

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
MAY 9, 2008**

ATTENDANCE

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

MEETING CALLED TO ORDER

Mayor Jayne called the May 9, 2008, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

PRESENTATION OF ACEC AWARD

Councilman Headman stated that Lloyd Hughes was unable to attend due to an illness. Councilman Headman said that Mr. Hughes served on the Town Council, among other things, and is a retired engineer who for the last 10 plus years has been working on a concept called the Tidal Pump Project System, a system to flush the canals by bringing clean ocean water into the canal and then flushing it through the system. Lloyd Hughes developed the concept and then the Town, with the support of grant monies, had a modeling study done to see if the concept worked. The modeling study confirmed that it did work and it would clean the canals. The Town hired two companies, Oceaneering and KCI, to find out how much the Tidal Pump would cost as well as to look at the design and to come up with a construction schedule for the Tidal Pump. Oceaneering and KCI's study supported that the concept does work. The problem is to find the support and money to get the project done. The cost study indicated that it would cost between five to seven million dollars to complete. For the last year and a half, the Tidal Pump Committee has been working to forward the concept. The Tidal Pump Committee knows that to get funding for the project DNREC's support is needed. The committee is working to get DNREC's support. The committee has met with the Secretary of DNREC and is going to meet with DNREC staff to answer their questions and concerns.

The Tidal Pump concept is based on tidal differentials between the bay and the ocean. It is not mechanical.

Councilman Headman explained that what he wanted to do tonight was say thank you to Lloyd Hughes for his brilliance and the incredible amount of work he has put into this concept. Based on the Tidal Pump System Budgetary Study which was done by KCI and Oceaneering, the Town received the following awards:

- American Council of Engineering Companies (ACEC) Maryland 2008 Outstanding Project in Studies, Research & Consulting Engineering Services
- American Council of Engineering Companies (ACEC) Maryland 2008 Grand Award.

Councilman Headman emphasized that the Town could not have done it without Lloyd Hughes' conceptual design and work.

Mayor Jayne and Lloyd Hughes attended the American Academy of Environmental Engineers Luncheon in DC at the National Press Club where the awards were presented. It was a very nice affair and Lloyd Hughes received many compliments.

Using Lloyd Hughes and the Tidal Pump Committee members as an example, Councilman Headman concluded that the Town is very fortunate to have very dedicated, intelligent, and hard working people.

GO-MELVO, INC. – MELVIN MCMAHON

Mayor Jayne explained that Mr. McMahon had ten minutes to speak as indicated on the agenda.

Mr. McMahon introduced his attorney, David Hutt, and his son Jeffrey McMahon.

Mr. McMahon stated that the company has been selling sno-balls in South Bethany for 14 years and would like to continue. He then turned the floor over to his lawyer, David Hutt.

Mr. Hutt reintroduced himself as David Hutt, an attorney with Wilson, Halbrook, & Bayard in Georgetown. He stated that they are here to ask for the reconsideration of Resolution No. 4-07 which was passed by the Mayor and Town Council in December. Mr. Hutt said that part of the impetus of Resolution No. 4-07 was a memo from Mayor Jayne which identified four vendors. None of the vendors were named specifically, but the first vendor identified was in fact Go-Melvo. It was identified as being the longest in tenure and indicated that it had been in existence for several years. Mr. Hutt stated that Go Melvo has been bringing sno-balls and refreshing people on South Bethany's beaches for 14 years. Mr. Hutt made the following points:

- The charm of a place like South Bethany, small town quiet atmosphere, is because of small local businesses like Go-Melvo and the sno-ball that it vends each year. Go-Melvo employs local individuals. The vendors are known and recognized by the people who frequent South Bethany's beaches. They know Jeff and Melvin McMahon by their name. This is part of the charm and attractiveness of a community such as South Bethany.
- Cat's Meow identified the Town of South Bethany with Go-Melvo's sno-ball trucks. (Mr. Hutt showed the wooden piece to Council.) Go Melvo did not ask the company to identify South Bethany with this. Go-Melvo did not even know it was done until somebody showed it to them.
- Go-Melvo routinely hangs in their trucks, year after year, all of the signs that the children make for them. (Mr. Hutt showed a stack of these signs.)
- They have obviously had an impact on the economy. They are part of the charm of South Bethany which helps to bring people back year after year. They employ local individuals and buy ice and supplies as they vend.
- They have cooperated with the Town. In 2006 when the Town asked Go-Melvo to modify their trucks for safety sake, Go-Melvo was happy to comply. They obviously want to enhance the safety of their patronage.
- Go-Melvo submitted a FOIA request to the Town to find out the nature of the complaints indicated in the Mayor's report. In response to their FOIA request, Go-Melvo received a copy of one complaint which was generated by an article in the local newspaper that indicated that the Town was considering the issue of vendors in town. It was not a complaint that was generated all on its own.
- The Mayor's report indicates that the model size truck would be that of the first vendor, which is Go-Melvo.
- The majority of the Town's concerns in the Mayor's memo to the Town Council Members appear to be related to safety, liability, and the new topography of the beach.
- The new dune and the fact that there are crossovers at specific points will lend itself to vending right across the walk.
- The new topography of the beach enhances safety.
- The Town could pass a resolution requiring vendors to have the same size truck as Go-Melvo or vend from the same side as Go-Melvo does.
- The Town could easily require vendors to present a certificate of insurance and whatever general commercial liability limits the Town would want to set. For the record, for the past 14 years Go-Melvo has carried general liability insurance as it always has.
- South Bethany is part of the core, if not the core, of this small business.

Mr. Hutt stated that the request to the Mayor and Town Council Members is that they work with Go-Melvo, reconsider Resolution No. 4-07, and possibly enter into a concession agreement

which would raise revenue for the Town. Go-Melvo would welcome the opportunity to work with the Town in forming a concession agreement.

Mr. Hutt stated that an easier alternative would be to draft a resolution utilizing the requirements mentioned in the second alternative of Mayor Jayne's November memo.

Mr. Hutt stated that it is uncertain what will happen to Mr. McMahon's business if a substantial or the substantial part of his business is lost due to this moratorium.

Melvin McMahon stated that his business has been operating for 14 years with no safety problems. The new dune enhances the safety. Melvin McMahon made the following points:

- It isn't really the core of our business it is the heart of our business.
- They make the kids happy and the Board does not realize how they are going to disappoint the children.
- Had Mr. McMahon seen the ad in the Coastal Point last year he would have approached the Board at that point. He wished he would have been given the consideration to speak with someone before the resolution was passed. He believes that would have been fair to him.
- The Town allowed two new vendors last year and we were thrown in with them. We have been here 14 times as long.
- The Town asked Go-Melvo to change their trucks and then Council allows another vendor to come in that has a truck with the dimensions that they had just asked Go-Melvo to change. Mr. McMahon sees no logic in that.
- Mr. McMahon believes that Go-Melvo is good for South Bethany. (Members of the audience applauded.)

Mayor Jayne inquired how much time was left. The Town Manager stated that we were already over. Seth Thompson, the Town's Attorney, confirmed that they were over the time allotted.

Prior to the Property Owners Participation portion of the meeting, Mayor Jayne gave people in the audience the opportunity to speak regarding snow cones. He allowed two minutes per person.

Rose Walker (108 Brandywine Drive) – Ms. Walker released her time to Melvin McMahon's son. Jeff McMahon stated that he has worked (ran) the South Bethany route since he was 16 years old. He added that he was 26 years old now and has been on Ocean Drive for 10 years. The customers have become his friends and that is his life. He is a teacher in the wintertime. He stated that customers that he keeps in touch with over the wintertime were disappointed and wish they could have attended this meeting but they are only here in the summertime. He added that in the summertime you would really see the support that this town has for Go-Melvo Sno-Balls. He added that they have been doing this for 14 years. Other vendors come along and try to mimic Go-Melvo, but they don't do the job like Go-Melvo does and they don't please the people like Go-Melvo does. He wants Council to reconsider. He concluded that if they can't vend this summer they don't know how they are going to make up that money. He wants to be back this summer because this is his life. (There was some applause from the audience.)

Dennis Roberts (107 Canal Drive) – Stated that we've got an opportunity to work with Go-Melvo, a committed vendor of 14 years to the area who has been involved with the different changes to the beach, to develop the safety guidelines. What can you learn if you have no actual experience? It would be to the Town's benefit to work with a vendor who is committed to working with the Town. The Town could use Go-Melvo's cooperation to develop a really safe plan. Regarding children running out in the street, Mr. Roberts suggested (as an example) installing inexpensive snow fence along the edge of the road so that when you came to a crosswalk you would have to go to the sides. Go-Melvo could pull his truck immediately next to the snow fence so children couldn't run out into the street. Mr. Roberts added that his niece and nephew are devastated. They don't see it as just a year.

Barbara Junkin (8 S. 4th St.) – Stated that she personally does not buy snow cones, but people on her street buy them and the kids really like them. Ms. Junkin believes we should try to figure out a way that they can be here this summer. Ms. Junkin thanked Council.

Russ Mullen (107 New Castle) – Believes it is unfair to deny a person their livelihood after 14 years of service for the reasons that have been stated so far. Mr. Mullen wishes the Town would reconsider.

Mayor Jayne said that there are two sides to every story. This is not something Council did lightly. It was thoroughly researched and Council discussed it at great length. Council had at least two meetings on the subject. Mayor Jayne encouraged people to pick up a copy of Resolution 4-07 which was on the sign in table. He explained that Resolution 4-07 itemizes the reasons Council passed the resolution.

Tom Kozielski (163 Henlopen Dr.) – Suggested deferring the resolution and reconsider it when more people are in town. Mr. Kozielski believes Council would get a very different "twist" on the subject. From Mr. Kozielski's perspective, having been in South Bethany since 1999, his kids would be devastated. He added that his children are 19 and 20 years old. Mr. Kozielski admitted that his favorite is orange with marshmallow. Mr. Kozielski believes Go-Melvo is more than a business – they are part of the tradition.

Lois Rubinsohn (135 Anchorage Drive) – Describing herself as a "Pollyanna", Ms. Rubinsohn believes something can be worked out with someone who has committed themselves to the town. She likened Go-Melvo to McCabe's and other stores that are a part of the community. Go-Melvo has connected with the town. She stated that it is Melvin McMahan and Jeff McMahan's heritage. Ms. Rubinsohn hopes Council can "rethink the resolution and come up with another solution." There was a slight applause.

Sandi Roberts (107 Canal Dr.) – Appreciated the survey she received this week that Al Rae sent out to the Property Owners Association. Ms. Roberts wishes the survey would have gone out to all the residents before Council made the decision. Ms. Roberts stated that she lives in town but did not happen to get to the meeting and was not aware that the issue was being discussed until after the resolution was passed. She reminded Mayor Jayne that he had said at the Property Owners Association meeting in April that the Council did not want to make any rash decisions about the beach replenishment. Even though she is sure Council discussed the issue, Ms. Roberts believes that this may have been a rash decision.

Mary Suazo (7 S. 3rd St.) – Speaking for the kids, stated that when she told her grandchildren there would be no snow cones they were devastated. She said it was the same for the neighbors up and down S. 3rd St. The kids are disappointed. For them it is part of coming to the beach. Ms. Suazo requested that Council look at this for a solution and reach some kind of a compromise. She added that it means a lot to the kids.

Dennis Roberts (107 Canal Dr.) – Asked Council if he could ask the audience how many people are in favor of keeping the snow balls. Mayor Jayne approved. Mr. Roberts asked the audience to raise their hands if they would like snow balls to stay. There was a show of hands but there was no count.

Tom Roche (141 Henlopen Dr.) – Cautions drawing reference to this particular vendor. He believes the resolution was to stop all vendors. Council may want to reconsider any wording drafted. Other vendors should be given consideration.

Melvin McMahan stated that one of the issues was the music. He said the dune eliminates the need for any music.

Mayor Jayne called on Mr. Hutt. Mr. Hutt stated that he wanted to make sure that the emails sent to the Mayor and Council had been received. Mayor Jayne said yes and the Town has collected all of them and they are in one location.

Speaking for himself and Council, Mayor Jayne stated that he appreciated everyone's participation. Council will take all of this under advisement. Council will make a decision and respond as soon as possible. Mayor Jayne thanked everyone.

PROPERTY OWNERS' PARTICIPATION

- Barbara Junkin (8 S. 4th St.) – Stated that the beach looks phenomenal. Because of the height of the dune, Ms. Junkin suggested assessing each property owner in order to build beach walkways. Mayor Jayne said that the Town Manager and the Maintenance Supervisor are looking into the possibility of filling in the space between the current walkway and the new walkway to raise the level of the existing walkway for at least one of the crossovers. The Town would have to pay for the construction. It is fairly inexpensive and there is enough money in the 08 budget to pay for it. The Town has talked to DNREC regarding this issue. Mayor Jayne said that a wooden walkway would be a major project. The Town Manager stated that the price of the wooden walkway that is part of the Army Corps of Engineers project is \$600 a foot. Based on that, the cost of the walkway is \$108,000. In order for the Town to build one wooden walkway, each property owner would have to be assessed \$100.

Regarding the problem with water in front of the oceanfront houses, DNREC is aware of and plans to address the problem. DNREC's plan is to fill in that area with beach sand.

Councilman Ronan said that he believes that in addition to the wooden handicap walkway, the Town needs two or three more walkways with railings and a gradual incline scattered around town.

- Bryant Elrod (113 Tern Dr.) – Believes engineering needs to be done with respect to the solutions needed regarding the new dune and walkways. He added that foot traffic will require maintenance of the dune. Mr. Elrod also believes that when figuring the cost of a walkway, the cost of maintaining the walkway should be considered. Mr. Elrod also mentioned that the walkways in Bethany Beach have a much gentler slope toward the ocean.
- Rose Walker (108 Brandywine Dr.) – Asked if there were plans to put trash receptacles and recycling receptacles on the ocean side of the dune as well as the street side of the dune. Mayor Jayne replied that the Maintenance Supervisor is going to place garbage cans on the beach. Mayor Jayne stated that the Beach Committee had not discussed recycling bins. The Town Manager stated that the Town does not have the staff to put recycling containers on the beach and that part of the agreement for recycling was to allow the Lions Club to continue with their recycling of cans on the beach. Referring to the walkways on the street side of the dune, the Town Manager noted that the Town has a very limited right of way there to put the DSWA recycling containers.
- Barbara Jayne (1 S. 7th St.) – Noted that DSWA specifically requested on their literature that recyclables be washed before being placed in the recycling carts. Unfortunately, people could not wash their recyclables from the beach.
- Mary Suazo (7 S. 3rd St.) – Ms. Suazo's neighbor asked her to bring to the attention of the Council that the steps from the handicap walkway come very close to his easement and he would like the Town to look into it. Mayor Jayne stated that it was a good point.

Mayor Jayne stated that the beach replenishment project was totally a State and Federal project and no Town money went into the project. The project is not even in town. The eastern boundary line of the Town is coincident with the eastern plot lines of the ocean front houses. Those plot lines are 130 feet east of Ocean Drive. At 131 feet east of Ocean Drive you are out of town. The Army Corps of Engineers has ultimate jurisdiction over the coastal areas. DNREC's powers with the Corps are powers of persuasion and the Town's powers with DNREC are powers of persuasion. The Army Corps of Engineers always makes the

final decision. The Town is two intervals removed from "the powers that be". Mayor Jayne noted that the Town was able to persuade DNREC who in turn persuaded the Army Corps of Engineers to do some change orders to the basic contract, e.g., an extra walkway was added halfway between S. 6th St. and S 9th St., a fence was added parallel to the fence on the west side to create a walkway, and the handicap walkway, which originally was supposed to end about halfway down the sand slope, was extended to the same level as Ocean Drive. Mayor Jayne noted that even though the Town did not get everything it wanted and even though there are deficiencies, the Army Corps of Engineers and DNREC have been very good to the Town. Mayor Jayne is sure there will be continued cooperation.

- Bryant Elrod (113 Tern Dr.) – Regarding the Town constructing a wooden walkway at \$600 a foot, Mr. Elrod inquired how long the walkway would be. Mayor Jayne said the design of the walkway will be taken into consideration and it does not have to be the full blown walkway like the existing handicap walkway. Mr. Bryant believes the walkway could be half of the existing handicap walkway.
- Tom Roche (141 Henlopen Dr.) – Is glad that the Bethany Beach Volunteer Fire Company is going forward with the ambulance service. Mr. Roche saw a news report on television which stated the fee was \$25 the first year. Council said that the reporter had made a mistake. Mayor Jayne stated that the ambulance agreement between the Big Four was signed on Thursday, May 8.
- Joe Schaefer (154 Petherton Dr.) – Was nonplussed that unimproved lots are being assessed \$45 annually for the ambulance fee. Mr. Schaefer does not believe the service represents a service to an unimproved lot since there is nothing there to service. Mr. Schaefer also questions if it fits in with the 911 philosophy of buildings identified for ambulance locations. Mayor Jayne replied that the Town has had other complaints about the assessment of vacant lots, especially from multiple lot owners. Mayor Jayne explained that it was done this way per the agreement put together by the Big Four and the Bethany Beach Volunteer Fire Company after many meetings. Mayor Jayne stated that at a recent meeting among just the Big Four it was agreed that the Towns can assess whatever way they want to. This will give the Town the option to decide whether or not to assess vacant lots for the ambulance fee. The agreement needs to be reviewed by the lawyer before it is finalized. Mayor Jayne said he hopes to discuss this at the May 22 Workshop.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, April 11, 2008** – A motion was made by Councilman Headman, seconded by Councilman Ronan, to accept the April 11, 2008, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Special Meeting/Workshop Notes, April 24, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Gassinger, to accept the April 24, 2008, Town Council Special Meeting/Workshop Notes. Mayor Jayne asked if there was any discussion. Councilman Headman complimented and thanked Pam Smith, commenting that she does a wonderful job capturing the meeting discussions. The voting was as followed:

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

AGAINST THE MOTION: None

ABSTAINED: Councilmen Ronan and Rubinsohn (were not present at that meeting)

The motion carried with a 5-0 vote.

- **Town Council Executive Session Minutes, April 24, 2008** – A motion was made by Councilwoman Lambertson, seconded by Councilwoman Gassinger, to accept the April 24, 2008, Town Council Executive Session Minutes. The voting was as followed:

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

AGAINST THE MOTION: None

ABSTAINED: Councilmen Ronan and Rubinsohn (were not present at that meeting)

The motion carried with a 5-0 vote.

LEADERSHIP REPORTS

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

Regarding the State threatening to take away the real estate transfer tax, Mayor Jayne stated that there is no way to explain what the impact would be on the Town if it lost the real estate transfer tax. Mayor Jayne said not to be alarmed and that the Town is on top of this issue. The counties and every town and city in Delaware are against it. The Town is working with the Delaware League of Local Governments and the Sussex County Association of Towns regarding this issue.

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

Bulk Trash pickup is May 10.

The dredging of the canals is complete.

The Code Enforcement Constable's Report was available on the sign in table.

Councilman Headman asked if for next year the Bulk Trash pickup could be scheduled after the SBPOA's yard sale date. The Town Manager said that the Town tried to schedule it for the Saturday after the yard sale for this year but was unable to do so because Allied Waste is already backed up from the Memorial Day holiday that week. The Town Manager and Mr. Rae, SBPOA President, agreed to work together to coordinate a date for the yard sale in which the bulk trash pick up could be scheduled soon after.

Councilman Fields inquired if the Town Manager knew why steps were built down both sides at the middle of the handicap walkway at S. 3rd St. The Town Manager stated that the original plans called for steps but he needs to check with Tony Pratt of DNREC regarding the location of the steps.

- **Treasurer's Report**—Councilman Rubinsohn reported as of April 30, 2008:

Balance Brought Forward	\$ 1,569,000
April Revenue	\$ 104,000
April Disbursements	\$ 282,000
Balance	\$ 1,391,000

Councilman Rubinsohn noted that the Town's transfer tax revenue collections for FY 2008 were \$139,000 less than in FY 2007. However, the Town collected \$71,000 the month of April 2008 which was \$40,000 more than collected in April of 2007. Referring to the one percent transfer tax revenue, Councilman Rubinsohn said that the Town budgeted for \$300,000 for FY 08 and actually collected only \$209,000.

- **Police Department Report/Questions**—Chief Joe Deloach reported for the month of April, 2008:
 - April 6 911 disconnect on Ocean Drive. Problem was in the phone line.
 - April 10 A contractor in town was located and arrested for allowing an illegal alien to drive a vehicle without a license.
 - April 11 Agency assist with Fenwick Island Police. The subject was arrested for driving under the influence and the vehicle was impounded. The officers used South Bethany's ECTACO Speechguard PD-5, which is a hand-held police translator, to communicate with the Spanish speaking driver.
 - April 15 Trespassing on Henlopen Dr. Unknown suspects moved owner's boat around in his yard. No damage.
 - April 15 Traffic violation on Rt. 1. Warrants were issued for a driver that had passed a stopped school bus. Suspect has not been located at this time.
 - April 17 Alarm on York Rd. The door was found opened and unlocked. No property was missing and no sign of a burglary.
 - April 20 Alarm on W. Essex in Fenwick Island. South Bethany Police responded because the Fenwick Officer was on another complaint.
 - April 27 Driving under the influence and drug arrest on Rt. 1 and Division St. Subject was stopped for a traffic violation and it was discovered that he was intoxicated and in possession of marijuana. Subject was arrested and his vehicle was impounded.
 - April 27 Criminal mischief and theft on N. 6th St and the beach. Unknown subjects stole lumber from a victim and had a bon fire on the beach. The theft was not immediately discovered and there were no witnesses to the incident.

Regarding "June Bugs", Chief Deloach commented that he had visited some of the local realtors to get dates and the department is going to stay on top of it.

ORDINANCES/RESOLUTIONS

- **Third Reading of Ordinance 141-08, Amending Chapter 134, Vehicles, Operation of, to Allow Enforcement and Penalties for Offenses of Traffic-Control Devices. (John Fields)**

Mayor Jayne introduced Seth Thompson, an attorney from Hudson, Jones, Jaywork & Fisher, who was filling in for Town Solicitor Terry Jaywork.

Councilman Fields explained that Ordinance 141-08 is designed to cover traffic-control devices that are particular to South Bethany. The ordinance also provides for a fine for violation of these traffic-control devices. This ordinance gives the Police Department the authority to issue tickets and fines for devices that have been approved by the Town Council.

Referring to Mayor Jayne's earlier statement that the eastern boundary line of the Town is 130 feet east of Ocean Drive, Mr. Roche asked if the Town has the jurisdiction to patrol vehicles driving on the beach. Councilman Fields stated that municipalities do regulate the beaches and are responsible for the conduct on the beaches. The Town's attorney, Seth Thompson, stated that if a law by the state is designed to be exclusive, then the Town can't regulate it. If the state's law is not designed to be exclusive, then the Town can regulate it. Mr. Thompson added that most of the time the Town can be more constrictive but not less constrictive. Mayor Jayne stated that the Town's authority to operate the beach comes from DNREC.

Mayor Jayne called for a vote. A motion was made by Councilman Fields, seconded by Councilman Rubensohn, to approve Ordinance 141-08. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 7-0 vote.

COMMITTEE REPORTS

- **Assawoman Canal Dredging** – Councilman Rubensohn reported:

This is the third year of the project. The project is supposed to be completed this year but because of problems encountered the first year on the south end they will not be able to finish the project this year during the regular time period of September 1 through December 31. DNREC hopes to get permission to start the project in August and continue through January or February until the project is completed. To come back a fourth year would cost extra money and because of the State's budget problems it is possible that they will get permission to go beyond the original schedule this year in order to complete the project.

Nearly the entire northern end has been dredged. Most of the work to be done is in the southern end.

Mr. Elrod inquired if tree stumps sticking out along the side is an issue. Mr. Cestone said trees that are overhanging the canal are supposed to be cut off and cleared out. Tree stumps are supposed to be left to help stabilize the side of the canal.

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

Councilman Ronan did not have anything to add to what had previously been discussed during the Property Owners' Participation. The project was done on schedule and turned out great. The one drawback is the slope of the walkways.

Regarding the Town's Beach Survey, Mayor Jayne said the Town is interested in getting comments on the situation after beach goers have had some experience with the new beach. The appropriate time for renters to submit the survey is at the end of their rental week. The appropriate time for property owners to submit the survey would be sometime in August or September.

- **Beautification** – Councilman Ronan reported:

Councilman Ronan stated that the landscaping around Town Hall was very tastefully done. Councilman Ronan complimented the Building Committee on the Town Hall and Police Department buildings which he believes fit in with the environment, are just the right size, and done at a very reasonable amount of money.

The beautification projects on the highway are coming along fine. Another bed is being added at the southern end of town. The Town has budgeted to do a little each year.

Ms. Walker thanked the Town for cutting the tall grasses on Rt. 1 that were obstructing the view of drivers.

- **Canal Dredging** – Mayor Jayne reported:

The dredging is done. Anyone can put their boats in the water now.

Councilman Headman noted that there is still a sign that says "underwater pipeline" in the water. The Town Manager does not know if that sign is from the Town's contractor or if it is from the State.

Regarding the shallow area out in Snap Gut that Mr. Roche had brought up at a previous meeting, Mayor Jayne stated that he and the Town Manager are thinking of talking to DNREC to see if they could dredge it next fall, but they do not know where the shallow area is. Mr. Roche said he will have his neighbor show him where it is and maybe the Maintenance Supervisor or somebody from the Town can go out and mark it. Mayor Jayne stated that he cannot make any promises except that he will see what the Town can do.

- **Town Hall/Police Building Construction** – Councilwoman Gassinger reported:

Our grand opening was May 3 and it seemed to be enjoyed by everyone in attendance.

Councilwoman Gassinger thanked Barbara Jayne and the Grand Opening Committee for the great job they did organizing the Grand Opening.

Councilwoman Gassinger was pleased at the number of residents who mentioned how much they liked the Town Hall and Police Department buildings. They seem to feel that the buildings blend in well with the community.

Councilman Headman thanked Councilwoman Gassinger saying that the building looks great and the ceremony was very nice.

- **Planning Commission and Comprehensive Plan** – Councilman Fields reported:

Nothing to report at this time. Mayor Jayne inquired about impervious surfaces. Councilman Fields replied that Council would have two draft ordinances for discussion at the next workshop.

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

The Tidal Pump Committee has a meeting coming up with DNREC.

At the May 22 Workshop, the Tidal Pump Committee and the Canal Water Quality Committee will update Council on what the committees have been doing.

Mr. Roche suggested writing a letter to the State and County legislatures noting the awards given to the project. Mr. Roche asked if it was possible to do the Tidal Pump project in phases in order to obtain funds to start the process. Mayor Jayne replied that he thinks the engineering leading up to the project could be done in phases but the actual construction could not be done in phases.

Right now the committee's focus is to get the support of DNREC and to show DNREC that the Tidal Pump will function and it will be a win-win situation for the Town and for the Inland Bay area surrounding the Town. DNREC has indicated to us that if you weigh the environmental win versus the cost and the permitting process, they are not in support of the project at this point.

The committee is still meeting with the State and National Representatives to keep them informed. Senator Bunting and Representative Hocker are supportive of the program. The

Tidal Pump Committee made a presentation to U.S. Senator Tom Carper when he visited the Town. Mayor Jayne agreed that telling them about the awards is a good suggestion.

Regarding cost, the Committee is looking at different things in order to make it more manageable.

There was a discussion on how the Tidal Pump would work.

Mr. Kozielski wondered if the Town canals would take tidal flow from the Indian River Inlet once they break through the south end of the Assawoman Canal. Councilman Headman replied that from what the experts on his committee have told him, it is not going to have that much impact on the flow.

- **Windmills** – Councilwoman Lambertson reported:

Delmarva Power is looking into land based windmills.

The State Senate seems to be in favor of Bluewater Wind. One problem with Bluewater Wind is they want the customers to pay for the whole thing. Another problem is Delmarva Power is being forced into a 25 year contract.

Councilwoman Lambertson stated that it is all working itself out very slowly.

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

The Canal Water Quality Committee was able to find the matching funds through DelDOT (in kind services) and the CIB (grant money) for the matching grant from the Army Corps of Engineers to study the retrofit strategies about stormwater from the north coming into the Town's canals. The study will look at the most effective ways to deal with the stormwater.

Mayor Jayne stated that he has gotten other mayors from nearby towns that have similar stormwater problems interested, and he hopes to generate more activity on this subject.

Ms. Walker asked if property owners needed to call DNREC to harvest the algae blooms or is it going to be scheduled. The Town Manager said that there is a link on the Local Links page of the Town's website for citizens to report algae blooms to DNREC.

EXECUTIVE SESSION – LEGAL MATTER

After a short discussion, Council decided not to go into an Executive Session

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Headman, to adjourn the May 9, 2008, Town Council Regular Meeting at 9:00 p.m.