

<p style="text-align:center">TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES APRIL 9, 2009</p>
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ATTENDANCE

PRESENT: Mayor Pro Tem Marge Gassinger; Councilpersons John Fields, Jay Headman, Bonnie Lambertson, and Richard Ronan; Chief Joe DeLoach; Financial Administrator Renee McDorman; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Mayor Gary Jayne and Town Manager Melvin Cusick

MEETING CALLED TO ORDER

Mayor Pro Tem Gassinger called the April 9, 2009, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

Mayor Pro Tem Gassinger read a statement to help answer property owners' questions. She stated that as Council had predicted, the time has come when Council has no choice but to raise taxes. Cuts in Town expenditures have been made, and the operating budget has been reduced for each of the past few years. Personnel overtime has been eliminated. Major purchases and non essential projects have been postponed. Small cuts have been made in fuel use and energy consumption. Town fees, including building permits, mercantile licenses, parking permits, etc., have been raised. New fees for propane hookups, building renovations, and geothermal drilling have been created. The Town has leased space for unobtrusive cell phone antennas on the water tower and the Town will receive revenue from beach vending. In spite of this, the Town has been forced to eat into reserves in order to balance the budget. We will continue to tighten our belts and look for new income sources. The inescapable problem is that the Town must have a major source of revenue to replace the real estate transfer tax. The only source left is property taxes. Consequently, the proposal is to raise the tax rate from \$0.65 to \$1.65 per hundred. The Town will continue to use the Sussex County assessment, which has not been revised since 1974 and continue to tax all homes at 50% of their Sussex County assessed valuation. South Bethany is one of the very few towns in Sussex County to do this. Be assured the Town finances are in good shape. The Town has no debt, and the Town has the reserves recommended by the town auditor. The Town has the financial ability to respond to emergencies. It is essential that the Town maintain this prudent financial position. Mayor Pro Tem Gassinger assured property owners that when the real estate market rebounds, Council will do everything possible to reduce the property taxes. Mayor Pro Tem Gassinger noted that this is the first property tax increase in South Bethany in 33 years.

PROPERTY OWNERS' PARTICIPATION

- Tim Shaw (104 S. Ocean Dr.) – Stated that he understands the need for fiscal prudence and he understands that property owners have been paying an amazingly low rate. Mr. Shaw's preference would be that the increase require a mandatory reinstatement annually otherwise it expires. Mr. Shaw would like to see the increase go away when it is not needed anymore. Mayor Pro Tem Gassinger stated that the Town has a history of doing that noting a time in the 1980s when the Town had a tax for one year for a special project. The next year the tax was completely taken off. Councilman Ronan added that each year the budget has to be approved independently of the previous year.
- Bob Amoruso (144 Petherton Dr.) – Inquired if Council had considered raising rental taxes. Councilman Fields stated that the Town is charging the maximum amount that is allowed by the Charter which is 8%. A charter change would be required to raise the rental tax. Charter

changes must be done through the State's General Assembly. Mr. Amoruso believes that is something Council should consider if it lessens the burden for the property owners.

- George Morabito (300 Russell Rd.) – In these bad economic times, suggested cutting the budget and slowly increase the tax rate a little bit at a time. Mayor Pro Tem Gassingier stated that she is in favor of taking it back to the Council and seeing if there is anything more that can be cut.
- Rob Youngs (310 W. 4th St.) – Inquired if there was any intention to update the assessment. Mayor Pro Tem Gassingier stated that for the Town to do its own assessment would cost approximately \$125,000. Mr. Youngs stated that if the tax increase is approved, he supports the suggestion that the increase expire in one year. The property owners applauded.
- Frank Spingler (47 S. Anchorage Ave.) – Stated that in his 35 years in the real estate development business up and down the east coast he has never seen an increase of this magnitude discussed. Mr. Spingler stated that in an email exchange with Mayor Jayne several months ago he proposed that Council consider a special assessment. A special assessment would give property owners a feeling that there is a time limit on the increase.
- Joe Schaefer (154 Petherton Dr.) – Inquired if Council still had a provision in the budget that set aside about \$500,000 for disaster relief and if so suggested reducing it to \$300,000 now that South Bethany has the protective dune. Two hundred thousand dollars could then be used against the shortfall. Councilman Headman and Councilman Ronan said that was done last year using \$370,000 in reserves. Mayor Pro Tem Gassingier stated that the Town's auditor recommends that the Town maintain \$800,000 (six months operating expenses) in reserves. Mr. Schaeffer said that he supports the suggestion of a special assessment rather than a tax increase.
- Russ Miller (1 S. 1st St.) – Because the majority of property owners don't live in South Bethany, Mr. Miller suggested that the budget be readily available on the Town's website so that the average property owner would have access to the information. Regarding the \$800,000 in reserves for six months of operating expenses, Mr. Miller stated that the total reserve funds available in the budget as of 3/6/09 is \$1,074,927. The Financial Administrator stated that the Town's budget year does not end until 4/30 and the Town has additional expenses to take into consideration. She added that the Town anticipated another \$50,000 in transfer tax but has not received any transfer tax in four months. Mr. Miller stated that he knows there have been budget cuts, but the total budget for expenditures in the General Fund in FY 10 is \$53,361 more than FY 09. The Financial Administrator stated that the Town has to allow for inflationary rates. Mr. Miller stated that a majority of the additional expenditures is relevant to salaries.
- Oskar Egger (206 Russell Rd.) – Requested that the issue of a playground in the Hall Memorial Park as discussed by the South Bethany Property Owners Association be put on a future agenda. Mr. Egger stated that a pavilion and recreation area will have an awful impact on property owners in the second and third hundred blocks of Russell Road as well as property owners in Middlesex that are in proximity of the park. Councilwoman Gassingier said that the park has not been presented to the Council for review. She added that it may be presented to Council for review at an upcoming workshop.
- Sandi Roberts (107 Canal Dr.) – Commented that she has a problem with the proposed tax increase being used to cover this year's shortage and to replenish last year's reserve as implied in the Coastal Point article. Ms. Roberts believes Council should try to get by on what it can. Ms. Roberts' second comment was that because of extreme situations, the governor has proposed an 8% pay cut for all state employees. She added that it has already gone through that the amount the state pays towards state employees' health benefits has been

reduced. Because she believes this is an extreme situation and people are financially suffering, Ms. Roberts cannot support taxes going up to support a pay increase for town employees. The property owners applauded.

- Kathy Jankowski (310 W. 4th St.) – Stated that she was representing the South Bethany Property Owners Association Board. The Board is concerned that business of such a major importance is scheduled on Holy Thursday and Easter week as well as Passover when many property owners could not attend. The Board requested that more time and a comment period be provided for the property owners to review the proposed budget. The Board requested that Town Council schedule a weekend public meeting to explain the budget and to give property owners an opportunity to provide input so that the tax increase could be avoided or lessened. The Board also states that in today's trying economic times this proposed budget and tax increase will be a heavy burden for many property owners. Word of a proposed budget which includes salary increases runs contrary to state and other municipal government budgets. Regarding the park, Ms. Jankowski stated that with the budget proposal and tax increase proposal the Board has deferred the park discussion.
- Ed Nazarian (20 Peterson Dr.) – Inquired if Fenwick Island's tax rate of \$1.85 was the result of a large increase in one year or over a period of time. Councilwoman Lambertson replied that she did not know. She added that when she came on Council six years ago there was a discussion that Council should start raising taxes, but at that time Council decided to wait until it had to be done.
- Tim Saxton (24 Peterson Dr.) – Stated that he understands that the Town does not want to lose good employees, but in this State there are one out of ten people who would love to have that job. Mr. Saxton believes Council did not look hard enough at expenditures and in his opinion there is more red pen work to do. Mr. Saxton also believes there needs to be long range planning.
- Maria Johansen (3 S. Anchorage Ave.) – Believes there is a tremendous amount of distrust now because of the way that things are being done. Ms. Johansen asked how property owners were supposed to find out that taxes were going to go up. She believes the fair thing would have been for the Town to send out a notice. Mayor Pro Tem stated that the Mayor has been talking about a tax increase at every Council meeting for over a year. Another property owner said that there is no information on the website. The Administrative Assistant stated that the Town Council Regular Meeting Minutes are posted on the website under Town Council Meetings. Because the minutes are not posted until approved, a property owner requested that draft minutes be posted. Mayor Pro Tem Gassinger stated that the Town does not like to do special mailings because they are costly.
- Frank Spingler (47 S. Anchorage) – Stated that a 154% tax increase is shocking. He further stated, "For whatever reason, the board has not been raising taxes for over the last 33 years, so then you screw us all."
- Mike Trentadue (423 Black Gum Dr.) – Commented that if there is a budget deficit from last year he concurs with the fact that there should be a special assessment to make up the difference. He also believes that the shock of a 154% increase is difficult to swallow no matter if it is 154% of ten dollars or a million dollars. In order to reduce the shock value, Mr. Trentadue suggested that the Town send out the proposed annual budget in a special mailing to every property owner and solicit comments. If at the next meeting there are no comments, at least property owners would have the value of having seen the budget. Councilman Ronan stated that it is a matter of perception. He stated that the Town's assessment is based on the 1974 value and then cut in half (50%) of that. Most property owners' taxes are \$200 or \$250 a year.

- Bob Coleman (230 Carlisle Dr.) – Noted that most of the property owners are not full time residents, and Town Council never seems to take that into consideration. He believes that when Mr. Schaeffer was mayor the town sent the budget out for review. Mr. Schaeffer stated that they did have a two week review. Mr. Coleman said that he thinks what property owners find incomprehensible is that Council would consider a 154% increase and not think it was important enough to let people know in time to think about it and to put it through at a meeting that a majority of property owners cannot attend. Mr. Coleman inquired what happened to the money received from the real estate transfer tax during the period of four or five years when property resale values were going up to three, four, and sometimes five times the original value. Councilwoman Gassinger stated that the Town has money in the reserves and the Town Hall and Police Station were built and the canals were dredged.
- Joe Schaffer (154 Petherton Dr.) – Stated that he read in the paper that the vote was three to two on this proposed budget. He believes in a situation like this there should be all hands on deck. Mayor Pro Tem Gassinger read from the March 12, 2009, Town Council Special Meeting Budget Workshop II Notes, "A motion was made by Councilman Ronan, seconded by Councilwoman Lambertson, to make the new tax rate \$1.65. Councilman Fields opposed. The motion was adopted with a 5 to 1 vote." Mayor Pro Tem Gassinger noted that the one person that opposed the motion was Councilman Fields and his alternative was \$1.55. Mayor Pro Tem Gassinger stated that the Council was united on the issue of a necessary substantial tax increase.
- Jack Whitney (105 Boone Rd.) – Stated that even though there were some cuts in public administration, he could track most of the higher costs to salaries in general administration, public safety, and beach patrol. Mr. Whitney believes the board needs to look for possible areas to do further cuts. Mr. Whitney suggested cuts that might include staff RIFs, staff reduction working hours (especially off season months), staff furloughs, and lowering, reduction, or delay of automatic pay raises. Mr. Whitney would support a one time special assessment but thinks Council should also consider a rental tax increase. Mayor Pro Tem Gassinger stated that the town is at the maximum with the rental tax, and a charter change would be required to raise it. Mr. Whitney believes all the properties in South Bethany need to be reassessed so that all property owners are being taxed equally. Mr. Whitney stated that the assessment should be up to date for every residence in South Bethany to current market. Councilman Headman stated that Sussex County does reassess equally by using a formula. Mr. Whitney stated that he believes the increase in tax needs to be decreased this year and maybe Council needs to reassess this later in the year because the economic downturn is not forever. He added that there are property owners who are making hard choices, and it is not right to come out with a budget that is the same as last year. Mayor Pro Tem Gassinger replied that she understands and thinks that Council should go back to the drawing board. The property owners applauded.
- Doug Malsbury (403 Bristol Rd.) – Stated that he knows for a fact that last year lifeguards were being paid time and a half early in the season to sit two guards on one stand because it makes the day go faster. He stated that he can support a small tax increase which the Town should have done years ago. He also supports the Town employees and thinks they should be given what was promised to them. He complained about the Town using taxpayers' dollars to maintain private property. He said one good example is at the end of York Canal. He said the Town has been maintaining this property for 20 years. Mayor Pro Tem Gassinger asked the Administrative Assistant to make a note to ask the Town Manager about it.
- Ron Wuslich (130 Petherton Dr.) – Because he believes the General Assembly is in session until June 30, Mr. Wuslich suggested consulting the town attorney regarding expediting a charter change in order to increase rental tax.
- Bob Amoruso (144 Petherton Dr.) – Said that something that has not been mentioned is that the Town was successful in building a town hall and police building at approximately a million

dollars without taking out any loans. Mayor Pro Tem Gassinger confirmed that he was correct. There was some applause.

- Rose Walker (108 Brandywine Dr.) – Stated that she sells real estate in this area and has been keeping the Town up to date on real estate sales, pendings, solds, and active listings for several years and does not know why the Town was surprised by the lack of transfer tax. Ms. Walker also said that if the Town raises the 8% rental tax, investors will stop investing in this area because the renters won't rent. Mayor Pro Tem Gassinger said that she believes the Town might be a little higher than some other towns. Ms. Walker agreed. Councilman Headman said that when Council looked at all the fees for possible fee increases, the Town was well within, if not more (maybe even double the rate), than most other towns regarding the rental tax fees. Mayor Pro Tem Gassinger asked Ms. Walker how the rental market is right now. Ms. Walker said it is still strong – people want to come here. Councilman Headman said the rental tax income has been steady, important income for the Town. Councilman Ronan said the reason people like to come to South Bethany is because it is a well run, attractive town that is well policed, has lifeguards on the beach, and the beach is kept clean.
- Mike Matera (311 W. 9th St.) – Said that he would be in favor of a public meeting where property owners could present ideas on how to cut the budget.
- Jim Gallons (304 W. 8th St.) – Inquired what the projected revenue is from the 154% increase. The Financial Administrator stated that the total revenue from property taxes would be \$594,346. The increase would be \$360,000. Mr. Gallons asked if \$360,000 is needed for next year or is the Town putting a little bit away. Councilman Fields said that is what we would like to have but we can live without that money. Councilman Ronan stated that with \$1.65 the Town could get in enough revenue to make up the loss last year and pay for the proposed budget for this year.
- Nancy McCarthy (143 Henlopen Dr.) – Requested that the budget be available on the Town's website. In reference to the current economic times, Ms. McCarthy believes we all need to make accommodations to take things down a bit financially and maybe services too. She stated that we want to keep this wonderful town but she would like the Town to be frugal, even if it is for a year or two until things get better.
- Dennis Roberts (107 Canal Dr.) - Stated that he appreciates the Council's willingness to go back and revisit the budget. Mr. Roberts said regardless of what happens regarding raises, he believes the Town employees are fantastic no matter what department you look at. Mr. Roberts also acknowledged that Council has taken a lot of bullets for no pay.

ADMINISTRATIVE MATTERS

- **Approval of FY 2010 Rental Tax**

Councilman Fields said the rental tax is set at 8%. An increase in the rental tax would require a charter change which would have to go to the Delaware State Legislature. Councilman Fields said Council does not have time to do that this year. A motion was made by Councilman Fields, seconded by Councilman Headman, that the FY2010 rental tax be approved. A property owner asked Council to explain the rental tax. Councilman Fields replied that the rental tax is set at 8% which is the maximum allowed by law. To change the law, the Town would have to go to the General Assembly in Dover and there is not time to do that this year. Mayor Pro Tem Gassinger called for the vote. The motion was unanimously carried.

- **Adoption of 2009 Sussex County Tax Assessments**

A motion was made by Councilman Headman, seconded by Councilman Ronan, to adopt the 2009 Sussex County tax assessments. The motion was unanimously carried.

- **Resolution No. 2-09, A Resolution to Increase South Bethany's Property Tax Rate**

A motion was made by Councilman Ronan, seconded by Councilwoman Lambertson, to not consider the resolution approving the budget tonight so that we can have a meeting on a weekend at a later date to get public input and further consider the budget. Councilman Fields suggested tabling the resolution pending further review. Amending the motion, Councilman Ronan made a proposal to table the resolution to approve the budget to a later date and have a meeting on another weekend to get the input and discussion from the town people so that we can reconsider the budget. Councilman Fields seconded the motion. Councilman Fields made it clear that this motion was to table the resolution. Mayor Pro Tem Gassinger stated that the motion would table the resolution that would increase the taxes to \$1.65. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 5-0 vote.

- **Approval of FY 2010 Budget**

Mayor Pro Tem Gassinger stated that because Council tabled the resolution to increase taxes, Council will not be voting on the approval of the 2010 budget.

ADOPTION OF MINUTES

- **Town Council Special Meeting/Budget Workshop II Notes, March 12, 2009** – A motion was made by Councilman Fields, seconded by Councilwoman Lambertson, to accept the March 12, 2009, Town Council Special Meeting/Budget Workshop II Notes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, March 12, 2009** – A motion was made by Councilman Fields, seconded by Councilwoman Lambertson, to accept the March 12, 2009, Town Council Executive Session Minutes. The motion was unanimously carried.
- **Town Council Regular Meeting Minutes, March 13, 2009** – A motion was made by Councilman Fields, seconded by Councilman Headman, to accept the March 13, 2009, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Special Meeting/Budget Workshop III Notes, March 18, 2009** – A motion was made by Councilman Fields, seconded by Councilwoman Lambertson, to accept the March 18, 2009, Town Council Special Meeting/Budget Workshop III Notes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, March 18, 2009** – A motion was made by Councilman Fields, seconded by Councilwoman Lambertson, to accept the March 18, 2009, Town Council Executive Session Minutes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

In Mayor Jayne's absence, there was nothing to report.

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

In the Town Manager's absence, there was nothing to report.

- **Treasurer's Report**—Renee McDorman reported as of March 31, 2009:

March Revenue	\$ 32,087.45
March Disbursements	\$ 99,038.39
Balance	\$ 1,221,331.34

For the fourth month in a row there was absolutely no transfer tax received.

- **Police Department Report/Questions**—Chief Joe Deloach reported for the month of March, 2009:

Chief Deloach stated that there were 72 attendees at this meeting.

- March 9 Subject was stopped for a traffic violation and discovered to have marijuana on his passenger seat. Search of the vehicle revealed that the subject was also in possession of drug paraphernalia. Arrest was made and the subject was issued a criminal summons for a later court appearance.
- March 10 Theft of a bicycle from Canal St. Unknown suspect removed the victim's unsecured bicycle from his back yard.
- March 11 South Bethany PD assisted Fenwick Island PD with a NCIC fugitive apprehension on Rt. 1. The subject was wanted out of Montgomery County Police Department for drug related charges.
- March 14 Subject was stopped for speeding on Rt. 1 and was found to be driving under the influence (DUI) and was taken into custody.
- March 15 Attempted burglary on Anchorage Dr. Unknown subjects tried to force open the victim's door causing damage to the same. The victim was not home at the time and it appears that the alarm system caused the subject to flee.
- March 29 Possible sighting of a known sex offender, Daniel Andrews, on S. 1st St. The Police Department will pass out flyers.

ORDINANCES/RESOLUTIONS

- **Second Reading of Ordinance 150-09, Amending Chapter 145, Zoning Article IV, Entitled "General Provisions" to add § 145-14.3, "Covering allowed in setback area" (Jay Headman and John Fields)**

Due to suggestions made by property owners at the March Town Council Regular Meeting, Councilman Fields noted that the 65% requirement of any required setback area be covered with pervious materials was changed to 55%. This will allow property owners to have a driveway from their house to the setback. In § 145-14.3B, *(two feet where the required setback is less than (10) ten feet)* was added. Councilman Fields stated that § 145-14.3H was not change as had been suggested at the March Town Council Regular Meeting. The Town's Code Enforcement Constable's preference is to keep the percentages. Councilman Headman noted that the Code Enforcement Constable will have a diagram that will demonstrate the 25%, 50%, and 75% phases. Councilman Fields explained that this ordinance is a small attempt to improve the quality of water in the canals by allowing stormwater to percolate through the ground and filter out the contaminates.

Mayor Pro Tem Gassinger declared this the second reading of Ordinance 150-09.

COMMITTEE REPORTS

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

There is nothing new to report on the Assawoman Canal. Dredging will start again in September. DNREC plans to complete the project the end of 2009 or at the end of January 2010.

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

The Town has contracted to lessen the walkway slopes.

- **Beautification** – Councilwoman Lambertson and Councilman Ronan reported:

Councilwoman Lambertson stated that the Maintenance Department has saved the Town a lot of money. The Maintenance Department built benches for the top of the beach walkways at a cost of about \$80 each. To purchase the benches would have cost between \$500 and \$800 each. Councilwoman Lambertson said Council got an email from a property owner complaining about a town employee riding around on the beach picking up stuff. Councilwoman Lambertson said that is the Maintenance Department keeping the beach clean. They pick up fish hooks, glass, munitions, junk, and trash. Councilwoman Lambertson stated that as far as "beautification" goes, most of the people that she has talked to likes the town to look nice. Regarding plants, Councilwoman Lambertson said that the Town ordered the plants last fall. To cut costs, this year the Maintenance Department will be turning the beds and then put minimal mulch on top. Councilwoman Lambertson stated that the Town has cut back on beautification and the Town saves money because the Maintenance Department does most of the labor. Councilman Ronan added that the town is clean and pleasant to look at which helps the property value.

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

There was nothing to report.

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

There will be articles in the ZEPHYR; therefore (due to the time limit) Councilman Headman had nothing to report.

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

There will be articles in the ZEPHYR; therefore (due to the time limit) Councilman Headman had nothing to report.

ADJOURNMENT

A motion was made by Councilman Fields to adjourn the April 9, 2009, Town Council Regular Meeting at 8:55 p.m.