

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES OCTOBER 14, 2011</b>
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**ATTENDANCE**

PRESENT: Mayor Jay Headman; Councilpersons John Fields, Pat Voveris, Al Rae, Sue Callaway, George Junkin, and Jim Gross; Town Manager Melvin Cusick; Lt. Linda O'Malley; and Administrative Assistant Pam Smith

**MEETING CALLED TO ORDER**

Mayor Headman called the October 14, 2011, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

**FY 2011 AUDIT (SOMBAR & COMPANY)**

Mayor Headman introduced Mr. Tom Sombar of Sombar & Company who presented the highlights of the FY 2011 Audit Report and took questions from the Council and the audience. Mr. Sombar reviewed the Town of South Bethany's Audited Financial Statements and Supplemental Information for Fiscal Year Ended April 30, 2011, (With Comparative Year Analyses 2010, 2009, 2008) of which Council Members had a copy. The report is available for review at Town Hall. Overall the Town had in Total Assets \$3,316,326 and in Total Liabilities \$130,574. This produced a net total asset of \$3,185,752. Referring to the Undesignated Fund Balance of \$1,198,799 (page 13 of the report), Mr. Sombar stated that it represents eight months of General Fund expenses. Mr. Sombar stated that having six months is good and eight months is very healthy.

**PROPERTY OWNERS' PARTICIPATION**

- Lloyd Hughes (152 Layton Dr.) – Stated that the town's sewer system basically has two systems – a pressurized system and a gravity system. Mr. Hughes said that all canals are hooked up to the gravity system and the gravity system flows into the pressurized systems. Mr. Hughes stated that the leak he referred to at a prior Council meeting occurs in the pressurized system, and what has been tested so far was the gravity line. Mr. Hughes said that in order to determine if anything is going into the canal you would have to check the trunk line pressurized. Mayor Headman stated that he would follow up again but he was told that it is not a pressurized line along Rt. 1 in front of that canal.
- Mike Matera (311 W. 9<sup>th</sup> St.) – About three weeks ago there was a fish kill in the Russell Canal (between 50 and 75 fish were killed). Mayor Headman stated that Dave Wilson took a sample and sent it to Ed Whereat (University of Delaware). The Town has not heard the results of the testing.
- Sandi Roberts (107 Canal Dr.) – Inquired when the information on Council's recommendations based on the survey results would be shared. Mayor Headman stated that the recommended improvement reports are being presented at the Workshops. He noted that once Council has a final list, recommendations that have a cost with it will be considered during the budget process.
- Ed Nazarian (20 Peterson Dr.) – Thanked the Council Members for all the time and effort they put in volunteering. The audience agreed with applause. Mayor Headman added that the Council is made up of hard working people that complete their tasks very well.
- Mike Matera (311 W. 9<sup>th</sup> St.) – Asked Councilwoman Callaway if the people adopting the end of the canals/roads are required to sign a form that they can't claim the property is theirs after seven years. Councilwoman Callaway stated that the people adopting the canal/road ends know what the Town property is and what the right of way is. She stated that the application has a new disclaimer regarding the Town property and the right of way which the applicant has to sign.

**ADOPTION OF MINUTES**

• **Town Council Workshop Meeting Minutes, September 22, 2011**

A motion was made by Councilman Fields, seconded by Councilwoman Callaway, to accept the September 22, 2011, Town Council Workshop Meeting Minutes as amended by Councilman Gross as follows:

Page 1, Next to last paragraph: Change “The Town is in good health and has at least six months of reserves on hand” to read “The Town is in good **fiscal** health and has at least six months of reserves on hand.”

The motion was adopted. Councilman Junkin abstained (was not present at the September 22 Workshop Meeting).

**LEADERSHIP REPORTS**

• **Mayor’s Report**—Mayor Headman reported:

The work on the bioretention areas will start next week. Mayor Headman complimented Councilman Junkin and Councilwoman Callaway for their leadership with the Canal Water Quality Committee and the Beautification Committee and for their work with the Center for the Inland Bays (CIB) and DelDOT. The bioretention areas will reduce the amount of phosphorous and nitrogen going into the canals. Mayor Headman stated that this was something the Town thought would take a few more years to do, but through grant monies that were obtained, the bioretention areas should be completed by October 28, 2011. During this time, there will also be tree plantings and shrub plantings. In the spring herbaceous plants will be planted.

Mediacom – Council will be looking at the draft franchise agreement at the October 27, 2011, Workshop Meeting. Mayor Headman thanked Bob Cestone for his help in putting together the draft franchise agreement.

Attended a workshop on the Assawoman Canal Trail.

Attended a workshop regarding yard waste. The down side to the workshop was that it was more of a gripe session than a problem solving session. Everyone is concerned with the yard waste bill the way it currently is.

• **Town Manager’s Report**—Melvin Cusick reported:

Beach replenishment was supposed to start the week of October 3, but the dredging company had a major pump breakdown as soon as they started which caused the ships to have to take the pump out for work. The ships should arrive tonight and they should start pumping sand tomorrow. Three blocks of the beach at a time will be closed during the pumping operation. It is expected to take 30 days to complete the project. Once the pumping operation is complete, the State of Delaware will bring their equipment in and begin repairing the dune and the walkways. Mayor Headman stated that once the State is finished, volunteers may be needed to start planting grass – it is not difficult to do and it is very beneficial to the town.

The Town Manager reviewed the following Beach Patrol Report which was submitted by Beach Patrol Captain Ben Chandlee:

South Bethany Beach Patrol 2011 Season Report  
Saturday, May 28, 2011, Thru Sunday, September 11, 2011

Total Rescues (Major) Summer 2011: 34

**Medical Incidents**

First Aid Treatments:	28
Spinal Injury Emergencies:	5
Emergencies Requiring Ambulance Support:	6
Incidents on Neighboring Beaches Requiring SBBP Support:	3

**Other Incidents**

Lost Children:	18 (All were recovered)
Beach Evacuations (Inclement Weather):	7
Vandalism to Beach Patrol Property:	2

**Additional Notes**

Hurricane Irene required the closure of the beach beginning at 5:00 p.m. on Friday, 8/26/2011. The beach was closed Saturday, 8/27 and Sunday, 8/28. Beach Patrol Staff resumed daily operations Monday, 8/29/2011.

The beach was also guarded the weekend following Labor Day (9/10 and 9/11/2011) by a staff of four lifeguards.

After reviewing the report, the Town Manager thanked Captain Chandlee for doing an excellent job this past summer. Mayor Headman agreed and also gave credit to the Town Manager who works very closely with the Beach Patrol Captain.

Councilman Fields noted that there were a number of recycling carts sitting by the curb for pickup today. Because the pickup schedule for this time of year is every other Friday, there was no pickup scheduled for today. Therefore those carts will have to sit there for a week before they are picked up. It also means that people will be putting recyclable items in their trash. Regarding the State mandate, Councilman Fields does not believe this is what the State had in mind and he believes the Town can do better.

Councilman Junkin inquired what the jacked up rig off shore a little to the south of South Bethany was. The Town Manager stated that it is a booster pump for the beach replenishment project.

Regarding the Beach Patrol Report, Diann Nazarian asked if this was the first time vandalism occurred. The Town Manager said no and that the Town has vandalism every year. He noted that all of the beach towns have a problem with vandalism every year.

Councilwoman Voveris stated that today on Ocean Drive a dumpster at a construction site was overflowing and debris was blowing onto the street. The Town Manager said the Town will follow up.

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

Balance Brought Forward	\$ 1,790,184.80
September Revenue	\$ 115,801.78
September Disbursements	\$ 138,131.92
Balance	\$ 1,767,854.66

- Councilwoman Voveris stated that beginning this month she will start reporting numbers on profit and loss statement which is a better snapshot for how the Town is doing. Councilwoman Voveris reported that the revenue as of September was \$1,340,322 and the expenditures were \$1,107,175. The excess of revenue over expenditures is \$233,146.
- Transfer taxes this past month came in on target at \$15,476. Comparing the five months of FY 12 versus the same five months of FY 11, FY 12 transfer taxes are up 13%.
- All of the departments are functioning within their budget.
- Total revenue is at 49% and expenses are at 52%.
- The property tax is shy of 100%. The Financial Administrator is following up with delinquent owners.
- Rental licenses are at 83%. The Financial Administrator is following up.
- Mercantile licenses are up 112%. Councilwoman Voveris complimented the Code Enforcement Constable for doing a great job.

- Regarding expenses, yard waste continues to be a concern. It is 180% over budget or \$14,346 to the negative.
  - Beach cleanup is at 116% of budget, due basically to a function of Hurricane Irene.
  - The Financial Administrator has been attending meetings and compiling about half an inch of paperwork to apply for federal monies (FEMA and DEMA) and the Town is going to be reimbursed \$8,300 to apply to beach cleanup and yard waste costs incurred from Hurricane Irene. Hurricane Irene cost the Town \$18,494 and the Town is recovering 45% of that expense.
- **Police Department Report/Questions**—Lt. Linda O'Malley reported for the month of Sept., 2011:  
 Lt. O'Malley reported that during the month of September there were three loud parties and four false alarms.
    - Sept. 2 Theft on Bayshore Dr. Unknown subjects removed property from the victim's residence (cleaning supplies were taken and some other bizarre items).
    - Sept. 4 Minor accident on Rt. 1 and Evergreen. There were no injuries.
    - Sept. 10 Agency assist with Station 70 on Bayshore Dr. – a gas line rupture. The fire department came out and had to put water on it until the gas company responded.
    - Sept. 16 Agency assist with Fenwick Island involving a mental patient which resulted in an assault.
    - Sept. 17 Accident involving property damage on Ocean Dr. A U-Haul truck knocked down a section of the victim's fence.
    - Sept. 22 Criminal mischief on W. 5<sup>th</sup> St. Someone damaged the front door. There was no actual entry to the house.
    - Sept. 22 During a traffic stop, a local fugitive was found.
    - Sept. 24 A local fugitive was apprehended during a traffic stop.
    - Sept. 27 Theft of a bicycle from Black Gum Dr.
    - Sept. 28 Theft on S. Ocean Dr. A purse was taken from an unlocked vehicle.

### **ORDINANCES/RESOLUTIONS**

- **Resolution 7-11 Resolution of Support for the Assawoman Canal Trail (Al Rae)**

Councilman Rae stated that the public meeting two weeks ago regarding the trail went well. The plan for the trail moves along, and the work group believes demonstrated support from the Towns such as a resolution would be helpful in getting funding from the State. Councilman Rae read the last paragraph of Resolution 7-11. Councilman Gross inquired if this was the same resolution that the other towns are passing. Mayor Headman replied yes.

Ms. Johansen inquired who is going to be responsible for the regular upkeep and maintenance. Councilman Rae said that the South Bethany portion of the trail is from Jefferson Bridge down to near the end of the trail (about a block of the 4 ½ mile trail). Councilman Rae stated that it has not all been thought out yet, but the thinking is to try to have a trail watch group (something similar to the SBPOA Neighborhood Watch group). Councilman Junkin noted that the resolution states that the Town will participate in the regular upkeep/maintenance of the trail, not the SBPOA.

A motion was made by Councilman Rae, seconded by Councilman Junkin, to adopt Resolution 7-11. The voting was as follows:

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

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

## **COMMITTEE REPORTS**

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

Councilman Rae had nothing further to report.

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

Councilwoman Callaway stated that she and Councilman Junkin have been involved with the bioretention areas as well as the Town Manager who had done a tremendous amount of work in terms of the bid process for the landscaping aspect of the bioretention areas.

The Beautification Committee has discussed some enhancements to Ocean Dr. The Committee will be finalizing its summary and will present it to the Town Council at the October 27 Workshop Meeting.

The Beautification Committee reviewed the survey comments and scores in Town Services related to landscaping maintenance throughout the town. The Committee also looked at comments regarding beautification from the Future Town Needs section of the survey. Councilwoman Callaway is scheduled to present the recommendations to the Council at the November 17 Workshop Meeting.

At the request of the Treasurer, the Beautification Committee began looking at FY 13 budget preparations to include annual expenses, short term plans within the next five years, and long term plans for 10 years.

The Committee made a recommendation that the Beautifying South Bethany Makes Dollars and Sense flyer be sent to property owners twice a year (fall and spring). Since they were unable to send it with the October ZEPHYR, the Committee is hoping to email the flyer through a News Update.

The Maintenance Supervisor has been trimming trees in the right of ways throughout the towns, and the Richard Hall Memorial Park has been cleaned up.

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

The following was covered at the Budget and Finance Committee meeting on September 23:

- The Financial Administrator reviewed the 1<sup>st</sup> Quarter financial situation, provided details on MSA funding, and reviewed information on Delaware bonds that she had researched.
- Councilwoman Voveris reviewed the current overspending in yard waste. Councilwoman Voveris brought it to the Budget and Finance Committee because previously Mayor Headman mentioned that the yard waste deficit would be covered with the recycling reserve. Councilwoman Voveris did not feel the recycling reserve should be used to pay another bill. The majority of the Budget and Finance Committee supported using the reserves to pay any deficit that will be incurred by the yard waste contract. The Committee will bring that recommendation to the Council.
- Councilwoman Voveris presented a fee schedule which included South Bethany and neighboring towns. The fee schedule showed what the Towns charge for permits and what kind of mercantile licenses the Towns have. Councilwoman Voveris noted that South Bethany does not have a temporary mercantile license in place, and she is gathering information from towns that do. She will present this information to the Budget and Finance Committee.
- Steve Farrow presented information regarding an investment policy for the Town. The Committee will be researching different options and will bring a recommendation to the Council.

- Councilman Fields reviewed areas of the Charter and brought forth a recommendation. Councilwoman Voveris and Councilman Fields reviewed information regarding the Town Code, Chapter 6, Contracts and Bidding, and the Budget and Finance Committee will be bringing a recommendation to the Council regarding changes to that chapter of the Code.
- Keith Krenz was absent from the meeting due to an injury, but he submitted a report on methods to track internet rental revenues. Councilwoman Voveris noted that this is becoming an increasing problem in resort towns throughout the country.
- Kent Stephan presented information on rental revenue avenues. He is working with local real estate companies to see what the Town can do to make sure the Town is collecting all of its revenues.
- Long term planning numbers were updated to include dredging and bulkhead replacement. These are probably two of the biggest expenses the Town would have. For the next Budget and Finance Committee Meeting (October 21), the Committee will have the long term reserve number in place.
- Councilwoman Voveris brought forth information on the Historical Society and their endeavors to preserve the history of South Bethany. The Historical Society submitted information regarding what they are trying to do and the amount of money it is going to cost. The list totaled about \$1,900. At the Budget and Finance Committee Meeting Councilwoman Voveris proposed that the Town allocate \$500 from the G & A contingency fund to contribute to the Historical Society. She also approached the South Bethany Property Owners Association (SBPOA) and asked them to make a matching contribution. The SBPOA is supportive of that. The Budget and Finance Committee discussed it, and the Committee was in unanimous agreement. The Budget and Finance Committee will be bringing its recommendation to the Council.

Councilman Fields asked Councilwoman Voveris if he understood her to say that the Budget and Finance Committee recommends to the Council that they allocate \$500 to the South Bethany Historical Society. Councilwoman Voveris stated that at the Budget and Finance Committee Meeting it was discussed, and the Committee unanimously approved bringing that recommendation forward. Councilman Fields asked if there is any money in the budget for that. Councilwoman Voveris stated that there is \$3,000 in a contingency fund which is not earmarked for anything. Councilman Fields stated that the Historical Society had a meeting today, and he understands that they learned at this meeting that they could qualify for matching grant funds and that time is of the essence. Councilman Fields stated that it is not unusual for the Council to approve the expenditure of funds that are not budgeted. He gave as an example Council's approval three weeks ago of \$17,000 from reserve funds for bioretention areas that were not in the budget. A motion was made by Councilman Fields that the Council allocate \$500 – Mayor Headman interrupted Councilman Fields' motion saying that it is out of order. Councilman Fields stated that a Councilman can make a motion at any time. Mayor Headman said it is out of order – it is not on our agenda. Councilman Fields said it is – it is in a committee report. Councilman Fields added that parliamentary procedures say that if a committee report is brought to the table it can be discussed. Mayor Headman said it is not an agenda item. Mayor Headman added that there could be people in this town that may not support that idea. After discussion between Councilman Fields and Mayor Headman, Councilman Fields stated that since something is brought to the table in a committee report it is on the table according to FOIA (Freedom of Information Act) and is subject to discussion. Mayor Headman said it is not according to FOIA – it is not an agenda item. Mayor Headman stated that Councilman Fields is asking the Council to vote on something that has not been discussed with other members and has not been discussed in the public. Councilman Fields stated that it doesn't have to be and referred to the \$17,000 Council approved three weeks ago for the bioretention areas. Mayor Headman said that discussion was part of the Workshop Meeting – FOIA says you need to put it on there. Councilman Fields disagreed. A motion was made by Councilman Fields that the Council allocate \$500 to the South Bethany Historical Society to help defray their expenses. At the same time, Mayor Headman said it is out of order. Councilman Gross addressed Mayor Headman and seconded the motion saying that he was at the meeting today. After more discussion between Mayor Headman and Councilman Fields, Mayor Headman asked for the Canal Water Quality Report.

Referring to Councilwoman Voveris' Budget and Finance Committee report, Mr. Roberts stated that as a contractor that pays the full rate for a mercantile license, he is 100% against the temporary mercantile license saying the competition is strong enough. Mr. Roberts does not believe it would be fair.

Councilman Fields made a statement regarding the previous exchange between him and Mayor Headman. Councilman Fields left the meeting.

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

The Canal Water Quality Committee met today and worked on the recommended improvement report regarding the survey for canal maintenance, storm water management, maintain dredged canals (future need), and aerators in canal (future need). Councilman Junkin reviewed what will be included in the recommended improvement report that he will present to Council at the October 27 Town Council Workshop Meeting.

Mr. Cestone said when determining the dollar figure regarding dredging the canals, it should be considered that this last time was very expensive because the canals had never been dredged since they were originally established, and a lot of what was dredged was stuff that was washed in the ends from the storm of '62. Mr. Cestone added that a lot of the shoaling was from before property owners were required to have bulkheads. Mr. Cestone does not believe it would be as expensive to dredge the canals the next time.

Referring to flapper valves or check valves, Mr. Cestone stated that Council was looking at something like that in the early 2000s. Fenwick Island was doing something like that, but Mr. Cestone remembers that something about it would get fouled up and if you had a heavy rainstorm it wouldn't let the water out. Councilman Junkin agreed and said the recommendation is not to put them in – the recommendation is to investigate it.

Regarding the replacement of bulkheads, Mr. Cestone stated that he is not sure who owns the bulkheads that abut to Rt. 1. He stated that they may have been put in by DeIDOT because they butt up to DeIDOT's properties. The Town Manager stated that when he did the depreciation schedule for the bulkheads he did not include those bulkheads because he did not know who put them in or who owns them because they abut to DeIDOT property. Also regarding bulkheads, Mr. Cestone said the life span of 25 years should maybe be extended out to reduce the amount of money every year that would have to be set aside.

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

There is a meeting scheduled for October 27 at 9 a.m. At that time the Planning Commission will be looking at some aspects of the results of the survey.

The Planning Commission is due a review of the Comprehensive Plan this year.

The Planning Commission filed, under the Mayor's signature, an annual report on the progress toward the Comprehensive Plan, and the Town has received a complimentary letter back about the progress being made in South Bethany. Councilman Gross requested that the Town Manager pass the report and the letter onto the Planning Commission Members.

## **ADMINISTRATIVE MATTERS**

- **Appointment of Board of Adjustment Members**

A motion was made by Councilman Junkin that Council appoint Allan Allenspach to the Board of Adjustment. Councilman Junkin stated that Mr. Allenspach's resume is in Council's packet and added that he has been doing a good job on the Board of Adjustment. Councilman Gross seconded the motion. Mayor Headman called for discussion. Councilman Rae inquired if both gentlemen being nominated have agreed to go to the training offered by the State. Mayor Headman said yes. The motion was unanimously adopted.

A motion was made by Councilwoman Voveris, seconded by Councilman Junkin, to appoint Neal Brown to the Board of Adjustment. Mayor Headman called for discussion. Councilwoman Voveris stated that she believes Mr. Brown has much to contribute to the Board of Adjustment. She said that he is a lawyer by trade. He recently went through building a home in South Bethany and experienced first hand what it is like to ask for exceptions. Mr. Brown plans to retire in South Bethany. The motion was unanimously adopted.

- **Award Bid No. 12-01 Landscaping – Tree Planting (Melvin Cusick)**

The Town Manager said as part of the Rt. 1 median work, the Town advertised for competitive bids for landscaping – tree planting and mulching in the median strip. There was one bidder which was Lord's Landscaping Inc. of Millville. There were two parts to the bid. Part A was tree planting and mulching, which according to the contract documents and forestry grants received have to be completed by October 28, 2011. Part B was for herbaceous plants which will be done in the spring. The Town Manager recommended awarding the bid to Lord's Landscaping for their following bid: Part A is \$24,415 and Part B is \$11,899 for a total bid of \$36,314. Mayor Headman asked for questions. Councilman Gross inquired if it was budgeted. The reply was yes. Councilman Gross asked the Town Manager if he had any insight on why there was not more than one bid. The Town Manager stated that there were other companies that got the bid package, but he can't answer why they chose not to bid. Councilman Rae inquired if the contract documents deal with the issue of trees and shrubs that die after they are put in. The Town Manager stated that there is a one year guarantee. A motion was made by Councilman Gross, seconded by Councilwoman Callaway, to award Bid No. 12-01 Landscaping – Tree Planting to Lord's Landscaping in the amount of \$36,314. Mayor Headman called for a discussion. There was no further discussion. The motion was unanimously adopted.

### **ADJOURNMENT**

A motion was made by Councilman Gross to adjourn the October 14, 2011, Town Council Regular Meeting at 8:35 p.m.