

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES SEPTEMBER 11, 2009
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ATTENDANCE

PRESENT: Mayor Gary Jayne; Councilpersons John Fields, Tim Saxton, Diane Matera, Marge Gassinger, and Rob Youngs; Town Manager Melvin Cusick; Ptlmn. Joshua Rowley; Financial Administrator Renee McDorman; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilman Jay Headman

MEETING CALLED TO ORDER

Mayor Jayne called the September 11, 2009, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag. There was also a moment of silence in memory of the people who suffered and who died from 9/11 and in memory of Patrolman Chad Spicer, the Georgetown Police Officer killed in the line of duty on September 1, 2009.

FY 2009 AUDIT (SOMBAR & COMPANY)

Mayor Jayne introduced Mr. Tom Sombar of Sombar & Company who presented the highlights of the FY 2009 Audit Report. Mr. Sombar reviewed the Town of South Bethany's Audited Financial Statements and Supplemental Information for Fiscal Year Ended April 30, 2009 (With Comparative Year Analyses 2008, 2007, 2006) which Council Members had a copy of. The report is available for review at Town Hall. Overall the Town had in Total Assets \$3,200,649 and in Total Liabilities \$360,667. This produced a net total asset of \$2,839,982.

Councilman Fields inquired what percentage of the Town's budget should be held in reserves. Mr. Sombar replied that a good safe number is six months worth of expenditures. He noted that if a major storm comes through or some other calamity, it wouldn't take long to use those reserves up. It is prudent planning to have an adequate reserve.

Councilman Saxton stated that at the last Workshop Council agreed to hold the reserve level at \$830,000 and the Council will have to make a lot of tough decisions if the revenues don't continue to come in as forecasted in the budget.

Mr. Sombar stated that he represents five other towns in addition to South Bethany, and he believes they all face the same challenges: decline in transfer tax revenue, lower interest rates on investments, and less state grant money available.

Mr. Rae inquired if there were any other specific recommendations. Mr. Sombar stated that the recommendations were in the management letter to the Town. There was nothing particularly onerous in the recommendations.

Mayor Jayne asked Mr. Sombar what he thought the Town's situation was on a scale of good, fair, or poor. Mr. Sombar's reply was a "good-minus" noting that there was room for improvement. He added that the Town is still sitting on some good resources, but needs to "lock down the hatches" to avoid any "bad storms" that may be coming along in a general sense. Councilwoman Gassinger said that it sounds like the Town was financially responsible. Mr. Sombar stated that that is the key. Overall it is very well run.

Mr. Sombar thanked the Council. Mayor Jayne thanked Mr. Sombar.

PROPERTY OWNERS' PARTICIPATION

- Jack Wise (146 Evergreen Rd.) – Regarding Ordinance 150-09, inquired if pine needles would be allowed in the town's right-of-way. Councilman Fields stated that when the ordinance is finally completed it will allow pine needles.
- Tom Roche (141 Henlopen Dr.) – Introduced his neighbor, Chris Ross, who is a Past President of the International Concrete Pavers Institute (ICPI) and would be willing to serve as an expert offering advice in the written portion of Ordinance 150-09.
- Bob Apollo (142 Layton Dr.) – Referring to the Town of South Bethany Rules of Procedures and the Third Reading of Ordinance 150-09, Mr. Apollo inquired how Council can postpone a vote on an ordinance at the third reading. After a discussion, Mayor Jayne stated that Council will look into the matter and get back to Mr. Apollo.
- Mike Matera (311 W. 9th St.) – Received a letter from the Code Enforcement Constable stating that Mr. Matera cannot have yard sales. Mr. Matera believes he is not being treated equally because other people in town are having yard sales without obtaining a Mercantile License. Mayor Jayne stated that as far as he knows nobody has ever complained about yard sales until Mr. Matera's situation. Mayor Jayne stated that the Town is not going to come down hard on occasional yard sales. He added that if somebody is having a yard sale every week, they are running a business and would need a Mercantile License and possibly a Business License. Mayor Jayne asked for a volunteer from Council to look into it.
- Carolyn Marcello (8 S. 9th St.) – Stated that the plans for the 40th Anniversary of the Incorporation of the Town are going along smoothly. Ms. Marcello announced that the celebration will be on September 26 from 3 to 5 PM and all are invited. Mayor Jayne thanked Ms. Marcello and Ms. Suazo for all of the work they are doing.
- Jack Wise (146 Evergreen Rd.) – Referring to the August 27, 2009, Town Council Special Meeting Workshop, Mr. Wise requested that Executive Sessions be put at the end of the agenda. Mayor Jayne said that is a good point, and ordinarily Executive Sessions are at the end so that people can leave. However, the August Workshop had a very full agenda and there was a possibility that Council would not get through the entire agenda. The Executive Session subject matter was important and something Council had to deal with.
- Mike Matera (311 W. 9th St.) – Stated that when he complained to the Chief of Police about a jet ski in Mr. Matera's canal causing big wakes, the Chief of Police yelled, "Go get a job". Mr. Matera stated that the Chief of Police yelled at him because the person on the jet ski was the Chief's friend. Mayor Jayne stated that he would talk to the Chief of Police.
- Jack Wise (146 Evergreen Rd.) – Asked for guidance as to where to keep the recycling cart. Mayor Jayne stated that the cart should only be out 24 hours before pickup and 24 hours after pickup and then taken off the street away from the curbside. Councilwoman Gassingier stated that if a property owner has a bin for trash cans, one side of the bin can be taken off and the recycling cart can be stored in the bin. DSWA will take the cart from the bin and put it back in the bin. Mr. Wise noted that DSWA does not always put the cart back in the bin. Mr. Wise inquired if it was sufficient to put the recycling cart behind the garbage bin with a bungee cord around it so that it can't move around. Mayor Jayne stated that 24 hours is the key thing.
- Mike Matera (311 W. 9th St.) – Noticed that in the Police Report there were 111 bicycle stops. Mr. Matera inquired if any tickets were given out at any of those stops. Ptlmn. Rowley replied no. Ptlmn. Rowley added that most of the stops are young kids and they are going the wrong way or riding on the pedestrian path. The Police Department tries to steer them in the

right direction and they always comply with no problem. He added that the only time he recalls issuing a ticket is when the subject had an attitude. Mr. Matera stated that there is a local person who does not wear a helmet. Mr. Matera suggested giving one or two tickets out to the local kids. Ptlmn. Rowley agreed that if the Police Department has talked to them before and they are still not complying, they need to be issued a ticket. He stated that he does not know who Mr. Matera is talking about, and he would have to see if the Department had ever spoken to that person before.

- Mike Matera (311 W. 9th St.) – Suggested scheduling the state prisoners to clean the town park. It doesn't cost anything.
- Mike Matera (311 W. 9th St.) – Suggested using a 24 foot step ladder instead of renting a lift to change the light bulbs in the town garage.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, August 14, 2009** – A motion was made by Councilman Fields, seconded by Councilwoman Gassinger, to accept the August 14, 2009, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Special Meeting/Workshop Notes, August 27, 2009** – A motion was made by Councilman Fields, seconded by Councilman Youngs, to accept the August 27, 2009, Special Meeting/Workshop Notes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, August 27, 2009** – A motion was made by Councilwoman Gassinger, seconded by Councilman Saxton, to accept the August 27, 2009, Town Council Executive Session Minutes. The motion was unanimously carried.

LEADERSHIP REPORTS

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

At the Ambulance Service Sponsors (Town of South Bethany, Town of Fenwick Island, Town of Bethany Beach, and Sea Colony) Quarterly Meeting, the Sponsors approved the Ambulance Service Budget. The Ambulance Service's fiscal year runs from October 1 to September 30. The Ambulance Service has done a very good job of adhering to their budget for the last year, and the budget for next year looks very reasonable and all of the sponsors agreed on it. There will not be an increase in the ambulance fee for next year. Regarding ambulance calls, up to the last week in August the ambulance service had made 877 calls. As expected, there was an increase in calls in June, July, and August. Mayor Jayne noted that one of the results of the new ambulance service is that the lifeguards are waiting only minutes before the ambulance arrives.

Attended a reception last month for the kick off of United Way.

September 19 is Coastal Cleanup Day sponsored by DNREC. To participate, meet at S. 2nd St. and Ocean Dr. at 9 a.m.

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

Brochures were available on the sign-in table announcing the proposed Assawoman Canal Pathway Informational Meetings. The meetings are scheduled for Wednesday, Sept. 16, at Ocean View Town Hall, Thursday, Sept. 24, at Bethany Beach Town Hall, and Wednesday, Sept. 30, at South Bethany Town Hall. The meetings will be from 6 – 8 PM. The State Parks Commission will be there as well as representatives from each of the towns. This is an

opportunity for residents to give their input on what they would like to see regarding the pathway. It is very preliminary. To get an idea of what the Assawoman Canal Pathway would look like, Mayor Jayne suggested going to the Junction and Breakwater Trail that runs between Rehoboth Beach and Lewes.

The deadline to submit the Town's recertification packet for the Community Rating System is October 1. If the Town maintains certification, property owners receive a 10 percent discount on flood insurance.

There was some damage at the beach due to the northeast storm on September 10. As of now, the following walkways are closed: S. 9th St., Indian St., Jamaica St., Kewanee St., and Logan St. There was a lot of damage to those walkways on the east side of the dune. The State is doing an assessment and hopefully repairs will be made. The Town Manager complimented the Maintenance Department for removing all the lifeguard stands, trash cans, and other town equipment from the beach. The Town had no loss of equipment or lifeguard stands.

The August 15 to September 11 Beach Patrol Report was available on the sign-in table. There were 28 rip current rescues (90 year to date), 3 major medical emergencies, 21 minor first aid incidents, and 6 lost children. There were 13 rescues due to the surf that resulted from Hurricane Bill and 9 from Hurricane Danny. The Town Manager stated that he witnessed a rescue on the state beach and the coordination of South Bethany's Beach Patrol, the Ambulance Service, the Paramedics, and the State Police with the helicopter ran like clockwork. They did a nice job.

- **Treasurer's Report**—Tim Saxton reported as of August 31, 2009:

Balance Brought Forward	\$ 1,388,128
August Revenue	\$ 157,184
August Disbursements	\$ 181,760
Balance	\$ 1,363,553

Currently the reserves are at \$791,350 and the target for the year is to get up to \$830,000. Councilman Saxton stated that he believes the Town is in relatively good shape regarding reserves and going forward for the year.

At the Workshop, Town Council approved forming an ad hoc Budget and Finance Committee. The committee will be comprised of two Council Members and up to three property owners. Information will be posted on the website on Monday to solicit volunteers in town. The volunteers will be recommended by the Treasurer but appointed by the Mayor.

- **Police Department Report/Questions**—Ptlmn. Joshua Rowley reported for the month of Aug., 2009:

There were 75 total complaints answered in August.

- August 1 Handled two fireworks complaints. One north of Logan St. and one in the area of S. 5th St. Both fireworks displays were shut down.
- August 2 With the assistance of the Beach Patrol, searched for a missing teenager who was separated from her family when the beach was evacuated during a thunderstorm. The teenager was found approximately an hour later at the Grotto's in Bethany Beach.
- August 3 Seized drug paraphernalia which was found on the beach by the Maintenance Department.

- August 4 A vehicle backing out of the driveway on Surfside Dr. collided with a parked car. There were no injuries.
- August 4 Accident on northbound Rt. 1 and N. 4th St. A vehicle, which was stopped for pedestrians in the crosswalk, was struck from behind by a second vehicle. One subject was transported to Beebe with non-life-threatening injuries.
- August 6 Loud party on Bayshore Dr. The Police responded but found no signs of the loud party that was called in.
- August 6 Loud party on S. 1st St. Police responded and found children playing outside. They were advised to watch the noise.
- August 9 Complaint of a theft of a parking pass from an unlocked vehicle on Ocean Dr.
- August 10 Criminal mischief to the lifeguard shack. Unknown subjects broke out the windows during the night.
- August 10 Traffic stop for speeding that led to the arrest of subjects for underage possession of alcohol. Two subjects were arrested and released on town ordinance violations.
- August 11 Vandalism on the beach. Theft of a street sign on the beach side. Also multiple lifeguard stands were thrown in the water and the trash cans were dumped out all over the beach.
- August 12 Loud party on Seaside Dr. Once again the police couldn't locate the loud party.
- August 12 Suspicious persons. Officers noticed a group of subjects on the beach in the middle of the night smoking what appeared to be a marijuana pipe. When they were approached by the officers they buried the object in the sand. They were removed from the beach and given a warning for town ordinance violations – littering, glass on the beach, etc.
- August 12 911 disconnect on Petheron Dr. Police responded and made contact with the subjects inside. Apparently it was a verbal domestic dispute between the husband and his intoxicated wife.
- August 13 Theft of two bicycles during the day from the beach rack at Seaside Dr.
- August 14 Traffic collision involving two bicycles. Two children riding bicycles ran into each other. The one subject was hurt and the other subject took off.
- August 14 Traffic stop for speeding that led to a drug arrest. Police found marijuana, cocaine, and drug paraphernalia in the vehicle. The subject driving the vehicle was arrested and charged with multiple drug violations.
- August 15 Northbound on Rt. 1 a bicycle riding on the shoulder swerves because they think a car is turning. The subject falls off the bike and breaks his collar bone. A vehicle a few vehicles back in the right lane sees the accident happening and goes to pull off to help the person and strikes another bicycle. That bicycle person falls off and injures their wrist and knee. Subjects were transported to the hospital. The road was shut down completely at Rt. 1 and N. 4th St. northbound. During that time, traffic was backed up all through town in both lanes. A vehicle trying to turn left onto Ocean Drive was waved through traffic by the stopped traffic. However they didn't look in the bike lane. A road bicyclist going about 25

mph hits the vehicle and flips over top of the car and lands 22 feet past the car. He was flown out in critical condition with severe head and spinal injuries. He was flown to Christiana.

- August 15 Theft of two surfboards from a residence on Petherton Dr.
- August 15 Fireworks on the beach. Officers searched the area but were unable to locate the fireworks.
- August 15 Loud party on Periwinkle Dr. Contacted the subjects and advised them to take it inside.
- August 16 Minor traffic accident between two vehicles. They exchanged information and didn't want to file a report.
- August 19 Traffic stop for speeding leads to arrest of possession of drug paraphernalia and marijuana. Subject involved was processed and released on criminal summons.
- August 20 Dispatched to Fenwick Island to assist with a burglary in progress call. When the Police arrived they found an intoxicated male subject. He was also overdosed on six different illegal substances including PCP. He was half naked and floating in the canal. He was in and out of consciousness going in and out of the water. The Police ended up commandeering a pontoon boat and in the middle of the canal snagged him with a boat hook and dragged him to shore so that he wouldn't kill himself.
- August 20 Theft of jewelry from a rental property. Guests checked out and left approximately \$2,300 in jewelry in one of the drawers. They came back later. The cleaners had come and gone and the jewelry was gone. That investigation is active. The Police are working on tracking down who cleaned the property.
- August 20 Suspicious vehicle on Evergreen Road going approximately 5 miles an hour down the road. The vehicle kept stopping. Then the vehicle turned around suddenly when the police car got behind it. The Police ended up stopping the car. The male subject had a revoked license. He had two warrants out for his arrest with a \$19,000 cash bond. He also gave the officers a fictitious name. The female subject in the vehicle was arrested for drug paraphernalia.
- August 21 Traffic accident on Evergreen Road. A vehicle turning left on Evergreen Rd. struck another vehicle causing minor damage and no injuries.
- August 28 Traffic accident on Division Street. A vehicle backing out of a driveway struck a parked car. No injuries or reports taken.
- August 29 A code violation for construction on a Saturday on Indian St. Police issued a town ordinance violation.
- August 29 Domestic incident at York Beach Mall. Female subjects were fighting in the parking lot. Both subjects were intoxicated and were separated for the night.
- August 30 Code violation (construction) on Seaside Dr. A town ordinance violation was issued.

Mr. Matera inquired if it was illegal for professional grass cutters to cut grass on Saturdays and Sundays. Ptlmn. Rowley replied that the ordinance deals with construction and he does

not believe there is a problem with grass cutting. Ptlmn. Rowley suggested that Mr. Matera check with the Code Enforcement Constable.

COMMITTEE REPORTS

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

The Planning Commission has finished its second draft of the Bylaws and the Code for regulating its operations procedures. At the earliest opportunity, Councilman Fields will present the drafts to the Town Council at a Workshop.

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

In Councilman Headman's absence, there was nothing to report.

ADJOURNMENT

Before adjourning, Council agreed to move the September Special Meeting/Workshop to September 22 and the October Special Meeting/Workshop to October 29.

A motion was made by Councilman Fields, seconded by Councilman Youngs, to adjourn the September 11, 2009, Town Council Regular Meeting at 8:20 p.m.