

**SPECIAL OCEAN VIEW TOWN COUNCIL MEETING**  
**JULY 28, 2009**

1. Mayor Gordon Wood called the meeting to order at 7 p.m. Councilmen Bill Wichmann, Richard Nippes, Perry Mitchell, and Bob Lawless; Town Manager Conway Gregory; Town Administrative Official Charles McMullen; Finance Director Lee Brubaker; Police Chief Kenneth McLaughlin, Town Solicitor Dennis Schrader were present. Attorney Lynn A. Kelly was present in the audience. The meeting was held in the Ocean View Town Hall.

2. The Pledge of Allegiance was recited.

3. There were no changes to the agenda.

**Bob Lawless moved adoption of the agenda as presented.**

**Richard Nippes seconded the motion.**

**Bill Wichmann, Perry Mitchell, Richard Nippes, Bob Lawless, and Mayor Wood voted aye; therefore, the motion to adopt the agenda as presented was approved unanimously.**

4. **OLD BUSINESS**

**A. Discussion of Submitting to the General Assembly an Amendment of the Town Charter to Permit Voting by Non-Residents and Related Issues (Mayor Wood)**

Mayor Wood explained the procedures to be followed at this meeting and said that everyone who wishes to speak may speak at this meeting. There were no questions from the Council about these procedures.

Richard Nippes explained the purpose of this meeting was for Council members to hear comments for and against the proposed Charter amendment and said that based on what he hears tonight, he will prepare a resolution for presentation at the August 11<sup>th</sup> Council meeting. Bill Wichman, Perry Mitchell, and Bob Lawless had no comments at this time.

Mayor Wood read a prepared statement (copy filed in official notebook) that listed sub-issues such as: voting districts; who may vote for Council and Mayor; 2010 Decennial Census; possible need to redistrict and possibility of spending money on this prior to Census; definitions of non-resident, property, and business; how many votes per property and per business; should landlords be permitted to vote; realistic schedule re General Assembly schedule, possible election issue; and additional burdens on Town staff. He said this issue should not be rushed. He asked if the Council had a problem with limiting speakers to 3 minutes, and no Council member objected to this time limit. Mayor Wood will try to be lenient with time limitations.

5. **CITIZENS' PRIVILEGE ON ITEMS ON THE PREPUBLISHED AGENDA LISTED FOR DISCUSSION AND CONSIDERATION OR ITEMS SUBSEQUENTLY ADDED AT ANY TIME TO THE PREPUBLISHED AGENDA FOR DISCUSSION AND CONSIDERATION.**

Elaine Birkmeyer, Ocean View, read a prepared statement of opposition to allowing non-residents to vote and the elimination of election districts (copy filed in official notebook) because she believes that only full-time residents are totally aware of local issues, large communities could control local decisions, and elimination of election districts might allow the Town Council to be dominated by representatives of a few communities. She noted that most Delaware municipalities do not allow non-residents to vote.

Mayor Wood noted that the Town received correspondence on this issue. He received two emails, said that the Town received 95 emails through today that represent 128 persons, a large percentage of these emails came from home owners in Bear Trap, many of them were nonresidents. He said that it would be detrimental to the Town if this becomes a Bear Trap vs. Ocean View issue.

Frank Twardzik, Hudson Avenue, read a statement of opposition (copy filed in official notebook) in which he explained he and his wife's history in the Town, his belief that this history has earned them the right to vote in Town elections, and his belief that being a property owner or reading local papers does not always mean that non-residents have local knowledge.

Gary Meredith, first Mayor of Ocean View, read a statement of opposition to allowing non-residents to vote and elimination of election districts (copy filed in official notebook) that questioned need to fix something that isn't broken and stated that few Delaware towns allow non-residents to vote, Ocean View is different from resort towns that permit such voting, all property owners can vote in Town referenda and speak at Council meetings, and non-resident property owners are uninformed on Town issues and candidates.

Mayor Wood recognized a Councilperson from Bethany Beach.

Steve Alexander, non-resident property owner at Bear Trap, spoke in favor of allowing non-residents to vote and explained that he is informed, does read the local papers and Town's Web Site, explained why he had not attended Council meeting, is active in the community, pays taxes, and spends money in Ocean View. He thinks that non-residents should have a voice in Town elections and noted the compromise solution that has been mentioned. He referred to the recent survey sent to all property owners and some problems he experienced in receiving responses to his emails to the Town.

Frank Pipkin, Savannahs Landing, spoke in favor of the amendment to the Charter that would allow non-residents to vote and explained that he lives in Ocean View for 5 months each year, supports local businesses and the local fire company, wants to participate in Town elections, stays abreast of local news, and attends Council meetings when possible.

Roy Thomas, former Ocean View Councilman and full-time resident, said he is against giving the right to vote to non-resident property owners if it is "straight-across-the board," which he thinks would put the residents in the minority. He is in favor of a proposal that would redistrict the Town into three election districts of residents, have the Mayor elected at large by only the full-time resident property owners, and create a fourth election for non-resident property owners. The person running for the Council seat from that district must be a non-resident property owner and would only be elected by non-resident property owners. He believed that creation of this district would recognize the importance of the non-resident property owners in Ocean View and give them a "seat at the table."

In response to a question from a Councilman, Mr. Thomas said that he does not want to put resident property owners in a minority position because the non-residents outnumber the residents and could control the outcome of the election.

In response to a question from another Councilman, Mr. Thomas said that he tried to represent the non-residents in his district but may be the exception, and some non-residents in his district did not think that he represented them.

Kathy Vengazo, Briarcliffe, spoke in favor of allowing non-residents to vote because she formerly was formerly a non-resident property owner who, along with some of her neighbors, intentionally moved to Ocean View after carefully studying the community; believes that people who pay taxes should have a voice in the Town; thinks that some residents and some non-residents do not care about the Town; and noted that District 4 (the election District in which Bear Trap is located) had a vacancy this year, and the only candidate for this seat did not come from Bear Trap.

Mayor Wood recognized and thanked Ms. Vengazo for her service to the Town.

Jim Tanis, Savannahs Landing, read a prepared statement of opposition (copy filed in official notebook) that noted the number of Homeowners' Associations in Ocean View, which could have inordinate power in an election under certain circumstances; questioned why part-time residents do not attend Council meetings; believes that part-time residents are not interested in local politics; thinks that Ocean View residents who own property in other places do not expect to vote in these jurisdictions; and asked that absentee ballots not dictate Ocean View's way of life.

Mayor Wood noted that Mr. Tanis is the President of the Savannahs Landing HOA.

Richard Mohr, 19 William Avenue, expressed opposition to the Charter amendment.

Michael Zimmer, Bear Trap, spoke in support of the Charter amendment; said that they plan to live in Ocean View full time when they retire; feel that they have a stake in the Town; noted that they are connected to the Town via their neighbors, the Internet, and the Town Web Site and follow the activities of the Town; share the values and goals of full-time residents relative to Ocean View; and said they wish to be involved in the changes that the Town will face and be seated at the table.

Marilyn Esposito, Bear Trap, read a letter of support from the Village of Bear Trap Dunes Board of Directors (copy filed in official notebook), which stated that the Board unanimously supports the issue of allowing non-residents to vote in Ocean View, explained why many Bear Trap residents were unable to attend tonight's meeting, noted that Bear Trap residents make financial contributions to Ocean View, and the Town provides many services to Bear Trap. The Board of Directors does not object to the compromise proposed by Mr. Broadman.

Bill Olsen, Elliott Avenue, 17 Elliott Avenue, read a statement of opposition to the Charter amendment (copy filed in official notebook) and commented on letters about this issue in a recent issue of a local newspaper from Messrs. Meredith and Thomas. He gave a brief history of the revised Charter, agreed that taxation without representation is not an argument for permitting non-residents to vote, referred to a proposed compromise suggested by Mr. Broadman, noted that Councilpersons represent the entire Town not just their districts, does not think that non-residents will know one another, referred to absentee ballots, and raised the possibility that non-resident Councilpersons will miss meetings resulting in tie votes, and said the 2010 is supposed to create an "equal playing field" and asked if the proposed compromise will do this.

Mayor Wood noted that Mr. Olsen is a contributor to the Town and a frequent attendee at Council meetings. In response to a question from a Councilman, Bill Olsen said he thinks that non-resident councilpersons would miss more meetings. The Town Solicitor noted that many towns that allow non-resident voting schedule their meetings on the weekend or a Friday night.

Ira Broadman, Bear Trap, spoke in favor of the Charter change, said that he is now a resident but was a non-resident, and believes that non-residents only want a “seat at the table” in order to make their views known.

Steve Cobb, West Avenue, spoke in opposition to the Charter change. He said that people who wish a seat at the table need to attend Town Council meetings and get involved in the Town.

Jack Holmes, Bear Trap, spoke in favor of the Charter change, said he lives in the Town for 5 months each year, and thinks that non-residents who pay their taxes deserve a full rather than a partial vote in the community.

Ed Herbert, Country Village, spoke in favor of the Charter amendment because he thinks it is right and fair, agreed that it is taxation without representation, referred to other towns that allow non-residents to vote, noted that 95% of full-time residents do not attend Council meetings, and said that the last referendum was held in 2004.

Jim Vasselli, Bear Trap, spoke in favor of the Charter amendment and the proposed compromise; referred to what he perceives as a fear that Bear Trap residents will take over the Town; and said there is a need to seek a compromise, listen to everyone, and make the correct decision.

Elaine Herbert, Country Village, spoke in favor of the Charter amendment because she thinks that non-residents are friends and neighbors who are part of the Town’s culture and should be treated with respect rather than fear them as uninformed outsiders. She thinks this issue should be faced properly, fairly, and now.

Mayor Wood noted that Elaine Herbert is a regular attendee at Council meetings.

Russell Archut, Ocean View property owner, spoke in favor of this Charter amendment, noted that he and his wife lived at 83 Atlantic Avenue for approximately 25 years and still own this property, said the Council makes many decisions that affect all property owners who should have a voice in these decisions, things have changed in Ocean View and will continue to change, asked if it was fair that non-residents do not have a voice, and said non-residents wish to have a voice in the Town’s decisions.

Jerry Kappes, Bear Trap, spoke in favor of the Charter amendment, said he lives in Ocean View for about 9 months each year, mentioned taxation without representation, referred to the low number of voters in the Town’s 2006 election, said that most of the Bear Trap homeowners do not vote in the community’s elections, and said that Bear Trap owners do not wish to take over the Town but do wish to have representation.

Beth Engel, Bay Forest, spoke in favor of the Charter amendment and her love for Ocean View and desire that it remain as it is, questioned the fear of non-residents, said that she cannot attend Council meetings because she works out of the area, and spoke of her desire to vote.<sup>1</sup>

Fred Valente, Bay Forest, spoke in favor of the Charter amendment, said he is a non-resident who plans to retire here, said that he and his wife are here for 5 months out of the year and read the local

---

<sup>1</sup> Bay Forest is not located within the boundaries of the Town of Ocean View.

newspaper whenever they are here, noted that many non-residents are at this meeting tonight, spoke of poor voter turnout throughout the country, referred to taxation without representation, noted that many non-residents have much to contribute, thinks it is wrong that non-residents cannot vote, and asked the Council to do the right thing.<sup>2</sup>

Dennis Hayden, Savannahs Landing, spoke in opposition to the Charter change, noted that non-residents cannot vote in Sussex County or the State, explained that he could not vote when he was a non-resident, and said that non-residents can come to Town Council meetings and express their views and concerns.

Mayor Wood noted that all people on the list who wished to speak have done so.

Marilyn Esposito took exception to some earlier comments. She noted that there are a significant number of non-residents at this meeting; said that more people, residents and non-residents, would attend meetings if they were not held in the middle of the week; explained that she driven a long distance to attend monthly and special meetings of the Board of Directors of Bear Trap; and said that people should not assume that non-residents are less interested in the community and would not fulfill their commitments to the Town.

Diane Archut, Ocean View property owner, spoke in favor of the Charter amendment, said that she is an Ocean View native who now lives a few miles outside the Town and still owns property and a business and goes to church in Ocean View and feels “put-upon” that she cannot vote in Ocean View.

Frank Pipkin referred to Mayor Wood’s list of considerations and commented on two points. The number of votes per property. Mayor Wood explained that he questioned the number of property owners for a single property; e.g., if 13 people owned a business property, how many of them could vote? Mr. Pipkin said that the absentee ballot issue can be worked out without putting a heavy burden on the Town. Mayor Wood explained that he raised the issue of the cost of redistricting rather than the issue of absentee ballots.

Elaine Birkmeyer said that no one intended to insult non-residents but said that people have one abode, and if someone lives somewhere other than in Ocean View, they should not be permitted to vote in the Town.

Rene Zimmer, Bear Trap, spoke in favor of the Charter amendment, said they wish to form a unified community, explained that she and her husband plan to retire to Ocean View, noted the high percentage of Bear Trap residents at tonight’s meeting, expressed concern about the interests of Ocean View, and thinks a vote for non-residents is long overdue and is the right thing to do.

Steve Alexander said that if non-resident neighbors do not know one another, it will be hard for them to form a voting block, noted that all people attended a Council meeting for the first time, has followed the Town’s affairs, and asked that if the people who do not attend congressional hearings in Washington wish to opt out of national affairs. He noted that even if he doesn’t come to Council meetings he does come to the Town to pay such items as taxes, license fees, etc.

Bill Wichmann had no comments.

---

<sup>2</sup> Bay Forest is not located within the boundaries of the Town of Ocean View.

Perry Mitchell asked the Town Solicitor about how a trust would be handled in relation to non-resident voting. The Town Solicitor said that if this Charter amendment is approved, the Council must decide what entities will be permitted to vote and noted the existence of such things as trusts, LLCs, corporations, and time shares that must be addressed. He said that such matters as the manager of the trust and the determination of the eligible person to cast the vote for certain types of entities can become complicated.

Perry Mitchell thanked all the residents and non-residents who attended this meeting. He said that he was approached about this issue when he campaigned, it is a complicated question, and the arguments for both sides have much credibility.

Richard Nippes thanked all attendees for coming to tonight's meeting and for their comments and said that he will take their comments and decide on a future course of action on this matter. He said that he and the Town Solicitor will prepare a document for the August 11<sup>th</sup> Council meeting and urged attendees to come to this meeting.

Bob Lawless thanked the residents of Bear Trap for coming tonight, noted that his district includes Bear Trap as well as other developments, understands that his role is to represent all people in that district, is committed to listen carefully to his constituents, and will do what he believes is best for Ocean View. He said that his telephone number and email address are on the Town web site. He said that he is their representative; therefore, they are taxed and represented.

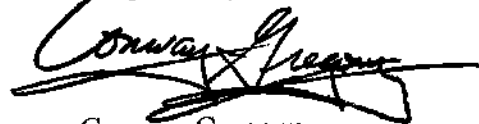
Mayor Wood again said there is no rush, and the Council may but is not required to vote on this issue next month. He said the first question that must be decided is whether the Charter amendment will go forward, and if the amendment goes forward, it must be perfected, which will be difficult and must be done correctly.

**Richard Nippes adjournment.**

**Bob Lawless seconded the motion, and the motion to adjourn was approved unanimously.**

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Conway Gregory", written over a horizontal line.

Conway Gregory  
Town Manager