

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
DECEMBER 14, 2007
LOCATION: SOUTH BETHANY TOWN HALL**

ATTENDANCE

PRESENT: Mayor Gary Jayne; Councilpersons John Fields, Jay Headman, Bonnie Lambertson, Richard Ronan, Marge Gassinger, and John Rubinsohn; Town Manager Melvin Cusick; Chief Joe DeLoach; and Administrative Assistant Pam Smith

MEETING CALLED TO ORDER

Mayor Jayne called the December 14, 2007, Town Council Regular Meeting to order at 7:00 p.m. and welcomed everyone to the first Regular Meeting in the new Town Hall. The Pledge of Allegiance to the Flag followed.

Mayor Jayne stated that the new Council Room is a couple of inches wider and 6+ feet longer than the old Council Room.

PROPERTY OWNERS' PARTICIPATION

Mayor Jayne invited the property owners to participate. There was no participation from the property owners.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, November 9, 2007** – A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, to accept the November 9, 2007, Town Council Regular Meeting Minutes. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: Mayor Jayne (was not present at that meeting)

The motion carried with a 6-0 vote.

- **Town Council Special Meeting/Workshop Notes, November 26, 2007** – A motion was made by Councilman Ronan, seconded by Councilwoman Gassinger, to accept the November 26, 2007, Town Council Special Meeting/Workshop Notes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

Attended the monthly SCAT meetings, however, there was nothing important to report.

Attended the Delaware Chief of Police Association's Annual Meeting with Chief DeLoach and the Town Manager.

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

The Code Enforcement Constable's Report was available on the sign in table. There were two stop work orders issued this past month.

Councilman Fields inquired if there was a noncompliance clause in the trash collection contract with Allied Waste. Councilman Fields stated that sometimes Allied Waste misses his street. The Town Manager replied that he would look at the contract. He added that the policy is that if trash is missed, Town Hall reports it to Allied Waste and a supervisor will pick up the trash the next day.

- **Treasurer's Report**—Councilman Rubinsohn reported:

Transfer Tax Income has been fairly good the last two months. Properties that have been reduced 15 to 20 per cent from the original price have been selling. However, the Town's collection of transfer tax is down \$118,000 this year as compared to the prior year. We have collected \$200,000 so far this year. Council budgeted about \$300,000.

- **Police Department Report/Questions**—Chief Joe Deloach reported for the month of Nov., 2007:

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| November 3 | Assisted Bethany Beach Police Department with a domestic at the BP Gas Station. |
| November 3 | Assisted Fenwick Island with a suspected warrant subject on a traffic stop. |
| November 13 | Assisted with a criminal trespass at the Town of Bethany Beach Maintenance Yard. Subject was taken into custody. |
| November 15 | Assisted Bethany Beach with an attempted suicide. Subject was taken to Beebe Hospital. |
| November 16 | Assisted on W. 2 nd St. Subject had fallen and struck her head. Subject was turned over to the ambulance crew. |
| November 21 | Open door on W. 10 th St. Contractor had left the door unsecured. Police Department secured the door. |
| November 25 | Violation of local code on Jamaica St. Subjects were working during prohibited hours and without a mercantile license. Investigation revealed that no contractors on the site had a license and multiple summonses were issued by the Police Department. |
| November 27 | Assisted Bethany Beach with a domestic dispute. |

Chief Deloach spoke about the "Move Over" law now in affect in Delaware. The law states that if a vehicle comes up on a police officer or emergency vehicle on the side of the road, the vehicle must move over if there is room. There are signs on the north and south ends of town to make the public aware of the law. The law is intended to protect police officers and emergency personnel from getting hurt.

A shell with a fuse was found on the beach at S. 3rd St. When a fuse is attached, the policy is to detonate it where it is found if possible. The Dover Air Force Base bomb squad set the shell off. A smaller shell without a fuse was also found and that was taken down to the state beach and set off.

Mayor Jayne explained that the Army Corps of Engineers and DNREC require a strainer and a cage at the end of the dredging pipe to catch explosive ordinances. Occasionally something small will get

through the mesh on the cage at the end of the pipe. The Army Corps of Engineers has an explosive ordinance demolition expert living in town full time. He inspects and makes sure the cage is working properly. He gets called if something bad is caught in the cage or if something does get through. The situation is being handled very well. Chief Deloach added that if anybody sees something suspicious to call the South Bethany Police Department immediately. The Police Department will get in touch with the Delaware State Police who have a certain amount of capability. If it is more than they can handle the Dover Air Force Base Explosive Ordinance Disposal Squad will be contacted.

Councilman Fields inquired as to the best way to contact a police officer on a Sunday afternoon. Chief Deloach said to dial the State Police non emergency number (855-2980). Also, let them know if you want to be notified after the situation has been taken care of.

Considering the low crime rate in South Bethany, Mr. Nazarian inquired if all the light around the Town Hall and Police Department was necessary and if there was anything that could be done to reduce the light. Mayor Jayne replied that the lights that are around the buildings are going to stay. After some experience with it, the Town may cut back by using blinders on some of the lights. The Town Manager stated that during the construction phase one street light on the Police Department parking lot was eliminated from the architect's design. All three wall packs have been turned off but can be turned on if needed.

ORDINANCES/RESOLUTIONS

- **Third Reading of Ordinance 139-07, Chapter 114, Solid Waste, Article I, Entitled "Collection Fees", to Add a Service Fee for the Collection of Recyclable Materials (John Fields and Jay Headman)**

Councilman Headman stated that this Ordinance amends Chapter 114, Article I, Section 2 (Annual service fee) to add a service fee for the collection of recyclable materials. Councilman Headman asked for questions. There was no discussion.

Mayor Jayne declared this the third reading of Ordinance 139-07.

A motion was made by Councilman Ronan, seconded by Councilman Headman, to approve Ordinance 139-07. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 7-0 vote.

- **Third Reading of Ordinance 140-07 Chapter 114, Solid Waste, Article II, Entitled "Collection Fees", to Add a Service Fee for the Collection of Recyclable Materials, and to Revise Penalties for Offenses (John Fields and Jay Headman)**

Councilman Fields read the Synopsis of Ordinance 140-07.

DSWA has agreed to roll the recycling carts out and back into the bins. DSWA will not pick the recycling carts up and out of the bins. If a property owner chooses to store their cart in a bin, the bin will have to have an opening on the end in order for DSWA to provide this service. Ordinance 140-07 states that unless stored in bins, recycling carts shall not be kept permanently at curbside.

Councilman Fields inquired if Council had any changes they would like to make. Councilwoman Lambertson stated that she would vote against Ordinance 140-07 because of § 114-7B(2). Councilwoman Lambertson is in agreement with other property owners in her area that the bright yellow tops of the recycling carts will show when stored in the short bins. Councilwoman Lambertson added that she is in favor of recycling but not this section of the ordinance.

Regarding § 114-7B(3) which says, "Unless stored in a bin, trash cans and recycling carts shall not be kept permanently at curbside and may not be placed at curbside for pickup sooner than 24 hours or left at curbside longer than 24 hours after pickup", Mr. Roche stated that a lot of property owners go out of town for the weekend and he did not want to see fees attached to something that might not be the property owner's fault. Council suggested that the property owner have a neighbor put the cart back or not put the recycling cart out if they would not be there to put it back.

Councilman Fields stated that Council had labored with the question that Mr. Roche asked. He added that Council realizes it is difficult to make an ordinance perfect. Depending on the experiences the Town has with the recycling program, Council will come back and address the problems and make changes or revisions to the ordinance if needed. Councilwoman Gassinger expressed concern and agreed that if the ordinance does not work out, Council should revisit it.

Mayor Jayne declared this the third reading of Ordinance 140-07.

A motion was made by Councilman Fields, seconded by Councilman Headman, to approve Ordinance 140-07. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: Councilwoman Lambertson

The motion carried with a 6-0 vote.

- **Resolution 4-07, a Resolution to Place a Moratorium on "Confectioner Vending" and Any Type of Beach and/or Street Vending Within the Corporate Limits of the Town of South Bethany Commencing December 14, 2007, and Ending March 15, 2009**

Mayor Jayne explained that there are a number of things in the Town's operations that will have to be changed due to the new geography of the beach; however, as recommended by DNREC, Council would like to get some experience with the new geography at the beach before making changes. For that reason, Council wants to wait and see what the vendor services ought to be. Also the Town had a number of complaints about the vendors in the summer of 2007. The Town does not have any ordinances or provisions in the Town Code that covers vendors. Children's safety and litter are also a concern.

Mayor Jayne stated that Council has established a Beach Issues Committee to look at all aspects of the Town's operations on the beach. The committee is chaired by Mayor Jayne and the committee members are Chief Deloach, Melvin Cusick, Don Chrobot, and John Speer.

Mayor Jayne read Resolution 4-07.

A motion was made by Councilman Ronan, seconded by Councilman Rubinsohn, to accept Resolution 4-07. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 7-0 vote.

COMMITTEE REPORTS

- **Assawoman Canal Dredging** – Councilman Rubinsohn reported:
Progress is good. There is a slight chance that the north end will be done this year. They will be very close to finishing the south end next year. If it is not done by December 31, 2008, they will ask for an extension into January.
- **Beach Replenishment** – Councilman Ronan reported:
The dune is impressive and will provide very good protection. The Army Corps of Engineers has tapered the dune around the side to meet the dune at Sandpiper Village. This will prohibit the water from washing down the back of the dune which would sweep the dune down into the ocean.
- **Beautification** – Councilman Ronan reported:
The Beautification Committee is trying to stay with native plants. The color of the plants is more subdued, but it goes with the character of the town. Last year the annuals needed 75,000 gallons of water plus staff time to maintain. Barbara Jayne stated that native plants, even in a drought, do not need watering.
- **Canal Dredging** – Mayor Jayne reported:
The dredging is still on schedule to be done in February. The Town Manager, Mayor Jayne, the engineer, and the dredger met and visited the places in town where the dredging is going to take place as well as the spoil site at the wildlife refuge. Mayor Jayne stated that the dredge could bust through ice but that the Town does not want any ice in February. The dredging will take four to six weeks. There is plenty of time left on the permits. There are two permits – one for the canals and one for the pipes to the marsh.
- **Town Hall/Police Building Construction** – Councilwoman Gassinger reported:
The contractor is completing items from the punch list. The council table should be finished by the next regular meeting. The top paving will be done in the spring.
- **Planning Commission and Comprehensive Plan** – Councilman Fields reported:
Nothing to report this month.
- **Tidal Pump Program Update** – Councilman Headman reported:
The South Bethany Canals Tidal Pump System Preliminary Engineering Study estimated the cost to be close to \$7 million. The Tidal Pump Committee is looking to see how this will be funded and who will be doing the manpower. Recently the committee had two separate meetings, one with the staff of DNREC and the other with Secretary Hughes of DNREC, to ask questions, give them the report, and get feedback from them.

The committee is also looking for funding from the Federal Government. The committee is trying to schedule meetings with the Army Corps of Engineers as well as our federal legislatures, Senator Carper, Representative Castle, and Senator Biden.

Councilman Headman stated that the Town does not have the manpower or the money to do this project. The committee believes it is a project worth looking at and worth doing. The committee sees it as a natural inlet to flush the canals and to improve the Inland Bays. The committee will continue to look for funding in support of the project.

- **Windmills** – Councilwoman Lambertson reported:

Many people are in favor of wind power; however, there are questions that need to be answered.

In a discussion regarding wind power, Delmarva Power said that the extra costs to residents would be lowered by half if industrial users were required to participate. Councilwoman Lambertson stated that as the cost decreases and now that they have moved out further, people will be more in favor of trying wind power in conjunction with other means of alternative sources of power.

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

Councilman Headman gave his compliments and thanks to the members of the Tidal Pump Committee and the Canal Water Quality Committee who do an unbelievable amount of work and are persistent. He also thanked Senator Bunting and Representative Hocker for their support in setting up meetings and leading the committee to contacts.

Ed Whereat from the Citizens Monitoring Program has created a systematic monitoring program for the Town to establish baseline data from seven sites for the water quality in the Town's canals. Al Rae is leading the efforts. Seven citizens have volunteered and have been trained to take the samples. The University of Delaware's Muns Farestad tabulates the data. With this program the committee is able to look at the impact of rainwater on the canals.

The committee is trying to schedule a meeting with DeIDOT at which the committee will address the issue of runoff from Rt. 1 and stormwater issues.

The Canal Water Quality Committee submitted a grant proposal, but it was turned down.

The committee not only wants to improve the Town's canal water, but more importantly the quality of water in the Inland Bays. The committee feels it can have a tremendously positive impact on that.

Councilwoman Lambertson expressed her appreciation to Councilman Headman for the committee's tremendous effort on this issue.

Mr. Matera inquired if there is an ordinance to stop property owners from piping downspouts into the canals. Councilman Headman replied that this is one of the areas the committee is addressing.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Headman, to adjourn the December 14, 2007, Town Council Regular Meeting at 8:25 p.m.