

**MINUTES OF THE MEETING OF THE
CITY OF SEAFORD MAYOR AND COUNCIL**

November 23, 2010

7:00 p.m.

Mayor Edward H. Butler, Jr., called the Regular Meeting to order with the following present: Councilman J. Rhea Shannon, Councilwoman Leanne Phillips-Lowe, Councilwoman Pat A. Jones, Councilwoman Grace S. Peterson, and Councilman William G. Bennett. Dolores J. Slatcher, City Manager and Josh Littleton, Building Official, were also present.

Councilwoman Jones offered the opening prayer and Mayor Butler led those present in the Pledge of Allegiance.

Mayor Butler solicited changes to the agenda. City Manager Slatcher stated there were none.

Mayor Butler called for a motion to approve the Minutes of the Regular Council meeting of November 9, 2010. Councilman Bennett made the motion to approve the Minutes of November 9, 2010. Councilwoman Peterson seconded the motion. Motion so passed with all present voting in favor.

Mayor Butler asked if there was any correspondence. City Manager Slatcher stated they received a thank you letter from Seaford Historical Society, Inc. thanking the City of Seaford for their support during their 150th Anniversary Celebration.

City Manager Slatcher presented New Business #3, Mayor Butler to appoint an annexation committee for the request from the Delaware National Guard to annex Parcel 5-31-10.00-208.00 just north of the Seaford Industrial Park and is approximately 11.49 ± acres. Mayor Butler appointed Councilman Shannon as Chair, Councilwoman Phillips-Lowe and Councilwoman Peterson.

Mayor Butler called for a motion. Councilman Bennett made a motion to approve the resolution for Mayor Butler's appointment of the Annexation Committee for the lands of the Delaware National Guard's request to annex Parcel 5-31-10.00-208.00 consisting approximately of 11.49 ± acres. Councilwoman Jones seconded the motion, with all present voting in favor.

City Manager Slatcher presented New Business #4, Mayor Butler to appoint Berley Mears, Director of Public Works, the Acting City Manager effective November 30th and ends upon the return of the City Manager.

Mayor Butler called for a motion. Councilwoman Phillips-Lowe made a motion to approve Mayor Butler's appointment of Berley Mears, Director of Public Works, to be acting City Manager effective November 30th and to end upon the return of the City Manager from the NLC conference in Denver, Colorado. Councilwoman Peterson seconded the motion, with all present voting in favor.

City Manager Slatcher presented New Business #5, a request and Code letter for a Liquor License application for the Seaford Eagle Diner. This is only for informational purposes at the request of Mayor and Council.

Mayor Butler closed the regular meeting and opened the Public Hearing at 7:05 p.m. He then turned the meeting over to Josh Littleton, Building Official.

Mr. Littleton presented P.H. #1, the request from Growmark FS, LLC, property owner of 901 Nanticoke Ave., Tax Map and Parcel 531 13.00 29, for a final site plan approval for the construction of a new 24'x24' shop and 14'x30' office. The property is zoned M-2 Heavy Industrial. Mr. Littleton stated in December 2008 the Board of Adjustment approved a variance for an office trailer to be placed on site as a first phase to this project and will be removed at completion of this project. He also stated they received a variance for setbacks from the Board of Adjustment to allow the Shop building to be located 15' from Nanticoke Ave. They will be adding two

paved parking spaces and a private Sanitary Sewer force main will be installed to serve this project. The property is located in an AE-5 Flood Zone and Zone Elevation certificates will need to be updated after completion of the project.

Mayor Butler asked if there were any questions from the public. There were none. Mayor Butler then asked if there were any questions from Council.

Mr. Littleton called Joe Muncie from Growmark FS, LLC to the podium. Mayor Butler asked when the project would start. He stated they would start immediately. There were no further questions.

Mr. Littleton presented P.H. #2, an application from Seaford School District, property owner of 1 Delaware Place (Central Elementary School) Tax Map and Parcel 331 5.00 5.00, for a sketch site plan review in order to construct a 7,000 sq. ft. addition to Central Elementary. The addition is specifically for orthopedically handicap children. The addition consists of four classrooms, a food prep area, a nurse's office, storage and an office/therapy room. The property is zoned R-2, Medium Density Residential. They received approval to expand the existing special exception on 11/3/10 from the Board of Adjustment, as required by Code. The building addition will be sprinklered. The project requires approval from State Fire Marshal for the site and building. It will also require approval from Sussex Conservation District for the site and approval from the State Accessibility Board.

Mayor Butler asked if there were any questions from the public. There were none. Mayor Butler then asked if there were any questions from Council.

Mr. Littleton asked Mr. Roy Whitaker from Seaford School District to come to the podium. Mayor Butler asked, if they would start immediately. Mr. Whitaker stated the project is planned and funded and as soon as it was approved it would go out to bid. City Manager Slatcher added that this is only a sketch plan review and would need to come back for final site plan review before the project could move forward.

Councilwoman Phillips-Lowe asked if it will increase the bus traffic. Mr. Whitaker stated the OH program itself has five buses and they currently go to Frederick Douglas. There were no further questions.

Mr. Littleton stated the next 3 items on the agenda are related. Each of the items deal with Seaford 36, LLC they are applications that deal with subdivision, rezoning and a sketch plan review. He stated each of the items must be reviewed and approved separately. The project was last seen by the Commission in November 2007. Mr. Zimmerman, the developer, is here tonight to answer questions.

Mr. Littleton then presented P.H. #3 Case No. S-16-10, a request from Seaford 36, LLC, property owner of Tax Map and Parcel 331 6.00 4.00 located north of Walmart, seeking approval to subdivide the land into two parcels, identified as Lot #1 - 12.549 acres & Lot #2 - 20.4251 acres. The original subdivision was approved in November 2007, but was not recorded. When the original subdivision of tax Map and Parcel 331-6.00-4.00 was granted it was in an east to west property line and there was a parcel to the north and a parcel to the south. They have asked to relocate the Commercial to the highway side and the residential to the other residentially zoned properties. The Proposed Lot # 1 would be approximately 13 acres and the Proposed Lot # 2 would be approximately 20 acres. The Proposed State ROW would be approximately 2.6 acres and that would be a future dedicated service road. Currently access to the parcels can be gained through easements across two parcels, the Sussex Plaza Shopping Center parcel and the Walmart property. He also stated as part of this project we have requested the State Right of Way be part of Phase 1 and the entrance onto Rt. 13 be finished as part of Phase 1.

Mayor Butler asked if there were any questions from the public. There were none. He then asked for questions from Council. There were none.

Mr. Littleton did want to add that a Letter of No Objection is required from DelDot prior to recordation.

Mr. Littleton then presented P.H. #4 Case No. R-17-10, a request from Seaford 36, LLC, property owner of Tax Map and Parcel 331 6.00 4.00 located north of Walmart, seeking approval to rezone Lot 1 (as noted in Item #3) from R-3 High Density Residential to C-2 Highway Commercial. Lot 2 is zoned R-3. The original rezoning was in November 2007, Lot # 1 is 13.18 acres and Lot # 2 would remain R-3 and a letter of No Objection will be needed from DelDot prior to recordation.

Mayor Butler asked for questions from the public. There were none. He then asked for questions from Council. There were none.

Mr. Littleton then presented P.H. #5, a request from Seaford 36, LLC, property owners of Tax Map and Parcel 331 6.00 4.00, seeking a revised sketch plan approval for the entire site. Proposed development is split into 3 phases with the first phase being 184 Residential apartments. The entrance Access through the lands of BG Joseph to the North to Sussex Hwy must be completed as part of Phase I. Storm water management will be handled on site. Sanitary sewer will be extended under Sussex Highway from the pump station at Lowe's to the Sussex Highway entrance. The water main already crosses Sussex Highway and will be extended north to the entrance. One of the major changes was that the Army Corps of Engineers lifted the wetlands designation.

Mr. Littleton then summarized the Phases of the project. Phase I will consist of P/O Lot #2 - residential apartments. The residential section will include a pool and a community building. Phase II would be Lot #1, the commercial aspect zoned C-2. It meets area and bulk requirements and parking for commercial portion exceeds C-2 requirements. Phase III would be the remainder of Lot # 2 residential, but there would be another phase that would have to be added.

Mayor Butler asked for questions from the public. There were none. He then asked for questions from Council. Mr. Littleton asked Mr. Zimmerman to come to the podium.

Councilwoman Phillips-Lowe asked which Georgetown project this was similar to. Mr. Zimmerman stated he did the Food Lion Center and the Modern Maturity project in Georgetown. Councilwoman Phillips-Lowe then asked if the apartments would be subsidized. Mr. Zimmerman said they are not geared toward that.

Councilman Bennett asked about the fourth phase. City Manager Slatcher stated the first phase would actually be two phases because of the number of units. Councilman Bennett then asked if there was another entrance off of Tharp Rd. Mr. Zimmerman stated they have been working with DelDot. He stated the main entrance would be off of Rt. 13.

Mayor Butler asked if there were any further questions. There being none, he closed the Public Hearing at 7:30 p.m. and reopened the Regular Meeting.

Mr. Littleton then presented the Findings of Facts for the P.H. #1 on the Agenda, a request from Growmark FS, LLC, property owner of 901 Nanticoke Ave., Tax Map and Parcel 531 13.00 29:

- Final site plan approval for an office building and separate shop building
- Zoned M-2 Heavy Industrial
- Received variance for setbacks from the Board of Adjustment
- Sussex Conservation issued an exemption from Sediment and Stormwater Regulations.
- State Fire Marshal approved site plan
- Project requires SFM approval for buildings

- Planning and Zoning recommends approval

Mayor Butler calls for a motion. Councilman Bennett made a motion to approve the final site plan for the construction of a new 24' x 24' shop and a 14' x 30' office building as presented for Growmark FS, LLC at 901 Nanticoke Ave. Councilwoman Jones seconded the motion.

Mayor Butler then called for a Roll Call Vote:

Councilman Bennett voted in favor based on the Finding of Facts;
Councilman Shannon voted in favor based on the Finding of Facts;
Councilwoman Phillips-Lowe voted in favor based on the Finding of Facts;
Councilwoman Jones voted in favor based on the Finding of Facts;
Councilwoman Peterson voted in favor based on the Finding of the Facts.

Motion so carried with all present voting in favor.

Mr. Littleton then presented the Findings of Fact for P.H. #2, an application from Seaford School District, property owner of 1 Delaware Place (Central Elementary School) Tax Map and Parcel 331 5.00 5.00, for a sketch site plan review in order to construct a 7,000 sq. ft. addition to Central Elementary:

- Sketch plan review for 7,000 sq. ft. O.H. addition to the existing school consisting of:
 - Four classrooms
 - Food prep area
 - Nurses' office
 - Storage
 - Office/Therapy room
- Property is zoned R-2 Medium Density Residential
- Received approval to expand the existing special exception on 11/3/10 from the Board of Adjustment, as required by Code.
- Building addition will be sprinklered.
- Requires approval from State Fire Marshal for site and building
- Requires approval from Sussex Conservation District
- Requires approval from the State Accessibility Board.
- Staff is recommending that the next submission be for FINAL APPROVAL
- Planning and Zoning recommends approval

Mayor Butler called for a motion. Councilwoman Peterson made a motion to approve the sketch site plan for Tax Map and Parcel 331 5.00 5.00 to construct a 7,000 sq. ft. addition of an O.H. Wing to Central Elementary School for the Seaford School District. Councilwoman Phillips-Lowe seconded the motion.

Mayor Butler then called for a Roll Call Vote:

Councilman Bennett voted in favor based on the Finding of Facts;
Councilman Shannon voted in favor based on the Finding of Facts;
Councilwoman Phillips-Lowe voted in favor based on the Finding of Facts;
Councilwoman Jones voted in favor based on the Finding of Facts;
Councilwoman Peterson voted in favor based on the Finding of the Facts.

Motion so carried with all present voting in favor.

Mr. Littleton presented the Findings of Facts for P.H. #3, an application from Seaford 36 LLC seeking a subdivision review:

- Case No. S-16-10
- Subdivision of 36.93 acres into two parcels
 - Lot #1 – 13.1885 acres

- Lot # 2 – 20.4479 acres
 - Remaining area to be a dedicated as State ROW – 2.6736 acres
- Meets current zoning requirements
- City stipulates that a Letter of No Objection must be obtained from DelDOT for the subdivision prior to recordation.
- Planning and Zoning recommends approval

Mayor Butler called for a motion. Councilwoman Phillips-Lowe made a motion to approve the subdivision of Tax Map and Parcel 331 6.00 4.00 into two parcels with Lot #1 being 12.549 acres and Lot #2 being 20.451 acres for Seaford 36, LLC. Councilman Bennett seconded the motion.

Mayor Butler then called for a Roll Call Vote:

Councilman Bennett voted in favor based on the Finding of Facts;
Councilman Shannon voted in favor based on the Finding of Facts;
Councilwoman Phillips-Lowe voted in favor based on the Finding of Facts;
Councilwoman Jones voted in favor based on the Finding Facts;
Councilwoman Peterson voted in favor based on the Finding of the Facts.

Motion so carried with all present voting in favor.

Mr. Littleton presented the Findings of Fact for P.H. #4, the rezoning of Seaford 36, LLC:

- Case No. R-17-10
- Tax Map and Parcel 331-6.00-4.00 p/o
 - Lot # 1 – 13.1885 acres
 - Rezone from R-3 High Density Residential to C-2 Highway Commercial
 - Lot # 2 to remain R-3
 - City stipulates that a Letter of No Objection must be obtained from DelDOT for the rezoning prior to recordation.
- Planning and Zoning recommends approval

Mayor Butler called for a motion. Councilman Shannon made a motion to rezone the new subdivided lot referenced as Lot #1 for Tax Map and Parcel 331 6.00 4.00 from R-3 High Density Residential to C-2 Highway Commercial for Seaford 36, LLC. Councilman Bennett seconded the motion.

Mayor Butler then called for a Roll Call Vote:

Councilman Bennett voted in favor based on the Finding of Facts;
Councilman Shannon voted in favor based on the Finding of Facts;
Councilwoman Phillips-Lowe voted in favor based on the Finding of Facts;
Councilwoman Jones voted in favor based on the Finding Facts;
Councilwoman Peterson voted in favor based on the Finding of the Facts.

Motion so carried with all present voting in favor.

Mr. Littleton presented the Findings of Facts for P.H. #5, the sketch plan review for Seaford 36, LLC:

- Sketch plan review for Lot # 1 & Lot # 2 created from Tax Map and Parcel 331-6.00-4.00
- Proposed R-3 apartments - 184 units plus 384 parking spaces provided
- R-3 section meets area and bulk requirements of Zoning Ord.
- Proposed C-2 commercial – 88,905 sq. ft. plus 447 parking spaces provided
- C-2 section meets area and bulk requirements of Zoning Ord.
- Phasing will need to be modified to comply with City of Seaford phasing policy
- Army Corps of Engineer's removed wetlands designation

- Entrance onto Sussex Hwy through the lands of BG Joseph to the North must be completed as part of Phase 1 or prior to.
- Required approvals:
 - State Fire Marshal for major site and buildings
 - Sussex Conservation District for storm water management
 - DELDOT Letter of No Objection
 - DELDOT for entrance and Service Road construction review.
 - Office of Drinking Water for water main extension
 - DNREC for the Sewer main extension
- Planning and Zoning recommends approval

Mayor Butler called for a motion. Councilman Bennett made a motion to approve the revised sketch plan for Tax Map and Parcel 331 6.00 4.00 for Seaford 36, LLC. Councilwoman Phillips-Lowe seconded the motion.

Mayor Butler then called for a Roll Call Vote:

Councilman Bennett voted in favor based on the Finding of Facts;
Councilman Shannon voted in favor based on the Finding of Facts;
Councilwoman Phillips-Lowe voted in favor based on the Finding of Facts;
Councilwoman Jones voted in favor based on the Finding of Facts;
Councilwoman Peterson voted in favor based on the Finding of the Facts.

Motion so carried with all present voting in favor.

City Manager Slatcher, asked Ginger Heatwole from Pigg, Krahl, Stern and Co. to come forward to present New Business #1, the annual audit report ending June 30, 2010. City Manager Slatcher also wanted to advise that June Merritt, Director of Finance was present.

Miss Heatwole stated as auditors they give an opinion whether the financial statements are fairly presented. The City did receive an unqualified statement which is the highest opinion Auditors can give. This means the financial statements referred to above, present fairly, in all material aspects, the financial position of the governmental activities, the business type activities and each major fund of the City of Seaford. The total net assets were \$44,000,000. She reviewed the expenses by function and type. She wanted to thank the City of Seaford for the opportunity to work with them.

City Manager Slatcher then asked Mr. Charles Butler, President of the Seaford Golf and Country Club, to come to the podium to present New Business #2, to revisit sign options for the golf course. He stated the Board of Governors feel the SG&CC was an important part of the lives of many people and there should be some remembrance. They have proposed that a marker be established and placed at the golf course. The proposed marker would be 5' tall, about 20" wide and would be set in concrete.

Mayor Butler asked where the marker would be placed. Mr. Butler stated they are suggesting two places, the first tee or near the pro shop.

Councilwoman Phillips-Lowe asked what the sign would be made of. He stated the sign would be made of granite and would have white letters. They feel that granite would be long lasting.

Councilman Shannon asked whose responsibility it would be to fix any damages. Mr. Butler stated that it would be the City's responsibility.

City Manager Slatcher suggested that the City take the wording that the Board of Governors suggested and put it on a piece of granite to show to everyone for

approval or disapproval. This can come back to the first meeting in January 2011 to make a decision.

City Manager Slatcher stated that the Mayor and Council have directed staff to put something together for them to look at.

City Manager Slatcher presented New Business #6, information for Contract No. T200707601 for bridge 3-256 on Poplar St. over Williams Pond Spillway Replacement. She stated she has a contract to sign and she has talked to DelDot because we have some concerns with the contract itself. Part of the problem is with the wording because of the City Charter. She was told by DelDot to mark through the contract and initial the changes where the City Charter prevailed with the property owners.

Mayor Butler called for a motion. Councilman Bennett made a motion to authorize the City Manager to execute the DelDot Contract #T200707601 for Bridge 3-256 replacement on Poplar St. over Williams Pond Spillway. Councilwoman Peterson seconded the motion, with all present voting in favor.

City Manager Slatcher presented New Business #7, present for approval the Delaware Water Pollution Control Revolving Fund letter of commitment for Washington St. Flood Control and Stormwater Retrofit Project. She stated we have been approved for the loan for this project and we have secured all the necessary easements.

Mayor Butler called for a motion. Councilwoman Peterson made a motion to authorize the City Manager to sign the Binding Commitment Offer with the Delaware Water Pollution Control Revolving Fund for the Washington Street Flood Control and Stormwater Retrofit Project.

REMINDER OF MEETINGS & SETTING OF NEW MEETINGS:

- SCAT @ Victoria's restaurant in Rehoboth on December 1st
- City Hall and Utilities closed for the Thanksgiving Holiday on November 24th and 25th
- Reminder there will not be a December 28th regular Council meeting
- The annual Christmas Parade is December 4th
- Caroling in the Park will be November 29th

COMMITTEE REPORTS:

- ♦ Councilwoman Peterson reported that all departments are doing fine. The Public Works department has been busy with leaf pick up.
- ♦ Councilwoman Jones reported that the Parks department has winterized the irrigation system. The fountain in Kiwanis Park has been shut down. They have also been busy pruning. On the Recreation side, youth tackle football has finished, youth flag football has finished and adult flag football is finishing soon. The little wrestlers program has started and basketball sign-ups are going on. Scott is talking about starting a dodge ball league. The Ross Business Park sign has been cleaned and repaired.
- ♦ Councilwoman Phillips-Lowe had nothing to report.
- ♦ Councilman Shannon had nothing to report.
- ♦ Councilman Bennett reported that the Electric Department has been working on Christmas lights and the induction lighting in Westview. The Fire department handed out Fire Prevention Awards.

Mayor Butler requests a motion to hold an Executive Session for the purpose of discussing negotiations. Councilwoman Jones made a motion to hold an Executive Session for the purpose of discussing negotiations. Councilwoman Peterson seconded the motion, with all present voting in favor.

Immediately following the Executive Session at 8:45 p.m. Mayor Butler reopened the regular meeting of the Mayor and Council

There being no other business, Mayor Butler called for a motion to adjourn. Councilwoman Phillips-Lowe made a motion to adjourn. Councilwoman Peterson seconded the motion. Motion so passed with all present voting in favor.

Mayor Butler adjourned the Regular meeting at 8:45 p.m.

By: _____
Dolores J. Slatcher, City Manager

/tlh