FENWICK ISLAND
TOWN COUNCIL
October 23, 2009

The Town of Fenwick Island

800 Coastal Highway
Fenwick Island DE 19944
302.539.3011 * Fax: 302.539.1305

www.fenwickisland.delaware.gov

Regular Meeting of the Town Council
The Town of Fenwick Island
October 23, 2009 @3:30 PM
AGENDA

1. Flag Salute and Call to Order
2. Presentation – Sombar & Company, CPA PA Report on Annual Audit
3. Topics for Discussion and Possible Action
    a. Resolution #40-2009 Arbor Day Proclamation – Council Member Carmean
    b. Resolution #41-2009 Urban Forest Management – Council Member Carmean
    c. Board of Adjustment, Board of Election and Planning Commission Appointments – Mayor Serio
4. Approval of Minutes from September 25, 2009 Regular Council Meeting.
5. Treasurer's Report: Council Member Bunting
6. Town Manager's Report – Win Abbott
7. Department Reports: Beach, Building, Public Works and Police Department
8. Committee Reports: Beach, Environmental
9. Planning Commission: Winnie Lewis
10. Charter and Ordinance: Council Member Weistling
    a. Proposed First Reading Chapter 56 Boating
    b. Proposed Second Reading Chapter 48 Animals
    c. Proposed Second Reading Chapter 52 Beaches
11. Old Business
12. Public participation
13. President's Report
    a. Committee Assignments 2009-2010
14. Upcoming Events and Meetings
    a. November 10 Cultural & Historic Preservation Subcommittee and Planning Commission 1:30 pm and 2:30 pm respectively
    b. November 11 Veteran's Day - Town Hall Closed
    c. November 26 & 27 Thanksgiving Holiday - Town Hall Closed
    d. December 1 C&O 9:30 am
    e. December 11 Regular Council Meeting 3:30 pm
    f. December 24 & 25 Christmas Holiday – Town Hall Closed
    g. January 1 Fenwick Freeze
15. Adjournment

This agenda is subject to change to include the deletion of items and the addition of items, including Executive Sessions, which arise at the time of the meeting.

Posted: October 13, 2009

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NOTICE

On **October 23, 2009** The Fenwick Island Town Council
Passed the Following Resolution #40-2009
Arbor Day 2010

Whereas, J. Sterling Mortin established the first Arbor Day on April 10, 1872 in his home state of Nebraska to urge Americans to stop misusing their natural resources and begin to practice conservation by planting trees; and

Whereas, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperatures, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal,

Whereas, the Town Council, of the Town of Fenwick Island, desires to urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Therefore, the Town Council, of the Town of Fenwick Island, on behalf of the citizens and property owners of the Town of Fenwick Island, in order to accomplish this goal, do hereby establish for this purpose, and do hereby proclaim **April 30, 2010** as Arbor Day in the Town of Fenwick Island, and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

_____
Audrey Serio, President of Council

_____
Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on October 23, 2009, at which a quorum was present and voting throughout and the same is still in force and effect.

_____
Date

_____
Diane B. Tingle, Council Secretary

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NOTICE

On **October 23, 2009** The Fenwick Island Town Council
Passed the Following Resolution #41-2009

Whereas, the Town of Fenwick Island recognizes that trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperatures, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, the Town of Fenwick Island has undertaken an Urban Forest Resource Assessment the purpose of which is to identify and understand existing resources, and

Whereas, the Town of Fenwick Island continues to seek opportunities to increase its urban canopy, to maintain in good condition the current inventory, and to provide for response in times of crisis, and

Whereas, the Town of Fenwick Island recognizes that the Environmental Committee can assist in the delegation of tree care activities between residents, town personnel and other stake holders that work within the Town.

Therefore, the Town Council, of the Town of Fenwick Island, on behalf of the citizens and property owners of the Town of Fenwick Island, in order to accomplish these goals, do hereby authorize the Environmental Committee of the Town of Fenwick Island to act on behalf of its citizens to preserve and to protect the urban canopy and to seek ways to increase tree planting and tree maintenance activities within the Town of Fenwick Island.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

_____
Audrey Serio, President of Council

_____
Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on October 23, 2009, at which a quorum was present and voting throughout and the same is still in force and effect.

_____
Date

_____
Diane B. Tingle, Council Secretary

Minutes of the September 25, 2009 Regular Council Meeting

D R A F T

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance:
Bunting, Carmean, Langan, Serio, Tingle, Weistling

Council Absent:
Smallwood

Topics for Discussion and Possible Action

a. Capital Expenditures – Council Member Bunting
Council Member Bunting stated there was a meeting 10 days ago regarding two issues:

1) The replacement of the railings on the entry out front and the rear entrance. The condition is bad on the existing railings and they need to be replaced with aluminum railings that won't rust. The estimate to replace both is $10,600. This would be from capital expenditures, realty transfer.

Motion to transfer $10,600 for improvements for railings to meet safety requirements made by Council Member Bunting.
Second: Council Member Carmean.

DISCUSSION
Council Member Weistling commented that Council had talked about this a year ago and should proceed.
Council Member Carmean asked if this replacement will meet standards for the ADA (American with Disabilities Act) and requirements as a voting place.
Council Member Gardner replied that this replacement will meet requirements.

Vote to transfer $10,600 for improvements for railings to meet safety requirements: All in favor. Motion carried (6-0)

2) Council Member Bunting said the second issue under capital expenditure is the replacement of police vehicles. Member Bunting stated:

- The capital budget allows $25,000 for replacing the Dodge Durango, the white SUV.
- The Police Chief has received grants from county and state, and has entered into a contract to sell the white Dodge and the Dodge Durango.
- The total purchase cost of a new 2010 Ford Expedition with the police package included is $32,943.
- After grants and the sale of two vehicles, the town's cost of a new vehicle is $3,000.

Motion to proceed with the purchase of a new vehicle (2010 Ford Expedition) and to use transfer tax to cover the cost of $3,000 made by Council Member Bunting.
Second: Council Member Carmean.

DISCUSSION:
Council Member Weistling asked if this price covers all police required equipment.
Council Member Bunting replied yes, that grants have been received to cover police requirements.
Council Member Carmean commented that this is a good move as we are moving from two vehicles to one, which is a cost savings on insurance, etc.
Council Member Bunting stated that the color of the new vehicle will be white and we will continue to replace future vehicles in white.

Vote to proceed with the purchase of a new vehicle (2010 Ford Expedition) and use transfer tax to cover the cost of $3000.All in favor. Motion carried (6-0)

Approval of Minutes:
Motion to approve the minutes of the August 28, 2009 meeting made by Council Member Weistling.
Second: Council Member Carmean.

DISCUSSION:
There was no discussion

Vote to approve minutes of the August 28, 2009 council meeting. All in favor
Motion carried (6-0)

Treasurer's Report:
Council Member Bunting presented the Treasurer's Report noting the following:

- The form in the packet is different from what we are used to seeing.
- One item shows 100% of amount budgeted and that is professional services for finance. This has been paid, the service has been terminated, since it will be done in house.
- Realty transfer tax info will be showing up at bottom of the form.
  The ending balance of $1,674,343 was not available at the time the packet was put together.
- Building permit fees increased $1,399 compared to this time last year.

Motion to accept Treasurer's Report made by Council Member Tingle.
Council Member Langan seconded.

DISCUSSION:
There was no discussion.
Vote to accept Treasurer's Report as presented: All in favor. Motion carried (6-0).

Mike Quinn (W. Houston St) stated that the 150% of budget as shown under Revenues, Charges for Services, Business Licenses on the Treasurer's Report isn't the correct percentage.

Motion to accept the amended Treasurer's Report correcting the business license percentage under Revenues, Charges for Services, Business Licenses made by Council Member Tingle.
Council Member Gardner seconded.

Vote to accept the amended Treasurer's Report correcting the business license percentage under Revenues, Charges for Services, Business Licenses: All in favor. Motion carried (6-0).

Town Manager Report:
Town Manager Abbott stated:

- He recognizes that the chairperson of the Planning Commission, Winnie Lewis, has sent a kind note and update to all persons associated with the Old Fenwick Island Days. The lighthouse received over 1000 visits during the week long event. Information on the walking tour is still available in Town Hall and on the website.
- 62 persons were involved in the coastal cleanup.
- The curbside recycling report for August 2009 is 1,719 total pickups with a combined weight of 36,960 pounds. There was a memo from DSWA (Delaware Solid Waste Association) regarding a significant increase in rate per ton for use of Delaware landfills. All municipalities are challenging the increase.
- Fiscal Year 2008-2009 audit was completed last week. The mayor and I will meet with the auditor next week. During the past month, we submitted a preliminary grant application for land acquisition with the Department of Parks and Recreation.
- The revised pedestrian plan from 2002 that was submitted as a project for funding by the Economic Development Office under the comprehensive economic development strategy for 2010 included significant improvements to crosswalks and highways with gateway entrances, at an estimated cost of $4.1 million. He followed up with the Department of Transportation and this project is not on their list. He lifted the sidewalk portion out of this proposal, used the consumer price index changes from that time until 2009 and created a new value.
- The 2009-2010 property taxes have been recorded and deposited in full thanks to the work of our Town Clerk, Agnes DiPetrantonio.
- The sign retrofit has been ordered and paid in full by the Delaware Emergency Management Agency grant.
- The website and local media have been updated regarding off-season services and schedules.
- The Artesian paving project will begin the week of October 5, 2009.

Department Reports:
Beach Patrol – Beach Patrol Captain Ferry stated that the town had a good, safe summer even with four less guards and with a turn over of ten new guards.

Council Member Weistling asked Captain Ferry if he gets a sense from the guards at the end of summer if they will be back next summer. Captain Ferry replied yes, he does. We should be in good shape next summer.

Building - Building Official Schuchman stated:

- In addition to the August report showing $1,800 in revenue, for the month of September, three new construction permits have been issued for a total amount of $48,885. This is $10,000 more than the total of all fees collected last year.

Public Works – no additional report

Police Department – no additional report

Council Member Carmean stated:

- She understands that in August we had a tragedy in Georgetown, and officers from all over Sussex County were sent to help. She asked what provisions are made when this happens to provide coverage to the towns that are sending officers.

  Chief Boyden replied that the night of the shooting was a shift change. The Georgetown and State Police Departments requested immediate assistance for an active search for the shooter. He took over the shift to allow our two officers to assist with the search. At no time was the town not covered. The day of the funeral, he wanted to have maximum support for the family at the funeral and made arrangements with the State Police for coverage of the town.

- One of the businesses in town was robbed and our officer responded in less than 1½ minutes, but there was 20 minutes of down time between when the silent alarm went off and the officer was contacted. What is the difference between having a silent alarm or another alarm?

  Chief Boyden responded that this business has an audible entry alarm that sounds only when the door is opened. The burglars smashed a window to enter. The motion detector does not activate the audible alarm. You don't know where the alarm is sounded depending on where the alarm company's phone center is located – this could cause a delay.

- Is there any advice we can give our business owners?
  Chief Boyden replied certainly, I can meet with businesses owners or one of my officers to offer advice on the best type of alarms.

Committee Reports:

Beach – Council Member Weistling commented:

- At the beach clean up on Indian Street, he noticed a volunteer picking up 20-25 cigarette butts under one bench.
- Maybe in the future we could look at this problem with a cigarette butt container to be emptied or other alternative.

Environmental – Co-chair Buzz Henefin stated he hasn't been around and opened the floor to comments from any committee members.

Member Martha Keller said there will be a symposium on storm water in March. Everyone will receive notice.

Council Member Carmean said the group is looking into information on solar and wind energy.

Planning Commission: no report

Charter and Ordinance:

a. Proposed First Reading Chapter 48 animals

Council Member Weistling explained that the changes to the ordinance is the wording on fines with the existing language using 'not less than' and the proposed language listing each one and the amount of the fine.

Motion to accept the First Reading of Chapter 48 Animals by deleting existing sections 48-8, 48-9.1 and 48-13 and accepting new sections 48-8, 48-9.1 and 48-13 made by Council Member Weistling.
Second: Council Member Carmean.

DISCUSSION
There was no discussion.

Vote to accept the First Reading of Chapter 48 Animals: All in Favor
Motion passed (6-0)

Proposed changes in First Reading of Chapter 48 Animals are:
Sec. 48-8 – Delete "a fine of not less than $100 nor more than $200" and replace with "a fine of $100".
Sec. 48-9.1 – Delete "a fine of not less than $100" and replace with "$100 for each offense".
Sec. 48-13 – Delete "who shall violate" and replace with "convicted of violating". Delete "shall be fined not less than $200 nor more than $1,000" and replace with "shall be fined $100".

b. Proposed First Reading Chapter 52 Beaches
Council Member Weistling stated that this proposed change deletes existing sections and replaces with new sections

Council Member Weistling noted:

- The proposed change to section 52-11 changes the fine; section 52.13 is a change in verbiage; and section 52-15 is a change in language and who is authorized to do work on the beach.
- Section 52-11 refers to articles one and two on different items like storing of boats, fishing, alcoholic beverages, etc.
- Section 52.16 refers to article four, violations.

Council Member Weistling motioned to accept a First Reading of Chapter 52 Beaches. Council MemberCarmean seconded.

DISCUSSION
There was no discussion

Vote to accept First Reading of Chapter 52 Beaches: All in Favor. Motion carried (6-0)

Proposed changes in First Reading Chapter 52 Beaches are:

Sec. 52-11 – Delete "not less than $25 nor more than $100". Replace with "$100 for each offense".
Sec. 52-13 – Delete "official or authorized personnel". Replace with "authorized official Personnel".
Sec. 52-15 – Delete "shall be patrolled by employees designated by Council". Replace with "shall have the power and authority to designate its employees and/or approved contractors and their employees to patrol the work area".
Sec. 52-16 – Delete "who shall violate". Replace with "convicted of violating".
Delete "upon conviction thereof, be fined not more than $100". Replace with "be subject to a fine of $100".

c. Proposed Second Reading Chapter 100 Licensing, 100-3
Council Member Weistling explained that this change adds to section 100-3, A, the language "each concession that operates in Town and/or on the beach".

Motion to accept a Second Reading of Chapter 100, 100-3 made by Council Member Weistling.
Second: Council Member Carmean.

DISCUSSION
There was no discussion.

Vote to accept Second Reading of Chapter 100 Licensing, 100-3: All in Favor
A poll of each member was taken for the vote:

Bunting – yes	Serio - yes
Carmean – yes	Tingle - yes
Langan – yes	Weistling - yes

Motion passed (6-0)

Proposed changes in the Second Reading of Chapter 100 Licensing, 100-3 are:
Add as number (5) to section 100-3, A, "Each concession that operates in Town and/or on the beach".

d. Proposed Second Reading Chapter 116 Peace and Good Order, 116-2
Council Member Weistling stated the change is to add the wording "unless such activity is approved by Town Council" to the last sentence.

Motion to accept the Second Reading of Chapter 116, Peace and Good Order, 116-2 made by Council Member Weistling.
Second: Council Member Carmean.

DISCUSSION
There was no discussion.

Vote to accept Second Reading of Chapter 100 Licensing, 100-3: All in Favor
A poll of each member was taken for the vote:

Bunting – yes	Serio - yes
Carmean – yes	Tingle - yes
Langan – yes	Weistling - yes

Motion passed (6-0)

Proposed changes in the Second Reading of Chapter 100 Licensing, 100-3 are:
Sec. 116-2 – add to the end of the existing sentence "unless such activity is approved by Town Council".

Old Business
There was no old business.

President's Report:
Council President Serio stated:

- The Town Council meeting schedule for the remainder of the year has been posted on the website. If you don't have a computer, get in touch with someone at Town Hall for the schedule.
- There is no Council meeting in November, one meeting early in December, and one mid way through January.
- Trash pickup will begin Mondays only on October 1, 2009.
- Recycling will begin on the first and third Fridays, starting October 1, 2009.
- The Big Four (Bethany Beach, South Bethany Beach, Sea Colony and Fenwick Island) met to approve the budget as per the agreement for ambulance service. There was no raise in the fee this year.
- Most committees have been appointed:
    - Audit Committee - Gardner Bunting (chair), Vicki Rymer and Audrey Serio.
    - Beach Committee – Rebecca McWilliams, Tim Ferry, Vivian Jennings, John Belian, Lizbeth Lear, and Lori Smallwood.
    - Budget Committee - Gardner Bunting (chair), Todd Smallwood, Gene Langan, Vicki Carmean, Vicky Rymer Diane Tingle, Charles Zonko, Audrey Serio, Bill Weistling, John Lewis

- Building – Bill Weistling (chair), John Anthony, Reid Tingle
- Charter and Ordinance Committee -Bill Weistling (chair), Gene Langan (vice chair), Winnie Lewis, Mike Quinn, Buzz Henefin, Diane Tingle, Vicki Carmean,
- Emergency Management – Audrey Serio (chair), Richard Moss, Gardner Bunting, Pat Schuchman, Chief Boyden, Dick Bowman, Win Abbott
- Commercial and Environmental Committee members will be announced later.
- The Election Board , Board of Adjustment and Planning Commission appointments will be approved by Council at the October meeting.
- Appointments will be posted when all appointments have been made.

Council Member Carmean asked about the town safety committee.

Mayor Serio replied that she appointed a department policy review task force. Todd Smallwood will be chair. This task force will be broken up into two sub committees:
1) Beach and Public Works Departments – members are Bill Weistling, Gardner Bunting, Richard Mais, and Bob Demajestre.

2) Admin. and Police Departments – members are Vicki Carmean, Buzz Henefin, Gene Langan and Diane Tingle.

Public Participation
1. Mary Pat Kyle (1205 Bunting Ave) stated:
   - In the past, the public was provided copies of ordinance changes. It is much easier to follow with copies.
   - The sign that Mr. Abbott referred to, is this the same sign that what's his name was going to get us that we objected to before? If so, why are we getting it?

Mayor Serio replied that it is the same sign, and is needed for safety issues and was passed a year ago

2. John Belian, resident, stated:
   - We have received 10 requests for people to participate in the upcoming fishing tournament on October 10, 2009.
   - We will have at least as many people participate as we had last year.
   - Everything looks goods.
   - Judges will patrol the beach from Farmington to Lewes Streets.

3. Buzz Henefin, resident, stated
   - He noticed a citizen sitting at a bench spending time picking up cigarette butts.
   - As he recalls, they always had the police, building, Town Manager reports, and ordinance changes with the agenda, but they didn't get them this time. It would really be helpful for the public. Sometimes things go by so fast, it is hard to catch.

- Two years ago we went through the process of getting an outsider to do budgeting reports - it was a big CPA outfit. Now we are going back to using in house staff– why?
- There is an item on the web about streets that had to have name changes. He would like to emphasize if the names have to be changed, he would like to see it before Christmas cards go out.

Mayor Serio replied that it was a budget decision as well as agreement on the part of our auditor that the town was small enough to do budgeting reports.

Town Manager Abbott commented:

- He has contacted Sussex County about the readdressing change. The representative said the department consists of six people, four of which have had deaths in the family in the last few weeks, so they are behind in the work.
- He will let everyone know as soon as the change happens.

4. Gail Warbuton (10 W. Farmington) stated:

- She thinks that at the July Council meeting there was a discussion about ordinance 160-8F about vehicles allowed to park on unimproved property with or without permission. At this meeting, the mayor directed the Town Manager to talk to PNC bank about getting their cooperation about no parking on their vacant lot- what happened with that?

Town Manager Abbott referred the question to Police Chief Boyden who responded that we can't site an individual motorist for parking on an unimproved private lot because the courts and judge will side with the defendant saying a visitor wouldn't know the ordinances.

Town Manager Abbott stated that the outcome is that it isn't enforceable.

Ms. Warburton asked what is the point in having an ordinance that isn't enforceable? It's not about the people parking there, it's the bank allowing it. The ordinance states with or without permission.

Ms. Warburton said that her question is, did anyone go talk to the bank?
Mayor Serio and Town Manager Abbott replied no.

Council Member Tingle commented that she understood that the bank said they weren't going to do anything.

Council Member Weistling said that the Charter and Ordinance Committee is in the process of going through each ordinance and they haven't reached that section yet.

5. Martha Keller (1312 Bora Bora) stated:

- This is an ordinance question. In C and D where it says all contractors have to be licensed and solicitation on the beach has to be licensed. Is there any fee assigned or ticket given?

Council Member Weistling replied that this is the first step in the process and we have to set up fees.

Ms. Keller also said that the lifeguards are not allowed to give tickets to owners of dogs on the beach. (No one pays attention to the guards). She doesn't see any other way except to give the guards some authority.

Mayor Serio responded that Tempe (Town Attorney) would squelch that. We don't think we want to give lifeguards policing authority.

Tim Ferry, Captain of the Beach Patrol, responded that they haven't experienced any problems with dogs. The people that don't know, will usually heed our directions. In Bethany, we were sworn in and could hold and detain people, but couldn't write tickets. It is out of the realm of the duties of the lifeguards to write tickets.

6. Pete Frederick (1605 Bunting) reported that the rope is gone from the poles on the beach. There is a boat doing soundings going back and forth. Did the rope come down so the sand fence could go up? Are they doing soundings –have you heard anything?

Council Member Bunting answered that the rope and fence issues are being addressed to see what we can do. We have to find funds to pay for a fence if we can get DNREC's permission and use prisoner labor to construct it. We are just getting started. I'm not sure why the rope is down.

7. Lynn Andrews (1205 N. Schulz Road)
Mr. Abbott glanced over a comment about land acquisition with the Parks and Recreation commission. That's the first time I've heard anything about that. Where and when? Is this within the town or an annexation?

Mr. Abbott responded that it was a preliminary grant application to acquire land. We just want to find out if funds are available. There was a deadline by September 30, 2009.

Council Member Carmean said it is better to ask and get the money in case the opportunity presents itself. Win (Town Manager) is great about pursuing grant possibilities. We want to investigate it.

8. Mike Quinn, resident said:

- He isn't sure he heard correctly about the purchase of a Ford Expedition. Are we getting rid of two cars and buying one? Is the new car a hybrid?

Council Member Bunting said, yes, we are getting rid of two cars. The white car that used to be the police car and the white Durango will go when the new car arrives. The new car is not a hybrid.

- The website says there is a special meeting on October 23 that isn't listed.

Building Official Schuchman stated there is a public hearing on the subdivision of two lots on West Atlantic on October 23 at 3:15pm.

Adjournment:
Mayor Serio adjourned the meeting at 4:35 pm

Respectfully submitted,

Diane Tingle, Secretary
Recorded and Transcribed by Nancy Avery in the absence of the Town Clerk.

Existing – Chapter 48 (Animals)

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of not less than $100 nor more than $200.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of not less than $100.

§ 48-13. Violations and penalties.

Any person or persons who shall violate the prohibitions of § 48-11 of this article shall be fined not less than $200 nor more than $1,000 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Proposed:

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of $100.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of $100 for each offense.

§ 48-13. Violations and penalties.

Any person or persons convicted of violating the prohibitions of § 48-11 of this article shall be fined $100 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Existing – Chapter 52 (Beaches)

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of not less than $25 nor more than $100. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware, official or authorized personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall be patrolled by employees designated by Council. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons who shall violate any provision of Article IV shall, upon conviction thereof, be fined not more than $100. Each day of a separate and continuing violation shall be deemed a separate offense.

Proposed:

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of $100 for each offense. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware authorized official Personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall have the power and authority to designate its employees and/or approved contractors and their employees to patrol the work area. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons convicted of violating any provision of Article IV shall be subject to a fine of $100. Each day of a separate and continuing violation shall be deemed a separate offense.

Proposed 1st Reading – August 28, 2009
Proposed 2nd Reading – September 25, 2009

Chapter 116 Peace and Good Order - 116-2:

Existing:

§116-2. Soliciting sales on public beaches.

It shall be unlawful for any person to sell or solicit the sale of anything on any part of the public beaches or public streets within the corporate limits of the Town of Fenwick Island, Delaware.

Add:

Add to the end of this sentence: "unless such activity is approved by Town Council."

Existing:

Chapter 100 – Licensing

§100-3 - License fees.

A. Any person engaged, for profit, in selling any and all merchandise and/or given commodities and/or in providing facilities, services, rental units and/or food service within the Town at or from any given establishment as follows shall pay an annual fee as set by resolution of the Town Council from time to time:

(1) Each establishment used as a restaurant or eating establishment or carry-out food establishment.

(2) Each establishment used for real estate sales or rentals.

(3) Each establishment for sale of any merchandise and/or commodities and/or combination thereof.

(4) Each establishment used as a bank or lending institution.

Add:

(5) Each concession that operates in Town and/or on the beach.

TOWN OF FENWICK ISLAND
YTD BUDGET
SEPTEMBER 2009

REVENUES	YTD September	Budget	YTD % Budget
43000-Taxes			
Rental Tax	15604	275,000	5.67%
Property Tax	569,722	625,000	91.16%
44550-Charges for Services - Admin			
Business Licenses	1919	82,500	2.33%
Garbage & Recycling	168,175	178,160	94.40%
Comcast franchise fee	9,681	28,000	34.58%
Ambulance Service	25,311	27,120	93.33%
Bldng Permit Fees	52,527	75,000	70.04%
44800-Fines & Forfeitures			
Penalties	100	3,000	3.33%
Traffic and Parking Fines	14,019	55,000	25.49%
45000- Investments			
Inv. Income	778	9,000	8.64%
46430- Misc. Revenue			
Parking Perm.	5945	25,000	23.78%
Bonfire Permits	460	2,500	18.40%
Town Hall rent	240	2,000	12.00%
Misc Income & copy fees	692	5,100	13.57%
Insur. Reimb	0	5000	0.00%
Beach concession	0	20,000	0.00%
Misc - Jr. lifeguard	0	2,500	0.00%
Misc. Revenue Police	150	7,200	2.08%
Sale of Equipment	10		
Carry-over from prior yea	0		
Grant Revenue	26000	59,500	43.70%
Total Revenues	891333	1,486,580	59.96%

EXPENDITURES	YTD Sept.	Budget	YTD % Budget
61100 Police Department			
Payroll-related exp	49,306	389,682	12.65%
Veh maint, gas & oil	3299	19,000	17.36%
Computer & air time	734	5,000	14.68%
Training	375	3,000	12.50%
Uniform, Equip maint	827	5,000	16.54%
Office Supplies, Print	130	7,000	1.86%
Hurricane Readiness	758	3,000	25.27%
Sub-total	55,429	431,682	12.84%
61500 Lifeguards			
Payroll-related exp	60,895	179,750	33.88%
Uniform, Supplies, etc	60	7,500	0.80%
Training & Certification	0	1,400	0.00%
Misc. & Junior Guards	253	900	28.11%
Gasoline	94	200	47.00%
Sub-total	61,302	189,750	32.31%
61800 Public Works Department			
Payroll-related exp	28,016	225,457	12.43%
Building maint Utilities	247	5,600	4.41%
Gas & Oil	1060	4,000	26.50%
Equip, Repairs & Maint	365	4,500	8.11%
Training & Safety Equip	0	2,000	0.00%
Uniforms, Shop & Misc	119	2,450	4.86%
CDL License Test	48	500	9.60%
Sub-total	29,855	244,507	12.21%

	YTD Sept.	Budget	YTD % Budget
Administration			
Payroll-related exp	30,272	240,544	12.58%
Prof. Serv (finance)	2500	2,500	100.00%
Office equip & supply	2944	11,000	26.76%
Training & Travel exp	80	5,000	1.60%
Vehicle, Fuel & Maint	820	5,225	15.69%
Print, Park Permit exp.	0	2,600	0.00%
Sub-total	36,616	266,869	13.72%
General Government			
Trash & Recyc Exp	23,028	167,552	13.74%
Insurance	100	60,000	0.17%
Ambulance Service	6075	27,120	22.40%
Pro Serv (Legal, Audit)	821	26,500	3.10%
Utility Expense	2489	14,000	17.78%
Telephone & website	2,096	15,000	13.97%
Other prof. Services	1099	9,300	11.82%
Postage & Printing	75	4,500	1.67%
Building Maintenance	256	6,000	4.27%
Gov & Comm Relations	1259	7,500	16.79%
Codification	0	5,000	0.00%
Employee Relations	951	3,000	31.70%
Contingency Reserve	0	5,000	0.00%
Emerg Mgmnt. & misc.	2893	3,300	87.67%
Sub-total	19,114	353,772	5.40%
Total Expenses	132,203	1,486,580	8.89%

TOWN OF FENWICK ISLAND
BUILDING REPORT
SEPTEMBER 2009

PERMIT #	PROPERTY DESCRIPTION	PROJECT DESCRIPTION	E.C.C.	TOTAL
3802	Zonko Builders, A. Collins 1604 Bay Street Lot 107 1-34 23.12 158.00	4-Bedroom, 4-bath single family dwelling	$700,000.00	$21,000.00
3803	J. Balsamo 1106 Coastal Highway Lots 53, 54, 55 1-34 23.12 68.00	Re-shingle roof	$5,500.00	$165.00
3804	Zonko Builders C. Christ 1409 Bunting Avenue Lot 5 1-34 23.12 189.00	4-Bedroom, 4-bath single family dwelling	$624,500.00	$18,735.00
3805	T & M Construction J. Trimble 61 Madison Avenue Lot 228 1-34 23.16 176.00	Repair pilings	$1,400.00	$50.00
3806	Hickory Hill Builders D. Forgash 10 E. Georgetown St. Lot 12 1-34 23.12 218.00	Repair existing deck & install vinyl handrails on deck & stairs	$12,900.00	$387.00
3807	Atlantic Building Svc. J. Ward 11 W. Atlantic St. Lots 69, 70 1-34 23.16 114.00	Amend BP #3796 – replace 2 joists under deck (repair)	$800.00	$50.00
3808	Second Chance C. Christ 1409 Bunting Avenue Lot 5 1-34 23.12 189.00	Deconstruction of house	-0-	-0-
3809	Isaac's Asphalt Paving J. Balsamo 1100/1106 Coastal Hwy Lots 50 thru 55 1-34 23.12 67.00 & 68.00	Seal coat shopping center parking lot	$20,000.00	$600.00
3810	Kreative Kare Lndsp A. Abu-Rustum 40 Bayside Dr. Lot 190 1-34 23.20 13.01	Install (2) 15"x12' stone landscape walls	$3,142.00	$94.00
3811	Explorer Homes, Inc. J. Trigger 41 Bayside Drive Lot 211 1-34 23.16 188.00	3-Bedroom, 4-bath single family dwelling	$305,000.00	$9,150.00
3812	L. Hellmuth 810 Schulz Road Lot 16 1-34 23.16 6.01	Replace 30 windows & one sliding door	$16,550.00	$496.00
		TOTAL	**$1,689,792.00**	**$50,727.00**

PUBLIC WORKS DEPARTMENT REPORT
September 16, 2009 to October 14, 2009

The following activities have been performed by the Public Works Department for this time period.

- Drainage, shoulder, sign, and post work was performed throughout this time frame.
- Routine maintenance of buildings, equipment, grounds, right of way, and median was performed during this time frame.
- Cut and trim grass in right of way and park.
- Water town flower pots throughout town
- Street clean ups after heavy weather events.
- Pick up, clean, and paint ½ of the beach trash barrels for winter.
- Remove the rest (5) of the lifeguard stands to the yard for clean up for the year. Pressure wash all lifeguard stands, take off, clean, and store lifeguard stand signs in lifeguard shed.
- Take down and clean all rip current signs and store.
- Replace board in gazebo.
- Safety meeting on fire extinguishers. General truck safety 9-23-09
- Removed trees out of 2 flower pots in front of the park, cleaned flower pots, transplanted holly tree out of one pot to side near basketball court and got rid of one dead tree.
- Weed control through out town.
- Repairing lifeguard stands

Respectfully submitted,

Wilmer E. Abbott IV
Town Manager

FENWICK ISLAND POLICE DEPARTMENT

MEMORANDUM

TO: PRESIDENT
COUNCIL MEMBERS
CITIZENS

FROM: Chief William Boyden

DATE: October 19 2009

SUBJECT: SEPTEMBER MONTHLY REPORT

Attached you will find the Police Report for the month of Septembe, 2009. The report is submitted for your review and approval.

Summary of report:

	2009	2008
Traffic Arrests/Citations	64	139
Total Number of Complaints	40	47
DUI Arrests	0	1
Criminal Arrests	2	4
Parking Tickets	15	32

Planning Commission Report to Council
10/23/2009

TO: Fenwick Island Town Council
FROM: Winnie Lewis, Chair , Planning Commission

- The Cultural and Historic Preservation Sub-committee met on October 13 2009. Oral History Project activities will continue. Drafting a 3-year Plan. Focus this year on commercial community – folks who owned businesses and/or worked at local businesses. Next meeting November 10 @1:30 PM.

- The Planning Commission met on October 13, 2009. Winnie Lewis explained the Parks and Recreation Advisory Group. This group will undertake an examination of the town to explore possible open-space use and dwell opportunities. They will provide a draft master plan for the Planning Commission's use to formulate a Master Open Space and Recreational Opportunity Plan to be presented to council. Membership had a brief discussion of the commercial community's participation and interaction with Town committees. Members deferred action until the next meeting. Next meeting date November 10 @2:30 PM.

Respectfully Submitted,

Winnie Lewis
WL/adip

EXISTING:

Chapter 56, BOATING

§ 56-1. Prohibited operation of boats.

No person shall operate a motor propelled boat within the waterways of the limits of the Town of Fenwick Island, Delaware, in any of the following manners:

A. In an unreasonable and reckless disregard for the safety or persons or property;
B. At a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
C. At **a speed greater than six (6) miles per hour in any lagoon or canal**, or to create a wake; or
D. By failing to follow the rules for motor-propelled boats, as established by the U.S. Coast Guard and the Delaware State Marine Police.

§ 56-2. Personal watercraft.

A. For the purpose of this section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

HEADWAY SPEED -- The minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

PERSONAL WATERCRAFT -- Any Class A inboard vessel [less than sixteen (16) feet in length] as defined by the United States Coast Guard which uses either an internal combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel **or by a water-skier via remote control, instead of in the conventional manner of vessel operation, such as riding in the vessel.**

B. No person shall mark, designate or use a watercourse within a distance of one-fourth (1/4) mile of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island for the purposes of defining and limiting operation of personal watercraft or any other power vessel.

C. No person shall operate a personal watercraft within a distance of six hundred (600) feet of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island, except under the following circumstances and conditions:

(1) Traversing through to waters beyond the town's territorial limits; or
(2) Traveling to or from a home berth, or launching site within the town's limits; and
(3) During such transits, the personal watercraft shall not be operated at any speed greater than steerage speed.

§ 56-3. Violations and penalties.

A. Any boat operator found guilty of violating this chapter shall, upon conviction thereof, be subjected to a fine, **for the first offense, of not less than ten dollars ($10.) nor more than twenty-five dollars ($25.). For each subsequent like offense, he shall be fined not less than twenty-five dollars ($25.) nor more than fifty dollars ($50.).**
B. Any person or other legal entity that is the owner of a personal watercraft or has charge or control over a personal watercraft shall be subject to the same penalty specified in Subsection A each time another person is directed and/or allowed to operate such watercraft in violation of any provision of this chapter.

Proposed:

Chapter 56 - Boating

§ 56-1. Definitions.

For the purpose of this section, the following definitions shall be applicable unless the context clearly indicates to the contrary:

STEERAGE WAY -- The minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

PERSONAL WATERCRAFT -- Any Class A inboard vessel [less than sixteen (16) feet in length] as defined by the United States Coast Guard which uses either an internal combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel.

§ 56-2. Prohibited operation of boats.

A. No person shall mark, designate or use a watercourse within a distance of **600 feet** of any beach, bank or bulkhead within the corporate limits of the Town of Fenwick Island for the purposes of defining and limiting operation of personal watercraft or any other power vessel.

B. No person shall operate a motor propelled boat within the waterways of the limits of the Town of Fenwick Island, Delaware, in any of the following manners:

(1) In an unreasonable and reckless disregard for the safety or persons or property;
(2) At a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
(3) **At a speed greater than three (3) miles per hour in any lagoon or canal, or at a speed greater than steerage way or that creates a wake in any lagoon/canal**; or
(4) By failing to follow the rules for motor-propelled boats, as established by the U.S. Coast Guard and **Delaware state law governing 'Boating Laws and Responsibilities**.

§ 56-3. Violations and penalties

A. Any boat operator found guilty of violating this chapter shall, upon conviction thereof, be subjected to a **fine of $100 for each offense**.

B. Any person or other legal entity that is the owner of a personal watercraft or has charge or control over a personal watercraft shall be subject to the same penalty specified in Subsection A each time another person is directed and/or allowed to operate such watercraft in violation of any provision of this chapter.

Posted October 8, 2009

APPROVED First Reading – September 25, 2009
Proposed Second Reading – October 23, 2009

Existing – Chapter 48 (Animals)

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of not less than $100 nor more than $200.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of not less than $100.

§ 48-13. Violations and penalties.

Any person or persons who shall violate the prohibitions of § 48-11 of this article shall be fined not less than $200 nor more than $1,000 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Proposed:

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of $100.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of $100 for each offense.

§ 48-13. Violations and penalties.

Any person or persons convicted of violating the prohibitions of § 48-11 of this article shall be fined $100 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Posted September 28, 2009

APPROVED First Reading – September 25, 2009
Proposed Second Reading – October 23, 2009

Existing – Chapter 52 (Beaches)

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of not less than $25 nor more than $100. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware, official or authorized personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall be patrolled by employees designated by Council. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons who shall violate any provision of Article IV shall, upon conviction thereof, be fined not more than $100. Each day of a separate and continuing violation shall be deemed a separate offense.

Proposed:

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of $100 for each offense. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware authorized official Personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall have the power and authority to designate its employees and/or approved contractors and their employees to patrol the work area. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons convicted of violating any provision of Article IV shall be subject to a fine of $100. Each day of a separate and continuing violation shall be deemed a separate offense.

Posted September 28, 2009

Existing:

Chapter 100 – Licensing

§100-3 - License fees.

A. Any person engaged, for profit, in selling any and all merchandise and/or given commodities and/or in providing facilities, services, rental units and/or food service within the Town at or from any given establishment as follows shall pay an annual fee as set by resolution of the Town Council from time to time:

(1) Each establishment used as a restaurant or eating establishment or carry-out food establishment.

(2) Each establishment used for real estate sales or rentals.

(3) Each establishment for sale of any merchandise and/or commodities and/or combination thereof.

(4) Each establishment used as a bank or lending institution.

Add:

(5) Each concession that operates in Town and/or on the beach.