

MINUTES OF THE SPECIAL MEETING OF THE WARDEN AND BOARD OF BURGESSES ON FRIDAY, JULY 26, 2019 AT 4 NIBANG AVENUE, FENWICK, CONNECTICUT

PRESENT: Warden Newt Brainard, Arthur Wright, Frank Keeney, Jonathan Gengras (4:29 pm), Pam Christensen, Ann Pulver, Robert Gay (4:50 pm), General Manager Jeff Champion, Zoning Enforcement Officer/Land Use Administrator Marilyn Ozols, Resident Chuck Chadwick.

The Warden called the Meeting to Order at 4:03 pm.

Approval of the Minutes

**A Motion was made by Frank Keeney seconded by Pam Christensen to approve the JUNE 21, 2019 Minutes as presented.
PASSED UNANIMOUSLY.**

The Floor was opened for Public Comment.

Chuck Chadwick stated that he was surprised more residents were not present at this meeting considering the large turnout at the public hearing on 7/20/2019 regarding short-term rentals. He stated he would rely on Art Wright to convey the sentiments of the Planning & Zoning Commission.

The Warden requested a moment of silence in memory of recently deceased residents Julia Ann Walton and Honey Adams.

General Manager's Report

Jeff Champion provided his Report to the Burgesses prior to the Meeting. He discussed the following items:

-EZ Links: A Separation Letter was mailed 6/27/19 and signed for on 7/1/19. There has been no reply as yet from EZ Links. The Warden noted that Mike Wells stated that EZ Links has until 8/29/19 to respond to the letter, so we are "on hold" until then.

-Golf Carts: There is not yet a staff member in place to move carts for approximately one hour in the morning and one hour in the evening. The Warden asked that the staffing issue be discussed in Executive Session. Once Jeff Champion signs the contract with Hawkes, the necessary insurance waivers will be executed.

-Pier: There are numerous cracks on the pier caused by erosion under the repointing line. The cracks are not currently a safety concern, but they do need to be addressed, as a bad storm could affect the structure and impact safety. Best case scenario would be to refill and patch the cracks; worst case would be having to peel up the top, refill, replace handrails, etc. The General Manager will keep an eye on it for now. The Warden asked that an independent

consultant assess the pier's condition to avoid the current company trying to sell more services. He stated the situation would be assessed further in the fall.

-Park Monitor: Park Monitor Chuck Mercer has been spending the majority of his time at the Gate overseeing access to the Beach with the remaining amount of his time spent at the tennis courts, west end, and at the Gay House. The Warden requested that the Park Monitor be on duty from 7:30-11:00 am at least one day each weekend. Jeff Champion agreed. Pam Christensen asked that the Monitor also be stationed at the entrance of Wilson Avenue in the late afternoon. A resident recently filed an "incident report" regarding children darting between cars on Fenwick Avenue at night.

-Garbage & Recycling: The Town's compliance official issued a warning due to too many recyclables mixed in with garbage. Email was sent reminding residents to separate their trash and there will be a "friendly reminder" notice if residents continue to mix items.

-Technology: For the second time in a year, power surge damage was sustained due to recent storms, despite having surge protection in place. Negotiations are taking place with parties involved to fix the problem and have damaged equipment replaced at low or no cost.

Treasurer's Report

As the Treasurer was not present, Jeff Champion spoke. Despite the problems with the online golf system, revenue is still good and is on track to meet or exceed the 8-year average golf sales for the month of July.

There appears to be at least a \$40,000 operating surplus that has accumulated. The GM and Treasurer will have a final tally in August and suggest transferring the surplus into the Reserve Account for future use.

The Warden inquired about Playclass enrollment and Jeff Champion replied there are very few children enrolled in July but that August looks considerably better.

Following a question from Art Wright, Jeff Champion stated he hoped to have the chart of accounts at the next meeting. The Warden stated that there is currently close to \$200,000 in capital reserves.

The Warden asked if there were any questions. There were none.

Board, Commission and Committee Reports

Planning and Zoning: Art Wright reported that after the public hearing on 7/20/19, the commission went into committee meeting and further discussed short-term rentals. Regulation was passed stating such rentals must be no less than 14 days and there shall be no more than 10 rentals per year. The non-conformance regulation was passed and the amendment to the coastal resource setback was tabled until the next Planning and Zoning meeting. The Warden asked if the appeal period had expired. Marilyn Ozols replied it has not. The effective date of the short term rental regulation is 10/1/2019. There was considerable discussion regarding grandfathering and what procedures are in place to apply for it. Marilyn Ozols stated that an owner would have to look to rent outside the new regulation. Many property owners who might be grandfathered in were already within the regulations so they

don't need to be grandfathered. She also stated that the burden of proof is on the property owner to provide evidence to the satisfaction of the Commission. The property owner can appeal to the Zoning Board of Appeals (ZBA) if denied. There was further discussion regarding the possibility of passing an ordinance identical to the regulation. Chuck Chadwick stated that if the regulation exists as a zoning regulation, then the property owner could appeal for relief to the Zoning Enforcement Officer (ZEO), then the ZBA, then the Superior Court. If an ordinance were to be passed, then the property owner would appeal to the Court only. In zoning, it's straightforward and quick to enforce a regulation, while an ordinance would take longer to enforce/research. Regarding recreation fees for short-term tenants, Art Wright stated that we can't require the property owner to pay the fee; the tenant is responsible as he/she takes the place of the owner.

Ann Pulver spoke regarding her concern that one of the main problems with short-term rentals is how homeowners get renters – they have no idea who the renters are. Changing the minimum rental period does not address this concern. The renters are anonymous for all intents and purposes. Pam Christensen added that many of the short-term renters are "event driven".

The Warden stated his belief, based on experience, that the vast majority of residents would follow the new rules.

Chuck Chadwick stated that in the last week or so, the ZEO has been approached with a request to enforce a non-zoning issue. He added that it would be more appropriate for the Warden and/or Burgesses to address these issues, and that the ZEO is very good at assessing these requests regarding further action/response.

FIF: Art Wright reported that new officers have been elected as follows: President, Edie Gengras; Vice President, JD Rehm; Secretary, Laurie Goldsmith; and Treasurer, Rick Neely. Art also stated that possible/probable upcoming projects include the entrance, playground and pier. The Warden added that several people might be interested in donating funds for the playground separately once the project is approved.

Lynde Point Land Trust: Pam Christensen reported the next meeting is 8/3/19 and will include election of officers. The Warden requested that Pam Christensen remain on the Land Trust as representative of the Burgesses. Pam requested a letter from the Warden authorizing her to act as such representative.

Concerns Committee: Pam Christensen stated that they are working with Mike Zizka on a white paper. The Committee has corresponded with him regarding several questions concerning roads and beaches. They looked at the entrance to Wilson Avenue and have two possible locations for a gate. The Warden stated he had a good meeting with John and Liz Gagne regarding his concerns about the proposed location of the gate. When a plan is in place, the Warden and/or someone from Concerns Committee will meet with all of the impacted property owners.

Harbor Management Commission: On behalf of the Commission, Jonathan Gengras requested funding in the amount of \$1,500 to complete a Harbor Management Plan that would outline a total of five proposed planning units (there is currently one planning unit) as follows: From pier west to Shenkman property; from Shenkman property west to Borough boundary; from pier to breakwater; from breakwater to Schmitt property; and from South Cove to causeway. The zones are necessary as each zone has different characteristics and thus could require different regulation now or in the future. Frank Keeney commented that it is sensible to extend restrictions on the waterfront and to protect it from any structures being placed in the water. The Warden stated that if/when the Commission decides on a plan, the Burgesses would need to approve it. He added that in the future, Commissions would ideally make these types of funding requests in the spring so that they would be included in the budget.

**A Motion was made by Jonathan Gengras seconded by Art Wright that the Burgesses allocate \$1,500 for the Harbor Management Commission to complete the Harbor Management Plan which includes four proposed new zones.
PASSED UNANIMOUSLY.**

The ZEO asked that the Burgesses keep the breakwater in the capital improvement plan. Our 3-year Certificate of Permission (COP) plus the 2 extensions granted from the DEEP have expired. DEEP would allow us to resubmit using our current application and it would be effective for 5 years with 2 extensions allowed. The ZEO recommended that the application, which would cost approximately \$180, be submitted in the very near future while the current plan can still be used. The Burgesses agreed.

Park Commission: Frank Keeney reported that plans for a new playscape should be available for review at the next meeting. Also at the next meeting, Greg Millard and Daryl Aresco will be discussing tee leveling.

Zoning Board of Appeals: Ann Pulver reported that the Board reviewed and subsequently granted the variances requested by Joseph Zubretsky.

Historic District Commission: Marilyn Ozols reported that the Wilson house was granted a certificate.

Request to Use Borough Property: Jonathan Rehm Hopper has requested to use Borough property from 9/11/20 – 9/13/20 for a wedding. He has paid the \$500 fee, and understands the requirements for insurance and liability, and is aware that a \$1,000 security deposit is due 60 days in advance.

**A Motion was made by Pam Christensen seconded by Jonathan Gengras to grant the request of Jonathan Rehm Hopper to use Borough property from 9/11/20 – 9/13/20 for wedding.
PASSED UNANIMOUSLY.**

Planning and Zoning Commission: The Burgesses' approval is required for William Christensen to serve one more term.

**A Motion was made by Jonathan Gengras seconded by Art Wright to approve William Christensen to serve one term on the Planning and Zoning Commission.
PASSED UNANIMOUSLY.**

Warden Report: The Warden read into the record a letter from Charles Millard regarding noise levels in the Borough, particularly with regard to lawn mowing, hedge trimming and other landscaping work during the summer months. There was discussion regarding the need for maintenance of properties and how to balance that need with the desire to reduce noise. Art Wright asked if a ban on weekend landscaping activity using power equipment would be appropriate. The Warden stated it might be but it would create yet another enforcement issue in the Borough. ZEO Marilyn Ozols stated that based on the survey from four years ago, the possibility of banning commercial yard maintenance on weekends and holidays was proposed. The Warden asked if the ZEO would recommend, if a ban on weekend landscaping was determined to be necessary, that such a ban be incorporated into the hammer law. The ZEO replied yes. It was suggested that the matter be tabled until the fall and the Warden agreed. The ZEO will send Burgesses the draft and results of the survey.

NEXT MEETING: Thursday, August 22nd at 4 PM.

A Motion was made at 5:40 pm by Frank Keeney seconded by Jonathan Gengras to keep the Burgess meeting open and move into Executive Session to discuss general human resources structure and invite Jeff Champion to attend.

**There being no further business, A Motion was made by Jonathan Gengras seconded by Frank Keeney to come out of Executive Session and adjourn the meeting at 6:04 pm.
PASSED UNANIMOUSLY.**

Respectfully Submitted,

Suzanne M. Stanners