

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES FEBRUARY 8, 2013
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MEETING CALLED TO ORDER

Mayor Jankowski called the February 8, 2013, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

ATTENDANCE

PRESENT: Mayor Kathy Jankowski; Councilpersons Al Rae, Jim Gross, Pat Voveris, Sue Callaway, George Junkin, and Mark Damato; Town Manager Melvin Cusick; Cpl. Mark Burton; and Administrative Assistant Pam Smith

PROPERTY OWNERS' PARTICIPATION

There were no comments from the public.

ADOPTION OF MINUTES

- **Town Council Workshop Meeting Minutes, January 24, 2013** – A motion was made by Councilman Gross, seconded by Councilman Junkin, to accept the January 24, 2013, Town Council Workshop Meeting Minutes as amended by Councilwoman Voveris as follows:

Page 7, Paragraph 6: Change "Councilman Gross had concerns regarding the COLA information presented in the draft budget" to read "Councilman Gross has concerns regarding the COLA information presented at the draft budget, in a chart outlining 2007-2014 figures."

The motion was adopted.

ADMINISTRATIVE MATTERS – APPROVAL OF 2013 ELECTION BOARD

A motion was made by Councilman Junkin, seconded by Councilwoman Callaway, to approve the following nominations to the 2013 Election Board: Carolyn Marcello, Bonnie Rae, Marge Schaefer, Mary Suazo (Alternate), and Pat Spangler (Alternate). The motion was unanimously carried.

LEADERSHIP REPORTS

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

South Bethany will be hosting the Sussex County Association of Towns (SCAT) Dinner Meeting in September. Councilwoman Voveris and Mayor Jankowski will work with the Town Staff on planning this event.

Councilwoman Callaway reported on the January 24 Ambulance Service Meeting that she attended when Mayor Jankowski was out of town. At the ambulance service meeting the cost and designing process of the new ambulance was discussed. The BBVFC Ambulance Service Staff is researching different vendors who can create and develop the type of ambulance that will service the communities in the "Big Four" the best. The Ambulance Service purchased a new piece of equipment which was used in the fall to successfully revive an unresponsive man. Councilwoman Callaway stated that she learned a lot at the meeting and it gave her a new appreciation for the ambulance fee.

Councilman Junkin reported on the January 9 SCAT Dinner Meeting:

Speakers: Jamie Turner, DEMA and Joe Thomas, Sussex County EOC

Notes from Joe Thomas – Sussex Emergency Operations Center (EOC):

- Evacuations are a big problem. They have economic and social impacts. A lot of data is used to make the decision to evacuate.

- The DEMA Bridge Conference System had lots of background noise. The new system works better.
- Pets are allowed at some shelters
- Unattended children have been an issue at some shelters.
- The majority of the people evacuate and do not use the shelters.

Notes from Jamie Turner – DEMA:

- All issues are “LOCAL.” Call EOC first.
- Evacuate when ordered. During daylight hours is best and safest.
- Shelters are not four star hotels. You do not get restaurant food. Only about 5% of the people go to the shelters.
- Report your damage assessments to EOCs.
- FEMA does
 - o Power support
 - o Fuel support
 - o Evacuation support
 - o Damage assessment
- DE got money for public assistance not for individual assistance.
- FEMA requirements for individual assistance needs to be >40% damage to primary residences.

Councilman Junkin attended the SCAT Breakfast Meeting. SCAT Lobbyist Bob Maxwell reviewed the top legislative issues.

Councilman Junkin and Councilman Gross attended the February SCAT Dinner Meeting where they met representatives from three engineering firms that might be able to help the Town with water quality and stormwater management issues. The speakers at the meeting were Sussex County State Legislatures and they were very supportive of MSA and CTA funds. They also spoke about other issues which will be before them this year.

Mayor Jankowski stated that a couple of Council Members attended the Rt. 26 Working Group meeting and Councilman Rae did an excellent job of writing a News Update summarizing the meeting.

Mayor Jankowski thanked everyone who attended meetings for her in her absence.

Mayor Jankowski attended the SCAT Steering Committee Meeting on Friday morning, February 8. The committee will be scheduling SCAT's Annual Legislative Breakfast in March.

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

Ambulance Service reports were available on the sign-in table. Referring to the reports, the Town Manager noted that there has been a steady increase in the number of calls/responses they have had from 2010 through 2012.

The Code Enforcement Constable's Report was available on the sign-in table. Councilman Rae requested that the violation notices be broken down into categories. The Town Manager said the Code Enforcement Constable can do that in the future. The Town Manager added that all of the violation notices on this month's report were construction site violations.

The Town has done all of the paperwork for the FEMA reimbursement. The Town Manager stated that it is his understanding that the bill was passed and it is a matter of waiting for Congress to release the money.

- **Treasurer's Report**—Pat Voveris reported as of January 31, 2012:

TOTAL OF FUND BALANCES

Fund Balances December 31, 2012	\$ 2,133,493
January Revenue	114,301
January Disbursements	<u>111,172</u>
Fund Balances January 31, 2013	<u>\$ 2,136,622</u>

FISCAL 2013 YEAR-TO-DATE REVENUE AND EXPENDITURE

Total Revenue	\$ 2,279,494
Total Expenditures	<u>1,698,459</u>
Year-To-Date Revenue in excess of Expenditures	<u>\$ 581,034</u>

FISCAL 2013 YEAR-TO-DATE BUDGET TO ACTUAL

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>%</u>
Total Revenue	\$ 2,080,701	2,279,494	110%
<u>Expenditures</u>			
G&A	\$ 507,800	\$ 405,904	80%
Public Works	186,157	134,481	72%
Public Safety	609,547	460,381	76%
Beach Patrol	<u>214,868</u>	<u>215,791</u>	100%
Total Departmental Expenses	<u>1,518,372</u>	<u>1,216,557</u>	80%
All Others (e.g.- Grants, ARM, etc.)	<u>562,329</u>	<u>481,902</u>	86%
Total Expenditures	<u>\$ 2,080,701</u>	<u>\$ 1,698,459</u>	82%

After the first nine months of Fiscal 2013 (January 31, 2013), it appears the Town's financial results should finish close to the Operating Budget, and there does not appear to be any issues which will materially affect Councilwoman Voveris' estimates.

HIGHLIGHTS ON REVENUE

- Property Taxes - There are 7 owners who are delinquent in paying their taxes, totaling \$3,537. The Town has collected \$486,876, or 98.4% of budget. The Town anticipates eventually collecting all taxes.
- Transfer Taxes - In January the Town collected \$22,733, or 251% more than the same month last year. This January represents the third largest January revenue in the last 6 years. Year-to-date overall revenue is ahead by 87% over last year. The Town budgeted \$225,000 for FY 2013 and has surpassed this number by 43% in 9 months of our budget cycle. The Town anticipates eventually collecting 50% more than budgeted.
- Rental Tax Revenue - Collections year-to-date are \$517,137, or 104% of budget. Compared to FY 2012, the Town has collected \$28,063 more revenue. The current YTD revenue is the highest of the last 6 years. The Town anticipates collecting more rental tax, but it will not be material.
- Building Permits in the month of January is the largest month the Town has had this budget cycle. The Town generated \$31,375 in building permits and is now 8.5% over our budgeted amount. The Town is at \$81,422.

HIGHLIGHTS ON EXPENDITURES

- Nothing material to report

- **Police Department Report/Questions**—Cpl. Mark Burton reported for the months of Dec. 2012 and Jan. 2013:

- Dec. 14 Officer responded to Canal Dr. for a shots fired complaint. It was duck hunters on a canal. It was turned over to DNREC which has jurisdiction of the wetlands.
- Dec. 16 Assisted with a mental patient walking down Rt. 1 near the Cottage Cafe with a large stick. The subject was transported by Delaware State Police to the hospital and was committed to the hospital.
- Dec. 21 and
Jan. 9 Two thefts of plywood (35 sheets each time) on the same property on Anchorage Dr. The Police Department has interviewed five or six subjects and since these subjects were interviewed there have not been any more thefts. The investigation is ongoing.
- Dec. 29 Responded to a 5:45 a.m. call reporting a gentleman walking up Ocean Drive with a flash light near N. 2nd St. Officer found him on the beach and the subject said he was there to watch the sunrise. It was discovered that this was the mental patient found on Rt. 1 two weeks earlier. The subject is not a resident of South Bethany.

During December there were four false residential alarms and five 911 disconnects that were unfounded.

- Jan. 10 Lt. Crowson was going home in his personal vehicle, heard a broadcast out for a vehicle involved in an armed robbery, saw the vehicle, and ended up stopping two of the suspects in the armed robbery at the Fulton Bank in Ocean View by blocking them in at the ATM with his truck. It also involved a kidnapping. The subjects were taken off at gun point and the kidnapping victims were saved. The other two suspects were apprehended in a trailer park near Hocker's a couple of hours later. All four subjects are in custody for armed robbery. Lt. Crowson did a great job and it is all on video.
- Jan. 19 PFC Wiley assisted the Georgetown Police Department by translating for a rape victim who needed to make a statement. PFC Wiley is fluent in Spanish.
- Jan. 21 After a stop for a traffic violation, the driver was taken into custody because there was an active warrant for his arrest. The subject was taken to JP3 where he posted bond.
- Jan. 23 Officer assisted Fenwick Island Police Department with a vehicle search. During the search they found a switch blade knife and drug paraphernalia. The driver was subsequently taken into custody for said violations.

During January there were five residential alarms which were all unfounded and five water leak complaints. Cpl. Burton reminded residents to winterize their pipes if they are going to be out of town.

Cpl. Burton reported that the BBVFC still does not have a final copy of the report from the Fire Marshall regarding the fire on S. Anchorage Ave. Cpl. Burton stated that there is no suspicion of foul play.

ORDINANCES/RESOLUTIONS

- **Third Reading of Ordinance 167-12, to Amend Chapter 42, Building Construction, to Revise and Clarify § 42-1 through § 42-14.2 and to Add § 42-14.3 (Jim Gross)**

Councilman Gross reviewed changes made to Ordinance 167-12 since the second reading.

The following changes were suggested and after discussion Council agreed:

§ 42-3. Building Code.

Insofar as practicable and applicable, the minimum acceptable standards for materials and construction shall be as specified by the Sussex County Building Code Department, other sections of this chapter, Chapters 45, 50, 141 and 145 of the South Bethany Code, and the State of Delaware Department of Natural Resources.

Change to:

§ 42-3. Building Code.

Insofar as practicable and applicable, the minimum acceptable standards for materials and construction shall be as specified by Sussex County Building Code Department, **International Building Code (IBC), International Residential Code (IRC)**, other sections of this chapter, Chapters 45, 50, 141 and 145 of the South Bethany Code, **FEMA/NFIP Requirements**, and the State of Delaware Department of Natural Resources.

- § 42-6B.** ***For all new construction and substantial improvements the applicant shall submit: (1)Two copies of detailed plans of the proposed construction or improvements drawn to scale and of sufficient clarity and detail to indicate the specific nature and extent of the proposed work and demonstrating that it conforms to this chapter and all other applicable codes and regulations; (2) Two copies of a survey or plot plan, prepared by a registered surveyor, showing the location of all easements, property and setback lines, drainage facilities, centerline of street and lot grades, building and flood elevation and proposed improvements; provided however that the Code Enforcement Constable or Town Manager may waive any of these requirements in the exercise of their reasonable judgment based upon the circumstances.***

Change to:

- § 42-6B.** ***For all construction the applicant shall submit: (1)One copy of detailed plans of the proposed construction or improvements drawn to scale and of sufficient clarity and detail to indicate the specific nature and extent of the proposed work and demonstrating that it conforms to this chapter and all other applicable codes and regulations; (2) One copy of a survey or plot plan, prepared by a registered surveyor, showing the location of all easements, property and setback lines, drainage facilities, centerline of street and lot grades, building and flood elevation and proposed improvements; provided however that the Code Enforcement Constable or Town Manager may waive any of these requirements in the exercise of their reasonable judgment based upon the circumstances.***

- § 42-10A.** ***Upon completion of new construction and/or substantial improvements, unless waived in the exercise of reasonable judgment based upon the circumstances by the Code Enforcement Constable or Town Manager, a final placement survey and flood elevation certificate prepared by a registered surveyor shall be provided with any other information as may***

be essential for determining whether the provisions of this chapter and other applicable codes and regulations have been met. Following receipt thereof, the Code Enforcement Constable shall make a final inspection to determine that the construction or improvements have been made in accordance with the application, the approved plans, the building permit and the provisions of all applicable codes and regulations.

Change to:

§ 42-10A.

Upon completion of all construction, unless waived in the exercise of reasonable judgment based upon the circumstances by the Code Enforcement Constable or Town Manager, a final placement survey and flood elevation certificate prepared by a registered surveyor shall be provided with any other information as may be essential for determining whether the provisions of this chapter and other applicable codes and regulations have been met. Following receipt thereof, the Code Enforcement Constable shall make a final inspection to determine that the construction or improvements have been made in accordance with the application, the approved plans, the building permit and the provisions of all applicable codes and regulations.

§ 42-14.2B.

For all new construction and any renovation when water or sewer ~~are is~~ disconnected, or the plumbing fixtures removed, the permittee shall place a portable toilet on the site.

Change to:

§ 42-14.2B.

For all ~~new~~ construction ~~and any renovation~~ when water or sewer ~~are is~~ disconnected, or the plumbing fixtures removed, the permittee shall place a portable toilet on the site.

A motion was made by Councilman Gross, seconded by Councilman Junkin that this completes the third reading of Ordinance 167-12 and to approve Ordinance 167-12 as amended at the third reading. The voting was as follows:

FOR THE MOTION: Mayor Jankowski and Councilpersons Rae, Gross, Voveris, Callaway, Junkin and Damato

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

- **First Reading of Ordinance 168-13, to Amend Chapter 104, Property Maintenance, Article III, "General Provisions", to Increase Property Owner Responsibility for the Disposal of Trash, Yard Waste, and Garbage (Jim Gross)**

Council reviewed Ordinance 168-13. No changes were made.

Mayor Jankowski declared this the first reading of Ordinance 168-13.

- **First Reading of Ordinance 169-13, to amend Chapter 114, Solid Waste, Article I, Entitled Collection Fees", and Article II, entitled "Solid Waste", to Update Disposal Regulations, to Regulate the Size and Number of Solid Waste and Recycle Containers for Rental Properties, and to Require Penalties for Offenses (Jim Gross)**

Regarding one of Allied Waste's concerns, Council agreed to the following change:

RECYCLABLE MATERIALS – Those materials defined by the Delaware Solid Waste Authority (DSWA) as materials to be collected by DSWA or as defined by a company chosen by the Town Council from time to time. Those materials shall include, by way of illustration but not by way of limitation, glass, plastic, and metal containers; newspapers; cardboard and junk mail.

Change to:

RECYCLABLE MATERIALS – Those materials defined by the Delaware Solid Waste Authority (DSWA) or as defined by a company chosen by the Town Council from time to time. Those materials shall include, by way of illustration but not by way of limitation, glass, plastic, and metal containers; newspapers; cardboard and junk mail.

§ 114-76(2)(1) All garbage and ~~rubbish~~ **trash** shall be placed in protective containers **with lids**, not to exceed ~~55~~ **96** gallons in size. ~~or 50 pounds, including but not limited to plastic bags.~~

The Town Manager stated that Allied Waste wanted Council to understand that any container size of 40 gallons or more has to be a container with wheels and a lid (for example, a Toter). He added that the original contract with Allied Waste limits the containers to not more than 35 gallons. (It was noted that the Town Manager would need to do an addendum to the contract if the ordinance is adopted.) The Town Manager stated that Allied Waste does not have a problem with containers larger than 35 gallons as long as the containers are left at curbside for pickup or in a bin and they can roll the container out.

The Town Manager stated that Allied Waste said that they cannot be responsible for damage to inferior containers. The Town Manager noted that there are different varieties of containers and some of them won't withstand being dumped by a mechanical dumper. The Town Manager questioned if Council or the Charter and Code Committee should consider adding a specification or standard for the containers to address this issue. Councilman Gross stated that there is an ANSI Standard for these containers. Councilman Gross asked the Town Manager if he would work on the wording for this.

Councilman Junkin noted that the limit that the trash man can pick up without the mechanical dumper is probably 35 pounds. Anything heavier than 35 pounds should be in a container that is on wheels and has the interface to be picked up by the mechanical dumper. Councilman Junkin added that he thinks 50 pounds should be replaced with 35 pounds throughout the ordinance.

The following suggestions and comments were made:

- Add containers over 35 gallons must be machine lift compatible and be constructed out of 35 (if this is the right number) gage plastic or more.
- The Town needs to protect itself from being accused of breaking up the cans, but the Town should not decide for people if they want to use cheap cans. It was noted that the property owner would be responsible for replacing damaged cans.
- Work with Allied Waste to see if property owners could buy the cans from Allied Waste. The Town Manager will contact Allied Waste regarding this.
- Allied Waste is in favor of mechanized trash cans because they require less labor.
- The Community Enhancement Committee will develop a brochure with recommendations and pictures of acceptable carts and bins. Councilman Rae will assist with this.
- The Town could purchase a container that is compatible with the trash company's mechanical dumper.
- Bob Cestone suggested the following wording: "All garbage and trash shall be placed in protective containers with lids, not to exceed 35 gallons in size. Containers up to 96 gallons may be used if they are constructed of material meeting ANSI _____ standards."
- The Town does not want to have the trash collector supply the carts to the property owners as part of the trash bill because not everyone will want this kind of cart.

Councilman Gross will look into the standards for the containers.

Councilman Gross agreed that the wording should be clear that if a property owner uses a larger container it has to be on wheels and it has to be designed to be lifted mechanically.

Councilman Junkin recommended reviewing the rest of the ordinance for the first reading with the understanding that Council will correct the issues relative to the size of the cans and the description of the cans for the second reading after Council has gotten more data. Council agreed.

§ 114-76(3) Yard waste shall be bagged in recyclable paper bags or placed in a trash can. Plastic bags are not allowed for yard waste pick up. Yard waste that is in plastic bags or that is commingled with garbage, trash, or recyclable materials will not be picked up. If yard waste is placed in a trash can, the can shall be at curbside with the lid off and not in a bin. To ensure pickup, yard waste should be put at curbside the night before pickup day. Yard waste shall not be commingled with garbage, trash or recyclable materials. All brambles, sticks, tree trimmings and the like shall be securely tied together with cotton string in bundles which shall not exceed fifty (50) pounds in weight or four (4) feet in length.

Change to:

§ 114-76(3) Yard waste shall be bagged in recyclable paper bags or placed in a trash can. Plastic bags are not allowed for yard waste pick up. Yard waste that is in plastic bags or that is commingled with garbage, trash, or recyclable materials will not be picked up. If yard waste is placed in a trash can, the can shall be at curbside with the lid off and not in a bin. To ensure pickup, yard waste should be put at curbside the night before pickup day. ~~Yard waste shall not be commingled with garbage, trash or recyclable materials.~~ All brambles, sticks, tree trimmings and the like shall be securely tied together with cotton string in bundles which shall not exceed fifty (50) pounds in weight or four (4) feet in length.

Council discussed **§ 114-76A(4)**

§ 114-76A(4): All properties shall have an adequate number and size of garbage and trash containers with lids to accommodate the amount of waste generated at that property. Every rental property shall provide for garbage and trash 2 (two) containers with lids having a capacity not less than 60 (sixty) gallons each or 3 (three) containers with lids having a capacity not less than 40 (forty) gallons each. Overflowing containers and bins, or waste strewn around containers or bins is prohibited and shall be prima facie evidence that the number and size of containers is not sufficient and shall be a violation subject to penalties.

After discussion, Councilwoman Callaway stated that the issue Council is trying to address is overflowing trash. Councilwoman Callaway suggested using Alternate # 4 which was presented to Council at the January 24 Workshop Meeting which read:

Alternate # 4: All properties shall have an adequate number and size of garbage and trash containers with lids to accommodate the amount of waste generated at that property. Overflowing containers and bins, or waste strewn around container or bins is prohibited and shall be prima facie evidence that the number of and/or size of the container is not sufficient and shall be a violation subject to penalties.

After discussion, Council agreed to use Alternate #4 for the next draft of Ordinance 169-13.

Mayor Jankowski declared this the first reading of Ordinance 169-13.

- **First Reading of Ordinance 170-13, to Amend Chapter 20, Planning Commission, to Change the Number of Members from Five to Not Less Than Five Nor More Than Nine (Jim Gross)**

Councilman Gross reviewed Ordinance 170-13.

Councilman Gross explained that the Delaware Code requirement is that a planning commission shall consist of not less than five nor more than nine members.

Councilwoman Voveris suggested the following:

§ 20-2. Members; appointment; vacancy; compensation.

Change to:

§ 20-2. Members; appointment; vacancy; compensation; *terms of office.*

Councilman Gross agreed.

Council discussed the following sentence from § 20-2: A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

The following comments/suggestions were made:

- A vacancy does not have to be filled if there are still five people on the commission.
- A vacancy occurring otherwise than by expiration of a term **shall may** be filled for the unexpired term in the same manner as an original appointment.
- A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term **provided that the balance between terms is still equal.** (Or something to that effect.)
- "Maintain new members with half the total membership expiring in odd years and half the total membership expiring in even years" and adjust it as you go to maintain that odd and even balance.
- Strike the entire sentence.
- The sentence should stay because if there are five members and one member resigns it has to be coterminous with the person leaving. It should be filled for the remainder of the resignee's term.
- Qualify it by saying: ***If the number of members is five,*** a vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.
- There is nothing in the Town Code regarding staggered terms for the Planning Commission.
- An even number of members is not desired. Council should be encouraged to fill a vacancy.
- A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment ***if required to keep the minimum five member composition.***

Mayor Jankowski declared this the first reading of Ordinance 170-13.

- **Consideration and possible vote on Resolution No. 1-13, A Resolution Amending the Billing Method for the Bethany Beach Volunteer Fire Company Ambulance Service Fee for South Bethany Property Owners (Kathy Jankowski)**

The Town of South Bethany's current policy regarding the Ambulance Service Fee is: The Town will bill every property owner who owns a house for the BBVFC Ambulance Service

and it will be part of the annual tax bill. Property owners who own only vacant lots will be billed for one vacant lot.

Resolution No. 1-13 would change the current policy regarding the Ambulance Service Fee to: Beginning FY 2014, the Town will bill all property owners for one ambulance fee for every property owned.

Councilwoman Voveris stated that Council discussed this at the January 24, 2013, Town Council Workshop Meeting when reviewing the draft FY14 Budget. Councilwoman Voveris stated that in the Ambulance Service Agreement the Town agreed to pay so much for every taxable property.

Mayor Jankowski stated that South Bethany property owner, Joe Schaeffer, had contacted her before the meeting to say that he was against Resolution 1-13.

Council made the following points:

- People who have lots probably won't ever make use of the ambulance service just as they will never make use of the schools which have been provided by the property tax.
- Regarding the trash collection, the Town does not get charged for vacant lots by the trash company.
- The Town does get charged for vacant lots by the ambulance company. The Ambulance Service Fee should be a pass through fee.

Bob Cestone disagreed. He said per the Ambulance Service Agreement, how the Town charges for the fee is up to the Town. Mr. Cestone stated that if a person owns a house and three empty lots, why should that person have to pay \$160 for the ambulance fee when there is only one house generating a need for the ambulance service. He added that when the ambulance fee was first implemented, Council decided it was fair to handle the ambulance fee the way the Town handles parking permits. Mr. Cestone stated that there are some people that own six lots and they are going to be paying close to \$300. Mr. Cestone does not believe this is fair. Council asked why the other property owners should have to pay (subsidize) the ambulance service fee of the property owners with lots. Mr. Cestone said the people with houses and the people with a single lot without a house are paying the fee because they are the people who need the ambulance service. Mr. Cestone said the lots don't generate a need for an ambulance service. Council replied that the lots generate an ambulance service fee. Mr. Cestone stated that the ambulance service fee is only increased by about a dollar to cover vacant lots. Mr. Cestone believes charging property owners with multiple lots for every lot puts a burden on those people.

Motion: A motion was made by Councilman Junkin, seconded by Councilwoman Voveris, that Council accept Resolution No. 1-13 as written.

Motion to amend: After discussion, a motion was made by Councilman Gross, seconded by Councilman Rae, to amend the motion by striking the fourth Whereas (**WHEREAS**, the South Bethany Town Council has a fundamental responsibility to the people of the Town to provide for their safety and well-being). The voting result was 3 in favor and 4 against. The motion was defeated.

Mayor Jankowski called for a vote by roll call on the original motion to accept Resolution 1-13 as written. The voting on the original motion was as follows:

FOR THE MOTION: Mayor Jankowski and Councilpersons Rae, Gross, Voveris, Callaway, Junkin, and Damato

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

- **Consideration and possible vote on Resolution No. 2-13, A Resolution for Recovery from Sandy Flooding Damage (Kathy Jankowski)**

Mayor Jankowski stated that many property owners in South Bethany have addressed their property damage from Super Storm Sandy, but there is concern that some South Bethany property owners have not yet addressed the damage to their property caused by Super Storm Sandy. Mayor Jankowski stated that the Town has sent various News Updates to encourage people to work on the damage to their property, but Council believes something stronger is needed. Mayor Jankowski said the Town is trying to get property owners to get their storm damage repairs done before May 1. Councilman Gross clarified that May 1 is consistent with the County. Councilman Gross added that the Town is going to require building permits except for renovation/remodeling/alteration where the cost is less than \$500 and items listed in § 145-68A(6).

Councilman Gross suggested clarifying the fourth "Whereas" to say, " **WHEREAS**, building permits are not currently being required for storm damage repairs when replaced in like kind." A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to approve Resolution 2-13 as amended. The voting was as follows:

FOR THE MOTION: Mayor Jankowski and Councilpersons Rae, Gross, Voveris, Junkin, Callaway, and Damato

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

COMMITTEE REPORTS

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

The State is still finalizing step one. The new Rt. 26 construction will have no crossover involvement/work associated with the Assawoman Canal and Trail project.

- **Community Enhancement Committee** – Councilwoman Callaway reported:

The Community Enhancement Committee did not meet in January.

The committee will be working on its targeted adopt-a-canal outreach in February and March.

The Maintenance Department has begun landscaping and edging. They will be mulching in February.

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

The Budget and Finance Committee met January 19 and spent two hours of the meeting reviewing the draft budget that the Town Manager and Financial Administrator prepared. The committee complimented them on bringing a balanced budget forward that was more transparent and detailed. The committee's recommendations were reviewed by Council at the January 28 Town Council Workshop Meeting. Council will review the FY14 Budget again at the February 28 Town Council Workshop Meeting.

There will be a Budget and Finance Committee Meeting for Public Input Regarding the FY14 Budget in March.

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

- Diffuser Pilot Project for the Petheron Canal
 - Envirotech has the permits from DNREC and the Army Corps of Engineers
 - Six diffusers should be in the Petheron Canal by the end of March.

- Grant for rain gardens along the east side of Route 1
 - The CIB has been awarded the grant
 - DNREC should release the funds by the end of February
 - CIB plans to go out for bids for the project
 - Project will probably be completed by late May

- Councilman Gross and Councilman Junkin have been attending meetings on Sea Level Rise (SLR).
 - Councilman Junkin intends to brief the Council on SLR at a future workshop meeting
 - Bottom line is that SLR will probably be greater than 1.5 feet during the next 100 years. It rose more than 1.0 foot during the last 100 years. Worst case scenario predictions are over 6.0 feet of SLR in the next 100 years

- Councilman Junkin attended a Citizens Advisory Council meeting at the CIB on February 7. They announced that Joe DeMul, who had been a member of that committee for a long time and also a previous South Bethany property owner, had died last Friday.
 - Met David Baird, the District Coordinator for the Sussex Conservation District. The Conservation District has a Sediment and Stormwater Management Group. Councilman Junkin said he needs to get with them and see if they can help South Bethany.

- ❖ Speaker Ed Kee, DE Secretary of Agriculture:
 - The Inland Bays water shed is 292 square miles, 186,880 acres. It consists of 35 square miles of water. It is 31% of Sussex County containing 200 farms and a population of 87,210 people.
 - Ground water under fields is decreasing in nutrients. It is a long process. It takes 18 years on average for the water to reach the streams. More continually needs to be done to reduce nutrients. We are going in the correct direction, but more needs to be done.
 - How we treat the land is how we treat the bays. 41% of DE land mass is in agriculture.
 - Agriculture is a \$1.2 B industry that multiplies into \$4 B to \$5 B to the DE economy.
 - Broiler industry was started by Mrs. Steel when she ordered 50 chicks for her Ocean View back yard farm. She was sent 500 chicks due to an error. She kept and raised them all, selling them for \$0.63 per pound. It is now a \$2.8 B industry. 2,000,000 birds are processed each night. They generate a lot of manure, 79,000 tons to be spread on 59,000 acres. This is below the recommended 2 tons per acre. The problem is storage and transportation. There is a subsidy so that the manure is transported to the right place at the right time.
 - 99% of the farmers have a nutrient management plan that is reviewed by the Dept. of Agriculture and the EPA.

- ❖ Speaker David Baird – District Coordinator for Sussex Conservation District:
 - Moto is “Prepare – Protect – Preserve”
 - Part of their efforts are in Sediment and Stormwater Management. South Bethany may be able to get some help here.
 - They do
 - Storm water management pond maintenance
 - Beach & Dune restoration – like at Indian River Bridge
 - Dredge spoils site preparation
 - Assist in stormwater retrofits for projects that are pre 1990
 - Their web site is <http://sussexconservation.org>

- ❖ Speaker Bart Wilson – CIB spoke on 6 years of TMDL data:
 - All point sources should be eliminated by next year.
 - Non point sources are still a problem
 - Upper Indian River needs 85% reduction in nitrogen

- Upper Indian River needs 65% reduction in phosphorous.
- All other watersheds need a 40% reduction in both nitrogen and phosphorous
- A 20% reduction is needed in Atmospheric inputs.

Mayor Jankowski asked Councilman Junkin to write a brief News Update regarding the rain gardens on the east side of Route 1 and the diffuser project.

- **Planning Commission** – Councilman Gross reported:

Mayor Jankowski, Councilman Gross, and the Chairman of the Planning Commission (Dick Oliver) have been discussing implementing action taken recently on increasing the Planning Commission membership and assigning the Planning Commission a new project. Councilman Gross has asked the Planning Commission to have a meeting in the near future at which time Mayor Jankowski will brief them on what the project entails. In order to get the project started, Councilman Gross believes Council should take official action at the February Town Council Workshop Meeting to name the new advisors to the Planning Commission.

- **Charter and Code Committee** – Councilman Rae reported:

The Charter and Code Committee met on January 3 at which time various draft ordinances were discussed including some of the ones on tonight's meeting agenda.

Mayor Jankowski said that she is pleased with the work of the Charter and Code Committee. Councilman Gross agreed. Councilman Rae thanked the Charter and Code Committee for their work.

- **Communications and Public Relations Committee** – Councilman Damato reported:

The Real Estate Agent Meet and Greet Networking Event will be held February 15. Currently 33 Realtors, the Delaware Wave, the Coastal Point, and Drew Slater of Representative Carney's office have RSVP'd yes. South Bethany Seafood is donating shrimp for the event. Mayor Jankowski said the goal is to show the Realtors that the Town is serious about the property values in South Bethany and that the Town supports tourism.

ADJOURNMENT

A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to adjourn the February 8, 2013, Town Council Regular Meeting at 9:10 p.m. The motion was unanimously carried.