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| TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES NOVEMBER 14, 2008 |
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ATTENDANCE

PRESENT: Mayor Gary Jayne; Councilpersons John Fields, Jay Headman, Bonnie Lambertson, Richard Ronan, and Marge Gassinger; Town Manager Melvin Cusick; M/Cpl. Lee Davis; and Administrative Assistant Pam Smith

MEETING CALLED TO ORDER

Mayor Jayne called the November 14, 2008, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

PROPERTY OWNERS' PARTICIPATION

- Vince Durkin (149 Brandywine Dr.) – Suggested that the Town have biannual inspections on rental property to inspect smoke alarms, windows, etc. to ensure that the Town Ordinances and regulations are being followed.
- Mike Matera (303 W. 9th St.) - Referred to an ad in the Coastal Point for a house in South Bethany that is looking for roommates at a price of \$100 a week. Mr. Matera asked if that was allowed in South Bethany. Mayor Jayne asked Mr. Matera for a copy of the ad and said that the Town would look into it.
- Ed Nazarian (20 Peterson Dr.) – Asked what the outcome was from the watercraft on W. 11th St. that was in violation. M/Cpl. Davis stated that the owners were contacted and the jet ski will be removed in a timely matter.

Mr. Nazarian complained about signs in violation of the Town Code and contractors using other people's property without written permission from the property owner. Mayor Jayne asked the Town Manager to check into it.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, October 10, 2008** – A motion was made by Councilman Headman, seconded by Councilman Ronan, to accept the October 10, 2008, Town Council Regular Meeting Minutes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

October 22 a presentation was given at Town Hall by Dr. Wendy Carey from the University of Delaware on the subject of coastal landscaping. The meeting was well attended. A workshop on the subject of coastal planting, with an emphasis on the use of native plants, is planned for the spring.

October 24 an excellent presentation was given by Ptlmn. Rowley of the South Bethany Police Department on home security. It is a very interesting and important subject. The presentation will be repeated in the spring.

Attended Return Day in Georgetown on November 6.

Attended the SCAT meeting on November 5.

November 12 participated as a Celebrity Reader at Most Blessed Sacrament School's National Young Readers Day. Other celebrity readers included the Ocean City Police Captain and Worcester County Commissioners. It was a lot of fun. There are kids from South Bethany that attend the school.

Attended two meetings on the Ambulance Service. One was a meeting among the Big Four and the Bethany Beach Volunteer Fire Company (BBVFC) regarding the budget. The BBVFC is within their budget. They are fully staffed. The first week of December they will work with Millville. January they will be on their own.

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

Nothing to report.

- **Treasurer's Report**—Melvin Cusick reported as of October 31, 2008:

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| October Revenue | \$ 430,897.32 |
| October Disbursements | \$ 95,788.19 |
| Balance | \$ 1,639,865.13 |

Transfer tax for the month of October was down by \$2,813.91 over last year.

The Town has collected 97% of what was budgeted for Rental Tax.

Councilman Headman asked if there is no interest rate for the General Fund Checking Account. The Town Manager stated that he believes the rate is about ½ of a percent, but he will check on that.

- **Police Department Report/Questions**—M/Cpl. Lee Davis reported for the month of Oct., 2008:

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| October 4 | Assisted Fenwick Island Police Department with a subject that was under the influence of alcohol and became disorderly on the beach. |
| October 6 | Open door called in by a neighbor. The door was locked but not shut properly. The residence was secured. |
| October 10 | Bad check issued to the Police Department for a parking ticket. |
| October 12 | Loud party (wedding) at 1300 S. Ocean Dr. Officer was dispatched. The music was turned down and there were no further problems. |
| October 15 | Abandoned jet ski with expired tags. No vehicle within the town limits, whether it is a boat, jet ski, motorcycle, or car, can remain on the property unless it is tagged. |
| October 17 | Parking violations on Evergreen Rd. The contractors were parked on both sides of the road. Accident on Evergreen Rd. A car hit a fire hydrant while veering to miss an animal that ran out into the road. No injuries. |
| October 21 | Stopped a car and it was towed for registration and insurance violations. |

- October 23 Car was stopped. Driver was found to have a suspended license.
- October 28 Assisted Bethany Beach Police Department with the arrest of a driver under the influence.
- October 31 Loose boat on Bayshore Canal. The boat was secured.

The Department had six other agency assists helping either Ocean View, Bethany Beach, or Fenwick Island with related calls on traffic stops or any complaints that they needed help with.

The Department had five property checks and responded to alarms that were which were either weather related or a malfunction.

ORDINANCES/RESOLUTIONS

- **Second Reading of Ordinance 143-08, Amending Chapter 104, Property Maintenance, Article II Entitled "Grass and Weeds", to clarify. (John Fields)**

Councilman Fields reviewed the Synopsis of Ordinance 143-08. Councilman Fields asked for questions. Councilman Headman stated that he supports the need for an appeal procedure but is opposed to putting very specific administrative process language in the ordinance and would like to see § 104-8A struck from the ordinance. Councilman Headman supports the idea that since the change is new and the Town has received a lot of complaints that the Town should notify people of the change. However, he believes § 104-8A mandates something that may not need to be done in the future. He stated that while there is no additional cost to mail the document, there is staff time. Councilman Headman is also opposed to the requirement of having to notify property owners via first class mail. He believes the Town should use electronic emails when it has the opportunity to. Councilman Headman noted the ordinance regarding rental licenses which states that the Town will send the Rental Application/Non Rental Declaration Form once a year. It does not specifically say by U.S. mail.

The Town Manager stated that a resident had sent a letter to the Town Attorney regarding Chapter 104, Article II, which prompted the Attorney to review Article II and make these modifications. Mayor Jayne said that notifying property owners every year via first class mail is fundamental to the Attorney's case if somebody sues the Town.

Councilwoman Lambertson believes that property owners are required to pay attention to the Town Code and that the Town should not be required to send out a copy of the ordinances every year.

The Town Manager said that the Attorney's reason for giving the annual notification is that this is the only ordinance that the Town takes action before notifying the property owner.

A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, that through the reasons Councilman Headman stated that §104-8A be deleted from Ordinance 143-08. Mayor Jayne asked for further discussion. There was none. The voting was as follows:

FOR THE MOTION: Councilpersons Headman and Lambertson

AGAINST THE MOTION: Mayor Jayne and Councilpersons Fields, Ronan, and Gassinger

The motion was denied with a 4-2 vote.

Mayor Jayne declared this the second reading of Ordinance 143-08.

- **Second Reading of Ordinance 144-08, Amending Chapter 84, Licenses and Permits, to Remove the Mercantile License Fee and Rental License Fee, Make Administrative Changes, and Add Permit Requirements for Propane Gas Connection and Geothermal Well Installation. (Gary Jayne)**

Mayor Jayne reviewed the Synopsis. Mayor Jayne asked for a discussion from Council. There was no discussion.

Mayor Jayne declared this the second reading of Ordinance 144-08.

- **Second Reading of Ordinance 145-08, Amending Chapter 141, Water Service, to Remove the Water Connection Permit Fee and Make Administrative Changes. (Gary Jayne)**

Mayor Jayne reviewed the Synopsis and the change to § 141-5D. Mayor Jayne asked for a discussion. There was no discussion.

Mayor Jayne declared this the second reading of Ordinance 145-08.

- **Second Reading of Ordinance 146-08, Amending Chapter 145, Zoning, to Define Renovation/Remodeling/Alteration and Add Permit Requirements for Interior Renovation/Remodeling/Alteration. (Gary Jayne)**

Mayor Jayne reviewed Ordinance 146-08. Mayor Jayne noted that § 145-68A(7) and (8) had been in Ordinance 144-08 at the first reading but had been moved to this ordinance for the second reading.

A Public Hearing regarding this ordinance will be held on December 12, 2008, at 7 p.m. at Town Hall before the Town Council Regular Meeting.

After a discussion, Council agreed to add "including but not limited to items such as" to § 145-68A(6) after the phrase "provided that the following shall not require a building permit regardless of the total cost".

Mayor Jayne declared this the second reading of Ordinance 146-08.

- **Second Reading of Ordinance 147-08, Amending Chapter 42, Building Construction, to Control the Use of Portable Fuel Powered Electric Generators and Fuel Powered Air Compressors, Except Pile Drivers, for Construction Purposes. (John Fields)**

Councilman Fields reviewed Ordinance 147-08.

Councilman Fields explained that Mr. Romeo had contacted him after the first reading and pointed out that commercial welding equipment which is used for steel pilings requires a large amount of amperage that the electric company cannot supply. Councilman Fields added "and commercial welding equipment" to § 42-12. Also in § 42-12, Councilman Fields struck the phrase "in the event of emergencies that affect the electric company".

Councilman Headman stated that he believed the rationale behind "in the event of emergencies that affect the electric company" was to limit exceptions. Councilman Fields said that saying that there are no exceptions is too restrictive. There was a lengthy discussion. Councilman Fields asked how many Council Members thought the phrase should be left in. A majority of Council thought the phrase should be left in. Councilman Fields directed the Administrative Assistant to include the phrase for the third reading.

Mayor Jayne declared this the second reading of Ordinance 147-08.

- **First Reading of Ordinance 148-08, Chapter 134, Vehicles, Operation of, To Prohibit Vending from Vehicles on Streets, Driveways and Parking Areas. (Gary Jayne)**

Mayor Jayne reviewed Ordinance 148-08 which prohibits vending from vehicles on streets, driveways, and parking areas. Mayor Jayne read § 134-2E.

Mayor Jayne said the reason for the prohibition is that vending from vehicles blocks traffic and could be dangerous if there are kids involved. Councilman Ronan said the Town has the responsibility to provide safety in the town, especially safety for the children.

Pizza, Chinese take out food, sno cones, etc. can be delivered to an individual house.

Mayor Jayne stated that Council has discussed at the Workshop Meeting the possibility of having a minor amount of vending on the beach itself.

There was a lengthy discussion which included concerns from two members of the audience regarding Ordinance 148-08.

Mayor Jayne declared this the first reading of Ordinance 148-08.

COMMITTEE REPORTS

- **Assawoman Canal Dredging** – Councilwoman Gassing reported:

DNREC has received approval to continue working until the end of January. They are going to make every effort possible to complete it at that time. The section near Rt. 26 has not been dredged. They had a change of plans and it will probably be the very last thing they will be dredging.

- **Beach Replenishment** – Councilman Ronan reported:

Mayor Jayne stated that there has been some damage and the Town is aware of the problems. The Town is working on the problems. The Town is in communications with DNREC on fixing the things that need to be fixed. DNREC has fixed the sand fence. Councilman Ronan stated that the Town is continually working to make the beach more accessible and pleasant.

Bethany Beach and Dewey are going to be replenished in the very near future.

- **Beautification** – Councilwoman Lambertson reported:

At the request of a property owner at a previous meeting, the Committee is looking into a tree height ordinance. The Committee is going to check with the other Towns to see if they have a tree height ordinance. Councilwoman Lambertson believes it will be difficult unless it pertains to invasive species or something similar.

The Maintenance Department is doing a good job of getting out dead grasses and pruning shrubs. A few pansies will be planted. There is a very limited amount left in the Beautification Budget.

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

The Council recently appointed two new members to the Planning Commission. The Planning Commission is at full staff with five excellent people. An organizational meeting is scheduled for November 17 at 10 a.m. at Town Hall. The Chairman will be appointed and the Commission will talk about initiatives for the coming year.

- **Tidal Pump Program Update** – Councilman Headman reported:

George Junkin continues to demonstrate to DNREC that the Tidal Pump as conceived and planned does work. The difficulty is that DNREC's position has been that the cost for such a project outweighs the benefits.

- **Canal Water Quality** – Councilman Headman reported:

One of the goals is to address stormwater issues. An assessment project to look at retrofit strategies for the area north of town is planned. Most of the stormwater from Sea Colony and Middlesex goes into the Anchorage Canal without much filtration.

Councilman Headman and Councilman Fields are creating new ordinances regarding impervious surfaces, shower water, and rainspouts to help improve water quality in the town canals and Inland Bays.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Headman, to adjourn the November 14, 2008, Town Council Regular Meeting at 8:50 p.m.