

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES FEBRUARY 13, 2009</b>
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**ATTENDANCE**

PRESENT: Mayor Gary Jayne; Councilpersons John Fields, Jay Headman, Richard Ronan, and Marge Gassinger; Town Manager Melvin Cusick; Ptlmn. Joshua Rowley; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilwoman Bonnie Lambertson

**MEETING CALLED TO ORDER**

Mayor Jayne called the February 13, 2009, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

Mayor Jayne presented the Delaware League of Local Governments' (DLLG) 2008 Town Manager of the Year Award to Melvin Cusick. Mayor Jayne explained that the DLLG is an organization of all the towns and cities in Delaware. He stated that the DLLG watches what the General Assembly and U.S. Congress is doing that might affect Delaware cities and towns. DLLG is also a clearinghouse for information that affects or is important to Delaware cities and towns. Every year the DLLG has a contest for the Town Manager of the Year for the State of Delaware. Mayor Jayne acknowledged that the award was much deserved.

**PROPERTY OWNERS' PARTICIPATION**

- Ed Nazarian (20 Peterson Dr.) – Inquired about restrictions for windmills on properties in South Bethany. Mayor Jayne stated that the Town will look into it and will report back at the next meeting.

**ADOPTION OF MINUTES**

- **Town Council Special Meeting/Workshop Notes, December 12, 2008** – A motion was made by Councilman Headman, seconded by Councilman Ronan, to accept the December 12, 2008, Special Meeting/Workshop Notes. The motion was unanimously carried
- **Town Council Public Hearing on Ordinance 146-08 Minutes, December 12, 2008** – A motion was made by Councilman Ronan, seconded by Councilwoman Gassinger, to accept the December 12, 2008, Town Council Public Hearing on Ordinance 146-08 Minutes. The motion was unanimously carried.
- **Town Council Regular Meeting Minutes, December 12, 2008** – A motion was made by Councilman Fields, seconded by Councilman Ronan, to accept the December 12, 2008, Town Council Regular Meeting Minutes. The motion was unanimously carried.

**LEADERSHIP REPORTS**

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

The Town Manager and the Financial Administrator have prepared a draft budget for FY 2010. Mayor Jayne stated that this will be his 5<sup>th</sup> budget as Mayor and 7<sup>th</sup> budget overall including his two years on Council. It is the most difficult budget of all that time mainly because the realty transfer tax is astonishingly lower than what it has been in the past. Mayor Jayne stated that he is pretty much convinced that Council will have to raise taxes.

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

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

The Town has opened the bids for Bid 09-02 Beach Concessions Service. Council will review and possibly award the bid on February 18.

The Town received approval from the Army Corps of Engineers and a permit from DNREC to modify the beach walkways to decrease the slope. The Town has put the project out to bid. The bid opening is March 9. Mayor Jayne added that the Town had a contractor install an experimental walkway at Logan St to get a basis for the specifications for the bid.

Carolyn Marcello inquired if there would be more than just the one handicapped wooden walkway. Mayor Jayne replied that the cost of a handicapped wooden walkway like the one at S. 3<sup>rd</sup> St. is well over \$100,000. The Town is facing a very tight budget situation so for the time being the Town is going to do the sand buildups at the walkways.

Lloyd Hughes suggested looking at Ocean City's walkways which come up on a 45 degree angle and therefore you can regulate the slope anyway you want it. Mayor Jayne stated that the walkways will achieve a 12:1 slope or very close to it.

Tom Roche inquired if handrails were going to be incorporated in the walkways. Mayor Jayne stated that the Beach Committee priced a couple different kinds of handrails. The cheap handrails are not very good, and the good quality handrails are very expensive. Council decided to wait and see how it works out this year without the handrails. The Town Manager added that DNREC had concerns that the handrails may cause a liability and wanted the Town to do this step first and then see if handrails were needed. The Town would need approval from DNREC to install handrails.

- **Treasurer's Report**—Melvin Cusick reported as of January 31, 2009:

January Revenue	\$ 74,227.44
January Disbursements	\$ 125,970.16
Balance	\$ 1,382,524.31

Transfer tax revenue is down for December and January. The Town received no transfer tax revenue in January.

- **Police Department Report/Questions**—Ptlmn. Joshua Rowley reported for Dec., 2008, & Jan., 2009:

**December:**

Arrested a subject for issuing bad checks. The subject was arraigned and released on secured bond.

Subjects stopped for a traffic violation. They were wanted out of Dewey Beach. They also had cocaine and drug paraphernalia in their possession. They were arrested on those charges.

Assisted DNREC with a fire on the beach just south of town limits.

Subjects stopped for traffic violations. They were smoking a marijuana cigarette while the officer approached them. They were arrested for possession of marijuana and released.

Power lines down on York Road caused a massive influx of burglary alarms.

In December and January there were water main breaks and houses damaged from water leaks inside the houses. Property owners are not winterizing their houses.

**January:**

Apprehended a local fugitive after a stop for speeding. Subject was transferred to Kent County to answer for those charges.

A report of criminal mischief on Henlopen Dr. Unknown persons damaged the victim's car.

Local fugitive apprehended. He was a passenger in a vehicle that was stopped. He had several warrants out of the Court of Common Pleas and he was released on a cash bond at court.

Councilman Fields inquired about burglaries in town. Ptlmn. Rowley stated that there have been two burglaries in South Bethany this winter. One was on Thanksgiving and one recently on New Castle Dr. The front door is being kicked in and they are taking flat screen TVs. There have been several burglaries in Bethany Beach and a couple burglaries in Ocean View fitting the same description. The Police have a couple of leads they are working on.

Mayor Jayne inquired if Ptlmn. Rowley was planning to give the Crime Prevention Seminar again that he presented to property owners last fall. Ptlmn. Rowley said that he would like to present it towards the summer months when more people are here. Ptlmn. Rowley will also meet with individuals if requested.

**ORDINANCES/RESOLUTIONS**

- **Third 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 stated that this ordinance would amend the Code to prohibit vending from vehicles on the streets around town. This is a modification to Chapter 134, Vehicles, Operation of. Mayor Jayne read § 134-2E. Mayor Jayne stated that deliveries to houses will continue just like they are now but vehicles cannot be selling things out of vehicles on the town roads. Mayor Jayne asked for comments regarding the ordinance. There were no comments.

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

A motion was made by Councilman Headman, seconded by Councilman Ronan, to approve Ordinance 148-08. The voting was as follows.

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 5-0 vote.

- **First Reading of Ordinance 149-09, Chapter 104, Property Maintenance, Article III, Entitled "General Provisions" to Amend § 104-11. (Jay Headman and John Fields)**

Councilman Headman reviewed the synopsis. He explained that the goal is to reduce the amount of stormwater runoff going into the canals. The ordinance is focused on runoffs from gutters, downspouts, and outdoor showers. Councilman Fields added that this ordinance does not require gutters on roofs, but if you have a gutter then the water has to be dispersed into the ground rather than running into a canal. Mayor Jayne stated that this applies to new construction. Mayor Jayne asked for questions.

Regarding the downspout portion of the ordinance, Bob Cestone stated that in his opinion water off the roof is clean. He said that he has heard there are studies that say otherwise, but he asked where those studies were done. He does not remember studies ever being done in South Bethany. Councilman Headman replied that it is universal and that roofs

collect the same pollutants that are in the atmosphere. The first half inch of rain basically cleans pollutants off the roof. The goal is to capture that first half inch of rain instead of letting it run directly into a body of water. Councilman Headman said he would provide Mr. Cestone with the results of the studies. Mayor Jayne stated that he does not know of any specific study that was done in South Bethany; however there is a body of science that shows that the initial runoff from any roof is bad. He added that South Bethany does receive some pollution from the Indian River Power Plant. George Junkin said that industries hundreds of miles away put a significant amount of nitrogen and phosphorous on roofs.

Mr. Cestone was concerned that the proposal to put in a pit 18 inches deep and 18 inches in diameter on the property will result in the water sitting in the pit and harboring mosquitoes. Mr. Cestone is also concerned that the water will drain on other people's property. Mr. Cestone believes the Town would be better off to allow the roof water to continue to drain into the canals. Mr. Cestone is concerned that the cure may be worse than the disease. He added that the problems that are created by having water sit stagnant on a property and flooding on property may be worse than having the water going into the canals. Mr. Cestone said you may be solving a minimal pollution problem but you are creating a flood or water runoff problem where it is going to sit stagnant and that is going to draw the mosquitoes.

Lloyd Hughes stated that because of the hydrology of this area he believes the Town is wasting time and money. Mayor Jayne noted that this issue came to the Town's attention from the Center for the Inland Bays (CIB). Councilman Headman stated that we are better served by whatever we can do to retain or slow down the water going directly into any body of water.

Mayor Jayne asked Mr. Cestone and Mr. Hughes if they think it is okay to have the downspouts go directly into the canals. They agreed that it was okay as long as nothing else, such as showers, is connected to it.

Councilman Fields said that an 18 inches in diameter by 18 inches deep pit is a standard construction size for a gravel pit. He added that the pits do not cost very much money.

Councilman Ronan stated that if you can keep the stormwater from going into the canal for two or three days, to a great extent you have filtered it. Mayor Jayne stated that putting the water on the ground is better than putting the water directly into the canal.

Ed Nazarian inquired why the east side of Ocean Drive is exempt from the ordinance. Councilman Fields and Headman replied that Sussex County does not allow downspouts or outside showers without roofs to drain directly into the sewer.

Councilman Fields directed the Administrative Assistant to prepare the ordinance for the second reading without any changes.

Mayor Jayne declared this the first reading of Ordinance 149-09.

### **COMMITTEE REPORTS**

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

DNREC was very disappointed that they were unable to complete the project last month. They will begin dredging again in September with a completion date of January 2010. According to the Project Manager the project will cost an additional 50 to 100 thousand dollars.

Mr. Roche inquired if there was any danger in the permits running out. Councilwoman Gassinger said that she would ask the Project Manager when the permits expire.

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

Councilman Ronan stated that the beach looks great. Mayor Jayne added that the Town is fortunate that South Bethany's beach has held up.

- **Beautification** – Councilman Ronan reported:

The plans are in place and the money is in the budget. Everything should look good this summer.

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

The Planning Commission has been working diligently on revising their bylaws and procedures and updating the Town Code. Mayor Jayne asked if the Town Council had to approve the bylaws. George Junkin (Planning Commission Co-Chairman) replied that the Council did have to approve the bylaws.

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

The Tidal Pump Committee would like to meet with the Secretary of DNREC to see if he has the same view of the current DNREC Staff. DNREC has not been supportive of the Tidal Pump Project.

The Town received a notification from the Army Corp of Engineers that there may be a similar study in the New England area. Councilman Headman will follow up on that.

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

A goal of the Water Quality Committee has been to become more familiar and knowledgeable on issues of water quality and to educate the community. George Junkin and Jay Headman attended a full day conference sponsored by the Center for the Inland Bays and the University of Delaware. John Fields, Jay Headman, Marge Gassinger, and Joe Vogel attended a worthwhile workshop regarding interlocking pavers. This pertains to an ordinance Council is looking at to reduce the amount of impervious surfaces in town. Gary Jayne, George Junkin, and Jay Headman will be attending a conference on lagoons to get more information on what the Town should be doing.

At the February 11 South Bethany Property Owners Association (SBPOA) meeting, the Association voted to support the continuation of the water monitoring program and the oyster garden program. Councilman Headman thanked the SBPOA.

Bids have been received and are being evaluated regarding the assessment project to look at retrofit strategies for the 62 acres of land that feeds stormwater into the pipe that goes from Sea Colony to South Bethany and dumps into the Anchorage Canal. The Committee is working with the CIB as well as representatives from Sea Colony, Middlesex, and Bethany Beach.

## **ADJOURNMENT**

A motion was made by Councilman Fields, seconded by Councilman Ronan, to adjourn the February 13, 2009, Town Council Regular Meeting at 8:05 p.m.

Councilman Headman announced that a Mediacom Representative will attend the first half hour of the March Town Council Meeting to address concerns.