all ran on.

Marc Applebaum stated that he thinks Council needs to hear other options. He stated that he thinks there are a lot of other alternatives that can be explored. He stated that for a referendum the ballots would need to be out within the next 60 days and doesn't think that is enough time to make this type of change to the town. He stated that the town has operated without a property tax for the last 32 years. He also stated that he would like to present some other alternatives.

Dick Cleaveland stated that he and his wife own property, in the town, that they do not rent, get plenty of services from the police department and lifeguards and do not pay a cent of tax other than the beach tax. He stated that he feels that this is unfair and would like to see Council go ahead and do something about that now.

Bill Brown, Director of Finance, stated that he has worked diligently with the Budget and Finance Committee this past year in terms of coming up with something that is reasonable, and is needed by the town to have a sustainable source of revenue to be able to support the annual operating budget and he commends them for coming up with the recommendation that they did. He stated that Council would be making a very significant decision and the wellbeing of this town in the next ten years will depend on whatever the decision is. He asked council to give careful thought and consideration to the Budget and Finance Committee's recommendation. He stated that Council will not find a more sustainable source of revenue than a property tax. He stated that the Budget and Finance Committee has finally, after immense analysis, concluded that this is the way to go.

There was a lengthy discussion on the topic.

Mayor Hanson stated that there needs to be more options to discuss and suggested that David King, Budget and Finance Chair, meet with the Town Manager, Robert Stickels, and give time for additional options to be discussed.

3. Discuss and possibly vote to approve an angled parking plan for permit parking on Bayard Avenue:

Robert Stickels, Town Manager, stated that he has had a recommendation suggesting that angled parking be considered for Bayard Ave. He stated that with angled parking 11 more cars can be parked in the area. He stated that the problems in the area are that cars have to open their doors into the traffic, park facing the wrong direction and double park. He stated that there was a letter of concern from Howard Schultz about the headlights shining into the master bedrooms of the residences there. He stated that more cars can be parked there and it is safer. He stated that car stops would have to be placed there so that people could walk behind the cars and not on the road.

Commissioner Seitz made the motion that Dewey Beach Town Commissioners having met in public session approve angular parking on Bayard Ave on the west side of the street from Swedes St. south to New Orleans St. as permitted in the Dewey Beach Code 158-6. Commissioner Legates seconded.

The motion carried unanimously.

4. Discuss a charter change to grant citizens the right to petition for referendum resolutions of the Commissioners of the Town of Dewey Beach:

Council decided to table this item.

5. Discuss a policy for public input via email, phone, or in person:

Council decided to table this item until July's meeting.

6. Discuss and possibly vote to approve a contract for Remington, Vernick, and Beach Engineers to assist with an update of the Municipal Comprehensive Land Use Plan:

Council decided to table this item.

7. Discuss and possibly vote to approve a cost of living increase for full time police officers:

Mayor Hanson stated that Council would like to say that they really appreciate what the police do. She stated that they put their lives on the line every day of the week and this is a cost of living increase to show Council's support.

Commissioner Howell made the motion to accept the recommendation for a 2% increase at a cost of \$7431.15. Commissioner Laird seconded

The motion carried unanimously.

8. Discuss and possibly vote on recommendations for investments with Morgan, Stanley, Smith, Barney:

Robert Stickels, Town Manager, stated that it is the recommendation for a change of investment portfolio with Morgan Stanley Smith, Barney to bring the existing portfolio into compliance with investment policy. He stated that the recommendation is a liquidation of 5 of the current investment mutual funds and the proceeds from the liquidation into 3 mutual funds that conform to the investment policy.

Commissioner Laird made the motion of the Dewey Beach Commissioners having met in public session approves the re-investment of general funds in the amount of \$270,391 as presented. Commissioner Legates seconded.

The motion carried unanimously.

Commissioner Legates made the motion of the Dewey Beach Commissioners having met in public session authorizes the re-investment of Beach Replenishment funds in the amount of \$445,589 as presented. Commissioner Seitz seconded.

The motion carried unanimously.

9. Discuss and possibly vote on recommendations for reinvestment of certificate of deposit certificates:

Robert Stickels, Town Manager, stated that the town has a CD in the amount of \$528,036.88 and makes the recommendation to re-invest it into Community Bank.

Commissioner Seitz made the motion to approve the re-investing of \$528,036.88 for 24 months in Community Bank as recommended by the Budget and Finance Committee. Commissioner Howell seconded.

The motion carried unanimously.

10. Discuss and possibly vote to approve a new member to the Marketing Committee and a new member of the Quality of Life Committee:

Mayor Hanson stated that she nominated Amy Leavy for the Marketing Committee.

Commissioner Seitz made the motion to accept Amy Leavy as a member of the Marketing Committee. Commissioner Laird seconded.

The motion carried unanimously.

11. Discuss and vote to approve a fee schedule for Alderman's Court 36, Town of Dewey Beach:

Robert Stickels, Town Manager, stated that this will be **Resolution 165** and is a result of the Charter change that previously stated that the fees were set by the Alderman. The new change to the Charter stated that the fees would be set by the Commissioners.

Commissioner Seitz made the motion to accept the Resolution 165 as stated. Commissioner Legates seconded.

The motion carried unanimously.

PUBLIC COMMENTS

Leonard Reed, Cullen St, stated that he was the victim of the home invasion that occurred on May 27 and gave detail to the events that occurred. He thanked the Dewey Beach Police Department for doing an excellent job. He stated that he thinks the partying in the town is out of control. He stated that he thinks the limited police force is overwhelmed at this time and feels that more officers are needed in his part of town.

There was a lengthy discussion on the topic.

Bill Lower stated that he has not seen the administrative Charter changes posted on the website and asked if they would be posted.

Mayor Hanson stated that they had been discussed at length and had been previously posted on the website. She stated that the final changes aren't much different than what was there before.

REPORTS

- **Police** – Chief Mackert reported that there was only one serious incident, a

burglary on May 27 at 4 a.m. on Cullen St. He stated that both suspects were apprehended.

- **Finance** – Bill Brown, Director of Finance, stated that the revenues in April equaled within a few dollars of what the budget was. He stated that expenditures were under substantially and the difference was there was a positive turnaround of \$54,000 for the month with a net income of \$24,737 compared to \$29,000 loss in the prior year.
- **Town Manager** – Robert Stickels stated the update on the street lighting project is that all paperwork has been submitted and the energy department has been notified that the work may not be done by June 29. He also stated that they indicated that they would give an extension if the work deadline was not able to be made. He stated that the town has asked about claiming any money that may be left over from the other towns to do the remaining 28 lights in the town. He stated that he would like for this to come before Council next month for reconsideration. He stated that 178 meters have gone into effect and also seven pay stations. He stated that the parking permit money is way down from last year. He stated that seasonal permits are down \$86,000, down \$900 in meter money compared to last year and down about \$7500 on daily permit money. He also congratulated Mayor Hanson on being elected as Vice President of Sussex County's Association of Towns.

COMMISSIONER COMMENTS

Commissioner Seitz: He stated that he received an email from a committee member who went and reviewed legal billings with the town manager and director of finance. He stated that no committee member should use the position to gain access to information and feel it is inappropriate. He asked that all committee chairs and members rein in that type of behavior for the good of the committees and the town.

Commissioner Howell: She stated that she wanted to correct the statement that she made last month on how much the town's legal fees have been and how much had been due to Attorney General's complaints made by former Commissioner Zeke Przygocki and Former Mayor Dell Tush. She stated she was incorrect and apologizes for the overstatement. She stated that according to the town attorney the town has spent thousands of dollars on defending the town on these complaints, somewhere around \$8500 and for all FOIA complaints around \$10,000.

Mayor Hanson: No Comments

Commissioner Legates: No Comments.

Commissioner Laird: No Comments.

Commissioner Laird made the motion to adjourn the meeting. Commissioner Howell seconded.

The motion carried unanimously.

MEETING ADJOURNED-----

*These minutes are supplemented by an audio-video record of the meeting which will be maintained by Town Hall for reference and can be viewed/heard on the town website. The audio-video records will be purged from time to time.

Respectfully Submitted,

Robert Stickels
Town Manager

Approved July 27, 2012