

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES APRIL 9, 2010</b>
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**ATTENDANCE**

PRESENT: Mayor Gary Jayne; Councilpersons John Fields, Jay Headman, Tim Saxton, Diane Matera, Marge Gassinger, and Rob Youngs; Town Manager Melvin Cusick; Chief Joe DeLoach; Financial Administrator Renee McDorman; and Administrative Assistant Pam Smith

**MEETING CALLED TO ORDER**

Mayor Jayne called the April 9, 2010, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

**PROPERTY OWNERS' PARTICIPATION**

- Mary Suazo (7 S. 3<sup>rd</sup> St.) – After having received information which she requested from the Town of South Bethany through the Freedom of Information Act (FOIA), Ms. Suazo stated that she thinks the Town is jeopardizing and could even lose the rights to the property (Richard Hall Park) if Council proceeded with the referendum without proper legal rights.

Secondly, referring to a memo sent from the South Bethany Park Committee to the Heirs of Mrs. Elizabeth Henry Hall which Ms. Suazo requested from the Town under FOIA, Ms. Suazo stated that the memo caused some legal problems for the Town. Referring to surveys of the land (Richard Hall Park) requested by the South Bethany Park Committee, Ms. Suazo believes this is the role of the Town. Referring to a letter from Edward A. Ames, III, (lawyer to the heirs of Elizabeth Henry Hall) to the Town of South Bethany which Ms. Suazo requested from the Town under FOIA, Ms. Suazo stated that Mr. Ames made it clear that he wanted to deal not with a group of property owners or a park committee – he wanted to deal with the Town. Ms. Suazo stated that the land was deeded to the Town and the Town has the legal responsibility. Ms. Suazo requested that the role of the South Bethany Property Owners Association and the South Bethany Park Committee versus the governing role of the Town Council be clarified.

Thirdly, Ms. Suazo stated that she thinks we need to look very carefully at the ethical behavior of all of the members of the Town Council and the property owners remembering that the meeting minutes are public information. Referring to the March 12 Town Council Regular Meeting Minutes, Ms. Suazo said she was bothered by comments made by Councilman Youngs regarding the use of the word playground and comments made by Councilmen Youngs and Saxton on leaving the Richard Hall Park out of the referendum. Councilman Saxton stated that there was nothing unethical done or said. He stated that the referendum that Councilman Youngs has consistently asked for is whether the town wants a park or does not want a park. He added that the park does not have to reside on that piece of land (Richard Hall Park). Referring to the letter from Mr. Ames, Councilman Saxton stated that we just want to know whether the town wants a park or not – we are not saying where it has to be because if it becomes a "yes" on the referendum it is up to the Town Council to decide where it will be. Councilman Saxton stated that he was very offended by the comment of being unethical. Regarding the comment he made on playground versus recreation area, Councilman Youngs stated that there is a proposal put together by an unaffiliated group who call themselves the South Bethany Park Committee. They are proposing certain amenities in a recreational area and they are focusing on the area known as Robert Hall Park. Councilman Youngs stated that the South Bethany Park Committee proposal is "a" proposal, not "the" proposal. Councilman Youngs stated that "the" proposal will be vetted, approved, and authorized by this Town Council and not by anybody else.

Councilman Youngs stated that the referendum is a non-binding referendum allowing a community to express an opinion as to whether this town needs a park or wants one. Councilman Youngs stated that he resents the term "playground". He believes "playground" is an antagonistic term and it is just one small piece of the proposal that is currently out there. Ms. Suazo asked if we would not be considering the land at Richard Hall Park. Councilman Youngs stated that he did not know where it is going to be – the referendum says should we or should we not entertain the notion of a recreational area type park for the Town of South Bethany.

- Mike Matera (311 W. 9<sup>th</sup> St.) – Stated that he suggested at the last Town Council meeting that the Town get the prisoners to clean the park. He said he had two complaints today from people that live in town about how dirty the park is. The Town Manager said that the Maintenance Supervisor would prefer that the Maintenance Department clean up the park. Also, the Town can't get the prisoners right now to clean up the park because they are planting beach grass on the dune for the State. The Maintenance Department will clean up the park as soon as it dries up. It has been too wet to get in there.
- Andy Ross (302 Russell Rd.) – Mr. Ross, an arborist, said that he did an informal tree inventory of the park, and there is naturally occurring deadwood that is a hazard (hazmats) in most of the trees. He stated that as a natural setting there is not a lot of liability because it is a natural area, but if it is developed it will have to have an active hazard mitigation plan in order to not be negligible.
- Michael Morabito (300 Russell Rd.) – Stated that at the August 26 South Bethany Property Owners Association (SBPOA) Meeting the membership voted to take no further action regarding the proposal for a park. Mr. Morabito said that ultimately it would be the Town Council that would make a decision as to whether to have a park. Mr. Morabito stated that some of the officers of the SBPOA formed a park committee. Mr. Morabito believes that by doing that they have crossed some ethical and maybe some legal lines. Mr. Morabito stated that he plans to ask the Attorney General of the State of Delaware to investigate if any legal or ethical lines have been crossed between the Park Committee and the SBPOA. Referring to the South Bethany Park Committee's proposal, Mr. Morabito stated that their goal is the Richard Hall Memorial Park property. Mr. Morabito asked that the Town Council present a concrete proposal to the people of the town so that they can make an informed decision – not just whether you want a park or not want a park. Referring to the term "multi generational recreational area", Mr. Morabito said the town has the beach, canals, and walking paths throughout the town. Mr. Morabito suggested putting the proposed exercise equipment at the ends of the canals throughout town and let everyone enjoy it. He asked why it all has to be concentrated in one area. Mr. Morabito requested that Council make a motion and vote to remove the referendum until some of the legal questions have been answered, a concrete plan is in place that the residents in town can make an informed decision on, hold public meetings, and maybe next year come up with a complete plan and present that to the town. Mr. Morabito would like to see some suggestions that won't be as offensive to some people in town such as a natural area with some signs identifying trees and a nature walk.

Mr. Morabito thanked Mayor Jayne stating that Mayor Jayne has served this town very well for the past 6 years and is an honorable man. He stated that he does not always agree with Mayor Jayne's decisions, but Mayor Jayne has represented the Town and the people very well.

- Diane Nazarian (20 Peterson Dr.) – Addressing Mr. Morabito about the South Bethany Park Committee, Ms. Nazarian stated that she formed the committee and there are several people besides these SBPOA officers involved in the committee. Ms. Nazarian said that she started doing this in 2005.

- Tom Roche (141 Henlopen Dr.) – Inquired about the Assawoman Canal dredging project. Councilwoman Gassinger shared the following email message from DNREC which she received today: "We are currently working under an approved time of year extension (through April 15<sup>th</sup>) to continue dredging efforts in the Assawoman Canal. Because of all the time we lost over the winter due to inclement weather, we have requested another extension to allow dredging to continue in the Assawoman Canal until May 28 in an effort to complete the project as soon as we possibly can. While we have not received anything official from the Corps or the State, we anticipate the extension will be approved based on unofficial correspondence to date. Progress has been slower than expected due to the amount of sand we are moving and all the debris in the bottom of the Canal. It is the intent of the Department to continue dredging until the project is completed this spring or early summer."
- Ed Nazarian (20 Peterson Dr.) – Inquired if the new Code Enforcement Constable was full time or part time. Mayor Jayne said he is full time, he has been on the job for two weeks, and his name is Dan West. He had previously been the Code Enforcement Officer and Building Inspector for the Town of Berlin.
- Tom Roche (141 Henlopen Dr.) – Stated that he had received in the mail an envelope that was mailed from Tampa addressed to him (handwritten) with no return address and it only contained the Town of South Bethany Rules and Procedures. He said there was no letter or signature included. Mr. Roche stated that he did not know if anybody else received anything like this in the mail. Mr. Roche said that he did not know what it was about and was curious of what the intent was from it. Other property owners present indicated that they had received it also. Mayor Jayne said it was a mystery to him and explained that the Rules and Procedures document is one the Town Council enacts at every Organizational Meeting on the first Saturday of June after the election.
- Ed Nazarian (20 Peterson Dr.) – Stated that he has previously brought up about three times the balloons at Grotto's that pollute the beaches. Mr. Nazarian wondered if anything had been done. He asked if Grotto's has been approached. Mayor Jayne stated that the former Code Enforcement Constable had talked to Grotto's. The Town Manager stated that the Maintenance Supervisor picks up balloons on the beach and he has never picked up a Grotto balloon on South Bethany's beach. He added that Grotto's ties their balloons up, and he does not think it is Grotto's balloons on South Bethany's beach. He believes the balloons are coming from somewhere else. Mr. Nazarian stated that Grotto's hands out plain balloons to children. Mayor Jayne stated that the Town will look into it again.
- Barbara Jayne (1 S. 7<sup>th</sup> St.) – Stated that a lot of the balloons are from weddings.
- Mike Matera (311 W. 9<sup>th</sup> St.) – Due to the burglaries in town, Mr. Matera suggested the Town have an ordinance regarding not throwing advertisements and so forth in driveways or placing them in the door unless you have a permit. The Town Manager said that if people bring the material to the Town, the Town will contact the person who left it.
- Ed Nazarian (20 Peterson Dr.) – Asked Councilman Headman how much of a problem it is with people throwing stones and things in the canals. Mr. Nazarian asked if the Town could post a sign to keep people from throwing debris in the canals. Councilman Headman said there are repercussions and people shouldn't be throwing stones in the canals. Councilman Headman noted that when he first came on Council, a few people complained that the town had too many signs. Councilman Headman stated that it is poor behavior and we try not to put anything in the canals. Councilman Headman asked Chief Deloach for input. Chief Deloach said the Town does not have an ordinance regarding this, but he would not mind stopping by and talking to people involved in this kind of activity. Councilman Headman said that he can also follow up with an article in the ZEPHYR.
- Jim Gross (1 S. 3<sup>rd</sup> St.) – Inquired about the schedule for the preparation of the beach and particularly the walkways to the beach. The Town Manager stated that the Town is responsible for the walkways from Ocean Dr. up to the dunes and has been hauling in additional sand where it was taken away by the storms. The State has pushed some sand up

on the east side of the dune. DNREC (with the help of volunteers) has planted the dune grass. There are still walkways on the east side of the dune that need attention, and the handicapped walkway is currently blocked off. The Town Manager has contacted the State regarding this. He is waiting to hear back from the State. The Town Manager noted that when Tony Pratt spoke at the Council Meeting this past winter he said a lot of the work would probably not be done until April due to the possibility of additional storms.

### **ADOPTION OF MINUTES**

- **Town Council Regular Meeting Minutes, March 12, 2010** – A motion was made by Councilman Headman, seconded by Councilwoman Gassinger, to accept the March 12, 2010, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Special Meeting/Budget Workshop III Notes, March 19, 2010** – A motion was made by Councilman Saxton, seconded by Councilman Youngs, to accept the March 19, 2010, Town Council Special Meeting/Budget Workshop III Notes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, March 19, 2010** – A motion was made by Councilman Fields, seconded by Councilwoman Gassinger, to accept the March 19, 2010, Town Council Executive Session Minutes. The motion was unanimously carried.

### **LEADERSHIP REPORTS**

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

Mayor Jayne encouraged property owners to support the Bethany Beach Volunteer Fire Company. Mayor Jayne spoke of different events that local restaurants are holding in which a certain percentage of the bill will be donated to the fire company. He reminded property owners that the ambulance fee on the tax bill has nothing to do with the fire company – it is strictly for the ambulance service.

Mayor and Barbara Jayne participated in Meals on Wheels on March 24. The local mayors were asked to participate for this one day in order to generate some publicity and bring some attention to the Meals on Wheels program. The meals are prepared at the Cheer Center in Georgetown and are delivered out of the Cheer Center in Ocean View on Cedar Neck Road. The demand on Meals on Wheels is increasing and they need volunteers. Mayor Jayne stated that it is a very worthy cause.

May 8 is Fair Trade Day from 12 to 5. There is an important Fair Trade operation in the York Beach Mall – Made by Hand. Fair Trade is a very worthwhile cause and it is worthy of being supported.

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

Allied Waste has taken over the recycling pick-ups. The Town has had problems with the cart exchange program because DSWA picked up over 650 carts without coordinating with Allied Waste as was promised. If a property owner did not get a cart, they can call the Town Hall Clerk and give her their address. If you have a DSWA cart and an Allied Waste cart, call the Town and the Town will pick up your DSWA cart.

The Town has hired a new Code Enforcement Constable, Dan West. Dan worked for the Town of Berlin for 15 years and left that position in 2005. He has a lot of experience with Code Enforcement and Planning and Zoning issues. He also wrote the ordinances for the Town of Berlin.

- **Treasurer's Report**—Tim Saxton reported as of March 31, 2010:

Balance Brought Forward	\$ 1,388,752
March Revenue	\$ 45,834
March Disbursements	\$ 122,834
Balance	\$ 1,311,752

Councilman Saxton stated that he is pleased to say that the Town will not dip into reserves this year. He gave credit to the Department Heads and the Financial Administrator for managing the budget very tight this year. The Town has received a greater amount in transfer taxes than anticipated. The Town has already seen significant savings from the purchase of the tractor. The Town Manager has done a good job of patching Ocean Drive and has completed some street drainage projects. Councilman Saxton noted that part of what got the Town here is that taxes were doubled last year and that has carried the balance of that difference. He said the Town has a long way to go to ensure that it is not always depending on variables such as rental tax and property transfer tax.

- **Police Department Report/Questions**—Chief Joe Deloach reported for the month of March, 2010:

- March 2 Alarm on Tamarack. Home was checked and found to be secured.
- March 8 Agency assist at the Chalkboard Tavern with a disorderly subject. Officers apprehended the subject and discovered that he had an outstanding warrant in Nevada for burglary. The subject was transferred to Troop 7.
- March 8 Suspicious subject on Plymouth Road – Large black male going door to door soliciting for detailing work (Big Daddy). He does not have a Mercantile License in town so he should not be doing any work in town.
- March 9 Multiple stop signs and street signs were stolen from the area of Anchorage Drive. Investigation resulted in the arrest of a subject residing on Anchorage Drive. Subject was charged with stealing the signs and the police found some of the signs in the back yard. The police got the tip from a resident across the canal that saw the signs in the back yard. Subject was fined \$100 for disorderly conduct.
- March 10 Agency assist with Bethany Beach Police with a robbery at the Discount Cigarettes in Bethany Beach. Assisted Bethany Beach Police in setting up a perimeter and looking for the subject.
- March 11 Property check at 104 New Castle Drive. Neighbor reported an open window on a construction site. Officer responded and found the property to be okay.
- March 11 Alarm on York Road. Officers responded and found the homeowner presently at the home. Everything was secure.
- March 14 Public assist. Officer assisted homeowner with flooding inside the home due to a strong Nor'easter causing tidal flood.
- March 15 Open door on Kent Ave. Everything was secure.
- March 18 Officer attempted to catch a loose dog. Investigation found that the dog belonged to a construction worker and the worker had been letting the dog run loose for the past few days. Officer found the owner and he was issued town ordinance tickets for dog at large and not displaying tags.

- March 18 Alarm at Grotto's. Workers were on the scene preparing for the season.
- March 18 Traffic stop leads to arrest of drug paraphernalia. Vehicle was stopped for suspended tags due to insurance. The operator was driving on a suspended license. A search of the car produced a marijuana pipe belonging to the passenger. Subjects were issued a summons and released pending a court date.
- March 19 Code violation on Evergreen Road. Construction during prohibited hours. Workers on the site were told to shut down.
- March 19 Code violation at 10 S. 1<sup>st</sup> St. Stop work order was issued by the Town Manager and the site was shut down by the police.
- March 21 Code violation at Rt. 1/Bayshore Dr. Officer received calls about apparent homeless subject begging for money. Officer stopped the subject outside the town and advised him that he cannot panhandle within the town limits.
- March 23 Traffic stop for bad tags leads to arrest of a local fugitive. Subject was wanted out of Court 14 for DUI. He was transported to court and released on bond.
- March 24 Suspicious vehicle on Ocean Dr. An older model white work van was observed driving up and down on the side streets at approximately 11 p.m. Vehicle was stopped by an officer and the officer identified multiple construction workers who were looking for a construction site on N. Ocean Dr. They stated that they had permission from the homeowner to live in the property while work was going on.
- March 26 Two different traffic stops back to back led to the apprehension of local fugitives. Those subjects were wanted out of Court of Common Pleas in Georgetown for criminal charges. They were both taken to court to answer the same.
- March 27 Burglary at 439 Black Gum Dr. Reporting person contacted the police department in reference to an open door at the location. Officers responded and found the front door of the residence had been pried open with a large crowbar. Once inside the residence, officers discovered that the unknown subjects removed a flat screen TV. Subjects had fled the residence leaving the crowbar behind on the couch. The officers took the crowbar and processed it. The police dusted it for prints, but no prints came up.

- **Police Department Bicycle Helmet Program**—Chief Joe Deloach

Chief Deloach obtained a grant and purchased 100 helmets. Chief Deloach will stop people on bicycles who are not wearing a helmet (required by law if under 18) and let them know what the law is. He will give the subject a helmet and require a \$5 deposit. They can bring the helmet back and get the deposit back but Chief Deloach is hoping they will keep the helmet. Chief Deloach stated that if the police give the subject a ticket, they will go to court and the fine for the first offense for not wearing a bicycle helmet is \$25. If the parent or guardian brings a helmet with them to court, then the fine is dismissed. Chief Deloach hopes that the bicycle helmet program will save the officers that trip to court. He believes the program will benefit everyone. Mayor Jayne stated that this has been a dilemma and a very important safety factor for the past few years. He believes this is a very good solution and he complimented Chief Deloach for coming up with the program. Councilwoman Matera thanked Chief Deloach for all of the work he has done on this program. A motion was made by Councilman Fields, seconded by Councilman Headman, that the Council approve the South Bethany bicycle helmet safety program. The motion was unanimously adopted.

## **ORDINANCES/RESOLUTIONS**

- **First Reading of Ordinance 154-10, Chapter 145, Zoning, to Further Define Structures Allowed in the Setback and Define Accessory Structures Allowed in the Rear Setback (Tim Saxton)**

Councilman Saxton reviewed Ordinance 154-10. He noted that this ordinance was reviewed by the Planning Commission and they brought comments back to Councilman Saxton.

Mr. Cestone stated that in the synopsis it mentions the rear setback, but really it is talking about all setbacks. Mr. Cestone also suggested adding another exclusion – trash can bins. He also suggested applying "30 feet in height" only to flagpoles and birdhouses. He also suggested adding a definition to include manufactured storage containers or sheds such as Rubbermaid. Regarding sheds, Councilman Saxton stated that he attempted to include that in his first draft of the ordinance, but there is a lot of work that will have to go into including sheds in the ordinance. Councilman Saxton stated that he knows he has to go back and tackle that, but for now he is trying to get this ordinance through so that people can have clotheslines and swing sets this summer. Mr. Cestone also suggested amending § 145-38 F and G because the town code that covers boat lifts was revised a few years ago to reflect DNREC's requirements that docks and boat lifts can protrude into the canal only 20% of the width of the canal. For some canals that are narrow, 13 feet is greater than that.

Mr. Nazarian asked if residents can place a swing in the front, rear, or side setback. Councilman Saxton stated that he will have to reidentify it as the rear setback.

Mayor Jayne declared this the first reading of Ordinance 154-10.

- **Resolution 2-10, A Resolution to Set the FY 2011 Property Tax Rate and Rental Tax Rate**

Mayor Jayne stated that the property tax shall remain at \$1.30 per hundred assessed valuation and rental tax shall remain at 8% of total gross receipts on the properties. A motion was made by Councilman Saxton, seconded by Councilman Headman, to approve Resolution 2-10. The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Fields, Headman, Saxton, Matera, Gassinger, and Youngs

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

## **COMMITTEE REPORTS**

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

There was nothing to report.

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

Councilman Headman thanked George Junkin for creating and the South Bethany Property Owners Association for supporting a grant proposal regarding a pilot program for diffusers in one of South Bethany's canals. Councilman Headman reported that the grant was denied.

Through the help and support of the Center for the Inland Bays (CIB) working with the town and other towns, a portion of the funding for the Anchorage Canal Assessment Study was received. Councilman Headman gave credit to Chris Bason, a scientist for the CIB, for the success in obtaining the funding.

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

On behalf of the Budget and Finance Committee, Councilman Saxton presented the final draft budget for approval by the Town Council. Councilman Saxton also gave a PowerPoint presentation to the town titled South Bethany FY 2011 Budget Presentation (attached). Councilman Saxton made the following comments regarding the PowerPoint presentation:

FY 2010 Budget – Status thru 03/31/10 (Page 4): The Reserve Contribution figure may be a little conservative. There have been a few more sales in town than expected.

FY 2011 Budget – Revenue Projections (Page 10): Believes the rental tax income will be flat, which is a small decrease from last year because the Town did not make last year's monies in revenue for rental tax income. Regarding real estate transfer tax, the Town has exceeded the \$270,000 and is a little over \$290,000 this year. However, the Budget and Finance Committee believes that with the constant reduction in prices, \$270,000 remains a good estimate for FY 2011. Regarding interest income, there has been a significant decrease as the Town has had to turn over CDs. For the FY 2011 budget, interest income has been lowered by 50%.

FY 2011 Budget – Major Expenses (Pages 12 & 13): Health care rates for FY 2011 increased about 9%. Regarding IT upgrades, Councilman Saxton noted that no monies will be spent on the IT upgrades until the Town Council approves the recommended plan.

Councilman Saxton stated that this is still an austere budget.

Mayor Jayne stated that he is going to vote for the budget but he is disappointed that the 2.5% raise for the staff is not in the budget. Mayor Jayne hopes that the Budget and Finance Committee and the new Council will look at where the Town stands financially in the fall and consider a 2.5% raise for the staff at that time. Councilman Saxton stated that the Budget and Finance Committee has committed to continuously look at the revenues and whether some type of salary adjustment is feasible.

Councilman Saxton complimented Mayor Jayne saying that he had done a very nice job of working with the Budget and Finance Committee allowing the committee to ask the questions they needed to ask. Councilman Saxton said that Mayor Jayne navigated through the process quite well.

## **ADMINISTRATIVE MATTERS**

- **Approval of FY 2011 Budget**

A motion was made by Councilman Headman, seconded by Councilman Youngs, to approve the FY 2011 Budget. The voting was as follows:

FOR THE MOTION: Mayor Jayne and Councilpersons Fields, Headman, Saxton, Matera, Gassinger, and Youngs

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

- **Discussion of Administrative Procedures for the Non-Binding Referendum on a South Bethany Recreational Area Park**

There was a discussion about the public notice (attached) regarding the Non-Binding Referendum on a South Bethany Recreational Area Park which Councilman Youngs had prepared. Council members made the following comments during the discussion:

Councilman Youngs: The intent is that the public notice is both the public notice and the article for the ZEPHYR. In the public notice it states, "The referendum will take the form on the ballot as follows: (Exact wording subject to approval by the election Commission) I vote in favor of the development of a Recreational Area Park in and upon that parcel of land currently known as Richard Hall Park, located East of and in front of Town Hall. I vote against the development of a Recreational Area Park in and upon that parcel of land currently known as Richard Hall Park, located East of and in front of Town Hall." Councilman Youngs stated that there is a current proposal for "a" recreation area that uses Richard Hall Park. It is on that basis that he put "Richard Hall Park" back in. If you take out the reference to Richard Hall Park, people say you are trying to hide something. If you put in the reference to Richard Hall Park, people say you are trying to vote on a specific item. Councilman Youngs said that there is no right answer. He does not believe Council can put in print in the ZEPHYR content equal to what is going to be delivered in the public meetings. He believes there will be more detail discussed and presented at the public meetings and you cannot put all of that into a document that you are presenting for somebody to read. In the public meetings a concept of what that park could look like will be presented for clarification purposes. Referring to the South Bethany Park Committee's proposal, he believes that if he puts all of the detail of that proposal in the public notice Council will come back and say it looks like the Town is endorsing that proposal. Councilman Youngs stated that he can't do anything because if he puts the detailed information in, it looks like Council is endorsing it, and if he leaves the detailed information out, then Council is not telling everything. Councilman Youngs said that he was asked at the March 19 Workshop to revise the public notice so that there were two identical meetings (not three meetings) and to provide information about the proposed recreational area so that people could make a more informed decision. Councilman Youngs said that in the public notice he has referenced the web pages that show what "a proposal" is and he has also commented on the proposal and the objections to the proposal. He said that the public meetings will obviously expound on that. Councilman Youngs said that if he goes further in descriptions, then it looks like the Council is endorsing the proposal, and if he backs off of it, then it looks like Council is trying to hide something.

Councilman Fields: The second page of the public notice should be written in the third person and not the first person. Councilman Fields believes "Richard Hall Park" has to be in the notice because we are specifically talking about that piece of ground. The essential problem is that Council is putting out a referendum where people don't know the specifics.

Councilwoman Gassinger: Believes "Richard Hall Park" should be in the notice. Councilwoman Gassinger stated that she is for the referendum but she had always wanted to get a legal opinion first. She believes the packet that the South Bethany Park Committee gave to Council in December which shows exactly what they propose should be shown.

Mayor Jayne: Stated that it is not mandatory that the referendum be in conjunction with the election. Mayor Jayne thought the information that Council gave to the people was going to include a description of the project, costs, and details so that people would have a basis for making a decision. Mayor Jayne said the packet that the South Bethany Park Committee gave Council in December included pictures, layouts, and cost estimates.

Councilman Headman: His support for going to the non-binding referendum was for people to make a decision based on clear information. He believes that if Council asks "Do you want a park or do you not want a park", Council will not get the information it needs. He believes

the people need to be voting on something very clear as to what is being proposed for that park so that the Council has a greater understanding of whether the community really wants that to happen. He believes the costs and the plans are important and should be in the public notice.

Councilman Saxton: Has a problem with referencing the two websites (the SBPOA website and the South Bethany Park Committee website) in the notice because the Town Council has taken no position on the issue, and by putting that in the public notice it makes it look like the Council took a position. Councilman Saxton believes that Council has gone from the original concept of "do you want a park or not want a park" to "do you want a park on this land". By referencing the websites it looks like Council has endorsed having a referendum for a recreational area park on Richard Hall Park. He firmly believes Council has not endorsed anything.

Property owners made the following comments:

Sandi Roberts: Stated that even after attending all of the meetings she is confused, and she considers herself an informed person. She does not know how anybody could be clear on what they are going to be voting on.

Dennis Roberts: Suggested contacting state regulatory agencies to see if the park is a viable possibility.

Diane Nazarian asked Council to share the public notice with the audience.

A five minute break was taken and copies of the public notice were distributed to the audience.

After Mayor Jayne reconvened the meeting, property owners made the following comments:

Michael Morabito: Believes the proposal that is before the Council on this park referendum hasn't had its birth from the Council but from an outside group of people. He suggested reassessing the whole thing, take the referendum off the ballot for now, hold public meetings to form a plan, and maybe send out an informal survey. He suggested that the Town Council could form a committee to investigate the idea of a park recreation area and have people from both sides of the issue give input. He believes as it is now it is very confusing.

Sue Callaway: Thanked Councilman Youngs for all of the time and effort he has put into trying to prepare something so that it is a fair and balanced referendum. She stated that the South Bethany Park Committee has been working diligently to try to prepare as much information as possible. She said that the committee truly does want to know if the majority of residents in South Bethany want to have a park or do not want to have a park. The only way to determine that is by a vote, and the dilemma is how to do that. She said that for those who are investigating the park they truly hope the majority of residents want a park, but they realize that may not happen. The committee wants it to come to a fair vote to say do you want us to pursue this. She said the most obvious option for the park in the Town of South Bethany is the Richard Hall Memorial Park. The committee knows that even if the majority of the citizens say they want a park, it still may not happen – it is a step by step process. But you can't follow all of those steps without knowing if the people of South Bethany want a park.

Bob Cestone: Believes that by trying to do everything in one document is complicating things. He suggested having a public announcement for the public hearings the same as is required for an ordinance change to the Zoning chapter. And then have a document that lists specifically what you are proposing to do and not try to hide anything. He suggested stating that the proposal is for the property known as Richard Hall Park. He also believes cost figures have to be included because the biggest thing everyone asks is "what is it going to

cost me." He suggested announcing that documents are available at the Town Hall. You could even use the proposal from the South Bethany Park Committee, and if there is another group that wants to oppose it, have their proposal. Mr. Cestone would not spend any money to look into the legal aspects or wetlands until Council finds out if the people want the park. He also said to make it clear that this may not happen if the Town cannot do it because of the deed or if the property is wetlands.

Jim Gross: Stated that the public notice is not bad and suggested changing the wording on the ballot to "I vote in favor of **investigating** the development of . . ." He also recommended editing the last page.

Mary Suazo: Stated that the real issue is can the Town put a playground in the park. She believes the answer in a letter from Mr. Ames is no. She believes the Town is sitting on top of a possible lawsuit and the real issue is can the Town put a playground in the park. She believes the Town is facing putting that land in jeopardy if the Town goes ahead without legal advice. She believes this is a legal issue. She suggested dropping the referendum and straighten out the legal issue. Then come back with the referendum.

After the discussion Councilman Fields stated that he does not believe this is ready for prime time. He said that the Town can have a referendum, but he does not believe it should be at the end of May. A motion was made by Councilman Fields, seconded by Councilman Headman, that the Council rescind Resolution 1-10, the resolution authorizing the referendum. Mayor Jayne asked for further discussion from the Council. Councilman Youngs said that instead of rescinding the resolution, Council needs to make a decision on what to put in the public notice. Councilman Fields stated that he does not think Council is at the point where a referendum is going to provide the answer it wants. He believes it is going to raise more questions. He said the Town can still have a referendum, but he thinks Council needs to do more work in terms of presenting this idea. Councilwoman Matera said that she sees both sides and she would hate to put off this vote. She likes Mr. Gross' suggestion of adding the word investigating to the ballot. She also believes that Council has to give the people the information that is presented by the South Bethany Park Committee otherwise there is no issue. She would like to put this to bed one way or another without spending any of the Town's money at this point. She suggested taking Richard Hall Park out of the ballot because Richard Hall Park is going to be obvious in the presentation from the South Bethany Park Committee. She would like a large note at the bottom of the public notice that the Town Council has taken no position on this subject. She believes it is up to every individual to do their due diligence before they vote on something or they choose not to vote on something.

Mayor Jayne called for a vote. The voting was as follows:

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

AGAINST THE MOTION: Councilpersons Matera and Youngs

The motion carried with a 5-2 vote.

### **ADJOURNMENT**

Before adjourning, Councilman Fields asked if the April 22 Workshop was cancelled. There was no opposition.

A motion was made by Councilman Fields to adjourn the April 9, 2010, Town Council Regular Meeting at 10:00 p.m. The motion was adopted.

PHS:Regular Meeting Minutes.4.9.10

Attachments: South Bethany FY 2011 Budget Presentation  
Public Notice Regarding Non-Binding Referendum