

**MINUTES of the REGULAR
TOWN COUNCIL MEETING**

**October 9, 2018 @ 7:00PM
32 WEST AVENUE
OCEAN VIEW, DE 19970**

1. CALL TO ORDER

Mayor Curran called the meeting to order at 7:00 p.m. with the **Pledge of Allegiance**.

Present: Council Members Bert Reynolds, Frank Twardzik, Bill Olsen and Tom Maly. Town Manager Dianne Vogel, Finance Director Sandra Peck, Police Chief McLaughlin, Planning & Zoning, Development Director Ken Cimino, Town Solicitor Dennis Schrader, and Town Clerk Donna Schwartz.

2. PUBLIC HEARING

A. First Reading of an Ordinance repealing a Portion of Ocean View Chapter 5, Assessment, and Authorizing the Town Council to Elect Assessment Methods, Appoint a Board of Assessment, Etc.

Synopsis: The Town Council was being asked to determine assessment methods for the Town and authorizes a Board of Assessment.

There were no comments or questions on this topic from Council Members. Annette Bertone questioned the 50% assessment charge and if it will change again. Mayor Curran replied nothing would change in the near future.

B. Second Reading of an Ordinance amending the Code of the Town of Ocean View relating to land use and development and the requirement for developmental plan approvals for certain permitted uses.

Synopsis: The Town Council was being asked to review an ordinance change amending the Code of the Town of Ocean View.

There were no questions or comments on this topic by Council or the public.

A motion was made by Mayor Curran, seconded by Council Member Reynolds, to approve this ordinance. The motion carried unanimously 5/0.

C. Second Reading of an Ordinance amending the Ocean View Land Use and Development Code by adding miniature golf courses as Special Exceptions in GB-1 or GB-2 Business Districts.

Synopsis: The Town Council was being asked to review an ordinance change to allow miniature golf courses in the Town.

Council Member Twardzik commented that he could find no adverse disadvantages to miniature golf courses. Council Member Maly made note of all the positive comments the Council received and noted the advantages for Town residents with free parking.

Council Member Olsen stated he thinks miniature golf courses were left out of the comp plan purposely to preserve the small town atmosphere of Ocean View. He does not see any benefit to the Town by allowing a miniature golf course. Mayor Curran suggested limiting the special exception to GB-1 only. Mr. Schrader noted that deletions to the ordinance were allowed.

Town Solicitor Dennis Schrader explained the limitations of a special exception, such as lighting, hours of operation, etc., and he noted that the ordinance is not a site-specific ordinance. Mr. Schrader said first step is the Board of Adjustment then, if approved, the second step would be Planning and Zoning for review of a site plan.

Bob Veigle, Wade-Winn Street, agreed with the Mayor and said miniature golf courses should be allowed in GB-1 only.

Tricia Supik, William Avenue, stated she was opposed the ordinance. She said Council was not looking at this broadly enough as the ordinance change allows more than one mini golf course in Town.

Jeff Whelen, Woodland Avenue, stated he was in favor of the miniature golf course.

Brenda McIntyre, William Avenue, stated she opposed to the ordinance change and stated sections of the code to Council. She highlighted the possible negative effects on the Town. Mrs. McIntyre said she was opposed only a miniature golf course that impacts the Assawoman Canal.

Jeanette Cane, SeaHawk Lane, stated she was opposed to miniature golf course.

Karen Inaudible, spoke in favor of the ordinance.

Lauren Weaver, Primrose Lane, questioned why this was an ordinance change and not a variance request. Mayor Curran explained to her that this was not an allowable business and needed to be changed first.

Rebecca Adams, Woodland Avenue, stated she was in favor of a miniature golf course in the Town. She thought miniature golf would be beneficial to the community and would provide some family entertainment that is clean and fun.

Patrick Adams, Woodland Avenue, said he was in favor of miniature golf.

A motion was made by Mayor Curran, seconded by Council Member Reynolds, to amend the ordinance to allow miniature golf courses in the GB-1 zone only, and delete the portion that says GB-2. The motion carried unanimously 5/0.

A motion was made by Council Member Twardzik, seconded by Council Member Twardzik, to adopt the amended miniature golf course as special exceptions in GB-1 only. The motion carried unanimously 4/1. Council Member Olsen voted against the motion.

D. Second Reading of an Ordinance amending the conditions of approval for 115.59 acres, more or less, annexed into the Town limits by Ordinance #282 and Ordinance #321, being the lands of Silverstock, LLC.

Synopsis: The Town Council was being asked to review an ordinance change relating to Silverstock, LLC.

Mayor Curran explained the ordinance stating all this does is delete the name of the model home. No comments were made by Town Council or the public.

A motion was made by Council Member Twardzik, seconded by Council Member Maly, to approve the ordinance as presented. The motion carried unanimously 5/0.

3. ADOPTION of Agenda

A motion was made by Council Member Reynolds, seconded by Council Member Maly to adopt the agenda. The motion carried unanimously 5/0.

4. APPROVAL of the Town Council Minutes

A motion was made by Council Member Reynolds, seconded by Council Member Olsen, to approve the amended minutes of the regular meeting held on September 11, 2018. The motion carried unanimously 5/0.

Council Member Olsen asked for a change to the minutes regarding the speed limit on Muddy Neck Road.

5. COMMUNICATIONS AND PRESENTATIONS

- A.** Mayor Curran introduced Ashley Stern from PKS who presented the financial statement for FY2018 to the Council. She said they gave the Town the highest level of opinion Certified Public Accountants can give. PKS did not identify any material weaknesses in internal control over financial reporting nor any instances of noncompliance that they are required to report. Ms. Stern stated actual amounts were favorable compared to the budget by \$388,933; revenues were also \$277,000 over budgeted amounts due to realty transfer taxes. She stated the Town had a healthy net position. The Council Members did not have any questions for Ms. Stern.

A motion was made by Mayor Curran, seconded by Council Member Twardzik, to accept the FY2018 Audit as presented. The motion carried unanimously 5/0.

- B.** Correspondence from Rebecca Adams and Joan O'Day supporting miniature golf courses.

6. **REPORTS**

A. **Financial (Sandra Peck)**

Report received and filed.

B. **Public Safety (Chief McLaughlin)**

Report received and filed.

C. **Planning, Zoning and Development (Ken Cimino)**

Report received and filed.

D. **Public Works Department (Mayor Curran)**

Report received and filed.

E. **Town Manager (Dianne Vogel)**

Report received and filed. Ms. Vogel introduced Dawn Parks, new Finance Director for the Town. Ms. Parks will begin work on October 29, 2018. She also announced that Halloween would be held on Wednesday, October 31st from 6 to 8pm.

F. **Town Council**

Mayor Curran presented Sandra Peck with a plaque and thanked her for her service to the Town.

7. **CITIZENS' PRIVILEGE ON AGENDA ITEMS**

Brenda McIntyre, William Avenue, questioned whether the letters sent to Council regarding the miniature golf ordinance should be verified before being entered into the record. Mayor Curran said they would be made part of the record of the meeting.

Kent Liddle, Willow Oak Avenue, asked about the bids for curb painting and whether the HOA was notified of the contractor and when the work would start.

8. **OLD BUSINESS**

A. **Discussion, Consideration, and Possible Voting on Tax Issues**

“The end result of FY2019 tax situation is that it is not what we wanted, nor was it what we promised the citizens of Ocean View.

In a nutshell, the Sussex County system of valuations is based on 1974 values. An additional factor is the County system has different “exemptions” for properties for various and sundry reasons, which our Town system did not have. This is why we have such disparity in billing between FY2018 and FY2019.

Because the end result was so skewed from what we expected, at the Town Council meeting of 9/11/18 we agreed to revert back to the “old system” of valuations, which will be in effect for FY 2020, which starts on 5/1/19. At that meeting, we stated there wasn’t anything we could do about FY2019 taxes due to legal roadblocks. That has changed. The Town solicitor has reviewed the “RE-DO PLAN” outlined below and it has passed muster insofar as not violating any provisions of the Town Charter and the Delaware Constitution.

NOTE: Any disgruntled taxpayer could still sue the Town but the odds are now with us prevailing, PROVIDING we follow the plan properly and not deviate from the plan.

The one thing that many people have confused is the difference between “tax rate” and “assessed value.” By law, the “tax rate” must be consistent across the board for everyone. The assessed value is different for every property but should be consistent and close for similar properties located in similar areas.

The bids for the new assessor were opened on Friday 9/28/18. Copies of those bids were sent to the Council members for review that evening. Prior to this meeting, we held a workshop, reviewed the bids, and discussed what needed to be done to amend the bids to meet our proposed, revised method of assessments within the appropriate timeframe so that the role of the assessor will fit into the FY2019 RE-DO PLAN.

CRITICAL FACTORS

1) Timing and extent of assessing property.

We already know from the bidders that the timeline we set out for doing a full reevaluation of the properties is impractical and probably wouldn't be met. It is crucial that we have everything lined up for the beginning of the FY2020 (5/1/19), therefore, it is more practical to use the old assessed values of 2018. Specifically, we have in our possession the assessed values from the old PTA/DELVAL that covers old Town property for the calendar year 2017. We would need the assessor to create new assessed values ONLY for any property that came onto the rolls as new or had permitted work done in June 2017 and October 2017 through April 30, 2018. That will give us a clean, full-year assessed property list to work with.

2) Comparing apples to apples

By staying with the old assessed valuations modified as explained above, we avoid having a third, different set of valuations to deal with when we explain to taxpayers the change back from the County valuations.

3) Valuations for FY2020

By using the old assessed valuations modified as explained above for FY2020, there will be continuity for FY years 2018, 2019 and 2020. Additionally, we will be adding any new properties or permitted work properties onto the tax rolls on a quarterly basis, rather than the old annual method.

NOTE: The tax rate for FY2020 will be determined through the budget process.

As of now, we seem to have cleared all the legal hurdles except how official appeals will be handled for the 2017 portion of the taxable properties. I believe this last hurdle can be overcome with little likelihood of lawsuits. With a reactive assessor dealing with things in a timely manner, I believe that few, if any appeals will even have to go to the Board of Assessments for final adjudication.

INSOFAR as re-doing FY2019, the following applies.

We still have to make the change back, “revenue neutral” to the Town.

We still have to balance the budget for FY2019.

We still have to ensure that the “tax rate” is consistent and applies to every property.

We have to cull out properties that received an “exemption” from the County that were not exempted before under the old Town system.

The above is done by “reverse engineering” starting with the total revenue under the FY2019 “County” tax bill. We calculate the revised income by applying the old tax rate increased by 50% ($\$0.1652 + \$0.0826 = \$0.2478$) to the old, modified assessed values and determine the total revenue. If the total revenue matches, we are done. If the revised total revenue is less than the total “County” revenue, we make up the difference with a one-time infusion of transfer tax revenue. This assures us being revenue neutral and also meeting our budget requirements. If the revised total revenue is more than the total “County” revenue, we lower the tax rate to bring us to the revenue neutral position. In all scenarios, the tax rate is applied consistently to ALL properties.

Therefore, if the Town Council approves this proposal at the October meeting, we will proceed. Keep in mind; this process of re-doing FY2019 will take a long time, most likely until the beginning of FY 2020. When it is finalized, we will have done a complete re-bill of FY 2019. When we have that information in hand, we will compare it to the County system actual billing of FY2019. At that time, anyone who has underpaid according to the revised FY 2019 invoices will be issued a bill for the difference. Anyone who has overpaid will be issued a credit, which will be applied to the FY2020 tax bill.

There are bound to be people who protest and will appeal, most likely those who didn’t pay their fair share in the current FY2019 billing and we will deal with that through the appeal process.”

A motion was made by Mayor Curran, seconded by Council Member Twardzik, to approve this proposal as presented. The motion carried unanimously 5/0.

B. Discussion, Consideration, and Possible Voting on Parking Agreement with Lord Baltimore Landing HOA.

Synopsis: Council was asked to approve an agreement with Lord Baltimore Landing HOA for use of their property for overflow parking. In discussion, it was decided that the agreement needed to be more inclusive, the lease language is too limiting to the Town. Official Town functions and emergency vehicles should be included.

Chief McLaughlin updated Council on the progress of this agreement. A vote was deferred.

C. Discussion, Consideration, and Possible Voting on the Town Manager’s Severance Agreement.

A motion was made by Mayor Curran, seconded by Council Member Maly, to approve Dianne Vogel’s severance agreement. The motion carried unanimously 5/0.

9. **NEW BUSINESS**

A. **Introduction of Ordinance(s) - None**

B. **Discussion, Consideration, and Possible Voting to Accept the FY2018 Audit Reports.**

Vote taken under Item 5A.

C. **Discussion, Consideration, and Possible Voting on a Fulton Bank Resolution to open a Violent Crime Grant Account.**

A motion was made by Mayor Curran, seconded by Council Member Reynolds to accept the resolution for a new account. The motion carried 5/0.

D. **Discussion, Consideration, and Possible Voting on a contract award for assessment services, Project #2019-1.**

See Old Business Item A

E. **Discussion, Consideration, and Possible Voting on a contract award for Street Patching, Project #2019-2.**

A motion was made by Mayor Curran, seconded by Council Member Maly to award DelMarVa Paving, LLC the contract. The motion carried unanimously 5/0.

F. **Discussion, Consideration, and Possible Voting on a contract award for Curb Painting Project #2019-4.**

Mayor Curran announced that the Town would no longer be responsible for maintenance or painting of these curbs after this project is complete. The Bear Trap HOA will have to take responsibility of these curbs.

A motion was made by Mayor Curran, seconded by Council Member Olsen to award the contract to Elite Remodeling for \$7,925. The motion carried unanimously 5/0.

9. **CITIZENS' PRIVILEGE**

Bill Goodwin, Assawoman Ave, asked for an update on the Evans family proposal to put 42 condominiums on West Avenue. Ken Cimino highlighted some of the recent developments for him. He said they are still in the concept phase and are down to 36 homes.

Ken Nittoley, Sussex Drive, questioned when the ditch in the area of Sussex Drive would be finished being fixed. He also commented that he feels the Council did a good job with the taxes.

Bob Thornton, Silver Woods, thanked Council for the ordinance change they voted on tonight.

10. **EXECUTIVE SESSION FOR LITIGATION / PERSONNEL MATTERS**

A motion was made by Mayor Reynolds, seconded by Council Member Maly at 8:51pm to go into Executive Session.

A motion was made by Mayor Curran, seconded by Council Member Olsen at 9:12pm to exit Executive Session.

Town Solicitor Dennis Schrader announced that five members of the Council, Dianne Vogel, and himself were present in the meeting and no motions were made nor any votes taken.

11. **ADJOURNMENT**

A motion was made by Council Member Maly, seconded by Council Member Olsen, to adjourn the meeting at 9:15pm. The motion carried unanimously 5/0.

Respectfully submitted,
Donna M. Schwartz, CMC
Town Clerk