

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES DECEMBER 12, 2008

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 December 12, 2008, Town Council Regular Meeting to order at 7:15 p.m., followed by the Pledge of Allegiance to the Flag.

PROPERTY OWNERS' PARTICIPATION

- Ed Nazarian (20 Peterson Dr.) – Inquired what the outcome was with Grotto's regarding balloons. The Town Manager stated that he did not know if the Code Enforcement Constable had spoken with Grotto's. They are closed now for the winter.
- Tom Roche (141 Henlopen Dr.) – Asked what had happened regarding the ad in the paper for a house in South Bethany that was looking for roommates. Mayor Jayne replied that there is nothing in the Code that prohibits people from having roommates. He added that the Code is very specific regarding renting rooms. You cannot run a boarding house. You cannot take one bedroom and rent it out. There is nothing that says that two people, related or unrelated, can't live in the same house and share the rent. The Town Manager stated that the Code Enforcement Constable had called the number in the ad and left a voice message but had not received a return call.
- Joan DeSantis (309 W. 2nd St.) – Stated that her neighbor installed a davit for a jet ski. Ms. DeSantis said that the Town Code states that they are to be placed no closer than 10 feet to either side property line. After measuring it several times, Ms. DeSantis believes that her neighbor is in violation. Ms. DeSantis explained that at her request the Code Enforcement Constable measured it. Ms. DeSantis is in disagreement with his measurement. Ms. DeSantis asked Council what can be done to solve this problem. There was a discussion. Ms. DeSantis complained that the Code Enforcement Constable measured from a pole, not the dock. Mayor Jayne advised Ms. DeSantis to provide a survey plat to the Town Manager and Code Enforcement Constable and they will measure it again.
- Ed Nazarian (20 Peterson Dr.) – Inquired if the Town knew when the water tower would be painted. The Town Manager stated that Artesian is supposed to paint it this winter but did not give the Town a date. The Town Manager will follow up with Artesian.

ADOPTION OF MINUTES

- **Town Council Special Meeting/Workshop Notes, November 4, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, to accept the November 4, 2008, Special Meeting/Workshop Notes. The motion was carried.
- **Town Council Executive Session Minutes, November 4, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Gassinger, to accept the November 4, 2008, Town Council Executive Session Minutes. The motion was carried.

- **Town Council Regular Meeting Minutes, November 14, 2008** – A motion was made by Councilman Headman, seconded by Councilman Ronan, to accept the November 14, 2008, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Special Meeting/Workshop Notes, November 20, 2008** – A motion was made by Councilman Headman, seconded by Councilman Ronan, to accept the November 20, 2008, Town Council Special Meeting/Workshop Notes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

Attended the monthly SCAT meetings.

Had a number of meetings with DNREC regarding the beach. More information will be given during the Committee Reports portion of the meeting.

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

The Town has been recertified for another year in the Community Rating System. Therefore, residents are still eligible for the 10 percent discount on their flood insurance. The Town of South Bethany is one of eight Delaware towns in the Community Rating System.

- **Treasurer's Report**—Melvin Cusick reported as of November 30, 2008:

November Revenue	\$ 31,904.40
November Disbursements	\$ 121,262.91
Balance	\$ 1,550,506.62

The Town collected \$36,375.42 less in November 2008 than was collected in November 2007.

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

November 1	Assisted Bethany Beach PD with a DUI. The individual was pulled over at Sussex Pl. and Rt. 1, which was in South Bethany's jurisdiction.
November 2 & 3	Alarms on Elizabeth Way and Elizabeth Court. The residences were checked and secured.
November 9	Wires down and the power company was contacted. South Bethany Police Department stood by to assist.
November 10	Agency assist in Bethany Beach. There was an assault in progress. Suspect was apprehended a short time later and arrested.
November 15	Agency assist in Fenwick Island. There was a loud party with children and underage consumption. Several arrests were made.
November 16	Two alarms - one on Evergreen Rd. and one on Bayshore Dr. Both residences were checked and were fine.
November 20	False alarm on Seaside Dr.
November 22	Property check was done on N. Ocean Dr. Pipes busted because of the cold weather.

November 23 Violation of prohibited construction. Site was shut down. A summons was issued.

November 24 Violation of local code. A dog was at large and it was an ongoing problem. A summons was issued.

November 25 Theft of town property on S. Ocean Dr. Unknown suspect(s) removed several street signs from the south end streets.

November 27 Burglary occurred at Tern Dr. Unknown suspect(s) kicked in the door and removed property from the residence. It was an isolated incident.

November 30 False alarm on Elizabeth Way. Residence was secured.

Ed Nazarian asked about the status of the untagged jet ski. M/Cpl. Davis will follow up on the untagged jet ski.

ORDINANCES/RESOLUTIONS

- **Third 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 comments. Councilman Headman stated that he will not vote for Ordinance 143-08 because he believes the requirement for annual notification for the rest of time is not appropriate. There were no other comments.

A motion was made by Councilman Fields, seconded by Councilman Ronan, that Council approve Ordinance 143-08. The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Fields, Lambertson, Ronan, and Gassinger

AGAINST THE MOTION: Councilman Headman

ABSTAINED: None

The motion carried with a 5-1 vote.

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

- **Third Reading of Ordinance 144-08, Amending Chapter 84, Licenses and Permits, to Remove the Mercantile License Fee and Rental License Fee and Make Administrative Changes. (Gary Jayne)**

Mayor Jayne reviewed Ordinance 144-08. Mayor Jayne asked for comments. There were no comments.

A motion was made by Councilman Ronan, seconded by Councilwoman Gassinger, to accept Ordinance 144-08. The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Fields, Headman, Lambertson, Ronan, and Gassinger

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 6-0 vote.

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

- **Third 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 Ordinance 145-08. Mayor Jayne asked for comments from Council. There were no comments. A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, to accept Ordinance 145-08. The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Fields, Headman, Lambertson, Ronan, and Gassingier

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 6-0 vote.

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

- **Third Reading of Ordinance 146-08, Amending Chapter 145, Zoning, to Define Renovation/Remodeling/Alteration and Add Permit Requirements for Interior Renovation/Remodeling/Alteration, Central Propane Service Connection, and Geothermal Well Installation (Gary Jayne)**

Councilman Headman recommended that the \$300 threshold number in § 145-68A(6) and (9) be increased to \$500. Council agreed.

Bob Cestone stated that the \$300 figure was originally put in the Code to agree with the Sussex County requirement.

A motion was made by Councilman Headman, seconded by Councilwoman Gassingier, to adopt Ordinance 146-08 with the modification of increasing the \$300 to \$500 in § 145-68A(6) and (9). The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Headman, Lambertson, Ronan, and Gassingier

AGAINST THE MOTION: Councilman Fields

ABSTAINED: None

The motion carried with a 5-1 vote.

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

- **Third 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 and Commercial Welding Equipment, for Construction Purposes. (John Fields)**

Councilman Fields reviewed Ordinance 147-08 and asked for comments. There were no comments.

A motion was made by Councilman Fields, seconded by Councilman Ronan, to approve Ordinance 147-08. The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Fields, Headman, Lambertson, Ronan, and Gassingier

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 6-0 vote.

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

- **Second 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. Mayor Jayne asked for comments. There were no comments.

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

COMMITTEE REPORTS

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

As reported last month, DNREC received approval from the regulatory agencies to work until the end of January. DNREC cannot dredge during the hunting season and there will be other portions of time when they will not be able to work on the canal. They will get as much done as possible by the end of January.

- **Beach Replenishment** – Mayor Jayne reported:

The New Beach Committee members are Mayor Gary Jayne, Town Manager Melvin Cusick, Beach Patrol Captain Chris Miller, Chief of Police Joe Deloach, Maintenance Supervisor Don Chrobot, and Citizen Representative John Speer. Mayor Jayne reviewed the following issues which the New Beach Committee has been working on:

Walkways: The walkway at N. 4th St. was built up last spring to lessen the slope to make it easier for people to go over the dune and to eliminate, or at least limit, the erosion on the west side of the dune. The New Beach Committee recommended, and Council has approved, the build up of all of the walkways like the walkway at N. 4th St. The cost will be approximately \$80,000. The Town has looked at a number of ways to avoid the cost to include meetings with DNREC as well as contacting Representative Hocker to see if there is a possibility of state money to use to supplement DNREC. The Town will pursue that, but Mayor Jayne does not have much hope for that. The Town is at a point where it must move ahead. Council believes this must be done not only for property owners but for the renters as well. Rental tax revenue is by far the Town's most reliable and best source of revenue. The Town will first do a test walkway to be certain that the specifications are achievable and then finalize the specifications for the IFB which will go out in January. The objective is a one in twelve slope. The test walkway will also serve as a demonstration site for contractors and bidders to look at. The cost of the test walkway is estimated at \$5,000.

Handrails: The New Beach Committee looked at different kinds of handrails and their cost estimates. The Town decided to wait and see how the walkways work out before spending money on the handrails.

Security: During the 2008 season all of the Town's lifeguard stands were vandalized in one way or other, the Maintenance Supervisor picked up more glass containers on the beach than in previous years, and there were more dogs on the beach, which are prohibited during the summer season. The problem stems from the fact that, because of the dune, the police could no longer drive down Ocean Drive and look out on the beach. Council is in the process of looking at alternatives.

Vendor Services on the Beach: The New Beach Committee and Council spent an enormous amount of time looking at alternatives. At the December 12 Workshop, Council decided to put out and Invitation for Bids for vendor services on the beach proper. The service will be limited to sno cones or Italian ice, soda, water, packaged snacks, and hot dogs. The vehicle has to be something like an ATV or golf cart. Everything has to be self contained on that vehicle, and the vehicle has to be removed from the beach everyday. The vehicle will be

restricted to traveling north and south only within 20 feet of the east side of the sand fence. No music, bells, or whistles. The contracted people are not to approach anybody on the beach. The contract will be for one year.

- **Beautification** – Councilman Ronan reported:

Everything is going well. The winter pansies are in.

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

At the Planning Commission's Organizational Meeting on November 17, 2008, the Planning Commission elected Jim Gross as Chairman, George Junkin as Co-Chairman, and Bob Johansen as Secretary.

The Planning Commission will look at revising its Bylaws and Procedures as well as the Town Code regarding the Planning Commission. The Planning Commission will also review the procedures for public hearings.

Ron Wuslich stated that when he was on the Planning Commission, the Commission had put a statement in the Comprehensive Plan that the Town should put a fence parallel to Rt. 1 at the east end of the boat turnaround by the Loop Canal. Mr. Wuslich asked what the status of that is. He added that there is a lot of trash floating in that turnaround. Mayor Jayne replied that Council can look into it, but they are trying to hold down on expenditures because of the budget situation. Mayor Jayne said that the Maintenance Supervisor cleans the turnaround out periodically. The Town Manager noted that if Council does budget for the fence, the Town would have to get approval from DelDOT to install it.

Mr. Wuslich also inquired about a proposal in the Comprehensive Plan for an ordinance that would mandate garbage can containers. There was a discussion. Councilman Headman said he will look into it and get back to Mr. Wuslich.

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

There was nothing to report.

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

There was nothing to report.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Headman, to adjourn the December 12, 2008, Town Council Regular Meeting at 8:25 p.m.