

**TOWN OF BETHANY BEACH
TOWN COUNCIL REGULAR MEETING
MAY 20, 2016 – MINUTES**

The Bethany Beach Town Council held a regular meeting at 2:00 p.m. on May 20, 2016 in the Town Meeting Room, 214 Garfield Parkway, Bethany Beach, DE 19930.

Members present for the meeting were: Jack Gordon, Mayor, who presided; Lew Killmer; Chuck Peterson; Bruce Frye; Rosemary Hardiman; Joseph Healy, and Jerry Morris.

Also present were: Greg Morris, Esquire, Representing Town Attorney; Cliff Graviet, Town Manager; Lisa Kail, Administrative Assistant/Town Clerk; and interested members of the public.

Approval of the Agenda

Mr. Killmer made a motion to approve the agenda. Ms. Hardiman seconded the motion and it was unanimously approved.

Approval of minutes of regular meeting held on April 15, 2016

Mr. Killmer made a motion to approve the minutes. Seconded by Mr. Morris, the motion was unanimously approved.

Approval of the Financial Report

Mr. Peterson explained that this report covers the year to date fiscal performance through the month of April. Our fiscal year begins on April 1st of each year so we are 8.3 % through the year.

Operating Budget Revenues

To date, the Town has collected 3.8% of budgeted revenue compared to 3.25% at this time last year.

Operating Budget Expenses

To date, the Town has expended 6.1% of budgeted expenses compared to 6.8% expended at this time last year.

Recognizing that this report is subject to audit, Mr. Peterson respectfully moved that Council accept and approve this unaudited financial report. Mr. Killmer seconded the motion and it was unanimously approved.

Announcements/Recognition of Visitors and Public Comment

- Mayor Gordon advised that the Summer Entertainment Schedule is available. A Memorial Day Service will be held on Monday, May 30, 2016 on the bandstand. It is being presented by the VFW Post 7234. The Annual Sea Side Craft Show is scheduled for June 4, 2016 on the boardwalk.

Report from Audit Committee

Mr. Patrick Sheplee, Chairman of the Committee, read the following statement into the record:

The Audit Committee met on Friday, May 13, 2016 with Roy Geiser and Shawn Bunting of the Town's external auditing firm, the TGM Group LLC.

Fieldwork for the audit of the Town's fiscal year that ended March 31, 2016 started on Monday May 9 and was completed on Friday May 13. The auditors reported that fieldwork went very smoothly, Town staff was very well prepared and they have found no areas of concern.

This year we will see a change in our financial statements due to new requirements concerning pension reporting. Governments are now required to report any accrued liability or funding excess related to pensions. This will have a minor effect on our statements since our employee pension plans are near 100% funded.

A discussion was had concerning the presentation in the statements for the new Storm Emergency Relief Fund (SERF). It was decided to show the fund balance at year end as part of the financial statements as well as the Management Discussion and Analysis section of the report. Roy and Janet Connery will work out the specific wording and details.

The compliance audit known as a Single Audit that was included in FY 2013 and 2014 as a result of the funding for the new water tower will not be required this year.

The auditor stressed the benefits of our Town's active Audit Committee and Internal Auditor as the best defense against fraud, such as those that have been reported on recently in the local newspapers.

The external auditors and the Finance Director will continue preparation of the financial statements over the next two months. The final audit report will be reviewed by this committee at our next meeting, scheduled for July 1, 2016 at 8:30 a.m.

Report from Charter and Ordinance Review Committee

Ms. Hardiman advised that the Committee met on April 27, 2016. The members discussed three items including a proposed exterior residential lighting ordinance, provisions of the Town's sign ordinance, and a continued review of the Town Code looking for provisions that need to be updated. The members will soon be meeting with

a representative from the Town of Ocean City, MD to determine how they measure “foot candles”.

Report from Cultural and Historic Affairs Committee

Ms. Olmstead, Chair of the Committee, advised that the members recently held a Cultural Evening. Saul Broudy gave an enjoyable performance with signing and talking about American Folklore. The Committee discussed possible cultural events for next fall. Plans for Périers Day 2016 were discussed. A local band will be playing WW II music. There are hopes to conduct a tour of Fort Miles also. Plans for having docents for the museum during hours that Town Hall is open and possibly having the docents offer walking tours of the heritage trail were considered. Madeline Dunn from the National Registry of Historic homes has confirmed that the Dinker Cottage can be added to the National Registry. The Errett Cottage will be included as well. The Seaside Craft show is scheduled for June 4, 2016. Over 100 crafters will participate in the event.

Report from Fourth of July of Parade Committee

Mr. Frye explained that the Committee met on May 4, 2016. Everything is on schedule for the parade. T-shirt sales begin next week. Special thanks were offered to Ray Aumiller for handling T-shirt sales and Maureen Killmer for handling the bicycle kits. The next meeting will be held on June 14, 2016.

Report from Non-Residential Design Committee

Mr. Killmer advised that the Non-Residential Design Committee met on May 13, 2016. Applications submitted by Brendan Heneghan and Ann Raskauskas were approved for a business located at 776-786 Garfield Parkway, in the C-2 Commercial Zoning District. They requested approval for façade changes.

An application submitted by Adam Lehman and Darin Dryden was also approved. New black vinyl lettering on an existing awning and a new vinyl door decal for their business (Top Dog Grill) located at 115 Garfield Parkway in the C-1 Commercial Zoning District met all necessary requirements.

Report from Town Manager

Mr. Gravier gave the following report:

DINKER COTTAGE

The drainage pipe has been installed on the property and pending the vote today on location we will be moving ahead to relocate the house as soon as we can. Once the location is set we will proceed with design and application for the relocation of the sewer line and myriad of other things that we need to accomplish with the home’s relocation.

BEACH

We have had an appreciable build-back of sand on the beach. This build up has created a decent size culvert and the Delaware Department of Natural Resources (DNREC) has been busy the last few days filling that valley with existing sand from the beach. We

continue to hope that the beach builds and that we have a summer with no major weather events.

Fireworks

The Town is going to contract for fireworks. Right now, we will only be able to shoot 3" shells, which will not make for a very dramatic shoot, but at least we will have a show.

WiFi

WiFi is operational on the beach the length of the boardwalk and on the boardwalk plaza area.

Steps and Ramps

Steps are in and have been well received. The low rise makes them easy to negotiate and the 5' width is more than accommodating. I know that many people have better ideas about beach access but given our current conditions on the beach we are left with virtually no options but what you see today.

We will be adding lattice to the bottom half of the steps to make them safer for very small children.

The handicap ramp at Oceanview Parkway is open and we will have installed a temporary handicap ramp at Parkwood Street by Memorial Day. DNREC has given us enough sand to be able to put a sand pathway to the beach at Wellington Parkway.

Police Department

The PD is actively engaged in training its seasonal hires. The Department has the most stringent training program for its seasonal employees of any Department in the region. Where some departments train only for the 48-hour minimum State requirement, the Bethany Beach Police Department trains its seasonal hires for 285 hours.

In today's litigious society not providing as much training as possible to young people with the power to detain and arrest is inviting trouble. We are becoming known for the quality of our seasonal hires and a number of them go on to employment in other larger agencies. .

Summer Entertainment

The Town's Entertainment Director has done an incredible job in putting together a great schedule for the Bandstand. Please take some time to review her entertainment flyer which is very well done.

We will try to host movies on the beach, but we do have a backup if the beach is narrow and we run movies on the bandstand.

LED SIGN

The new much larger and hopefully easier to read LED sign has been installed on the Guard House. It will be wired and operational next week.

Surf Zone Injuries

We have been an active participant in the University of Delaware's ongoing initiative to study and attempt to resolve "Surf Zone Injuries". They are conducting that study in conjunction with Beebe Hospital. We will be hosting two students who will be doing beach counts and monitoring surf conditions this summer.

Black Water Complex

We will have bid documents for our storage building and will be advertising for bids in the next week or two. We will be moving ahead with septic installation and well installation this summer in preparation for the building construction.

(First Reading) An Ordinance Amending Chapter 212, By Adding Article III Regulating Unmanned Aircraft Systems (Also Known as Drones) in the Town of Bethany Beach

Ms. Hardiman read the title and synopsis of the ordinance and gave a detailed overview of the provisions outlined in the proposal. The ordinance contains specific regulations of drone technology and unmanned aircraft to protect the public health, welfare and safety of citizens and inhabitants of the Town of Bethany Beach.

Mr. Killmer raised concerns about a drone entering Town limits from boaters in the ocean and how this could be enforced. He also questioned what would happen with drones that were seized and noted that penalties would need to be included in the Schedule of Fees.

Mr. Gravier advised that fines will be incorporated in the Schedule of Fees. Enforcement of drones coming from the ocean would be near impossible. Storage of collected drones would not be an issue.

Property Owner, Dr. Larry Fishel, was recognized. He asked what the consequences were for violating the ordinance.

Ms. Hardiman advised that there would be a \$20 fine and the drone would be seized.

It was noted that this ordinance would be presented for adoption at next month's meeting.

Discussion, Consideration, and Possible Vote Regarding the Permanent Location of the Dinker Cottage on Maryland Avenue Extended

For this item of business, Mr. Killmer took over as Chair of the meeting.

Mayor Gordon explained that at the January Town Council meeting, the members voted to accept the Dinker Cottage and to relocate it on Maryland Avenue Extended. Due to

legal issues regarding the acceptance and location of the Cottage, the project was briefly postponed. The legal issues have been settled and we are now ready to move the house as planned. A plot of where the Town Manager is requesting the house be located was distributed. The new location eliminates four parking spaces as previously planned and will make the house more acceptable as a historic site. It will look more like it looks now from the street.

Mr. Gravier advised that the revised location puts the house 20 feet closer to Garfield Parkway. It will meet all setback requirements and will look similar to how the house is currently located.

Mayor Gordon made a motion to approve the new location for the Dinker Cottage as presented today and to have the Cottage relocated as soon as possible. Mr. Peterson seconded the motion.

Mr. Robert Cohen, property owner, was recognized. He stated that the press release that was published about the recent lawsuit pertaining to the Dinker Cottage was highly irregular. The case was not frivolous. It resulted from a lack of communication. The Town spent a lot of money on the case and so did the plaintiffs. Because there was no communication, the plaintiffs felt that they had no recourse other than to file a lawsuit.

Mr. Phillip Feliciano, property owner, was recognized. He said that the Town's Comprehensive Development plan lists 12 homes that are eligible, to be placed on the national registry. The Dinker Cottage is not on the list and is not eligible, because it has gone through many modifications.

Ms. Carol Olmstead was recognized. She reiterated what she said earlier as part of her CHAC report. Ms. Madeline Dunn of the National Registry of Historic Places has confirmed that the Dinker Cottage meets the requirements to be included on the National Registry. There was some delay in determining if it was eligible, because the house is not in its original location. However, since it has been in the same location since 1923, it is eligible.

Ms. Hardiman explained that, in her opinion, the Cottage has a place in Bethany Beach's history whether it is on the National Registry or not.

Hearing no additional comments, Mr. Killmer called for a vote on the pending motion. The motion was unanimously approved.

Mayor Gordon resumed Chair of the meeting.

To Consider and vote on a motion to go into executive session pursuant to 29 Del. C. § 1004(b)(4) for pending and/or potential litigation; and (2) and executive session pursuant to 29 Del. C. § 1004 (b)(6) for discussion of documents excluded from the definition of public record because public discussion would disclose the contents of such documents.

Mr. Killmer made a motion to go into executive session pursuant to 29 Del. C. § 1004(b)(4) for pending and/or potential litigation; and (2) and executive session pursuant to 29 Del. C. § 1004 (b)(6) for discussion of documents excluded from the definition of public record because public discussion would disclose the contents of such documents. Mr. Peterson seconded the motion and it was unanimously approved.

Mayor Gordon recessed the regular meeting at 2:50 p.m.

Mayor Gordon reconvened the regular meeting at 4:01 p.m.

Mr. Peterson made a motion to move forward and pursue the options presented in the Special Counsel's Memorandum. Mr. Killmer seconded the motion and it was unanimously approved.

Mayor Gordon closed the meeting at 4:03 p.m.

Respectfully submitted:

Lisa A. Kail, MMC
Administrative Assistant/
Town Clerk