

Town Of Dewey Beach
Minutes of January 14, 2012
Town Council Meeting

A regular meeting of the Dewey Beach Town Council was held at 9:00 a.m. on Saturday, January 14, 2012 at the Dewey Beach Lifesaving Station.

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

Present: Mayor Diane Hanson, Commissioners Jim Laird, Martin Seitz, Anna Legates, and Joy Howell, Town Attorney Fred Townsend and Acting Town Manager Bill Brown.

ANOUNCEMENTS

Mayor Hanson introduced Fred Townsend, the new Town Solicitor.

Fred Townsend, Town Solicitor, thanked the council for their expression of confidence in him and stated that he would repay that with his commitment to do the best that he can do for both the Council and the residents of Dewey Beach.

Mayor Hanson stated that Attorney Stephanie Ballard was also hired to handle employment issues as well as litigation and contracts.

Mayor Hanson stated that the newsletter was now available.

Commissioner Laird stated that he thought one thing that was missing from the newsletter was asking for email addresses to build up the email database for the town. He stated that it would be nice to be in a position to do everything (winter watch form, newsletter etc.) electronically.

Mayor Hanson stated that she and Dick Cleaveland are currently working towards getting an online payment system. She stated that she thought it would save a lot of money, improve efficiency and make people happier to be able to pay parking tickets online.

Dick Cleaveland stated that he needed a volunteer to help him run the webcast during the meetings. He stated that he thought a teenager would be better suited for the position and has inquired at the high school for a volunteer.

Kelly Ranieri, Dewey Beach Business Partnership, stated that the Dewey Beach Art

Show would be on Dagsworthy Street on the bay side on Saturday, May 12 from 10a.m. to 5p.m. and there is space for seventy-five (75) artists. It will be a jewelry and art show and the charge will be one hundred dollars (\$100.00) per space per artist. She stated that, as in the past, this year the Treasure Fest and community yard sale will also be held. She advised that spaces on the Ruddertowne Lot would be available for twenty dollars (\$20.00) and five dollars (\$5.00) in front of your house. She stated that the Dewey Winter Warm-up Card was put out with information regarding activities that are going on in the Winter and includes information on how to have bonfires on the beach.

Harry Wilson stated that the Ball Drop went very well and thanked everyone who helped. He stated that next year he was looking towards maybe a bigger drop and possibly web casting the event.

ADOPTION OF THE AGENDA

**Commissioner Legates made the motion to adopt the agenda.
Commissioner Seitz seconded.**

The motion passed unanimously.

APPROVAL OF MINUTES

October 21 Minutes

**Commissioner Legates made the motion to approve the October 21 Minutes.
Commissioner Howell seconded.**

Commissioner Legates stated that she wanted to amend the last paragraph to state that "no action was taken."

Commissioner Legates made the motion to approve the October 21 Minutes with the stated amendment. Commissioner Howell seconded.

The motion carried unanimously.

October 28 Minutes

**Commissioner Legates made the motion to accept the October 28 minutes.
Commissioner Seitz seconded.**

The motion carried unanimously.

November 18 Minutes

**Commissioner Howell made the motion to accept the November 18 minutes.
Commissioner Seitz seconded.**

The motion carried unanimously.

December 10 Minutes

Commissioner Legates stated that she wanted to amend page 3 line 106-107 to say, “to review the process for establishing the Board of Ethics.” She stated that she wanted the minutes to reflect the intent of what she said which was to review the process.

**Commissioner Seitz made the motion to accept the December 10 minutes.
Commissioner Legates seconded.**

The motion carried unanimously.

December 16 Minutes

**Commissioner Seitz made the motion to accept the December 16 minutes.
Commissioner Legates seconded.**

The motion carried unanimously.

September 17 Special Called Meeting Minutes

**Commissioner Legates made the motion to approve the September 17 minutes.
Commissioner Seitz seconded.**

The motion carried unanimously.

Executive Session Meeting Minutes

Council decided to approve the Executive Session minutes at a later time after more review.

REGULAR AGENDA

1. **Discuss establishing a deliberative process for enacting legislation and issues requiring**

a council vote:

Commissioner Laird stated that council was looking to have a workshop on establishing a deliberative process that would require items coming up for vote to go either through a work session or a first and second reading. He stated that his preference is a work session. He stated that the deliberative process would give time to do research and time for the town solicitor to work on legislation that is to be passed at least 2 weeks before the regular meeting. He asked that it not be established today and that the council goes through a work session.

Commissioner Legates stated that her recommendation is to get a date on the calendar today to discuss this issue.

Council decided to schedule a meeting on this issue on February 4, 2012 at 10:00 am.

2. Update on indemnification:

Commissioner Laird stated that the mayor has been reimbursed on the first bill she received and council is in the process of looking at the second bill. He stated that he and Commissioner Legates have spoken with Mayor Hanson's attorney and he has agreed to reduce his hourly rate to the town going forward. Commissioner Laird stated that it costs the town money when FIOA and PIC complaints are filed and asked that the potential impact to the town be considered when these are filed.

Commissioner Legates stated that she researched the DB code, Rehoboth, Bethany, Lewes and Townsend and some towns require an application to be submitted for legal fees. She stated that if the application process is wanted then it had to be put in the code. She stated that if the town doesn't like the code then there can be a workshop held to amend the code.

3. Discuss Charter change for alderman court and make edits for approval next month:

Lydia Prigg, Governor's Office Director of Boards and Commissions, stated that she was working with all the towns to help change the wording in the Charter to assist on what is expected of the Alderman's. She stated that it would be better for all the towns that would be addressing this in March to have the example Charter that was put together for Alderman's. She stated that if for some reason the Alderman is not able to perform his duties, the Town Manager or Mayor is not able to appoint someone to the position. She stated that there has to be something in the Charter that allows the town to get through that time if there is not an Assistant Alderman. She stated that she advises having an

Assistant Alderman and the town can use its discretion on how to pay the Alderman. She stated if the town chooses not to have an Assistant Alderman then a provision has been provided in the example Charter for the town to temporarily hire a retired Justice of the Peace if necessary.

Lydia Prigg stated that the Charter change would not be approved until sometime in March.

There was a lengthy discussion on the topic

Fred Townsend, Town Solicitor stated that former Town Attorney, Glenn Mandalas has looked it over and has made some wording recommendations and he has also looked it over. He stated that he has no reservations about recommending that Council move forward.

- 4. Discuss and possibly vote to authorize the Mayor to send to the State Legislature an act to amend the Dewey Beach Charter, Section 26, Borrowing Money and Issuing Bonds, consistent with a referendum approved at the 2011 annual municipal election:**

This item was removed from the agenda.

- 5. Discuss and possibly vote on a resolution approving and adopting the Town of Dewey Beach Deferred Compensation Plan (Plan), agreeing to continue the Plan, and confirming that the Council is authorized to take such actions and execute documents required under the Plan to make the plan fully effective:**

Bill Brown, Director of Finance, stated that in 1999 the town employees, other than the police, who have the pension plan with the State of Delaware were given the opportunity to establish a Deferred Compensation Plan. He stated that they were allowed to make contributions and have the tax deferred until retirement, death or otherwise. He stated that to be sure that the plan is still considered to be tax exempt by the IRS, the town or administrator of the funds would need to file certain paperwork with the IRS. He stated that it was elected to have The Hartford take the plan that has been submitted and submit it to the IRS to get reaffirmation that it is an exempt plan. **He stated that the resolution to be approved is #148.**

There was additional discussion on the topic.

Commissioner Seitz made the motion to pass Resolution #148 approving and adopting the Town of Dewey Beach Deferred Compensation Plan (Plan), agreeing to

continue the Plan, and confirming that the Council is authorized to take such actions and execute documents required under the Plan to make the plan fully effective. Commissioner Howell seconded.

The motion carried unanimously.

Rick Solloway stated that the open period for enrollment into the program should be coordinated with the budget.

6. Discuss and possibly vote on a potential budget for the Comprehensive Plan review process:

Harry Wilson, Chair of Planning Commission, stated that he was asked to submit a budget for the Comprehensive Plan review.

- Certified Town Planner – \$8,500.00
- Preparation & Mailing of Community Survey –\$1,850.00
- Land Use Attorney \$10,000

Total \$20,350.00

Commissioner Howell stated that Council agreed to go forward with hiring a Land Use Attorney but the attorney that was selected did not receive clearance from the managing committee of his law firm so council is looking for additional candidates.

There was additional discussion on the topic

Commissioner Legates stated that she is not ready to spend \$20,000 on something that she doesn't know what direction council should be taking. She stated that she wanted to find the direction before she allocates a lot of money.

There was a lengthy discussion on the topic.

Harry Wilson stated that with the previous Comp Plan process the town used the town attorney and are the commissions sure they don't want to use Mr. Townsend.

Fred Townsend stated that he was aware from the start that the town had made a commitment before the interviewing process to attempt to hire someone who would be an expert or specialist or have a great deal of experience in this area. He stated that because this area has been the source of a considerable amount of difficulty in the past,

he thought this was an appropriate consideration for council to have made. He stated that if council wanted to charge him with the responsibility, he would certainly do his best to give the best advice possible.

Harry Wilson stated that the bottom line is that the Certified Town Planner and the Town Attorney both are needed and the town could not go through this process with only one or the other.

Commissioner Seitz stated that he agreed with Commissioner Legates comments that the town is moving faster than it needed to on this. He stated that these are things that needed to be discussed and needed to be put in the budget. He stated that he recommended deferring the adoption of the budget and look at the money as included in the next town budget.

Commissioner Laird asked what would be the process to possibly delay to get better ideas on where the town stands.

Harry Wilson stated that the deadline was August 24, 2012 but the Office of State Planning stated that as long as the town is in the process of working on it, the deadline does not have to be firm.

Council decided to table the topic until the Budget & Finance Meeting.

7. Introduce and discuss a proposed amendment to Section 117-13 regarding business license fees for 2012:

Mayor Hanson stated that items 7 & 8 would be discussed together.

Mayor Hanson stated that the fees for business licenses have not been correctly calculated for the past 5 years. She stated that the 2007 Ordinance was not properly calculated. She stated that if the 2007 Ordinance was properly calculated now some of the business licenses would increase 100% for the smaller businesses and that is not our intent. She stated that payment of business license fees will be delayed until March 1, 2012. She stated that it would be resolved at the February 2012 Town Council meeting.

Bill Brown stated that there is no issue with the Residential Rental Licenses; it is only an issue with the Business Licenses. He stated that it is the ABCC and eateries that don't serve alcohol that are an issue at this point.

8. Discuss and possibly vote to refer to Budget and Finance a comprehensive review of

the business license fee structure:

Commissioner Laird made the motion to refer to Budget and Finance a comprehensive review of the business license fee structure. Commissioner Legates seconded.

The motion carried unanimously.

9. Discuss and possibly vote to permit temporary expansion of premises as requested by the Starboard for special:

Steve Montgomery, Owner of the Starboard, stated that he was requesting the same temporary expansion of the premises that has been requested for the last (3) three or (4) four years.

- Opening weekend of the Starboard – Expansion by heated tent
- Running of the Bulls
- 5k Run for Delaware Breast Cancer Coalition with a pig roast

Commissioner Legates made the motion to approve the letter of request submitted by Steve Montgomery for these events. Commissioner Seitz seconded.

The motion carried unanimously.

10. Discuss and possibly vote to approve the cost for required maintenance to town hall to remove/prevent mold and mildew:

The beginning portion of this recorded discussion was lost.

Commissioner Legates expressed concerns to Bill Brown in regards to the using of aluminum duct work.

Bill Brown stated that aluminum duct work is easier to clean and lasts much longer than other duct work.

Commissioner Howell stated that she did not see in the bids exactly what the warranty is. She stated that the only company that gave a bid for all four items was ServPro. She stated that the difference between Serve Pro and the lowest bid is about \$800. She asked if the venders were mixed up would the warranty be jeopardized in any way.

Fred Townsend stated that it would cause the venders to blame each other for any follow-up problems.

There was a lengthy discussion on the topic.

Gary Keith stated that in his own experience in HVAC, Mr. Brown's point in paying upfront for the metal duct work, although it is more expensive, believes it is worth it.

Mark Allen stated that trying to find the expertise to figure out the cause, the solution and address the warranty concerns is really difficult because there are no guarantees. He stated that the bids for the issue at the Cajun Cove have ranged from \$20,000 to \$55,000 depending on the approach to be taken and what is causing the issue. He stated that this issue it is not an easy or a cheap fix.

Mayor Hanson stated that this is a reasonable price and that it seems like the organization that did the bids did a good job of figuring out who specializes in what and signed them accordingly.

Commissioner Howell stated that she still thought one contractor should be picked and get a warranty for what could be had.

Commissioner Seitz stated that he suggested a motion that would give Mr. Brown some flexibility but tend towards the first charge being Serve Pro if the town could get some assurance maybe a year from now to re-inspect.

There was additional discussion on the topic.

Commissioner Howell made the motion to select ServPro to do all four items listed. Commissioner Seitz seconded.

The motion carried unanimously.

Commissioner Seitz stated that the town hall was paid for largely from contributions from citizens of Dewey Beach. He stated that he would be interested in a Maintenance Fund for the Town Hall being created for the citizens to make contributions to.

11. Discuss the need to upgrade the radio spectrum for emergency and operational communications in order to be compliant with federally- mandated narrowband migration:

Lt. Bill Hocker stated that the FCC has mandated that all radio communications be narrowbanded by December 31, 2012. He stated that the seasonal police, lifeguards, and maintenance utilize these radios. He stated that they have been working on this with Magnum Electronics and they will provide an estimate on the cost in the next

two weeks.

12. Discuss and possibly vote to add a new member to the Marketing Committee:

Mayor Hanson stated that Garland Williams, Marketing Committee Chair, has recommended Gary Keith for the committee.

Commissioner Seitz made the motion to add Gary Keith to the Marketing Committee membership.

Commissioner Legates seconded.

The motion carried unanimously.

REPORTS

- **Police** – Lt. Hocker stated there were not any major occurrences in the month of December except three thefts. He stated that one was the theft of a package that was delivered to a residence and two other minor thefts. He stated there was a burglary from the Surf Club where a TV and DVD player was taken. He stated that this New Year's Eve was one of the best that he has seen in years. He stated that the crowds were very orderly and the Dropping of the Ball went off without a hitch.
- **Finance** – Bill Brown, Director of Finance, gave the financial report. He stated that revenues for the month of November were \$2,531,574, including Bayard Avenue revenues of \$113,403. He stated that the expenditures were \$2,424,300, including Bayard Avenue expenditures of \$ 515,368. Excluding Bayard Avenue revenues, operating revenues were \$ 2,418,171 compared to Budget of \$2,126,163.
- **Town Manager** – Nothing to report
- **Town Attorney** – Nothing to Report

PUBLIC COMMENTS

Mark Allen asked if there was a process followed by a decision process in regards to changes to the town Charter of what should go to the public for referendum vote.

Mayor Hanson stated that there is no official written policy that she is aware of but that generally speaking it is major decisions that would go to referendum.

Rick Solloway stated that a Charter change that has to do with major revenue sources and the Alderman's Court should go to referendum.

Harry Wilson, Planning Commission, gave the Planning Commission report. He stated that a motion was made and passed unanimously to amend Section 185-51a of the Zoning Code.

COMMISSIONERS COMMENTS

Commissioner Laird: He asked Lt. Hocker for an update on the 911 radio system in February. He stated that it is hoped for the Chinese Auction this year will raise thousands of dollars to get trashcans for the streets. He stated that he'd like to get an update from the Infrastructure Committee on the Hayden flooding issue because there are sink holes on some of the properties in that area.

Commissioner Howell: She stated that the property owners beach party will be September 15, 2012 after the election and she hoped everyone could attend.

Commissioner Seitz: He stated he would like the residents to work with town hall to keep it secure and consider the security policy and report any breaches to Bill Brown or the Police Department.

Mayor Hanson: She stated that she gave her condolences to Commissioner Seitz for the loss of a family member. She thanked everyone for their patience with the Business License issue.

Commissioner Legates: She stated that she would like to get word to the committee chairs that if they have the agenda and know when they will be meeting to please have them posted on the web site.

**Commissioner Howell made the motion to adjourn the meeting.
Commissioner Seitz 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 records will be purged from time to time.

Respectfully submitted,

Bill Brown
Acting Town Manager