

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
AUGUST 8, 2008**

ATTENDANCE

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

MEETING CALLED TO ORDER

Mayor Jayne called the August 8, 2008, Town Council Regular Meeting to order at 7:04 p.m., followed by the Pledge of Allegiance to the Flag.

PROPERTY OWNERS' PARTICIPATION

- Bob Cestone (135 Layton Dr.) – Commented that the upgraded ramp at N. 4th St. is much better, although it could use a railing. Mayor Jayne stated that according to the Maintenance Supervisor, 75% of the ramp is better than ADA (Americans Disabilities Act) requirements at less than an inch rise per foot. The upper 10 feet is 11 ½ inches, which is the same as on the ocean side. Mayor Jayne said it may be a solution but the Town is still looking at other types of structures.
- Mike Matera (303 W. 9th St.) – Referred to an article in the newspaper that reported that the Town donated \$5,000 for a walking path. Mr. Matera inquired if the path was going to be in South Bethany. The Town Manager explained that the towns of Ocean View, Bethany Beach, South Bethany, and Sea Colony are working on a grant with DNREC to study a nature trail or walking/bike path along the Assawoman Canal. At this time the towns have pledged \$5,000, not donated \$5,000. If the grant is successful, each town has pledged \$5,000 in order to match the \$15,000 in State funds. The Town Manager has applied for a grant through the University of Delaware to cover at least a portion of the \$5,000. The Town Manager stated that the path would be in South Bethany but emphasized that it is a planning grant for design. Public hearings would be held (one would be held in South Bethany) for people to comment on the trail, the design, and what features they many want. Mayor Jayne stated that the trail would be somewhat like the Junction and Breakwater Trail that goes from Rehoboth to Lewes.
- Rich Garden (102 Petherton Dr.) – Thanked the Mayor and Town Council members for allowing him to speak and asked the Town Council for advice, direction, and some help. Mr. Garden explained that his neighbor's home at 104 Petherton Drive is a home that is rented throughout a vast majority of the year. Tenants that rent the home on a weekly basis encroach, trespass, litter, and vandalize his property. Mr. Garden explained that this has been going on for the five years that he has owned the property. Mr. Garden gave Council a copy of a picture (attached) taken by William Korn, his neighbor across the street. Mr. Garden said the backdrop of the picture is his house and the picture is very typical of the attitude and the behavior of the people who stay in his neighbor's house on a weekly basis. Mr. Garden stated that he did not know any of the 34 people standing on his front porch in the picture. Referring to another incident, Mr. Garden said that his neighbor had directed a power washing contractor to hook up to Mr. Garden's water line because her house does not have an outside picket. Mr. Garden stated that the home has two kitchens and two separate back entrances, and he believes it is possible that the home is in violation of the code. Mr. Garden believes that if one kitchen and one back entrance were eliminated it would cut down

on the number of people who stay in the home on a weekly basis, which would reduce the amount of destruction and trespassing that occurs on his property. Mayor Jayne stated that the Town has an ordinance that limits the number of kitchens to one on new construction. However the ordinance is not retroactive and this house was built prior to that ordinance. Mayor Jayne advised Mr. Garden to call the police. M/Cpl. Watkins told Mr. Garden to clearly post a No Trespassing sign facing the neighbor's house. Mayor Jayne stated that the owner's rental license could be pulled if the place is notoriously troublesome for a period of time. The Town Manager added that to have the rental license pulled, Mr. Garden needs to report these incidents to the police. Mayor Jayne assured Mr. Garden that the police will keep an eye on the place.

- William Korn (103 Petherton Dr.) – Also complained about the weekly tenants at 104 Petherton Dr. Mayor Jayne advised Mr. Korn to call the police right away whenever these incidents happen. Mayor Jayne stated that the incidents described are illegal and there are penalties.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, July 11, 2008** – A motion was made by Councilman Headman, seconded by Councilwoman Lambertson, to accept the July 11, 2008, Town Council Regular Meeting Minutes. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: Councilman Ronan (was not present at that meeting)

The motion carried with a 5-0 vote.

- **Town Council Special Meeting/Workshop Notes, July 24, 2008** – A motion was made by Councilman Fields, seconded by Councilman Headman, to accept the July 24, 2008, Special Meeting/Workshop Notes. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: Councilman Ronan (was not present at that meeting)

The motion carried with a 5-0 vote.

LEADERSHIP REPORTS

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

The Town Manager and Mayor Jayne attended a mini ceremony where they signed the Ambulance Sponsors Agreement between South Bethany, Fenwick Island, Bethany Beach, and Sea Colony.

Mayor Jayne and the Town Manager met the Ambulance Service Supervisor who is now on the job full time. He has a lot of experience with EMTs and ambulances.

The ambulances are being custom built and should be available the end of October.

Concerned about future costs of the ambulance service increasing, Councilman Headman asked if the BBVFC will be collecting data indicating if the people being served by the ambulance service are property owners or renters. Councilman Headman requested that someone ask the fire company what type of data they will be collecting.

Mayor Jayne stated that Senator Bunting is introducing a bill that if passed will give the fire company the authority to tax everybody in the fire district.

Delaware's Coastal Cleanup is Saturday, September 20, from 9 a.m. to 12 p.m. Mayor Jayne asked George Junkin to pass this information onto the Property Owners Association. For more details and to sign up, visit DNREC's website.

Coast Day is Sunday, October 5, at the University of Delaware in Lewes. On the waterfront there will be several ships, boats, and research vessels. On the University side there will be various exhibits, including the Center for the Inland Bays, as well as food stands and boat dealers. There is a fee to park but admission is free. For more information visit the University of Delaware's website.

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

South Bethany's Beach Patrol Competition Team placed third at the Rehoboth Beach Competition. This is very impressive because the patrol is competing against Ocean City who has a 200 person staff and Rehoboth who has a 60 person staff. South Bethany's patrol has 25 people on its staff.

South Bethany's Lifeguard of the Year is Kristen Hossick. She received an award from the Property Owners Association and she was recognized at the Bethany/Fenwick Area Chamber of Commerce Breakfast Meeting on August 5. The Chamber also presented a check to the Town in the amount of \$500 to help fund the lifeguards after Labor Day.

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

July Revenue	\$ 306,835.14
July Disbursements	\$ 202,928.49
Balance	\$ 1,508,472.07

The Town received \$55,706.49 in transfer tax for the month of July.

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

July 3 Missing child on Ocean Drive. She was located about 20 minutes later inside her residence.

July 4 Disorderly conduct on N. 6th St.

July 4 Domestic dispute on Black Gum Dr.

July 4 Four different fireworks complaints on the beach.

July 7 911 disconnect on Elizabeth Court. A false alarm.

July 7 Burglar alarm on Petherton Dr. which was an accidental trip.

July 7 Alarm on New Castle Dr. set off accidentally by the cleaning crew.

- July 13 Underage consumption arrest on Rt. 1.
- July 15 Fireworks complaint on the beach at S. 9th St. Fireworks were confiscated.
- July 16 Local fugitive arrest on Rt. 1. Subject was taken to the Court of Common Pleas where he had six outstanding warrants.
- July 16 Theft from a vehicle on Elizabeth Way. Unknown suspects removed personal items from the victim's vehicle.
- July 17 Burglar alarm on Sea Side Dr. that was an accidental trip.
- July 19 Fireworks on N. Ocean Drive. The fireworks were confiscated.
- July 20 Local fugitive apprehended and taken to court after being stopped for a traffic violation.
- July 21 Missing child. The child was located at the residence.
- July 21 Theft from Elizabeth Way. Unknown suspects removed the victim's beach furniture.
- July 22 Theft on New Castle Drive. Unknown suspects removed money from the victim's unsecured vehicle.
- July 24 Fireworks complaint at Logan St. The fireworks were confiscated by the officers.
- July 25 Five violations of local code for subjects running the barricade on Black Gum Dr. which they were cited for.
- July 26 Violation of local code on Bayshore Drive. The subject was working during prohibited hours. The site was shut down.

During the month of July there were five traffic accidents. No injuries were reported.

Mr. Matera asked what the fine was for people under 16 years old riding a bicycle and not wearing a helmet. M/Cpl. Watkins said he would have to refer to his fine sheet, but he thinks the base fine is \$25 plus court costs.

Mr. Wise inquired if you have to have a No Trespassing sign to report trespassing. M/Cpl. Watkins replied that you not have to have a No Trespassing sign to report trespassing but the police have to show the judge that there was intent to trespass. If you have a No Trespassing sign clearly posted it is easy to obtain a warrant.

Mr. Wise inquired if cars can cross the solid white line on Rt. 1 to get over on the right hand shoulder to make a right turn or does the car need to stay in its lane to make the right hand turn. M/Cpl. Watkins told Mr. Wise he could cross the solid white line before making the right hand turn.

Because Mr. Wise has received solicitations for contributions from Millville Fire Company and Bethany Beach Fire Company, he inquired which is South Bethany's fire company. M/Cpl. Watkins replied that the Bethany Beach Fire Company is South Bethany's Fire Company. Mayor Jayne noted that Millville Fire Company has solicited for the ambulance service because they are still covering South Bethany for ambulance service until January 1, 2009.

ORDINANCES/RESOLUTIONS

- **Third 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)**

Councilman Fields explained that Ordinance 142-08 was drafted in response to citizens' complaints about the unnecessary noise made by fuel powered generators and fuel powered air compressors. The noise can be distracting and a nuisance. Because power poles are easy to install and the power company rate is probably less expensive than the cost of fuel, this ordinance does not penalize contractors. Councilman Fields encouraged Council to approve Ordinance 142-08. Councilman Fields asked for questions or comments from members of Council. There was no discussion.

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

A motion was made by Councilman Fields, seconded by Councilman Headman, that Ordinance 142-08 be approved by the Council. Mayor Jayne asked the clerk to call the roll. The voting was as follows:

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

AGAINST THE MOTION: None

ABSTAINED: None

The motion carried with a 6-0 vote.

Mr. Romeo thanked the Mayor and Council, particularly Councilman Fields for spearheading this amendment.

COMMITTEE REPORTS

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

DNREC's Chuck Williams told Councilwoman Gassinger that there has been some opposition to starting the dredging in August. They cannot start early or go later. Therefore, the dredging will begin this year in September. Mr. Williams also said that the small shoal that the Town Manager had written to him about will also be dredged. Councilwoman Gassinger clarified that the north end has been completed. It is the south end from the Rt. 26 Bridge to approximately one mile south that has not been completed.

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

Councilman Ronan stated that the beach is spectacular. Mayor Jayne stated that he believes South Bethany has the biggest beach on the Delaware coast. The Town Manager noted that Dewey Beach and Rehoboth Beach are due for replenishment this fall. He is hopeful that this is part of the 50 year plan and every four to five years South Bethany will get replenished too.

- **Beautification** – Councilman Ronan reported:

Referring to the hibiscus flowers, Councilman Ronan said the town looks magnificent and dignified.

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

The Planning Commission is not actively working on anything at this time so there was nothing to report.

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

The Tidal Pump Committee met with the Joint Permitting Committee to find out the process to get the Tidal Pump through permitting. At that meeting the committee was told that the permitting process would be very complicated and long. Councilman Headman stated that the committee is not at the permitting phase. The Tidal Pump Committee will have a follow-up meeting with Kathy Bunting-Howarth, Director of the Division of Water Resources, to get clarification. The committee will continue to meet with DNREC to try and address their concerns.

- **Windmills** – Councilwoman Lambertson reported:

Bluewater Wind is in the process of doing required bird studies.

UEK Delaware received a grant from DNREC to install a water turbine at the power plant in Millsboro. UEK Delaware has to get all the permits and do some work regarding where they are going to put the turbine. The water turbines sound like a good idea and it will be interesting to see what develops.

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

Councilman Headman thanked Council for agreeing to split the cost with the South Bethany Property Owners Association for an instrument that will be used by the Citizens Monitoring Committee to monitor water quality in the canals.

ADMINISTRATIVE MATTERS

- **Appointment of Planning Commission Members**

Mayor Jayne nominated Jim Gross and George Junkin to serve again on the Planning Commission. A motion was made by Councilman Fields, seconded by Councilman Ronan, to appoint Jim Gross and George Junkin to the Planning Commission. The motion was unanimously carried. Mayor Jayne swore in Mr. Junkin. Mr. Gross was not present at the meeting.

- **Appointment of Board of Adjustment Member**

Mayor Jayne nominated Vince Durkin to serve again on the Board of Adjustment. A motion was made by Councilman Fields, seconded by Councilman Ronan, to appoint Vince Durkin to the Board of Adjustments. The motion was unanimously carried. Mr. Durkin was not present at the meeting.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Headman, to adjourn the August 8, 2008, Town Council Regular Meeting at 8:05 p.m.