

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES OCTOBER 8, 2010

ATTENDANCE

PRESENT: Mayor Jay Headman; Councilpersons Bob Cestone, Tim Saxton, Sue Callaway, and Rob Youngs; Lt. Linda O'Malley; Financial Administrator Renee McDorman; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilpersons John Fields and George Junkin; and Town Manager Melvin Cusick

MEETING CALLED TO ORDER

Mayor Headman called the October 8, 2010, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

Mayor Headman introduced South Bethany's newest police officer, Patrick Wiley. Ptlmn. Wiley joined South Bethany's Police Department in July. Previously he served in the military as a military police officer and worked as a police officer for Delaware State University.

FY 2010 AUDIT (SOMBAR & COMPANY)

Mayor Headman introduced Mr. Tom Sombar of Sombar & Company who presented the highlights of the FY 2010 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, 2010, (With Comparative Year Analyses 2009, 2008, 2007) of which Council Members had a copy. The report is available for review at Town Hall. Overall the Town had in Total Assets \$3,052,155 and in Total Liabilities \$154,630. This produced a net total asset of \$2,897,525.

PROPERTY OWNERS' PARTICIPATION

- Oskar Egger (206 Russell Rd.) – Asked Council Members to decide pro or con for a playground development and stop divisive actions. After stating his point of view, Mr. Egger suggested deciding on the playground issue now and asked Council Members to raise their hand if they are against the playground and added that if they don't raise their hand it means they are for it. Councilman Youngs replied that Mr. Egger does not have the right to poll the Council but his comments are welcomed.
- Lloyd Hughes (152 Layton Dr.) – Inquired if anybody on Council was handling global warming. Mayor Headman replied no. Mr. Hughes stated that since 1950 there has been about a 10 inch rise in the water in the canals. Mr. Hughes suggested that somebody ought to be studying the issue.
- Mike Matera (311 W. 9th St.) – Stated that the Town should have the state prisoners out to clean up the town park as he suggested two or three meetings ago.
- Therese Keane (500 S. Ocean Dr.) – Asked Mayor Headman to summarize where the Town is regarding the park. Mayor Headman stated that the Richard Hall Memorial Park Committee, Chaired by Councilman Fields, has been working on a position paper for both sides (pro and con statements) and a paper on potential costs for a recreational facility in the Richard Hall Memorial Park. The Richard Hall Memorial Park Committee is working on a recommendation to present to Council for discussion at the October 28, 2010, Town Council Workshop Meeting on the process to be used to get feedback from the community regarding a recreational facility. At the November 12, 2010, Town Council Regular Meeting, the Council will vote on the Richard Hall Memorial Park Committee's recommendation of the

process to be used to get feedback from the community regarding a recreational facility. Councilman Cestone stated that the only thing Council is voting on (regarding the park) at the November 12, 2010, Town Council Regular Meeting is the procedure for the survey.

- Lloyd Hughes (152 Layton Dr.) – Stated that Middlesex's drainage goes through the park. Mr. Hughes believes the whole drainage system is going to have to be looked at.
- Ed Nazarian (20 Peterson Dr.) – Suggested to Mayor Headman that Councilman Fields be removed as the Chairman of the Richard Hall Memorial Park Committee. Mr. Nazarian stated that he does not feel that Councilman Fields is unbiased.
- Mary Suazo (7 S. 3rd St.) – Objected to Mr. Nazarian's statement regarding Councilman Fields. She believes Councilman Fields is trying very hard to be fair, and Councilwoman Callaway, Councilman Saxton, Pat Van Cleve, and Andy Ross (Richard Hall Memorial Park Committee members) are trying hard to work together. Ms. Suazo stated that it is a very difficult job, and she believes the people should thank them instead of criticizing them. Mayor Headman concurred.

ADOPTION OF MINUTES

- **Town Council Workshop Meeting Minutes, September 23, 2010** – A motion was made by Councilman Youngs, seconded by Councilman Cestone, to accept the September 23, 2010, Town Council Workshop Meeting Minutes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, September 23, 2010** – A motion was made by Councilman Youngs, seconded by Councilman Cestone, to accept the September 23, 2010, Town Council Executive Session Minutes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

Mayor Headman and Councilwoman Callaway attended a coffee with the Bethany/Fenwick Chamber of Commerce. It was an opportunity to meet the leadership of the Chamber.

Mayor Headman attended the monthly SCAT meeting.

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

In the Town Manager's absence, there was no report.

The Code Enforcement Constable's Report was available on the sign-in table.

- **Treasurer's Report**—Tim Saxton reported as of September 30, 2010:

Balance Brought Forward	\$ 1,524,896
September Revenue	\$ 150,161
September Disbursements	\$ 155,873
Balance	\$ 1,519,183

Councilman Saxton stated that the Budget and Finance Committee went through the status of the budget and it continues to track okay. By the end of October the Town will know pretty well where the total revenue is going to fall through FY 2011.

- **Police Department Report/Questions**—Lt. Linda O'Malley reported for the month of Sept., 2010:

Sept. 1 Agency Assist – BBVFC Ambulance Service on Petherton Dr. Subject was intoxicated and had fallen on his front porch. Subject was combative.

- Sept. 2 Loud party on Bayshore Dr. Subjects were contacted, and the party was shut down.
- Sept. 4 Public intoxication on N. 4th St. Subject was observed by a police officer urinating on the victim's front step. Subject was arrested and issued a summons.
- Sept. 5 Violation of local code. Subject was found sleeping in his vehicle at York Beach Mall and was issued a summons.
- Sept. 5 Violation of local code on N. Ocean Drive. Working during prohibited hours. The site was shut down.
- Sept. 6 Alarm on Tamarack Dr. False alarm.
- Sept. 8 Verbal domestic on Russell Rd. It was determined that no crime was committed, and one of the parties had left prior to the police arriving.
- Sept. 10 Local fugitive apprehension on Rt. 1. Subject was stopped for speeding and found to have warrants from New Castle County. Subject was taken to Court 2 for arraignment and was released.
- Sept. 14 Theft from N. 4th St. An unsecured bicycle was taken from a porch.
- Sept. 23 Theft from Carlisle Dr. Subject has been apprehended and arrested.
- Sept. 26 Report of a burglary in progress on Brandywine Dr. Subject staying by herself said she observed two subjects in the driveway of the house next to her, and she said she watched them try the doors all around the house. Prior to the police arriving they had left the scene. No additional information – no description or vehicle description.
- Sept. 26 Local fugitive apprehension on Rt. 1. Outstanding capiases from Bethany Beach Alderman's Court. Subject was turned over to the Bethany Beach Police.

Mr. Wise inquired if the police were noticing an increase in crime in our area. Lt. O'Malley said yes and added that it is a sign of the economic times and an increase in drug activity. Mr. Wise stated that in other towns police are instructed to look at certain houses that they know are empty. He inquired if there is any need for South Bethany property owners to tell the South Bethany Police Department when they are not going to be in town for months at a time. Lt. O'Malley stated that the majority of the properties are vacant in the wintertime and the Police Department tries to take note of what is going on at the different locations. Neighborhood Watch is a tremendous help to the Police Department. Lt. O'Malley stated that property owners can notify the Police Department of when they are going to be away and the Department will make a notation and will keep a watch on the house.

ORDINANCES/RESOLUTIONS

- **Resolution 7-10, A Resolution to establish a moratorium to deny any building permit which excludes from the floor-area-ratio calculation any enclosed areas at or below six inches above ground level. (Bob Cestone)**

Councilman Cestone explained that in 2004 an ordinance was passed to limit the size of houses. In the ordinance was a clause that allowed for paving or a wooden boardwalk underneath a house on pilings without it counting as part of the total floor area. The wording in the Code was challenged and it went to the Board of Adjustment. The Board of Adjustment agreed with the appellant based on the wording in the Code. In an attempt to correct that, Councilman Cestone is sponsoring Ordinance 155-10 to amend that section of the Code. In the meantime (ordinances require three readings), to prevent any other

misinterpretations, Councilman Cestone offered Resolution 7-10. Councilman Cestone read Resolution 7-10.

Councilman Youngs stated that ordinances have three readings to allow time to get public input. He does not believe Council should enact it before it has gone through the process of three readings. Mayor Headman stated that this is not a change in the intent and the application of the ordinance. Councilman Cestone noted that the moratorium terminates upon the adoption of the amendment or no later than April 8, 2011. Councilman Cestone stated that Council has done this before (in 2000) and it is legal.

Councilman Saxton's concern with the moratorium is that the Town may have been interpreting the ordinance wrong.

A motion was made by Councilman Cestone, seconded by Mayor Headman, to adopt Resolution 7-10 as written. The voting was as follows:

FOR THE MOTION: Mayor Headman and Councilman Cestone

AGAINST THE MOTION: Councilpersons Saxton, Callaway, and Youngs

The voting result was 2 in favor and 3 against. The motion was defeated.

- **First Reading of Ordinance 155-10, Amending Chapter 145, Zoning, to clearly define definitions and word use, to amend the Southern Building Code to the International Code, and to add permit requirements from FEMA, DNREC, and any other state or federal agency. (Bob Cestone)**

Councilman Cestone read the synopsis and reviewed the proposed changes to the Code.

Councilman Youngs stated that he has a problem with the changes to the Floor Area definition. After a discussion, Councilman Youngs stated that he is not comfortable with the ordinance right now and needs to look at it more noting that this is the first reading.

Councilman Cestone said he is thinking of making changes to the ordinance regarding the definition of Floor-To-Area Ratio (FAR).

Mayor Headman declared this the first reading of Ordinance 155-10.

COMMITTEE REPORTS

- **Assawoman Canal Dredging** – Councilman Youngs reported:

No update. They are still dredging.

Kathy Jankowski asked Councilman Youngs if he could find out if they are going to do an inspection when they are finished.

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

The Beautification Committee met on September 23, 2010, and finalized the Adopt-A-Canal End & Adopt-A-Road End Program marketing flyer. The flyer was distributed in the October ZEPHYR and is posted on the Bulletin Board page of the Town's website. The September 28th edition of the Delaware Wave had an article about the program, and the program will be announced in the December SBPOA newsletter. The application that a volunteer team would have to complete will be finalized by the Committee's next meeting. The Maintenance Supervisor inventoried the Town owned canals and road ends. There are a total of 46. He also did an overview of the shrubbery count. Thanks to Diann Nazarian, the Committee has inventoried all of the landscaping along the median strip.

The Committee is focused on developing a year round budget that will go from the beginning of the fiscal year to the end. The Committee is looking at the most economical ways to landscape the median strip and the walkway.

The Committee is doing a little bit of research regarding the east side of Rt. 1 which is a challenging area.

At the next Beautification Committee meeting the Committee will be discussing ideas and suggestions for holiday decorations.

Regarding the east side of Rt. 1, Councilman Cestone suggested trimming the brush west of the telephone poles.

- **Budget and Finance Committee** – Councilman Saxton reported:

The Budget and Finance Committee met on October 8, 2010. The long term planning subcommittee has taken a list of long term projects received from the Planning Commission and have rated them as Tier One (must haves), Tier Two, and Tier Three. This is not an official list.

The Budget and Finance Committee drafted their first cut of the cost estimates asked for by the Richard Hall Memorial Park Committee: Total install cost - \$163,000; Total annual expense to maintain the park - \$11,400 (labor and materials \$3,250 and yearly depreciation expense \$8,150). The Budget and Finance Committee is not satisfied with these initial estimates yet. The Budget and Finance Committee will deliver the final cost estimate to the Richard Hall Memorial Park Committee before their October 17 meeting.

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

In Councilman Junkin's absence, there was no report.

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

In Councilman Junkin's absence, there was no report.

- **Richard Hall Memorial Park Committee** – Councilman Fields reported:

For the Richard Hall Memorial Park Committee report, refer to Mayor Headman's response to Therese Keane's question during the Property Owners' Participation portion of the meeting.

ADJOURNMENT

A motion was made by Councilman Cestone, seconded by Councilman Youngs, to adjourn the October 8, 2010, Town Council Regular Meeting at 9:00 p.m.