

**TOWN OF DEWEY BEACH
MINUTES OF THE OCTOBER 14, 2006
TOWN MEETING**

1. Opening - Mayor Tush opened the meeting at 9:00 a.m.
2. Pledge to the Flag - Commissioner Walsh led the Pledge.
3. Moment of Silence - A moment of silence for "those in harms way" was observed.
4. Roll Call- All Commissioners were present. The Town Attorney and Town Manager were also present.
5. Minutes of the September 8, 2006 Town Meeting and the Executive Session - Commissioner Cooke moved to accept the Minutes and Commissioner Fitzgerald seconded; the motion carried 5-0.
6. Police Report - Police Chief Mackert gave the Police Activity Report for September, 2006. He extended a thank you on behalf of the Police Department for donations received from Mr. Falchino (\$100) and Mr. Harry Wilson (\$250). These dollars will go toward purchasing computer equipment technology for the new Dewey Beach Maintenance Building located on Hebron Road. Dewey Beach Policeman Adam Stiners was credited for identifying an out of state bank robbery suspect and taking him into custody without incident. He then stated it was a quiet "Greyhound" weekend.

7. Old Business

- a. Discuss and Vote to accept an Ordinance to amend Chapter 65-9, entitled "Regulation of Beach Activities".

Based on comments received during last month's public hearing, Town Attorney Witsil explained the amendments made to this proposed ordinance. Commissioner Walsh commented on the ordinance being improved with the addition of these changes providing the Dewey Beach Patrol with discretion to designate daily the areas for referenced beach activities. Commissioner Cooke made a motion to approve this ordinance and Commissioner Fitzgerald seconded. The motion carried 5-0.

- b. Discuss and Vote to continue the moratorium placed by Ordinance No. 566 on May 13, 2006 to prevent acceptance of applications for conversion or construction of any residential structure on land located in the RB/Resort Business district.

Following discussion, Commissioner Cooke stated he is opposed to placing restrictions on private property, but he sees no other alternative and does not

want the Town to be without a viable business district prior to implementing a new Comprehensive Plan. Commissioner Fitzgerald thinks this moratorium is needed and its continuance is necessary. Commissioner Eisenhauer made a motion to continue this ordinance and Commissioner Fitzgerald seconded; the motion carried 5-0.

c. Discuss and Vote on an Ordinance to amend Section 23(13) of Dewey Beach Town Charter and Delaware Laws, Chapter 59, Vol. 63, Sec. 23(13) granting qualified voters of the Town power to petition any adopted Ordinance.

Town Attorney Witsil explained the Ordinance and changes made after the last public hearing. Commissioner Walsh stated referendums can be expensive for the Town and the Commissioners are available to answer the citizens' questions. However, the number/percent of concerned voters has to be higher in order to prevent frivolous petitions.

Commissioner Fitzgerald stated: "The people elected us and expect us to correct flaws in our Charter. This would reduce, not eliminate, lawsuits and this should not be put to referendum." Commissioner Cooke stated: "Any change made to the Town Charter, which is our 'Constitution', should be put to the citizens as a referendum before submission to the State, and that the number/percentages are too low." Commissioner Eisenhauer stated: "The number/percent should be higher; and, if citizens feel strongly, they should have the right to petition." Mayor Tush stated: "This would be a good thing for the citizens and eliminate legal challenges, giving people right to go forward with a petition or put out for referendum; however, the number/percent may be too low."

Comments from the public were as follows: There were numerous citizens in favor of presenting this change to the Town Charter to the people in the next election; many did not see the need for this Ordinance at all. All were against the low number/percent petition requirement because an unhappy person could keep the Town very busy. Commissioner Eisenhauer made a motion that the Town Attorney draft an Ordinance and use 33-1/3% of total number of voters in the past election or 300, whichever is greater, and present this proposed binding referendum to the voters at the next Municipal Election. This motion was seconded by Commissioner Cooke. Vote - 4 in favor and Commissioner Fitzgerald voted against.

d. Discuss and Vote to Amend 2006 FY Budget.

Commissioner Cooke stated this is not an authorization to spend, but to transfer \$65,000 from Streets/Roads Account to General Fund, Dept 3, for Street Maintenance. Also, transfer \$85,000 from the Delaware Transportation Bond account to the General Fund, Dept 3, for Street

Repair. This is to cover the Read Avenue Project, which has been on the books for over 2 years, and will have to go out for re-bid due to lapse of time. Commissioner Cooke made the motion to transfer these funds and Commissioner Eisenhower seconded; the motion carried 5-0.

Town Attorney Witsil explained the proposed amendments to the Dewey Beach Municipal Code and how they relate to Ordinances 523 & 551.

e. Discuss amending Municipal Code of Dewey Beach under Chapter 185, Article IV, Subsection 185-24D(8)(d) to increase condo unit minimum square footage from 750 square feet to 1,800 square feet per unit.

f. Discuss amending the Municipal Code of Dewey Beach under Resort Residential, Section 185-24D(8) and under Resort Business, Section 185-25D(13) to delete "as a conditional use" and add "conversion, dedication or declaration of existing hotels or motels to ownership as residential condominium units".

g. Discuss Drafting an Ordinance to Rescind Moratorium, dated November 12,2005, contingent upon acceptance of the above (e. & f.)

The Commissioners continued a long discussion on these above subjects, followed by input from the public. There was a lot of discussion on the square footage, with perhaps a more reasonable figure being from 1,200 to 1,500 square feet per unit. After much discussion, the Town Attorney stated that that Ordinance 523 is the bare bones regulation that allows the Town to regulate hotel/motel conversion to condominium units. Commissioner Fitzgerald made a motion to continue looking into the above issue and Commissioner Eisenhower seconded. Commissioner Cooke had to depart the meeting prior to the above discussion. Vote - 4-0.

. New Business

a. Discuss drafting an Ordinance on the use of street pavers on Town property.

Commissioner Tush asked the Town Attorney to advise if building permits should be issued allowing the above. The Town Attorney said the current ordinance is about 15 years old and is looking for guidance from the Commissioners to better enforce the parking entrance and road surface regulations to include porous materials. Motion to turn this issue over to the Roads Committee was made by Commissioner Walsh and seconded by Commissioner Eisenhower. Vote - 4-0.

9. Reports

- a. Planning & Zoning - Chairman Harry Wilson reported on the Comprehensive Plan Working Group Meeting held on September 11, 2006. The University of Delaware IP A will make the changes to the maps and text. This package will then be forwarded to the Commissioners so that they may begin their deliberations.
- b. Roads Committee - The circle on Dickinson Avenue in front of the Rusty Rudder needs repaving and Highway One, LP has volunteered to pay half the cost. Town Manager Elliott will attend a meeting with Highway One, LP.
- c. Town Manager - Town Manager Elliott gave the Treasury Report.
- d. Building Official- Town Manager gave this report.
- e. Town Attorney - Nothing to report.
- f. Budget & Finance - A series of meetings have been scheduled in order to meet the December, 2006 due date as required by the Town Charter.

10. Commissioners' Comments

- C. Walsh -Will be on vacation during the November meeting. She has scheduled meetings with the Mayor of Key West, FL and the Judge of Monroe County, FL to obtain ideas on community service.
- M. Eisenhower - Nothing to report.
- B. Fitzgerald - Nothing to report.
- D. Tush - Stated that her goal is to have shorter meetings.

11. Date & Time of next meeting - Saturday - November 11,2006 - 9:00 a.m.

12. Executive Session

13. Adjournment -1:00 p.m.

Seal:

Gordon E. Elliott
Town Manager
10/25/06