

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES DECEMBER 10, 2010</b>
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**ATTENDANCE**

PRESENT: Mayor Jay Headman; Councilpersons John Fields, Bob Cestone, Sue Callaway, George Junkin, and Jim Gross (took his seat on Council after Agenda Item IVB); Town Manager Melvin Cusick; Lt. Linda O'Malley; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilman Tim Saxton

**MEETING CALLED TO ORDER**

Mayor Headman called the December 10, 2010, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag. He then went into the Public Hearing regarding Ordinance 155-10 (see Public Hearing Minutes). The Public Hearing was closed at 7:20 p.m. and the Town Council Regular Meeting began.

**PROPERTY OWNERS' PARTICIPATION**

- Ed Nazarian (20 Peterson Dr.) – Inquired about the Mediacom contract. Mayor Headman stated that the towns (Bethany Beach, Millville, Ocean View, and South Bethany) have agreed to one lawyer to begin negotiating with Mediacom. Mediacom has been notified of this and the next step will be to go through the process.

**ADOPTION OF MINUTES**

- **Town Council Regular Meeting Minutes, November 12, 2010** – A motion was made by Councilman Cestone, seconded by Councilman Fields, to accept the November 12, 2010, Town Council Regular Meeting Minutes. The motion was adopted.
- **Town Council Workshop Meeting Minutes, November 19, 2010** – A motion was made by Councilman Fields, seconded by Councilman Cestone, to accept the November 19, 2010, Town Council Workshop Meeting Minutes. The motion was adopted.
- **Town Council Executive Session Minutes, November 19, 2010** – A motion was made by Councilman Cestone, seconded by Councilman Fields, to accept the November 19, 2010, Town Council Executive Session Minutes. The motion was adopted.

**ADMINISTRATIVE MATTERS**

- **Appointment of Vacant Council Seat**

Mayor Headman reviewed § C-71(2) (Filling vacancies) of the Code of South Bethany. Mayor Headman nominated Jim Gross to fill the vacant Council seat. Mayor Headman gave background information on Mr. Gross.

A motion was made by Councilman Fields, seconded by Councilman Cestone, that the Council approve the Mayor's nomination of Jim Gross to fill the presently vacant council seat until the next town election. Mayor Headman asked for discussion. Councilman Fields made a statement in support of Mr. Gross. The voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Fields, Cestone, Callaway, and Junkin

AGAINST THE MOTION: None

The motion carried with a 5-0 vote.

- **Swearing in New Council Member**

Mayor Headman swore in new Council Member Jim Gross. Councilman Gross took his seat on Council.

Mayor Headman thanked and congratulated Councilman Gross.

- **Appointment of Council Secretary**

Mayor Headman recommended Councilman George Junkin to serve as Council Secretary.

A motion was made by Councilman Fields, seconded by Councilman Cestone, that the Council approve the Mayor's appointment of George Junkin to serve as Secretary to the Council. The motion was adopted.

## **LEADERSHIP REPORTS**

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

Mayor Headman thanked the Town Manager and the Staff for the work that they do.

The focus of the Sussex County Association of Towns (SCAT) meetings continues to be on the impact of the State's economy on the individual towns, especially in regard to Municipal Street Aid funding and Real Estate Transfer Tax. There was also a discussion about the new recycling bill. There is no more 5 cent bottle deposit. The 4 cent tax will generate grant monies for towns to recycle, but at this time the money can only be used for capital assets. Private trash/recycling haulers are eligible to submit requests for grant funding, but they have to guarantee that they will not raise rates until 2013. Many of the private contractors are not sure they can do that. The Town has met with Allied Waste to try to track that and get an understanding on what the impact would be on South Bethany. Also, with the yard waste ban going into effect January 1, 2011, the Town is trying to get an understanding on what the Town could offer regarding yard waste.

A committee has been formed to address "June Bug" issues. The Town will continue to do what it has been doing but with less tolerance. The committee has met with realtors that work in South Bethany. The meeting was very positive, and the realtors want to work with the Town. Letters and flyers will be distributed to the realtors and to property owners who rent (to place in the rental house). The Town will also work with the property owners who own rental property. All groups need to work collectively.

Mayor Headman attended an appreciation luncheon sponsored by the South Bethany Property Owners Association to thank the volunteers. Included were the Neighborhood Watch volunteers and the water monitoring volunteers.

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

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

The yard waste ban goes into effect January 1. Copies of DNREC's PowerPoint presentation regarding the ban were available on the sign-in table. Copies of the presentation are available at Town Hall. Council will discuss options regarding the ban at the January 27, 2011, Town Council Workshop Meeting. Information about the yard waste ban will be posted on the Town's website. The trash company will be fined for taking yard waste to the landfill.

Because South Bethany already recycles, not much will change regarding recycling. One thing that may change is that all property owners will be required to have a recycling cart whether they choose to use it or not.

- **Treasurer's Report**—In Councilman Saxton's absence, there was no report.
- **Police Department Report/Questions**—Lt. Linda O'Malley reported for the month of Nov., 2010:

Lt. O'Malley reported that at the time of the meeting there was a fully involved house on fire on Elizabeth Way. Fire trucks were on the scene.

- Nov. 4 Criminal mischief on W. 6<sup>th</sup> St. Subjects damaged several household items. After further investigation, the damage may have been done by some renters over the course of the summer.
- Nov. 9 Theft on Layton Dr. Subjects removed the victim's boat whips from the dock.
- Nov. 10 Attempted burglary using a crowbar on S. Ocean Dr.
- Nov. 10 Burglary on S. Ocean Dr. A flat screen TV was taken.
- Nov. 13 Criminal mischief on W. 6<sup>th</sup> St. Subjects toilet papered the front yard of the residence. No damage was done to the residence.
- Nov. 14 Contractor fraud on Evergreen Rd. Investigation is still pending.
- Nov. 21 Burglary on S. Ocean Dr. A flat screen TV was taken.
- Nov. 22 Alarm on Seaside Dr. was accidentally set off.
- Nov. 29 Verbal domestic on Russell Rd. Subject was trespassing. The victim declined prosecution.

### **ORDINANCES/RESOLUTIONS**

- **Third 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)**

Mayor Headman asked for comments from the Council. Councilman Junkin stated that he believes it is right to get the words in the Code so that they are not ambiguous and to make sure the words go with the original intention. He believes that is independent of whether the Code should be changed to allow bigger houses.

Council reviewed Councilman Gross' comments and suggestions and made the following changes:

#### **§ 145-3:**

CONSTRUCTION – The term "construction" shall include ***s new construction***, in addition, ***s***, reconstruction, ~~expansion, extension~~ and substantial repair.

NONLIVABLE AREA -- ~~The sum of t~~The total square footage *of the items below measured* from outside ~~wall structural element~~ to outside ~~wall structural element~~:

- (1) Open decks and balconies.
- (2) Open walkways.
- (3) Open stairways.
- (4) Widow walks. ;
- (5) Porches.
- (6) Garages.
- (7) Utility and storage rooms.

~~**STORY, LIVABLE**— An area conforming with the Southern Standard Building Code which has the capability of use for residential purposes.~~

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

A motion was made by Councilman Cestone to approve Ordinance 155-10 as amended in the discussion. Councilman Cestone reviewed the changes. Mayor Headman called for a roll call. The voting was as follows:

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

AGAINST THE MOTION: None

The motion carried with a 6-0 vote.

### **COMMITTEE REPORTS**

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

The Assawoman Canal Dredging Project Program Manager (Chuck Williams) told Councilman Cestone that the southern end between Jefferson Creek and the Bay was never dredged. Councilman Cestone told him that people were complaining of bumping ground in the shallow areas. The next day Mr. Williams came to South Bethany and took measurements in the middle. There were a couple of spots that were about an inch difference but nothing to be concerned with. Referring to a Google satellite picture taken on September 22 which did a depth survey from Jefferson Creek to the Bay, the middle is 2.9 and 3.0 feet but there are some spots on the sides that are only 14 inches to 18 inches. DNREC is not going to do anything this year, but Mr. Williams made the comment that if people are having a problem and there is shoaling, they will look at it again. DNREC is leaving the pipe that goes over to the spoil site in place.

Regarding the docks, Councilman Cestone suggested that people call DNREC if they encounter problems with boats parked at the docks and encroaching into the canal. If DNREC gets enough complaints maybe they will do something.

Mr. Williams assured Councilman Cestone that the missing "No Wake" signs would be back up by the spring.

Mr. Williams said that they would take care of trees leaning over the canal, but they can only do the tree trimming from the water during the Sept. 1 to Dec. 31 period because of the permit.

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

The committee met on Nov. 19 and focused on creating a long term plan and strategy for the beautification of the Rt. 1 median and the walkway areas. Rick Gentile, landscape designer and owner of Bethany Beach Gardens, attended and was very helpful. The committee is committed to creating a long term plan that is unique and distinctive. Councilwoman Callaway would like to present the plan to Council at the January 27, 2011, Town Council Workshop Meeting.

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

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

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

Volunteers have been taking measurements, and Councilman Junkin has been collating the data. He would like to post the data on the Town's website.

Chris Bason at the Center for the Inland Bays suggested that the Town may be able to get DelDOT to help with some of the things it does in the medians to facilitate water quality.

The Committee will probably ask for \$1,000 in the FY 2012 Budget for the Oyster Gardening program.

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

At the October 28, 2010, Town Council Workshop Meeting, the Planning Commission presented the town survey they developed. The Planning Commission received input from the Council Members. The Planning Commission has considered Council's suggestions and worked them into the survey. Council will discuss the revised survey at the January 27, 2011, Town Council Workshop Meeting.

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

On Nov. 18, 2010, the Town mailed 1,297 survey packets to all the South Bethany property owners. Today was the last day the survey could be dropped off to Town Hall and the last day the survey could be postmarked for return. As of 3:30 p.m. today the Town had received 927 survey forms back. That is a 71.5% return of the surveys. The survey forms will be opened and counted by the South Bethany Board of Election Members on December 16, 2010. The public is invited to watch the counting of the ballots.

## **ADJOURNMENT**

Before adjourning, Mayor Headman took the opportunity on behalf of the Council and the Staff to wish everyone a very Merry Christmas, Happy Holidays, and a joyous New Year. He also thanked the Council Members for the hard work and dedication they have given to the Town.

Addressing the Town Staff, Mayor Headman stated that the Town is very fortunate to have the outstanding quality staff that it has. He thanked the Town Staff and wished them a Merry Christmas, a Happy New Year, and Happy Holidays.

A motion was made by Councilman Fields, seconded by Councilman Cestone, to adjourn the December 10, 2010, Town Council Regular Meeting at 8:25 p.m.