

**TOWN OF SOUTH BETHANY
TOWN COUNCIL WORKSHOP MEETING MINUTES
JULY 22, 2010**

ATTENDANCE

PRESENT: Mayor Jay Headman; Councilpersons John Fields, Bob Cestone, Tim Saxton, Sue Callaway, and Rob Youngs; and Town Manager Melvin Cusick

EXCUSED ABSENCE: Councilman George Junkin

MEETING CALLED TO ORDER

Mayor Headman called the July 22, 2010, Town Council Workshop Meeting to order at 6:00 p.m.

PUBLIC COMMENT PERIOD

There were no comments.

ADOPTION OF MINUTES

- **Town Council Special Meeting/Workshop Notes, July 1, 2010** – A motion was made by Councilman Cestone, seconded by Councilman Youngs, to accept the July 1, 2010, Town Council Special Meeting/Workshop Notes. The motion was unanimously carried.
- **Town Council Regular Meeting Minutes, July 9, 2010** – A motion was made by Councilman Fields, seconded by Councilman Saxton, to accept the July 9, 2010, Town Council Regular Meeting Minutes as amended by Councilwoman Callaway as follows:

Page 6, Paragraph 6: Change "Mayor Headman noted that in 1985 there was corrective deed" to read "Mayor Headman noted that in 1985 there was a corrective deed, **but the land was originally given to the Town in 1974.**"

The motion was unanimously carried.

DISCUSSION ON TOWN CHARTER SECTION C-7, PARTICIPATION AND VOTING BY REMOTE ACCESS

Council had a two page document prepared by Councilman Fields titled For Discussion Council Workshop 7/22/10 Tele-Conferencing Video-Conferencing (attached).

Councilman Fields referred to § C-7 of the Town Charter, Participation and voting by remote access, and noted that "a duly enacted ordinance" had not been passed by the Town Council. Councilman Fields stated that Mayor Headman had asked him to work on an ordinance so that Council could participate by remote access. Councilman Fields researched the Delaware Code, Title 29, Chapter 100, Freedom of Information Act, § 10006, Video-conferencing participation in open meetings, and the first sentence says, "Unless otherwise prohibited by law, any public body subject to the provisions of this chapter, except for any public body in which members are elected by the public to serve on the public body, may conduct a meeting by means of video-conferencing . . ." Therefore, Councilman Fields stated that videoconferencing is not allowed if you are a member of a Council. Councilman Fields noted that teleconferencing is not mentioned, but the Attorney General's office could rule that in the spirit of the law for videoconferencing, teleconferencing is also not allowed. Councilman Youngs agreed and suggested that if Council wished to pursue participation by teleconference that the Town first obtain the Attorney General's

opinion. Councilman Youngs stated that last year Representative Hocker had volunteered to obtain AG opinions for the Town when needed. There was a consensus that Mayor Headman would follow up with Representative Hocker to obtain the Attorney General's opinion regarding teleconferencing and then bring the subject back to Council for further discussion.

DISCUSSION ON CONSTRUCTION RESTRICTIONS

Mayor Headman stated that the Town had received an email from a property owner requesting that pile driving be prohibited in South Bethany during the summer months due to the noise. Mayor Headman noted that § 145-71 of the Town Code states, "No construction work shall be carried on between the hours of 6:00 p.m. and 8:00 a.m. by any contractor or between the hours of 8:00 p.m. and 8:00 a.m. by any property owner. With the exception of ordinary repairs and maintenance, no construction work shall be performed on any Saturdays or national holiday from May 15 through September 15, or any Sunday throughout the year, other than by owners of real property within the corporate limits of the Town of South Bethany working on their own properties. Emergency repairs may be made at any time." The Town Manager provided Council with a memo dated July 19, 2010, from the Code Enforcement Constable which listed the pile driving requirements in neighboring jurisdictions during the summer (attached). Mayor Headman noted that the neighboring towns have restrictions on pile driving during the summer months. Mayor Headman asked for Council's input.

Councilman Fields: Has sympathy for renters who pay \$5,000 for a week and a pile driver wakes them at 8 a.m. He thinks maybe during the summer season there should be a restriction because South Bethany is a resort town with rental properties. Councilman Fields questioned if the Town can make the restriction legally. If it could be done legally, he would favor some modification to the Code.

Councilman Cestone: Pile driving today is less noisy and faster than it was years ago. In the early 2000s when this came up, Council decided not to restrict it because they felt it would harm the property owners by delaying their construction and possibly cost them more. His feeling is to leave it the way it is.

Councilwoman Callaway: Stated that she is on the fence but sympathizes with renters. Believes Council should look at it even if it is just one person that has complained about it.

Councilman Saxton: Sympathizes with the people that rent and also sympathizes with the property owner who wants to start building. He understands both sides of the argument. For now he would leave it alone, but if Council hears more complaints come back and take a look at it again.

Mayor Headman said Council will keep it the way it is. There were no objections.

TRASH/RECYCLING DISCUSSION

Regarding the problems with the July 4th weekend trash and recycling pick-ups, the Town Manager contacted Allied Waste and Allied did an investigation. Allied reported that they had to send extra trucks into South Bethany that weekend. The trucks unfamiliar with South Bethany did not realize that Allied Waste picked up South Bethany's recycling and mistakenly dumped the recyclables in the garbage trucks. When they realized that the materials were recyclables, they called into their office and were told that it was recyclables they were picking up not garbage. It was corrected and Allied Waste apologized for their mistake. Allied Waste said that it is not their policy to mix recyclables and garbage because it costs Allied to take recyclables to the landfill. Mayor Headman stated that the Town will get back to Mr. Gross and will follow up at the August Town Council Regular Meeting.

Mayor Headman stated that he asked the Town Manager if it was a possibility to change the recycling pick-up day to Saturday in the future (not this year) now that Allied Waste is picking up the Town's recyclables. Mayor Headman said that a Saturday recycling pick-up would take care of some of the issues that seasonal people have with the recycling program. If the recycling day were changed from Friday to Saturday the trash collection schedule would have to change to Monday, Wednesday, and Friday (June through August). Mayor Headman asked Council if the

Town should continue discussions with Allied Waste about the possibility of changing the Town's recycling to Saturday and moving the June through August trash collection to Monday, Wednesday, and Friday. Mayor Headman also asked Council to consider whether the Town needs to have two pick ups of trash during April, May, and September. The Town Manager noted that the tipping fees went up 50% and some of that cost is going to be passed on to the Town. Cutting out pickups could save in labor and equipment costs. Mayor Headman stated that the only reason to reduce the number of trash pickups is to reduce cost – it is not contingent to getting more recycling.

Councilman Fields said he is okay with changing the recycling pickup day to Saturday. He believes the Town could change to a one day a week trash collection schedule in April, May, and September and a two day a week trash collection schedule in June, July and August. He believes recycling should be increased to weekly year round.

Councilman Cestone believes recycling would work on Saturdays. He thinks the trash collection schedule could be changed to two days a week (Monday and Friday) in June, July, and August and once a week in April. He feels the last two weeks of May and the first two weeks of September need two trash collection days a week. He also suggested having a special pick-up the three holiday weekends – Memorial Day, 4th of July, and Labor Day.

Councilwoman Callaway stated that there is more recycling than trash and she believes recycling should be increased to once a week year round. She is fine with the suggestion to change trash collection to Monday, Wednesday, and Friday in June, July, and August and recycling to Saturdays. She believes the Town can reduce trash collection to twice a week during the season, once a week during the off season, and have recycling every week. She added that if it is not going to save any money then keep it as it is.

Councilman Youngs said two trash pickups on Monday and Friday in June, July, and August with a Saturday recycle pickup would make sense.

Councilman Saxton stated that he does not believe it is right for Council Members to impose their personal beliefs about recycling on the whole town when there is no law forcing recycling. Having said that, Councilman Saxton said that he would agree to cut the April trash collection down to one pickup a week and keep the last two weeks in May and the first two weeks in September at two trash pickups. He believes there should be three trash pickups in June, July, and August.

Mayor Headman said his recommendation was to reduce the trash pick-up to one day a week in April, May, and September and not touch June, July, and August due to the renters.

Council agreed to have the Town continue discussions with Allied Waste to look at what the savings would be and then bring it back to Council for further discussion.

COUNCIL EMAIL COMMUNICATIONS

Mayor Headman said that the first part of this discussion is to determine Council's protocol regarding responding to an email that is sent to the entire Council. After a discussion, the Mayor and Council agreed that Mayor Headman will take the responsibility of sending a generic message saying that the email was received using the reply all feature so that the person who generated the incoming email and the Council will receive his generic reply message. If the incoming email to the Mayor and Council requires a more detailed response, Mayor Headman will refer the email to the appropriate Council Member depending on the subject matter and he will cc the entire Council so that Council knows that someone has been asked to look into it. The Council Member to whom the email has been referred will then send a response to the person who generated the incoming email using the reply all feature or ccing the Mayor and Council so that everyone receives his/her detailed reply message. If an incoming email is addressed to one Council Member, then that Council Member replies to the person who generated the email.

The second issue discussed was regarding a situation in the Town of Ocean View where the Town received a FOIA request for copies of all the Mayor's Town related emails that were on his home computer including deleted emails. Based on that FOIA request, the Mayor of Ocean View did not have use of his personal computer for several months. (See attached article for details.) As a result of this, the Ocean View Town Council decided that the Mayor and Council Members would be given a separate Town email address for Town business.

After a discussion there was a consensus that South Bethany's Mayor should have a Town email account but Council Members would not.

PUBLIC COMMENT PERIOD

Kathy Jankowski, the Town Manager, and Council had a discussion regarding the beach party that is being planned to raise money for the South Bethany Beach Patrol National Competition Fund. No action was taken.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Cestone, to adjourn the July 22, 2010, Town Council Workshop Meeting at 7:50 p.m.

phs:Workshop Minutes.7.22.10

Attachments: For Discussion Council Workshop 7/22/10 Tele-Conferencing Video-Conferencing
Memo from Code Enforcement Constable
News Article – Ocean View