

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
JUNE 13, 2008**

ATTENDANCE

PRESENT: Mayor Gary Jayne; Councilpersons Jay Headman, Bonnie Lambertson, and Marge Gassing; Town Manager Melvin Cusick; M/Cpl. Eric Watkins; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilmen John Fields and Richard Ronan

MEETING CALLED TO ORDER

Mayor Jayne called the June 13, 2008, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

Mayor Jayne announced that Councilmen Ronan and Fields had excused absences.

PROPERTY OWNERS' PARTICIPATION

Mayor Jayne reviewed the following rules: If you wish to speak, please raise your hand. Don't speak until acknowledged. Please stand up and give your name and address. Try to limit your comments to 3 - 5 minutes. If you have two subjects to talk about, limit each turn to one subject. After you have had your first chance, wait until everybody else is finished before you ask to speak the second time.

- Mike Matera (303 W. 9th St.) – Stated that his renters at 311 W. 9th St. on Russell Canal have asked him to reduce the rent because their boat motor got clogged from the macroalgae in that canal. Mr. Matera suggested bringing the State's harvester in. Mayor Jayne stated that DNREC conducts inspections once a week. Also, citizens may submit an algae report on DNREC's website. The inspections and the number of reports submitted on their website determine whether or not they will bring the harvester down. There is a link to DNREC's website on the Town's website's Local Links page. The Town Manager stated that this was the first complaint the Town received. Mr. Matera stated that it is township property and the Town should clean it up. Mayor Jayne replied that the Town does not have the resources to get the algae out of the canals.
- Jim Gross (1 S. 3rd St.) – Complained about the shed on the beach stating that it obstructs the view and is inappropriate to be on the beach. Mr. Gross met with the Town Manager earlier in the week and he learned that the primary purpose of the shed is for storage of beach patrol equipment; the secondary purpose is to provide refuge for the beach patrol under storm conditions; and the shed had been requested by the Beach Committee. Mr. Gross stated that this did not satisfy his concerns. Regarding the secondary purpose, Mr. Gross believes it is not good to allow the beach patrol to reside in that structure under storm conditions and it could expose the Town to a great liability. Regarding the primary purpose, storage, Mr. Gross believes the amount of space required for storing the items is much less than the shed. Mr. Gross suggested the Town use a relatively low structure, maybe four or five feet in height, to store the equipment. It could be made secured and it would be easier to move off the beach if needed. Mr. Gross said this would satisfy him because the view would not be obstructed, and he believes it would satisfy several of his neighbors who have expressed concern regarding the value of their property as well as rentability. Mayor Jayne stated that he believes the lifeguards know the right place to go in a thunderstorm and that the purpose of the shed is for storage. Mayor Jayne said Council will take this into consideration, but the Town is going to have to leave the shed there for this season. Mr. Gross believes the Town went overboard in buying and placing a shed of that size on the beach. Mayor Jayne said the Town will take a look at it and if we do anything at all it will be for next season.

- Nancy Maher (30 S. Anchorage Ave.) – Inquired where the Town stands on the licensing for the snow cones. Mayor Jayne replied that Council investigated the issue thoroughly, looked at all the options, made a decision, passed the resolution, gave the vendor the opportunity to speak at the May Town Council Regular Meeting, Council voted on it again and decided to stay with the original resolution which calls for a moratorium for the '08 season. Mayor Jayne encouraged people to fill out the beach survey and Council will take a look at what to do for the '09 season. Ms. Maher was concerned that she had never received information regarding this issue and was bothered that maybe five, six, or seven people had decided for the whole community. The Town Manager stated that it was on the agenda for the meetings and it was discussed at public meetings. Ms. Maher inquired how many complaints had been received regarding snow cones. Mayor Jayne stated that he did not know off hand. He stated that the details surrounding the issue are laid out in the resolution. Councilwoman Lambertson stated that she had people on the street tell her but she did not add it up. Ms. Maher stated that she would like somebody to go back and make known how many positives and how many negatives there were. Councilwoman Gassinger suggested that Ms. Maher get a copy of the resolution which tells why Council made the decision. Councilwoman Gassinger stated that she has met a lot of people on the street who expressed their opinions but she does not know of any numbers or records. Mayor Jayne stated that the decision has been made and the decision is going to stand. Council will look at it for '09. Ms. Maher stated that it bothers her that these things sometimes happen in the winter months. Mayor Jayne thanked Ms. Maher for her comments.
- Bryant Elrod (113 Tern Dr.) – Inquired if the Town had addressed the issue of the steep slope on entrance to the beach. Mayor Jayne replied that it has been discussed in great detail. For the '08 season at N. 4th St. the Town is going to experiment by filling in the "valley" with sand in order to minimize the slope. If funding is available, for the 09 season the Town hopes to build a structure, a miniature version of the handicapped walkway, in a few places that would go from the slope at Ocean Drive up to some point on the dune, maybe not the top of the dune, maybe a little ways down. A design needs to be developed
- Ed Nazarian (20 Peterson Dr.) – Expressed concern regarding recycling carts being left at curbside. Councilman Headman said he is trying to get a sense of the situation. In his area most people are putting their carts back. There are a few who do not. For people who come down on Friday nights it is a challenge to figure out how to get the cart out and back in. Councilman Headman stated that the Town wants the recycling program to work and the Town is going to work with the people. Rather than fining people at this time, the Code Enforcement Constable will be giving people a note informing them of the Town's policy. Mr. Nazarian suggested putting on the notice information regarding storing recycling carts in trash bins. Councilman Headman stated that he will get the Code Enforcement Constable's view on how the program is working. Councilman Headman stated that the Town is pleased with the number of people who have signed up for the recycling program and that we should do everything we can to educate the people. The Town Manager noted that the Town currently has 658 properties participating in the recycling program.
- Gene Gross (7 S. 7th St.) – Stated that trying to get up to the beach is difficult. At the bottom of the handicapped ramp there is so much soft sand that it is difficult to maneuver. Mr. Gross also complained about the "pool" on the beach which is getting quite smelly. Mayor Jayne stated that the pool is a difficult situation. The Town has asked DNREC about it and they do not have a solution to it either. Every time it is high tide, it washes over and builds a pond in there. Mayor Jayne said the Town will have to look into it.
- Phil Maher (30 S. Anchorage Ave.) – Because he misses the May bulk trash pick up day every year and because he has a Maryland driver's license and cannot use Delaware's transfer station, Mr. Maher requested that the Town keep a container at Town Hall once or twice a summer for bulk trash. The Town Manager stated that a dumpster kept at Town Hall would be abused greatly by other people coming into town and using it. Councilwoman Lambertson asked if it was possible to have the bulk trash pick up two times a year. The

Town Manager said that the Town used to schedule two a year but one was eliminated because there was not enough participation. The service is also expensive. The Town Manager also noted that the trash company wants the bulk trash pick up day in early spring because it is too difficult to get the trucks around town during heavy traffic. It was suggested that Mr. Maher take a Delaware tax bill with him to the landfill to show proof that he pays taxes in Delaware.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, May 9, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, to accept the May 9, 2008, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Special Meeting/Workshop Notes, May 22, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Gassinger, to accept the May 22, 2008, Special Meeting/Workshop Notes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, May 22, 2008** – A motion was made by Councilwoman Lambertson, seconded by Councilman Headman, to accept the May 22, 2008, Town Council Executive Session Minutes. The motion was unanimously carried.
- **Town Council Organizational Meeting Minutes, May 31, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Gassinger, to accept the May 31, 2008, Town Council Organizational Meeting Minutes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

The Town is still very wary about what the State Legislature is going to do regarding the transfer tax. The Legislature is looking at various alternatives. One alternative that has been discussed is to keep the current transfer tax in tack and add a half percent to it which would go to the State. Mayor Jayne stated that the Town is tracking this very carefully and will be working with the other towns to keep the transfer tax the way it currently is.

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

Nothing to report.

- **Treasurer's Report**—Melvin Cusick reported as of May 31, 2008:

May Revenue	\$ 136,118.18
May Disbursements	\$ 218,782.59
Balance	\$ 1,308,494.91

Mr. Cusick stated that for the last fiscal year the Town has been reporting at town meetings a deficit on the transfer tax. The final deficit amount for the transfer tax for FY 08 was \$104,547.

- **Police Department Report/Questions**—M/Cpl. Eric Watkins reported for the month of May, 2008:

May 3 – 6 Five violations of local code. Subjects were working without Mercantile Licenses in town. Violations were turned over to the Building Inspector.

May 7 False alarm on Elizabeth Way. The residence was secure.

May 11 Violation of local code. Subject was working during prohibited hours and was issued a summons for the violation. The site was shut down.

- May 12 Numerous storm related calls.
- May 13 A local fugitive apprehension on Rt. 1 after he was stopped for speeding. He was taken into custody and arraigned at JPCourt 1.
- May 13 Alarm on Elizabeth Way. This was the second alarm at this residence due to a faulty alarm. Homeowner was contacted.
- May 14 Violation of local code on Periwinkle Rd. The subject was again working without a Mercantile License and again it was turned over to the Building Inspector.
- May 15 Loud party on S. 4th St. The music was shut off. No further actions needed.
- May 16 Subject was issued warrants for passing a stopped school bus on the highway. He later turned himself in and was arraigned at Court 1.
- May 22 False alarm on Henlopen Dr. The residence was secure.
- May 23 False alarm on York Rd. The residence was secure.
- May 23 Underage consumption arrest on Rt. 1. The subject was stopped and arrested for a traffic violation and driving under the influence. Subject was turned over to his parents.
- May 24 Theft from S. 10th St. Unknown subjects removed skin boards from the victim's front yard.
- May 25 Loud party on Canal Dr. The subjects were told to go inside and the party was shut down.
- May 25 Dog bite on Ocean Dr. Subject was bitten after she bent down to pet a leashed dog. She declined medical treatment and it was turned over to the SPCA.
- May 26 Theft from W. 9th St. Unknown subjects removed two Adirondack chairs from the victim's yard. No suspects at this time.

M/Cpl. Watkins reported that this is the busy "June Bug" season. The Town has had extra coverage on the oceanfront during this time.

There was a discussion regarding houses that repeatedly have problems with "June Bugs". The Town Manager stated that he would check with the Police Chief regarding pulling the owner's rental license. He also noted that in the past the Police Department has called the rental agency and there have been some evictions. Mr. Cestone believes there is a section in the Code that permits the Council or the Code Enforcement Official to pull the rental license if there have been two complaints.

ADMINISTRATIVE MATTERS

- Ambulance Service Sponsors Agreement (Mayor Jayne)

Mayor Jayne explained that the Ambulance Service Sponsors Agreement is between Fenwick Island, South Bethany, Bethany Beach, and Sea Colony. Council members had a copy of the agreement (attached). Resolution 1-08 endorses the agreement.

A legal brief from the Town Attorney stated that the Town is within its rights to assess fees to vacant lots that are assessed to any other property in town. There is precedent for that in that vacant lots pay school tax, library tax, and front footage for sewer even though they do not use the service. The Town Attorney's brief also stated that the Town has the discretion to assess these fees to vacant lots or not. In the case of recycling and trash pickup, the Town of South Bethany does not assess vacant lots for those services.

The original version of the Sponsors Agreement between the "Big Four" stated that every property would be assessed regardless of whether it had a house on it or not. The Town of South Bethany and Sea Colony were able to get that changed so that the towns would have the discretion on how to assess its properties.

Council has decided that every house should pay the ambulance fee, and at least one lot per owner should pay the ambulance fee. Therefore, if you own one vacant lot, and that is all you own, you pay the ambulance fee for that lot. If a property owner owns several vacant lots, then the property owner pays just one ambulance fee. This is stated in the last paragraph of Resolution 1-08.

Mayor Jayne called for a discussion and asked if anybody had any questions. There was no discussion and no questions.

ORDINANCES/RESOLUTIONS

- **Resolution 1-08, a Resolution Establishing the Bethany Beach Volunteer Fire Company Ambulance Service Fee for South Bethany Property Owners**

A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, to adopt Resolution 1-08. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 4-0 vote.

- **First Reading of Ordinance 142-08, Amending Chapter 42, Building Construction, to Control the Use of Portable Fuel Powered Electric Generators and Fuel Powered Air Compressors for Construction Purposes. (John Fields)**

Mayor Jayne explained that this ordinance is aimed at reducing the amount of time that gasoline driven generators and air compressors can be used on construction sites. The Town has received complaints about the noise they make. They sometimes run all day. They can be an annoyance and an inconvenience to people who are nearby the construction site. Mayor Jayne read the proposed addition to § 42-12. Mayor Jayne called for a discussion from Council. There was no discussion. Mayor Jayne asked if the audience had any questions or concerns. Mr. Romeo requested that "only in the event of emergencies that affect the electric company" be added to the last line of the additions after the word "time".

Mayor Jayne declared this the first reading of Ordinance 142-08.

COMMITTEE REPORTS

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

There is approximately one more mile to complete.

If it is necessary, DNREC will amend their permits with the regulatory agencies to restart in August and go through February in order to complete the job.

The State has a new barge for mechanical cleanout.

Regarding boat ramps, Councilwoman Gassing reported that there are two ramps. One is on Rd. 361 near South Bethany with a southeast access and it is state owned. There is another ramp in the north area that has a fee of \$5 per day. There are negotiations in progress regarding this ramp – hopefully the State will take it over.

Chuck Williams, DNREC's Assawoman Canal Dredging contact, told Councilwoman Gassing that he had been working on this project since 1983 and he will be very happy when it is completed. Councilwoman Gassing shared with everyone the following warmhearted quote from Mr. Williams regarding his one regret, ". . . that Sal Aiello is not here to see the project completed because he worked so hard as well as a lot of the other people in South Bethany."

The Town Manager will check with DNREC regarding the low spot heading south through the canal.

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

There was nothing more to report than what had already been discussed during the Property Owners Participation portion of the meeting.

- **Beautification** – Councilwoman Lambertson reported:

More plants have been planted by the maintenance crew and they look good.

The new bed at the south end of town really looks good. The other beds are growing in and look nice.

Some of the plants this year were small. Next year the Town is going to try to get a little bit larger plants.

The tall grasses in front of Town Hall will be replaced. Nature Design is taking them back because they do not fit in with what had been planned there.

The area between Town Hall and the Police Department looks very nice. There had to be drainage in that area so rocks were installed in the center with plants on the side.

The area behind Town Hall is still being worked on.

The Beautification Committee will meet at the end of the summer to discuss what was and was not good this year.

Councilwoman Lambertson stated that the Town's Maintenance Supervisor, Don Chrobot, and employee Gary Andrews have done a good job. Mr. Nazarian added that the maintenance crew has done a fantastic job and that they should be commended for taking care of the flowers day and night. Councilwoman Lambertson noted that Don Chrobot came back one weekend to water some plants that were dried out. She felt that was beyond the call of duty. Councilman Headman complimented the Town Manager, Melvin Cusick, on his organization and the people that work for the Town. Councilwoman Lambertson stated that

two of her neighbors requested that she tell the Town at the Council Meeting that the town looks better then they have ever seen it and they appreciate how smoothly things seem to be running. Councilwoman Lambertson told her neighbors that they have Mayor Jayne and Melvin Cusick particularly to thank.

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

Councilman Headman noted that at the next workshop Council will be looking at impervious surfaces.

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

DNREC believes the costs outweigh the benefits of the Tidal Pump. The Tidal Pump Committee is working with DNREC to demonstrate that it does work and that it is very beneficial, not only to the Town but also to the inland bays.

- **Windmills** – Councilwoman Lambertson reported:

A blurb on the radio said that it will cost \$240 more per year per customer to have the wind farm as it is proposed. The radio announcer said that the land based wind farm would be less expensive and would get the same benefit or more.

From a casual conversation that Councilwoman Lambertson had with a scientist, the scientist suggested considering nuclear plants as well as a combination of several methods of getting electricity.

Councilwoman Lambertson stated that windmills are still in the offing, but they have a lot of work yet to do.

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

The Canal Water Quality Committee had a meeting for the volunteers who monitor the canal water quality. The committee needs to continue to systematically monitor the canal water quality. The committee is searching for more volunteers. A science background is not needed. The committee will train the volunteers. There are seven sites to monitor. Currently there is a volunteer for each site, but the committee is always looking for backups. Anyone interested in volunteering should contact Jay Headman or Jack Whitney (who is now heading up the Canal Water Quality program).

The Town received matching funds from DeIDOT and the Army Corps of Engineers for the Anchorage Drainage Area Assessment Program which will look at strategies to reduce the amount of pollutions from the stormwater which is piped from the 65 acres north of South Bethany straight down the road and into the Anchorage Canal. The project will start in the late summer or early fall.

ADJOURNMENT

A motion was made by Councilman Headman, seconded by Mayor Jayne, to adjourn the June 13, 2008, Town Council Regular Meeting at 8:15 p.m.

PHS: Regular Meeting Minutes.6.13.08

Attachments: Ambulance Service Sponsors Agreement
Resolution 1-08
First Reading of Ordinance 142-08