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| <b>TOWN OF SOUTH BETHANY<br/>TOWN COUNCIL REGULAR MEETING MINUTES<br/>AUGUST 5, 2011</b> |
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**ATTENDANCE**

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

EXCUSED ABSENCE: Councilperson Sue Callaway

**MEETING CALLED TO ORDER**

Mayor Headman called the August 5, 2011, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag. Mayor Headman announced that Councilwoman Callaway had an excused absence.

**PROPERTY OWNERS' PARTICIPATION**

- Mike Matera (311 W. 9<sup>th</sup> St.) – Regarding contractors working on Sunday, Mr. Matera stated that the police are supposed to go down every street everyday and he does not see them going down every street everyday. Mayor Headman said that he would follow up with Chief Deloach.
- Lloyd Hughes (152 Layton Dr.) – Had reported a possible sewer leak on Layton Drive to South Coastal Sewer and the first time they were out there within a half hour looking at it. However, Mr. Hughes stated that he has not had a follow up call and has no idea what the result was. Mr. Hughes gave Councilman Junkin a clear container labeled "Layton Canal Bottom Sediment 8/5/11 (Raw Sewerage)". The container was approximately ¼ full. The Town Manager stated that Mr. Hughes had contacted him and the Town Manager called Sussex County Sanitary District. They were going to check on it but have not called back. The Town Manager will follow up. Mr. Hughes suggested that the Town canals possibly need to be vacuumed. He suggested vacuuming the whole north side for about a hundred feet and let it sit there for a week. If it fills up, it is a pretty good indication that it is leaking.
- John Speer (2 N. 2<sup>nd</sup> St.) – Regarding the Town's beach wheelchairs, Mr. Speer is hopeful that the Town could work out a provision for people with hardships who cannot go out during the day due to the heat and sunshine to be able to keep a beach wheelchair overnight in order to use it in the evening. Mr. Speer suggested requiring a deposit to use a beach wheelchair overnight. The Town Manager stated that he believes the problem is the demand for the beach wheelchairs. The Town Manager will check with the Beach Patrol Captain. Mayor Headman stated that the Town wants to work with people and the Town will follow up.

**ADOPTION OF MINUTES – TOWN COUNCIL WORKSHOP MEETING MINUTES, JULY 28, 2011**

The July 28, 2011, Town Council Workshop Meeting Minutes were not completed and will be up for adoption at the August 25, 2011, Town Council Workshop Meeting.

**LEADERSHIP REPORTS**

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

Regarding false alarms, Chief Deloach's feeling is that the ordinance that is in place works and his preference at this time is not to impose a fine. The property owner that had two or

three false alarms the previous month had called and apologized – the alarm was not working correctly. They had it fixed and it broke again and the property owner apologized again. The Chief of Police would prefer to continue working with the property owners on this issue.

Regarding the suggestion to have a compost drop off on the grounds at Town Hall, Council is going to postpone a discussion on that until the budget season when Council discusses the yard waste program.

Council appointed an ad hoc committee to look at the traffic restriction (the barricade) at Black Gum Drive. Council appointed Pat Voveris as the Chair, Al Rae, Chief DeLoach, Melvin Cusick, and Dick Oliver (Planning Commission Chairman). The Committee will come back with a recommendation(s) to the Council by November. They will meet September 2, 2011, at 9 a.m. in the Council meeting room.

Mayor Headman attended a meeting regarding the bio retention areas that the Town is working on with the Center for the Inland Bays (CIB) and DeIDOT. The meeting was very successful for the Town.

Mediacom – Mayor Headman stated that he is not going to say that it is better or it is worse. The committee of the Towns, and with the help of Bob Cestone (who has been very valuable), has finished the draft of the franchise agreement and has sent the draft to our lawyer to review.

Town Survey – Mayor Headman thanked the Council. He specifically thanked Councilman Junkin for the work he has done and the hours he has put into the report. Mayor Headman thanked Councilwoman Callaway for taking on the major task of compiling all of the comments. He thanked Councilwoman Voveris for editing the report. Mayor Headman stated that all of the Council has been involved with the process. Mayor Headman thanked the Planning Commission for starting the draft of the survey. The Town of South Bethany April 2011 Comprehensive Plan Community Survey Results Report – June 2011 has been posted on the Town's website. Included in the report are electronic links to the comments. Mayor Headman will send out a News Update regarding the report on the website. Mayor Headman thanked the Administrative Assistant for getting the report on the website in a short period of time. As a follow up to the survey, Councilmembers and Town Staff will report back to the Council with recommendations on areas that can be improved.

Mayor Headman had the opportunity to present the Town's Lifeguard of the Year Scholarship Award to Cindy Murphy. Cindy is majoring in Early Childhood at the University of Delaware and wants to teach Kindergarten. It was a pleasant opportunity to thank her and Cindy thanked the Town for the scholarship award.

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

The Town is due for its annual recertification in the Community Rating System. The staff will be working on that, and the recertification application is due by October 1.

The Delaware State Legislature passed the Delaware Universal Recycling Bill which requires everyone to have a recycling cart by September 15, 2011. Whether the property owner chooses to use the cart or not is up to the property owner. According to the law, any town or the contractor that furnishes trash services for a town has to supply the resident with a cart. The Town has 335 property owners who do not have recycling carts. Next week the Town will send out a mailing to those residents letting them know that beginning August 29 the Town's trash contractor, Allied Waste, will begin delivering those carts.

Mr. Matera stated that it seems like the same people leave the recycling carts out and never bring them back in. He inquired if they are fined. The Town Manager stated that the Town

has not started fining people as of yet but in the Code the Town could fine them. Mayor Headman said it will be an issue for Council to discuss and agree on. Mayor Headman stated that he will send out a News Update reminding property owners of the Town's regulations regarding recycling carts. Mayor Headman stated that he believes 95% of the people are doing what the Town is asking. There are only a few that are not.

- **Treasurer's Report**—Pat Voveris reported as of July 31, 2011:

|                         |                 |
|-------------------------|-----------------|
| Balance Brought Forward | \$ 1,567,688.99 |
| July Revenue            | \$ 623,280.65   |
| July Disbursements      | \$ 273,034.92   |
| Balance                 | \$ 1,917,934.72 |

Almost all of the property taxes are collected and posted. Transfer taxes for the month of July are 182% over what was collected last year. However, when comparing the first quarter of FY 12 to the first quarter of FY 11 the totals are about the same at \$93,000. The Town is operating within budget. Revenue is at 46% and total expenses are at 32%.

Councilwoman Voveris is working with the Financial Administrator on investing \$200,000 that has been sitting in a very low interest bearing account. One CD has been placed at \$100,000. The Town's application for the other \$100,000 was rejected because the bank did not want to work with a municipality because a lot of municipalities are going bankrupt. The Financial Administrator has contacted another bank and Councilwoman Voveris believes the Town will have that money invested this coming week.

The Town will get the same amount of funds for MSA as it got last year plus an additional bonus of \$10,159.09. This money can solely be used for road projects, not signage. The extra amount is a credit to the lobbying by the Sussex County Association of Towns (SCAT).

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

Ptlmn. Wiley made a correction to the information he gave at the July 8, 2011, Town Council Regular Meeting regarding low speed vehicles. Ptlmn. Wiley distributed a handout which is a copy of the State of Delaware Department of Transportation Division of Motor Vehicles Low Speed Vehicles – Customer Handout. Ptlmn. Wiley read the following from the handout to address the specific question of the registering of golf carts: Low speed vehicles must be titled, registered, and insured prior to operating on Delaware roadways. Vehicles shall be issued a standard sized numbered licensed plate that must be displayed on the rear of the vehicle. Vanity and other special license plates can be displayed on a low speed vehicle.

- July 1 Theft of a bicycle from N. 6<sup>th</sup> St. An unknown suspect removed the property from underneath the residence.
- July 2 Loud party on Anchorage Dr. Unfounded. Police went to the residence and didn't see anything.  
Violation of local code – dog off the leash on Cleveland Ave.  
Violation of local code – vehicle on the beach
- . Loud party on Periwinkle Rd. The party was shut down.
- July 3 Violation of local code at the barricade on Black Gum Dr. and Kent Ave. A summons was issued.
- July 4 Loud party on Canal Dr. The party was shut down.  
Vehicle accident on Ocean Dr. Minor damage. No injuries.

Local fugitive was apprehended on Rt. 1 after being stopped for traffic violations. The subject was taken to JP Court 3 and later committed to SCI (Sussex Correctional Institution) for failing to pay those traffic fines.

Violation of local code – use of fireworks on Ocean Dr. The subject was issued a summons.

- July 5 Vehicle accident on Ocean Dr. Minor damage. No injuries.
- July 7 Residence alarm on Seaside Dr. False alarm. The residence was secure.  
Report of criminal mischief on Victoria Rd. Unknown subject damaged the victim's outside shower with a lighter.
- July 9 Violation of local code at the barricade on Black Gum Dr. A summons was issued.  
Theft of a bicycle from Ocean Dr. The property was removed from the bike rack.
- July 13 Vehicle accident on Rt. 1 and Logan Dr. Minor damage. No injuries.
- July 16 Loud party on Bayshore Dr. Party was shut down.  
Loud party on N. 6<sup>th</sup> St. Party was shut down.
- July 17 Theft of a bicycle from Tern Dr. Property was removed from the victim's residence.
- July 18 Loud party on N. 4 St. The party was shut down.  
Violation of local code for Peace and Good Order on Ocean Dr. Subject was fined after becoming disorderly over a parking ticket.  
Local fugitive apprehended after turning himself in at the police station. The subject was wanted for outstanding traffic tickets.
- July 19 DUI arrest on Rt. 1.
- July 24 DUI arrest on Rt. 1.  
Violation of local code – Peace and Good Order on the beach. Subjects were not compliant with the lifeguards and were given an order to clear the beach.
- July 25 Fireworks complaint on West 2<sup>nd</sup> St. Subjects were gone once the police responded.
- July 27 Loud party on Anchorage Dr. Party was shut down.
- July 28 Theft of services complaint at Grotto's Pizza at York Beach Mall. An unknown subject walked out on the bill.  
Underage possession and consumption of alcohol on Rt. 1. Subject was under 21 and had a beer in her possession. She was issued a criminal summons.
- July 30 Domestic disturbance on W. 3<sup>rd</sup> St.

Councilman Gross said this past week there were considerable fireworks off Ocean Dr. between 4<sup>th</sup> and 8<sup>th</sup> Streets that kept on for sometime even though he had called the police. Ptlmn. Wiley said he would follow up.

Councilman Fields inquired if the Town's golf cart had to have a tag. Ptlmn. Wiley stated that the golf cart is tagged.

- **Beach Patrol Report**

Because the Beach Patrol Captain was at the USLA National Competition in Cape May, New Jersey, the Town Manager gave the Beach Patrol report for July 9 through August 4.

- Total rescues for report period: 21 rescues. Total rescues for summer: 44 rescues.
- Total first aid emergencies for summer: 53.
- Total spinal injuries for summer: 4.
- Emergencies requiring ambulances: 6.
- Assisting neighboring beaches: 3.
- Lost children response and recovery: 17 (summer 2011 total).
- Beach evacuations for lightning and thunderstorms: 8.
- Vandalism – stands 2 and 4 were tossed into the ocean. The beach rules signs and boards were ripped off the stands. The stands were later recovered on Middlesex Beach.
- Glass was smashed at the foot of stand 5.

Competition results:

- Bethany Challenge – South Bethany came in 4<sup>th</sup> place.
- Rehoboth Lifeguard Olympics – South Bethany came in 4<sup>th</sup> place.
- Fenwick Ultimate Frisbee – South Bethany came in 1<sup>st</sup> place.
- Sandy Hook All Women's Lifeguard Challenge – Mollie Nadler represented South Bethany and was awarded the second highest points scored at the event against all other teams from the nation.
- The USLA Nationals are being held in Cape May. As of this morning, Sussex County was in fourth position.

The Beach Patrol Party Fundraiser will be Saturday, August 13, from 7 p.m. to 10:30 p.m. on the beach at the south end of Ocean Drive. There will be a cookout and a children's movie. Tickets can be purchased at Town Hall or from a lifeguard.

Today the beach patrol received a \$500 donation from a South Bethany property owner for the Beach Patrol competition fund.

### **ORDINANCES/RESOLUTIONS**

- **Third Reading of Ordinance 156-11, to amend Chapter 84, Licenses and Permits, to increase penalties, limit use of voluntary penalty, and add denial and/or revocation of rental license for violations of Chapter 100, "Peace and Good Order".**

Mayor Headman asked for any comments. There were none.

Mayor Headman declared this the third reading of Ordinance 156-11.

A motion was made by Councilman Gross, seconded by Councilman Junkin, to approve Ordinance 156-11. The voting was as follows:

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

AGAINST THE MOTION: Councilman Fields

The motion carried with a 5-1 vote.

- **Third Reading of Ordinance 157-11, to amend Chapter 118, Taxation, to change rental tax due date, increase penalties, and add voluntary assessment penalty option and limitations.**

Mayor Headman asked for any discussion. Councilman Gross noted an additional change to Ordinance 157-11 since the July Workshop Meeting: In § 118-16A the reference of \$84-14B was changed to § 84-14A.

Mayor Headman declared this the third reading of Ordinance 157-11.

A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to approve Ordinance 157-11. The voting was as follows:

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

AGAINST THE MOTION: Councilman Fields

The motion carried with a 5-1 vote.

### **COMMITTEE REPORTS**

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

The State's concept plan for a bike and walking trail along both sides of the Assawoman Canal is almost final. There will be a meeting next Tuesday regarding the trail and the trail is an agenda item for the Division of Parks and Recreation Council on Greenways and Trails meeting Wednesday, August 10, 2011, in Dover to discuss the funding sources. The concept plan is moving along and work may possibly start soon. It will take multiple years to complete the trail. The trail should be a very nice asset to South Bethany. Councilman Rae had a copy of the plans for property owners to look at after the meeting.

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

In Councilwoman Callaway's absence, there was no report.

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

The next Budget and Finance Committee Meeting is scheduled for August 27, 2011.

Councilwoman Voveris has been seeking new cost savings measures and also wants to understand existing ones. She recently met with Chief Deloach and learned that during his tenure from 1987 to 2011 South Bethany's Police Department has received \$482,121.22 from grants. Councilwoman Voveris stated it is a testament to Chief Deloach's efforts. Councilwoman Voveris toured the police building which is equipped with state of the art technology which was all acquired from grant money. She learned that in 20 years South Bethany has not had to buy a gun – it has all come from grant money. As Treasurer and as a resident, Councilwoman Voveris thanked Chief Deloach for all of his efforts.

South Bethany residents receive a 10% discount on flood insurance due to the Town certification in the Community Rating System (CRS). South Bethany has been in the program since 2007 and it took three years of work to get into the program. There are only nine communities in Delaware in the program. The savings is \$81,611 annually, about \$90 per household. The Town buildings also receive 10% off their insurance rate. Every year the Town has to be recertified and it is a constant effort on the Town Manager's part to keep the

Town's certification. Councilwoman Voveris thanked the Town Manager and the Town Staff for their work on this program.

The Town Office has installed a Pitney Bowes machine that affords South Bethany a 7% savings on first class mail on a mailing of more than 800 pieces. So far this year the Town has realized a savings of \$105. It is not an enormous savings, but it is a new savings and Councilwoman Voveris said thanks and she recognized the initiative.

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

Bioretention areas in the medians: Because of the work of Chris Bason, the Center for the Inland Bays (CIB) has received a \$45,000 grant from DNREC to start work on and complete one of the projects that was listed in the watershed survey that was done for all of the water that goes into the Anchorage Canal. Chris Bason has extended one of the projects to go down through South Bethany on Rt. 1, not just what goes into the Anchorage Canal, but what goes into any of the canals. That work should be starting within the next month or so.

Diffusers: In the survey a lot of people were in favor of getting diffusers in one canal to see what difference might come from using them. Councilman Junkin has talked to Envirotech regarding four communities in the area where they have put diffusers. Councilman Junkin is trying to get in touch with representatives from each of the four communities to get information on their experience with the diffusers such as what the diffusers are doing for them, see if they have any data that shows what the diffusers have done for them, what the cost is, etc.

Cleanup of the forebay: The contract is in place and the State is expecting the work to be done in early September after Labor Day in the morning during low tide.

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

The agenda for the training workshop is not completed but the workshop is planned for sometime this fall after the installation of the new Planning Commission Members.

The Code Enforcement Constable has drafted an ordinance regarding driveways and has circulated it to the Planning Commission. The Planning Commission has not acted on it yet but individuals have commented on the draft ordinance.

There are no Planning Commission Meetings or Hearings scheduled at this time.

## **ADMINISTRATIVE MATTERS**

- **Appointment of Planning Commission Members**

Mayor Headman recommended Kathy Jankowski and John Stefani to fill the two openings on the Planning Commission.

**Motion:** A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to appoint Mayor Headman's recommendations. **Discussion:** Councilman Gross stated that Kathy Jankowski is the immediate past President of the South Bethany Property Owners Association (SBPOA). She is a native Delawarean and worked 29 years for DuPont as a Technology Program Manager. Prior to that she taught at the high school level, college level, and graduate level. She is involved in different organizations that assist people such as the Alzheimer's Association and Bike to the Bay for MS. Councilman Gross believes Ms. Jankowski will be a great credit to the Planning Commission and he supports her. Councilman Gross stated that John Stefani is a graduate of St. Francis University with a degree in Business Administration with a minor in Economics. Mr. Stefani began his banking

career in the Washington D.C. area and then worked for a variety of banks. He was a Senior Executive in the Consumer Finance Division. He has expertise in business and banking. He has served on various organization boards that benefit people such as the Boys and Girls Club, the Consumer Bankers Association, and others. Mr. Stefani and his wife took on the responsibility of putting together the SBPOA Phone Directory which was a tremendous amount of work that generated considerable money for the SBPOA and the property owners benefit from that phone directory. Mayor Headman asked for questions. Councilman Fields stated that he thinks the vote should be delayed until Council has had an opportunity to read at least a one-page bio on these candidates for the Planning Commission.

**Motion:** A motion was made by Councilman Fields that the appointment of these two Planning Commission Members be postponed until the Council has an opportunity to review written bios of these candidates. Mayor Headman asked for a second. There was no second. Mayor Headman stated that the motion fails.

**Vote** (on Councilman Gross' motion to appoint Mayor Headman's recommendations): Mayor Headman called for a vote for John Stefani. The motion was adopted. Mayor Headman stated that Mr. Stefani is appointed. Mayor Headman called for a vote for Kathy Jankowski. The motion was adopted. Mayor Headman stated that Ms. Jankowski is appointed.

- **Appointment of Board of Adjustment Members**

Mayor Headman recommended appointing Allan Allenspach to the Board of Adjustment. Mayor Headman stated that Mr. Allenspach has served on the Board of Adjustment for two terms and recently has served as the Chairman. He is a retired Zoology Professor from Miami University. Regarding water quality, Mr. Allenspach has taken the lead in South Bethany and the State on Oyster Gardening. He is a member of the South Bethany Canal Water Quality Committee.

**Motion:** A motion was made by Councilman Junkin, seconded by Councilman Gross, to appoint Allan Allenspach to the Board of Adjustment. **Discussion:** Councilman Fields stated that he thinks the Council is rushing to judgment on the Board of Adjustment. Councilman Fields has serious concerns about the last ruling of the Board of Adjustment and believes Council should take a look at the ruling at a Workshop. Councilman Fields also has concerns about the Town Code regulating the Board of Adjustment and believes it needs to be looked at and perhaps updated. Councilman Fields would like an opportunity to present to Council at a Workshop the particulars of the last ruling of the Board of Adjustment and perhaps the ruling prior to that and to take a look at the Town Code.

**Motion:** A motion was made by Councilman Fields that the Council postpone appointing any Board of Adjustment members until they have had an opportunity to review the work of the Board of Adjustment. After comments from Mayor Headman (during which time Councilman Fields stated that Mayor Headman was out of order), Mayor Headman asked for a second. Councilman Gross seconded the motion. **Discussion:** Councilman Gross stated that he supports Councilman Fields' view that Council needs to have a Workshop to study this matter and perhaps take some action, but he does not support the view that Council should hold up this particular individual's appointment. Mayor Headman stated that he agrees Council needs to look at the matter, but he is not in agreement with delaying this vote for this appointment. Councilman Fields stated that the appointment is for four years and he does not think Council should appoint any member to this Board until Council takes a look at the Board's last decision. Councilman Fields added that he is not singling this person out. Councilman Gross asked for clarification of the motion. Mayor Headman stated that the motion is to delay the appointment of Allan Allenspach. Councilman Fields stated that Mayor Headman is singling out Allan (Mr. Allenspach), but the intent is that Council delay appointing any members of this Board until Council takes a look at the Board's last decision and perhaps decisions prior to that if they have any bearing on impropriety. Councilman Gross asked who

the other nomination to the Board of Adjustment was. Mayor Headman indicated that he is only recommending one member tonight. There is not a second appointment tonight. Councilman Gross stated that there is good reason to wait anyway until Mayor Headman gets a full board. **Vote** (on Councilman Fields' motion that the Council postpone appointing any Board of Adjustment members until they have had an opportunity to review the work of the Board of Adjustment): Mayor Headman called for a vote. The vote was 3 to 3. Councilman Junkin stated that the vote was a tie.

Mayor Headman stated that Council does not have the votes to appoint. Councilman Junkin agreed. Mayor Headman stated that Mr. Allenspach will not be appointed tonight.

### **ADJOURNMENT**

A motion was made by Councilman Fields, seconded by Councilman Junkin, to adjourn the August 5, 2011, Town Council Regular Meeting at 8:15 p.m.

PHS:Regular Meeting Minutes.8.5.11