

**Town Of Dewey Beach
Minutes of December 8, 2012 9:00 AM
Monthly Town Commissioners Meeting**

A regular meeting of the Dewey Beach Town Council was held at 9:00 a.m. on Saturday, December 8, 2012 at the Dewey Beach Lifesaving Station.

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

Present: Mayor Diane Hanson, Commissioners Anna Legates, Gary Mauler, Courtney Riordan and Joy Howell, Town Attorney Fred Townsend and Acting Town Manager Marc Appelbaum and Chief Sam Mackert

APPROVAL OF MINUTES

October 13 Town Meeting Minutes

Commissioner Riordan made the motion to approve the minutes. Commissioner Mauler seconded.

The motion carried unanimously.

October 25 Meeting Minutes

Commissioner Legates stated that she recommended including the numbered agenda items to the minutes.

Commissioner Legates made the motion to accept the minutes with the stated edits. Commissioner Riordan seconded.

The motion carried unanimously.

November 10 Town Meeting Minutes

Mayor Hanson stated that page 2 line 88 to be changed to "He stated this action does not necessarily mean there is no commitment to pass it".

Commissioner Riordan made the motion to approve the minutes with the stated edits. Commissioner Riordan seconded.

The motion carried unanimously.

October 25 Executive Session Minutes

Council decided to table approving the minutes until a later time.

November 30 Executive Session Minutes

Council decided to table approving the minutes until a later time.

ADOPTION OF THE AGENDA

Mayor Hanson stated that she recommended that item #6, Discuss Capital Improvement Plan recommended by the Infrastructure Committee, be tabled. She recommended moving item # 4, Discuss and possibly vote to appoint Audit committee chair and members. Also to appoint Public Safety committee members for a one year term and to approve additional committees' goals and objectives for the Marketing and Public Safety committees and #7, Discuss and possibly vote on Volunteer of the year for 2012. She stated that these two items should be moved towards the end of the meeting.

Jim Laird, Read Ave, stated that the infrastructure committee has been meeting very infrequently and then to table item#6 when that side of town is facing critical needs is not the time to do this. He stated that there needs to be a little more urgency in addressing some of the infrastructure in town.

Mayor Hanson stated she didn't think that tabling #6 will make a major influence on the flooding at this point because this is a long term plan. She stated that flooding is being addressed and it is on the agenda. She stated that there is a flood mitigation study going on right now and that the Capital Improvement Plan would be discussed in January. She stated that her recommendation is to table item #6 and to move items #4 and #7 to after item #9, and to mention that item #8 Business Licenses includes sections 117.6 and 117.12 which is the penalties section.

Commissioner Legates made the motion to adopt the agenda with the recommendations of Mayor Hanson. Commissioner Howell seconded.

The motion carried unanimously.

Announcements:

Mayor Hanson recognized Don Ziegler, Audit Committee Chair, and presented him with a plaque for over a decade of service to the Town of Dewey Beach.

REGULAR AGENDA

- 1. Introduce and read into the record a new ordinance re the Comp Plan. There will be no discussion on the topic at this time. We are only reading into the record. This item will be on future meeting(s) for public discussions:**

Commissioner Howell made the motion to introduce the new ordinance re the Comp Plan into the record. Commissioner Legates seconded. (Video Recording Mark 20:05)

The motion carried unanimously.

Fred Townsend, town attorney, gave an overview of the ordinance. (VRM 20:31)

Mayor Hanson stated that a public meeting would be scheduled on January 5, 2012 to discuss the Comp Plan and a meeting would be scheduled for the Commissioners to discuss the Assistant Alderman position on January 4, 2012. She stated that a meeting would be scheduled on January 11, 2012 to discuss the Code of Conduct.

2. Discuss and possibly vote to approve a contract for an engineering firm to oversee construction regarding the Ruddertowne project:

Acting Town Manager, Marc Appelbaum stated that an RFQ was put out and three responses were received. (VRM 29:03)

There was a lengthy discussion on the topic.

Marc Appelbaum stated that the preferred bidder is Remington, Vernick, and Beach but is able to comfortably work with any of the three bidders. (VRM 40:19) He stated that Remington, Vernick, and Beach has had experience with the town and the experience was positive. He stated that it is his recommendation to take the money from a self restricted account that was generated from the building permit funds and use it to pay for this project.

Commissioner Legates stated (VRM 41:44) that she recommended Remington, Vernick, and Beach. She stated that Planning and Zoning has worked with them, they have a good reputation, they are a Delaware firm, they represent municipalities and they offer the lowest price.

Commissioner Howell stated that she agreed with Commissioner Legates. (VRM 42:18) She stated that she thought all three firms were impressive and that Remington, Vernick, and Beach is a good solid firm for the Town. She stated that they have a deep strength, over 200 employees and they break down into areas like civil engineers, building code, architects, mechanical engineering, soil engineers, structural engineers, surveyors, transportation and waste water engineers. She stated that any questions the Town has they would be able to answer. She stated that they specifically work for municipalities, are the lowest bid and they know the Town's zoning code.

Commissioner Riordan made the motion (VRM 44:23) to approve the recommended firm of Remington, Vernick, and Beach with the engineer reporting to the town manager and the money to pay for this to come from a self restricted fund from the DBE building permit and the Town Manager give Council monthly reports about invoices and the ability to pay them. Commissioner Mauler seconded with the inclusion of the Town Manager providing a status report on the engineering issues.

Jim Laird, Read Ave, stated that he is concerned that the town is setting a precedent for future projects and not having these types of activities budgeted for. He stated that he does not agree with Commissioner Riordan's statement that the restricted funds should be used. He stated that the Town has gotten in trouble in the past by spending money it does not have. He stated that the money should come out of the general fund.

Don Gritti, Saulsbury St., stated that Remington, Vernick, and Beach did the legwork on the street lighting project and their performance was excellent.

Harry Wilson, Planning Commission, stated that he suggested that Council put an annual cap on how much can be devoted to spend on this project.

Marcia Schieck, Carolina St., stated that she thinks this decision has been the most logical and responsible the Council has made. She stated that she commended Council for looking over this and acting so quickly and is in total support of getting this done and moving quickly.

Joan Claybrook, McKinley St., stated that she would like all of this to be public. She stated that the monthly report should be public and the Council should endorse that today. She stated that the public is entitled to know what is going on with this project.

Marc Appelbaum, Acting Town Manager, stated that he agreed with Harry Wilson's comment about an annual cap being put on the spending for this project. He stated that he believes that what makes this project unique is that the guidelines are not only the old zoning code but there is also the MAR, so there are contractual obligations to adhere to.

Commissioner Howell stated that usually it is a civil engineer who oversees infrastructure and the Town does not really have that expertise within the Town. She stated that it makes a lot of sense to have someone who has civil engineering expertise to evaluate the roadways and various infrastructure pieces.

Commissioner Legates stated that she thinks Council has an obligation to act in good faith on behalf of a signed contract that they inherited. She stated that this project deserves an unprecedented approach based on the history. She stated that giving this project to an oversight person takes it out of Council hands, take the pressure off the building official of answering deep technical question about environmental issues and makes it non-political.

Commissioner Riordan made the motion (VRM 57:40) for the Council to approve the hiring of engineering services to provide the town with the substantive confirmation that the project is being carried out in compliance with all the MAR and Town Code. The Town Manager be the project officer and supply the Council with monthly reports of the invoices of expenditures and the progress of the project. He stated that he also moved that the project be paid for with monies in a self-restricted fund with monies provided by the building permit fee for the DBE project. Commissioner Mauler seconded.

There was a lengthy discussion on the topic.

Fred Townsend, Town Attorney, (VRM 1:16:35) stated that his recommendation was that the question that people have be submitted to Council individually or as a group and then Council would decide which ones raised concerns that need answers to. He stated that he did not think Council should use the website to endorse all the questions that would be received without screening them. He stated that he thought Council should review the questions and give direction to the Town Manager.

Marcia Schieck stated that she disagreed with this process because it has already been tried. She stated that the public in general feels very cheated by the whole project and to make this as open to the public as possible.

There was a lengthy discussion on the topic.

Commissioner Riordan made the motion:

- 1. To approve the engineering firm's contract**
- 2. To have the Town Manager as the project manager with the option to bring in others as necessary and work with Council regarding any issues or problems**
- 3. To have periodic updates including invoices of expenditures and project progress from the Town Manager, at least monthly, which do not necessarily have to be written reports and most should be made public**
- 4. To use funds from self-restricted funds from the building permit**
- 5. To have the engineer attend a January meeting or a special called meeting in January to report on his first phase**
- 6. For questions to come to Council to manage for now and the process would be changed as needed**
- 7. For an annual cap of \$10,000 be placed on the oversight project.**

The vote: (VRM 1:32:50)

Commissioner Howell: Yes

Commissioner Riordan: Yes

Mayor Hanson: Yes

Commissioner Mauler: Yes

Commissioner Legates: Yes

The motion carried unanimously.

3. Discuss the oversight process for the Ruddertowne project:

Mayor Hanson read a letter from the Commissioners to DNREC requesting for information of a public hearing relating to items including the Baywalk, Gazebo and Crabbing Pier.(VRM 1:35:00)

There was a lengthy discussion on the topic.

Bill Lower, (VRM 1:43:35) Harvey Henna Assoc., read a statement on behalf of DBE. He stated that Dewey Beach Enterprises is fulfilling all of the requirements of the MAR executed with the Town of Dewey Beach on February 26, 2011.

Dr. Evelyn Moremeyer, Coastal and Marine EST Research Inc., (VRM 1:47:30) gave an overview of the three elements of the Baywalk, the Beach Access, and the Marina project.

There was a lengthy discussion on the topic.

Commissioner Mauler stated (VRM 2:13:20) that he was pleased to see a developer, DBE, bring in a consultant and expert in this field to brief Council. He stated that he would like to encourage for that to happen more often and would challenge any developer that would like to build in Dewey Beach to go the extra mile to make sure the community and especially the neighbors of that project to be informed every step of the way.

Joan Claybrook stated that she recommended to Council to request DBE to withdraw their application and resubmit it.

Betsy Damos, Swedes St, stated that she would like to ask the question about the re-nourishment of the beach around Van Dyke St. She asked if the expansion of that beach have anything to do with setbacks in building.

Elaine Bole stated that it is not a public beach and will not be a public beach. The lease holder will decide who has access to it.

There was a lengthy discussion on the topic.

Mayor Hanson stated that the letter to DNREC would be amended to include an extension of the time allowed for public comments to be considered until the hearing and would like it to be held near the site of the project. (VRM 2:25:27)

Mayor Hanson stated that the Acting Town Manager, Marc Appelbaum, has done an excellent job reviewing the MAR and issues to be looked at.

Commissioner Howell stated (VRM 2:30:56) that there has been discussion for the engineer to come and have monthly meetings with the Town Manager regarding the oversight and progress of the Ruddertowne project. She stated that she thought it would be a great idea if a couple of the Commissioners were able to participate in those meetings as well as DBE.

4. Presentation by the Town Manager of progress for restructuring and improving efficiencies at Town Hall:

Mayor Hanson stated that the Acting Town Manager is working with the Town Attorney and will give a report after the 1st of the year.

- 5. Discuss and possibly vote to amend the Code of Ordinance #117-6 and #117-12 to revise the due date for business license permits to allow more time to review fee structure:**

Fred Townsend, Town Attorney, (VRM 2:38:15) explained the new ordinance.

There was a lengthy discussion on the topic.

Commissioner Riordan stated that line 34 should be changed from “every calendar year” to “every license year”.

**Commissioner Legates made the motion to adopt the Ordinance with the change to line 34 from every calendar year to read every license year. (VRM 2:54:45)
Commissioner Riordan seconded.**

The motion carried unanimously.

- 6. Discuss current business license fee structure:**

Marc Appelbaum, Acting Town Manager, stated that he thought that the reason the business license fee structure was being amended was to create more time to develop a plan for business license fees. He stated that he wanted to make sure the time was being utilized that was created for that. (VRM 2:55:38)

- 7. Discuss and possibly vote to appoint Audit committee chair and members. Also to appoint Public Safety committee members for a one year term and to approve additional committees goals and objectives for the Marketing and Public Safety committees:**

Mayor Hanson stated (VRM 3:3:53) that she recommended that Larry Silver become the chair of the Audit committee and Steve Huse and John Tulane as members of that committee.

**Commissioner Howell made the motion to appoint Larry Silver as Audit committee chair and Steve Huse and John Tulane as members of the Audit committee.
Commissioner Riordan seconded.**

The motion carried unanimously.

Leonard Read, Public Safety Chair, stated that he would like to recommend Gary Cannon and Bill Zolper as members for the Public Safety Committee.(VRM 3:7:02)

Commissioner Legates made the motion to accept Gary Cannon and Bill Zolper as members for the Public Safety Committee. Commissioner Riordan seconded.

The motion carried unanimously.

Garland Williams, Marketing Committee Chair, (VRM 3:13:20) outlined the Marketing Committee's Goals.

Commissioner Legates made the motion to accept the Marketing Committee Goals. Commissioner Riordan seconded.

The motion carried unanimously.

8. Discuss and possibly vote on Volunteer of the Year for 2013:

Mayor Hanson stated that it was her pleasure to nominate Beverly Corelle for Volunteer of the Year for 2013.

Zeke Przygocki, Bellevue St, stated that he would like to nominate Kelly Ranieri for Volunteer of the Year for 2013. (VRM 3:23:52)

Commissioner Riordan made the motion to accept Beverly Corelle as Volunteer of the Year for 2013. Commissioner Legates seconded. (VRM 3:23:46)

The motion carried unanimously.

9. Update of recent storms and discuss concerns about bay flooding:

Susan Slye, Infrastructure committee, (VRM 3:30:48) gave an update from Mike Cotten, Cotten Engineering, stating that the town missed its 100 year flood level by 1 foot. She stated that 6ft is the Town's 100 year flood level and the town reached 5ft. She stated that had the storm not turned when it did and another high tide had hit it might have been different. She stated that on the storm water management study that is underway right now, the effort is about 25% completed and that he has just completed another project so the pace of the study is now being accelerated.

Marc Appelbaum, Acting Town Manager, (VRM 3:32:45) stated that he would like Council to consider that if there has been major devastation to a property owner and the insurances come up short that the town wave some or all building permit fees to get their home built. He stated that he felt that the Town should not capitalize on devastation such as this. He stated that he would like to implement something like that.

Jim Laird, Read Ave, stated that Read Ave has suffered two major flood events recently. (VRM 3:34:50) He stated that he has been doing some work with the sea level rise committee and some urgent attention is needed in that area. He stated that they experienced 10 straight days of high tide flooding.

Dan Messina, Read, Ave., stated that every time there is a full moon he has to set his alarm so he can move his car because of the flooding. He stated that the people should not have to wait that long for this problem to be fixed. He stated if there is federal money

then the town should look into getting it. He stated that there should have already been a plan in place.

Kevin Monigle, Read Ave, stated that there is a problem on the end of Read Ave and now is the time to address it. He stated that the owner of Snug Harbor and some of the neighbors are interested in working with the town to try to see if there is some sort of fix.

10. Brief discussion Trash RFQ and thoughts on possible trash initiative for next year:

Marc Appelbaum stated (VRM 3:49:55) that there is an RFQ that has been sent out and posted on the website and the Town is awaiting feedback. He stated that Jim Laird was able to put in a lot of ideas and this is for residential trash at this time. He stated that the consideration is in doing this in a two-step process. The first step would be to work on a way to have fewer trash trucks in town during the week, so something is being considered for Mondays and Fridays. The second step is to allow trash cans on the right of way for a 24 hr. period and third trash bags must be put in a trash container.

Garland Williams, Saulsbury St., asked if it was possible to get recycling pickup on every Monday and if pressure could be placed on the recycling companies to do the pickup.

Mayor Hanson thanked Jim Laird for all the work he has done in getting an RFQ and stated that there are so many things going on at this time and thinks it is a good idea to limit it to just the town trash and work on the other next year.

11. Commissioners to provide Town Manager a budget number per ratified budget procedure:

Marc Appelbaum stated (VRM 3:54:42) that his plans are to work with Chief Mackert next month to come up with a budget that will be in balance or better. He stated that he has some restructuring plans internally and has plans on how to collect more on existing revenue streams. He stated that he would like for Council to give him a target number for the budget.

There was a lengthy discussion on the topic.

Marc Appelbaum stated that he will be working on this in January and provide a budget by mid-February.

Bill Lower, Harvey Henna Assoc., asked if any of the future budget projections for 2013 or beyond include the transfer taxes that will accrue to the Town of Dewey Beach from the sale of condominiums from Lighthouse Cove, formerly Ruddertowne,

REPORTS

- **Police:** Chief Sam Mackert stated that on November 27, 2012 at 8:27 am a call was received for a man who was shot on the beach. He stated that the case has

been closed and ruled as a suicide. He stated that he has been working with DEMA and the town spent close to \$12,000 on Hurricane Sandy. He stated that the town would receive 75% of the allowable cost back, approximately \$8,900 in reimbursement.

- **Finance:** Marc Appelbaum stated (VRM 4:22:29) that the P&Ls are on the website through October. He stated that transfer tax and building permit fees were up.
- **Town Manager:** Marc Appelbaum stated that he would like to work with Garland Williams, Marketing Committee Chair and Kelly Ranieri, Dewey Business Partnerships to bring the two and also Town Hall together to make events better and work together to enhance the resources. He stated that DBE sent him an electronic list of drawings and he has two hard copies that can be viewed at any time by anyone who would like to see them.

Commissioner Howell stated (VRM 4:26:42) that Council has received two expense cuts from the Town Manager and is wondering if there were any other expense cuts that could be looked at for this fiscal year. She stated that she thought there would be other expense cuts looked at that could be employed.

Marc Appelbaum stated that what was given to Council was his thoughts and were not suggestions and stated that he would welcome any recommendations from Commissioners of items they think should be amended.

Commissioner Howell stated that she is looking for more recommendations from Chief Mackert. (VRM 4:28:06) She stated that it was her understanding that there were more cuts that could be made in this fiscal year.

Chief Mackert stated that he has sat down with the Acting Town Manager and has been making cuts since 2006-2007 and does not see any other areas to cut except man power and is not at this point comfortable with laying off police officers.

There was a lengthy discussion on the topic.

PUBLIC COMMENTS

Jim Laird stated (VRM 4:34:02) that there isn't a direct line to the Chief's expenses and where the Town could go with reductions. He stated that there is \$520,000 in the budget that comes to the Town based on poor behavior, all fines. So if visitors are taught to behave better there will be another revenue gap to fill. He stated that one of the things the Town paid for last year was good data. He stated that the parking was off for a number of reasons but the town has good data. He stated that Council has made some decisions in the past based on what was believed to be a good idea but now there is firm data to help with the analysis in the future.

COMMISSIONERS COMMENTS

Commissioner Howell: She stated that she does have a great deal of confidence in the Acting Town Manager on the Mar and thanks him for the work he has already done. (VRM 4:36:37) She stated that she had an interest in participating in the meetings with the engineers and DBE. She stated that maybe to have the Commissioners rotate in would help better understand the process.

Commissioner Mauler stated that he is interested in attending the meetings. Commissioner Riordan stated that he would prefer for the Acting Town Manager to highlight any meeting that he feels he should attend. Mayor Hanson stated that she feels that the Acting Town Manager can let Council know when the meetings are and it can be decided then as needed.

Commissioner Legates stated that she sees Council more as legislators and policy makers and she trusts the Acting Town Manager to bring things to their attention.

Commissioner Riordan: No Comment

Mayor Hanson: She wished everyone a Happy Holiday.

Commissioner Mauler: He stated that Jim Laird's point was disturbing to him and he has some ethical issues about kids coming to the Town and ending up in the hospital for the weekend and us turning our back on the problem that got them into it.

Commissioner Legates: She stated that Kelly Ranieri did a great job with the Halloween Sea Witch event

Commissioner Riordan made the motion to adjourn the meeting. Commissioner Mauler 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,

Marc Appelbaum
Acting Town Manager