

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
DECEMBER 9, 2011**

ATTENDANCE

PRESENT: Mayor Jay Headman; Councilpersons John Fields, Pat Voveris, Al Rae, Sue Callaway, and George Junkin; Town Manager Melvin Cusick; Ptlmn. Patrick Wiley; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilman Jim Gross

MEETING CALLED TO ORDER

Mayor Headman called the December 9, 2011, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

PROPERTY OWNERS' PARTICIPATION

No property owners chose to participate during this portion of the meeting.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, November 12, 2011** – A motion was made by Councilman Junkin, seconded by Councilman Fields, to accept the November 12, 2011, Town Council Regular Meeting Minutes as amended as follows:

Page 1, Property Owners' Participation, First Paragraph: Change "Mayor Headman stated that he does not know where this Council stands on **and** ordinance like that . . ." to read "Mayor Headman stated that he does not know where this Council stands on **an** ordinance like that . . ."

Page 1, Property Owners' Participation, First Paragraph: Change "The Beautification Committee has also been working **close** with the Code Enforcement Constable . . ." to read "The Beautification Committee has also been working **closely** with the Code Enforcement Constable . . ."

Page 1, Property Owner's Participation, Third Paragraph: Change "Councilwoman Callaway stated that they had completed the Town right-of-ways on the **west** side of Route 1, and they are starting on the Town right-of-ways on the **east** side of Route 1" to read "Councilwoman Callaway stated that they had completed the Town right-of-ways on the **east** side of Route 1, and they are starting on the Town right-of-ways on the **west** side of Route 1."

Page 4, First Reading of Ordinance 159-11, First Paragraph: Change "Councilman Gross explained that the Board of Adjustment (BOA) had two requests for variances to accommodate **handicap** in the town right-of-way where paving is not permitted" to read "Councilman Gross explained that the Board of Adjustment (BOA) had two requests for variances to accommodate **handicapped individuals** in the town right-of-way where paving is not permitted."

The motion was unanimously carried.

- **Town Council Workshop Meeting Minutes, November 17, 2011** – A motion was made by Councilwoman Voveris, seconded by Councilman Rae, to accept the November 17, 2011, Town Council Workshop Meeting Minutes. The motion was unanimously carried.

LEADERSHIP REPORTS

- **Mayor's Report**—Mayor Headman reported:

Attended a dinner meeting in recognition of David Baker, the Sussex County Administrator who is retiring.

At the November 17, 2011, Town Council Workshop Meeting the Black Gum Drive and Kent Avenue Traffic Restriction Committee made a recommendation to Council to continue with the restriction but with a reduction of time from 7 a.m. to 8:30 a.m. Council approved the recommendation and the Town will put it in place this May. The Town will also be putting up signs that were missing (No Trucks Over Two Axles Except Local Services) and the Town will conduct a traffic survey in July to see what the impact is. Mayor Headman commended the committee for their unbiased and professional approach and for the thoroughness of their work. Mayor Headman thanked Councilwoman Voveris for chairing the committee.

At its Workshops, Council has been reviewing the Town of South Bethany April 2011 Comprehensive Plan Community Survey results and looking at areas regarding town services that need improvement. On Friday, December 16, 2011, Council will meet to talk about all the recommended improvements, their costs, whether or not Council wants to go forward with the recommendations, and how it will be funded. Mayor Headman added that future projects will be discussed in the spring. Mayor Headman thanked the Planning Commission and the Council (especially George Junkin and Sue Callaway) for their work on the survey.

- **Town Manager's Report**—Melvin Cusick reported:

The Ambulance Report for the month of October and the Code Enforcement Constable's Report were available on the sign-in table.

Beach Replenishment – Pumping operations in South Bethany are completed. Pumping continues in Bethany Beach. The Town Manager believes DNREC will start pushing sand up to rebuild the dune and the walkways sometime after the pumping at Bethany Beach is completed and the pipe has been removed from the beach.

- **Treasurer's Report**—Pat Voveris reported as of November 30, 2011:

Balance Brought Forward	\$ 2,148,383.57
November Revenue	\$ 50,431.66
November Disbursements	\$ 152,205.87
Balance	\$ 2,046,609.36

Profit and Loss: Total revenue	\$ 1,895,887
Expenditures	\$ 1,388,846
Leaving an excess of	\$ 507,041

- This month the Town purchased another CD at a rate of 2%.
- Under the reserve column, the Town made an increase to depreciation for \$150,000. When the FY 2012 Budget was approved it included taking this from excess revenues approved during FY 2011 to provide additional funding for the underfunded depreciation reserves.
- The actual money the Town has available for use is \$455,561, but for the FY 2012 Budget the Town has an additional \$147,000 that will go into depreciation.
- Rental tax collected is at 104% of FY 2012 Budget.

- Transfer tax for November is down 28% and compared to the same period last year transfer tax is down 19%. There have been \$4 million worth of sales this fall but the Town has not yet received the transfer tax.
- All of the departments are operating within budget.
- Revenue is at 81% and expenses are at 65%.
- FY 2011 versus the same period FY 2012: Revenue is down 1.64% but will change once the Town receives more transfer tax, property taxes are to the good 1.77% (there are 8 delinquent accounts amounting to about \$4,000), rental tax is up 5%, mercantile licenses are up, and expenses are up 7% (Hurricane Irene, gasoline costs, and electrical costs had a significant impact on expenses. The Town will still be getting money from FEMA/DEMA which will help offset some of the costs from Hurricane Irene.)

- **Police Department Report/Questions**—Ptlmn. Patrick Wiley reported for the month of Nov., 2011:

Mayor Headman commended Ptlmn. Wiley for assisting a runner on Rt. 1 who had hurt his knee. The Town received a letter from the man saying how impressed he was with Ptlmn. Wiley and the Town.

- Nov. 2 Property checks made on residences in Cat Hill that had previously been burglarized. There were a few residences where the exterior showers had been turned on. They were discovered and the showers were turned off by the officer conducting the property checks.
- Nov. 5 Loud explosions that were reported to the Police Department and were later determined to be sonic booms from military aircraft.
- Nov. 6 Agency assist – Fenwick Island. Assisted with a wanted person who was subsequently taken into custody.
- Nov. 7 Residential alarm on Surfside St. Residence was found to be secure.
- Nov. 9 Residential alarm on Tamarack Dr. Residence was found to be secure.
- Nov. 11 Residential alarm on N. 4th St. Residence was found to be secure. The alarm was accidentally set off by a contractor inside the residence who was authorized to be there.

Property check conducted on Kimberly Rd. The residence was found to be unsecure. The homeowners were contacted. The officer secured the residence.
- Nov. 12 Agency assist – Fenwick Island. Assisted with a vehicle search which resulted from a traffic stop.
- Nov. 13 Officer responded to a civil dispute between a builder and a contractor.
- Nov. 14 Hit and run accident in the median of Rt. 1 southbound. Property damage only. No injuries.
- Nov. 15 Property check conducted on Periwinkle Rd. Door was found open. The officer secured it and notified the homeowner.
- Nov. 25 Report of a water leak on Carlisle Dr. from a fire hydrant. Artesian was contacted and they sealed up the leak. Further investigation revealed that Artesian had turned on the valve to the fire hydrant to let the water run to flush out the system.

ORDINANCES/RESOLUTIONS

- **Resolution 9-11 – The 2011 Town of South Bethany Forest Canopy Density Goal (Sue Callaway)**

Mayor Headman thanked Councilwoman Callaway for her efforts to secure more than \$24,000 of grant monies from the State of Delaware to obtain trees in the town and he thanked her for putting together Resolution 9-11. Mayor Headman also thanked the Town Manager for his efforts in securing grants for the Town noting that he just secured a \$50,000 grant for the Town from DelDOT. Mayor Headman also thanked Councilman Junkin for his efforts in securing grant monies for the Town.

Councilwoman Callaway explained that as part of the tree grant from the Department of Agriculture (DOA) which funded the 88 new trees on the Route 1 median, the Town is required to adopt a resolution declaring that the Town will work toward increasing its tree canopy. The tree canopy is measured periodically by the Department of Agriculture. Resolution 9-11 was prepared in consultation with Kyle Hoyd who is the Town's contact at the DOA's Delaware Forest Service Urban and Community Forestry Program. The resolution is modeled after similar resolutions that were adopted by other surrounding towns.

Councilwoman Callaway reviewed Resolution 9-11. In paragraph four of the resolution Councilwoman Callaway pointed out that the existing forest canopy density of 16.32% does not include the newly planted 88 trees. Mr. Hoyd believes the newly planted trees will increase the Town's tree canopy by at least 1%. The DOA will probably be measuring the tree canopy again in 2014. Councilwoman Callaway stated that the resolution encourages South Bethany to be mindful of increasing its tree canopy, but if the Town does not reach its goal in 20 years there is no penalty imposed.

A motion was made by Councilwoman Callaway, seconded by Councilwoman Voveris, to adopt and approve Resolution No. 9-11, the 2011 Town of South Bethany Forest Canopy Density Goal. After discussion, the voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Fields, Voveris, Rae, Callaway, and Junkin

AGAINST THE MOTION: None

The motion carried with a 6-0 vote.

- **Second Reading of Ordinance 158-11, to amend Chapter 42, Building Construction, to update § 42-5C to agree with § 145-68A(6). (Jay Headman)**

Mayor Headman reviewed the change from \$300 to \$500 in § 42-5C. There was no further discussion.

Mayor Headman declared this the second reading of Ordinance 158-11.

- **Second Reading of Ordinance 159-11, to amend Chapter 145, Zoning, to allow permeable pavers within the Town right-of-way. (Jim Gross)**

In Councilman Gross' absence, Councilman Junkin presented the second reading of Ordinance 159-11. Councilman Junkin stated that the Town had received comments from the Town's lawyer regarding Ordinance 159-11 and Councilman Junkin and Councilman Gross will make revisions to the ordinance for discussion at the December 15, 2011, Town Council Workshop Meeting.

Mayor Headman declared this the second reading of Ordinance 159-11.

- **First Reading of Ordinance 160-11, to amend Chapter 6, Contracts and Bidding, to increase bidding monetary amounts. (Pat Voveris and John Fields)**

Towns Charter § C-7B states, "The Mayor shall execute, on behalf of the town, when authorized by Town Council majority vote, all agreements, contracts, bonds, deeds, leases and other legal documents." Town Code § 6-2B states, "The Town Manager may sign all contracts with monetary values of \$10,000 or less, provided Town Council has approved the expenditure and no changes are made to the standard contract." The Town Manager stated that the Town's lawyer is suggesting that § C-7B of the Charter and § 6-2 of the Code should match. The Town Manager suggested that § 6-2B should say that the Mayor shall sign all contracts and in the Mayor's absence the Town Manager shall sign all contracts. This way the Town would have a backup. Mayor Headman agreed. Mayor Headman stated that Council will discuss this at the December 15, 2011, Workshop Meeting.

Councilman Fields read §6-2C.

Councilman Fields stated that he would work through the attorney's recommendations and present the revised version at the Workshop Meeting.

Bob Cestone gave background information on the origin of the ordinance. Regarding § 6-2C, Mr. Cestone said that he would not add the "ors" to the ordinance.

Mayor Headman declared this the first reading of Ordinance 160-11.

COMMITTEE REPORTS

Mayor Headman stated that the Town of South Bethany is very fortunate to have a large group of people who volunteer for the Town – they spend their own money and they volunteer their time. Tonight the Town wants to publicly recognize those volunteers.

Mayor Headman recognized the members of the Board of Adjustment:
Allan Allenspach, Chairman, Neal Brown, Vincent Durkin, and Ed Chase

Mayor Headman also recognized Al Rae who gave up his responsibility on the Board of Adjustment to serve on the Town Council.

Mayor Headman recognized the members of the Planning Commission:
Richard Oliver (Chairman), Bob Johansen (Secretary), Kathy Jankowski (Vice-Chairman), John Stefani, David Wilson

Mayor Headman recognized the members of the Board of Election:
Bonnie Rae, Carolyn Marcello, and Marge Schaeffer

Mayor Headman thanked all of them for their time and effort in volunteering to do very important work for the town.

- **Assawoman Canal and Trail Update** – Councilman Rae reported:

Councilman Rae recognized Jay Headman, Melvin Cusick, and Sue Callaway for their work with the Assawoman Canal Trail. Councilman Rae explained that the Town is working with the Assawoman Canal Trail Team which includes representatives from Sussex County, representatives from the State of Delaware, and representatives from the different towns in the area. Councilman Rae added that anyone who is interested can attend the meetings and participate.

- **Beautification Committee** – Councilwoman Callaway reported:

Councilwoman Callaway stated that the Beautification Committee has a very active group of volunteers and the committee welcomes any new participants at any time.

Councilwoman Callaway recognized the following Beautification Committee members: Sue Callaway (Chairman), Donna Farrow, Kathy Jankowski, George Junkin, Diann Nazarian, Sharon Nonn, Dennis Roberts, Kent and Bobbi Stephan, and John Speer. In addition, Councilwoman Callaway noted that the Adopt-a-Canal program now has nine adopted canals.

The Beautification Committee has developed a Volunteer Recognition Wall which is available on the Beautification Committee page of the Town's website. The recognition wall lists the names of all the committee members as well as the volunteers for the Adopt-a-Canal program.

Councilwoman Callaway thanked Don Chrobot, the Maintenance Supervisor, for promptly getting up the holiday decorations. She thanked Pam Smith, Renee McDorman, and Melvin Cusick for their work regarding the bioretention areas.

Councilwoman Callaway thanked George Junkin for all of his work regarding the bioretention areas, specifically his work on the Route 1 Project to Improve Canal Water Quality and Beautify South Bethany article which is posted on the Beautification Committee page of the Town's website.

Bioretention Areas – All of the sod has been planted by the Bramble Construction Company at no additional cost to the Town. The final walk through inspection will be December 19. Work is still being done to improve the drainage at the bioretention area at N. 8th St. The bioretention areas are working very well and Councilwoman Callaway is very pleased with how the landscaping looks.

November 16, 2011, Beautification Committee Meeting:

- Discussed the Ocean Drive Blueprint. By May there will be 17 new trash can bin/planters which the Maintenance Department is building in house. As they complete them they will be put on site. They will be painted in the spring. The Beautification Committee received an additional \$3,500 from the South Bethany Property Owners Association (SBPOA) which will go towards the materials for the trash can bin/planters. Council approved the concept of new signage along Ocean Drive. The committee has the design and will be looking at the size, shape, and letter colors for the signs at the December 14 Beautification Committee Meeting so that it will be ready to go in the spring if Council approves the funding.
- The Town Manager secured a \$50,000 grant through the DeIDOT Transportation Enhancement Program. The project will include rain gardens along the walkway, improved landscaping in front of York Beach Mall, and work on the circle beds in the median strips.
- The Beautification Committee has been discussing for several months a list of alternative names for the committee. The committee feels the focus of the committee has been expanded and it has been reflected in many of the projects that the committee is working on that aim at enhancing the community. The committee feels the term "Beautification" does not depict all of the work the committee is doing. At the Beautification Committee Meeting held on November 16, 2011, the committee unanimously agreed that the name should be changed to Community Enhancement Committee. The committee is confident

that the change will transcend any future Council changes and provide the town with a specific avenue for channeling ideas and addressing concerns for community improvements. Councilwoman Callaway stated that she would like to make a motion that the Beautification Committee change its name to the Community Enhancement Committee. Mayor Headman stated that he recommends Council discuss this at a Town Council Workshop Meeting. Councilwoman Callaway said okay and asked if anybody had any questions, suggestions, or ideas. Councilwoman Voveris believes it would be important to expand to say what the scope would be. Councilman Rae suggested including what the mission is as the committee perceives it and what does the committee think it is now. Councilman Fields stated that for the record, since there was no second on Councilwoman Callaway's motion, the minutes should state that the motion failed.

- **Budget and Finance Committee** – Councilwoman Voveris reported:

Councilwoman Voveris thanked and recognized the Budget and Finance Committee members: Kent Stephan, Steve Farrow, Keith Krenz, and John Fields. She also thanked the Town Manager and the Financial Administrator for all of their help.

November 18, 2011, Budget and Finance Committee meeting:

- Councilwoman Voveris took Council's comments from the November 17, 2011, Town Council Workshop Meeting regarding the temporary mercantile license to the Budget and Finance Committee, and the committee refined what it will be recommending to the Council at the December 15, 2011, Town Council Workshop Meeting.
- The committee discussed permits and fees. The committee will be bringing a recommendation to the Town Council at a future meeting.
- The committee discussed the Town's Auditing Services contract and is recommending to Council that this go out to bid upon completion of the current contract.
- Steve Farrow presented investment ideas. The committee is trying to come up with a policy to bring to Council to put in place for the Town which would consider some alternative forms of investment that are safe and conservative but that will afford the Town more than just the 2% that it is getting in CDs today.
- The committee reviewed the financials for 6 months ending October 31.
- In future months the committee will be working on taking the budget and projecting it for a few years out with an inflationary factor.
- The committee looked at the depreciation schedule with an inflationary factor. Keith Krenz has worked diligently on this and he is recommending that the Town use at least 2.5 percent a year.
- The committee discussed the Town Manager's project list which Council will be considering at the December Town Council Workshop Meeting.

The next Budget and Finance Committee Meeting is scheduled for January 27, 2012, at 3 p.m. at Town Hall.

- **Canal Water Quality Committee** – Councilman Junkin reported:

Councilman Junkin recognized the Canal Water Quality Committee members: Sue Callaway, Jay Headman, Dave Wilson (leader of the Water Quality Monitors), Ron Wuslich, Frank

McNeice, Allan Allenspach (leader of the Oyster Gardening program – currently there are 40 volunteer oyster gardeners), Al Rae, Gene Hendrix, Fran Maloney, Jim Gross, Jack Whitney, John Speer, and Lloyd Hughes. The water quality monitors are Dave Wilson, Sue Callaway, Glenn Dallas, Jay Headman, Bob Hazeltein, Bryant Hopkins, Dick Oliver, Ron Wuslich, and Frank McNeice.

Regarding the bioretention areas, Councilman Junkin explained that at the bioretention area at 8 N. St. there is a layer of clay that seals up when it rains and does not allow the water to infiltrate into the ground. The Maintenance Supervisor has fixed it so that most of it now drains into the bioretention area just south of it. However water still stays in there and does not infiltrate into the ground. The Town is working to correct it but if they are unable to, the plantings in that area may have to be changed and the area be turned into more of a wet pond than a dry pond.

The Maintenance Supervisor has been putting rip rap around the drain basins and the pipe.

Councilman Junkin thanked the SBPOA for their donation of \$3,500 towards the bioretention project.

Chris Bason from the Center for the Inland Bays (CIB) is trying to get a grant to do a project on the east side of Route 1 similar to the project he did in the median. Councilman Junkin noted that all of the work being done in the median was coordinated by Chris Bason from the CIB. He is looking to do a similar project on the east side that goes just south of Sea Colony to Middlesex and all the way through South Bethany. That will be another place to create bioretention areas.

Councilman Junkin is working on a potential grant from the EPA to put diffusers in one canal to use as a pilot program to quantify what diffusers would do for the canals. Councilman Junkin is still going to push for the Town to commit to doing such a project in case the Town is not awarded the EPA grant. The EPA grant would not be awarded until the summer.

The next Canal Water Quality Committee meeting is scheduled for December 15, 2011, at 1 p.m. at Town Hall. Anyone who is interested is welcome to attend.

- **Planning Commission** – In Councilman Gross' absence, Councilman Junkin reported:

In addition to the Planning Commission members that Mayor Headman recognized, Councilman Junkin, on behalf of Councilman Gross, thanked John Speer and Sandi Roberts who recently retired from the Planning Commission. Also, Councilman Junkin recognized Jim Gross' past service on the Planning Commission.

Mr. Roche inquired about pine tree branches that hang over the canals low enough to hit a canopy on a pontoon boat. Mayor Headman asked Mr. Roche to let the Town know where they are and the Town will take a look at them.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Junkin, to adjourn the December 9, 2011, Town Council Regular Meeting at 8:10 p.m.