

**TOWN OF SOUTH BETHANY  
TOWN COUNCIL SPECIAL MEETING/WORKSHOP NOTES  
JULY 1, 2010**

**ATTENDANCE**

PRESENT: Mayor Jay Headman; Councilpersons John Fields, Bob Cestone, Tim Saxton, Sue Callaway, George Junkin, and Rob Youngs; Town Manager Melvin Cusick; and Lt. Linda O'Malley

**MEETING CALLED TO ORDER**

Mayor Headman called the July 1, 2010, Town Council Special Meeting/Workshop to order at 6:00 p.m.

**PUBLIC COMMENT PERIOD**

Pat Van Cleve stated that in New Jersey executive sessions are only called for discussing personnel issues that need to be confidential. Ms. Van Cleve asked what the public needs to know about executive sessions in Delaware. Councilman Cestone stated that according to the Delaware Freedom of Information Act (FOIA), executive sessions may be held for personnel issues or legal issues. The Town Manager stated that an executive session can also be held for land acquisition deals. Councilman Fields stated that there are nine distinct reasons that executive sessions may be held including legal, personnel, and negotiating contracts. Mayor Headman had a copy of the Delaware Freedom of Information Act and offered it to Ms. Van Cleve to review.

Ms. Van Cleve stated that in her opinion the Town of South Bethany would be best served if there can be as much openness as possible. She added that if the Town had questions about land acquisition she believes the Town Solicitor should delineate what the Town can and can't do legally.

**EXECUTIVE SESSION – PERSONNEL**

A motion was made by Councilman Fields, seconded by Councilman Saxton, to go into Executive Session at 6:10 p.m. to discuss a personnel matter. The motion was adopted.

**RECONVENE SPECIAL MEETING**

Council reconvened the Special Meeting at 6:45 p.m.

**ADOPTION OF MINUTES** – Town Council Regular Meeting Minutes, June 11, 2010

A motion was made by Councilman Fields, seconded by Councilman Cestone, to approve the June 11, 2010, Town Council Regular Meeting Minutes. The motion was adopted. Mayor Headman thanked Councilman Youngs for the suggestion to adopt the minutes at the Special Meeting/Workshop in order to get them out to the public sooner.

A motion was made by Councilman Fields, seconded by Councilman Cestone, to move into the Workshop Session. The motion was adopted.

## **WORKSHOP SESSION**

- **Cable Consortium Memorandum of Understanding (Melvin Cusick/Jay Headman)**

Council had a copy of the Cable Consortium Memorandum of Understanding and a memo dated June 1, 2010, from the Town Manager with background information on the MOU (attached).

Councilman Junkin inquired if the fees had been included in the FY11 Budget. Mayor Headman replied that they had been.

Councilman Cestone stated that he has no problem with the Cable Consortium MOU. He is concerned about how the Cohen Law Group derived the cost of what is included in their proposal. He said there may be services listed in the proposal that the Cohen Law Group is not going to need to do, e.g., rights-of-way management planning and enforcement and development of cellular tower ordinances. Councilman Cestone also noted that there may be things in the cable agreement that are specific to South Bethany, e.g., the cable company cannot run cables across the Town's canals. Mayor Headman said when the representatives from the towns met the feeling of the group was that there is going to be a give and take with the group but with the cost it was well worth it. The Town Manager noted that the proposal from the Cohen Law Group includes two face to face group meetings, and South Bethany can bring up their individual concerns at that time. Councilman Cestone asked if each town will have a separate agreement. The Town Manager and Mayor Headman replied yes. The Town Manager suggested that Council Members review the existing franchise agreement and make a list of changes to submit to the attorney.

Councilman Youngs believes Council owes it to the town to try to get some competition in the town if possible, and he wants to make sure the Town raises that issue with the lawyers.

Regarding Page 4, Paragraph 5, of the MOU, Councilman Youngs asked for clarification on who South Bethany's representatives would be. Mayor Headman stated that he and the Town Manager would continue as South Bethany's representatives.

A motion was made by Councilman Junkin, seconded by Councilman Saxton, that Council sign onto the Cable Consortium Memorandum of Understanding. After a discussion, the voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Fields, Saxton, Callaway, Junkin, and Youngs

AGAINST THE MOTION: None

ABSTAINED: Councilman Cestone

The motion carried with a 6-0 vote.

- **Richard Hall Memorial Park Committee Report (John Fields)**

Before the Committee can move forward, Council needs to make a decision on a legal question that came up in June. Councilman Fields hopes that Council can settle this legal issue tonight, and then he will call a meeting of the committee so that the Town can move ahead in regard to a referendum.

- **Budget and Finance Committee Report (Tim Saxton)**

Councilman Fields has joined the Budget and Finance Committee. Keith Krenz has agreed to stay on the committee. Councilman Saxton will present two additional people to the Mayor and Council for approval at the July 9, 2010, Town Council Regular Meeting.

The Budget and Finance Committee's next meeting is scheduled for July 9, 2010, from 3:00 p.m. to 4:30 p.m. The biggest issue on the agenda will be the proposal from Councilman Youngs and the Financial Administrator on improving the Town's technology.

Reviewing the process that was used last year regarding the Budget and Finance Committee, Councilman Saxton stated that if a committee or department head had an idea that they wanted evaluated from a financial perspective, first the Town Council decided if it was something they would be willing to spend money on and then it would get deferred to the Budget and Finance Committee to review it. Then the Budget and Finance Committee would come back to the Council with a recommendation. Councilman Saxton would like to see this process continued. He stated that the only things that need to come to the Budget and Finance Committee are things that are outside the current fiscal year's budget. Councilman Saxton's expectation is that department heads and chairs are the only people that talk to the Financial Administrator regarding the Town's finances, and he added that he does not want individual committee members approaching the Financial Administrator requesting things for the committee. Councilman Saxton stated that he is an active Treasurer and he makes a lot of decisions with the Financial Administrator. Councilman Saxton wants to make sure that the committees know what their budget is.

Regarding monitoring and budget controls, Councilman Saxton stated that he is going to propose to the Budget and Finance Committee that the Committee set a rule that when a line item is at 65% of budget they notify the Town Manager and when a line item is at 80% of budget the Committee will shut it down until it knows that all invoices are paid and if the Town will go over budget or not. It is the intent of the Committee to stay within the budget. Councilman Youngs said at 10 months into the year the 65% and 80% does not work so the Committee will have to slide as it moves through the year. Councilman Saxton agreed and said that the Committee is asking the Financial Administrator to use judgment. The purpose of the controls is that the department heads and chairs will be notified if their budget is running out.

At the June 11, 2010, Budget and Finance Committee Meeting the Committee discussed the issue of repair of the Town's 13 year old mower. The Town has already spent about \$1,100 this year between repairs on the mower and hiring a contractor to do the work while the mower was being repaired. This is more than the value of the mower. The value of the mower is fully depreciated. Councilman Saxton proposed taking money out of depreciation reserves (for the full depreciation value of the mower) and MSA funds to purchase a new mower. The Town Manager stated that he believes the original cost of the mower was \$6,686, it is 13 years old, and it was depreciated out at five years. This year the Town has spent \$967.44 to repair the mower and the Town has spent \$185 for a contractor to assist the Maintenance Department in cutting the grass while the mower was being repaired. The total spent this year is \$1,152.44. At the request of the Budget and Finance Committee, the Town Manager obtained prices on a replacement mower. Under the State Contract the Town can purchase a mower for \$8,950. The list price is \$11,191. The mower should last at least ten years. Councilman Saxton said the split would be about \$7,000 out of reserves and \$2,000 out of MSA monies. Council will discuss this issue again at the July 9, 2010, Town Council Regular Meeting.

At the request of the Department Heads, Councilman Saxton has agreed to allow for a once a month cleaning of the Police Department and Town Hall as long as the Department Heads stay within their line item budget for grounds and building maintenance.

- **Emergency Operations Procedures (Melvin Cusick)**

Council had a copy of the Town of South Bethany Code Chapter 8, Emergency Services and Disasters. The Town Manager made the following points:

- The Mayor is the Director of Emergency Services of the Town and is in charge during an emergency. The Town Manager is next in line and then the Police Chief.
- The Town has its own Emergency Operations Plan. The last major update to the plan was in 2006 with minor updates as recent as 2009. The Emergency Operations Plan is available for review at Town Hall.
- The Town works closely with Sussex County. To request a Declaration of Emergency, the Town would make a request to the County, the County would make a request to DEMA, the DEMA Secretary would make a request to the Governor, and the Governor would go through the military branch and request the National Guard.
- If a hurricane starts up the coast, the State's Emergency Operations Center automatically holds conference calls with the Mayor, Police Chief, Town Manager, Homeland Security, DelDOT, National Weather Service, National Guard, school systems, Health Department, etc.

Councilman Youngs requested that the Town post on its website contact information for specific services during an emergency.

- **Draft Resolution – Adoption of Updated Sussex County All Hazard Mitigation Plan (Melvin Cusick)**

The Town Manager stated that this resolution will be up for adoption at the July 9, 2010, Town Council Regular Meeting. Council had a memo (attached) from the Town Manager dated June 17, 2010, with information regarding the All Hazard Mitigation Plan. The County must update the plan every five years and each jurisdiction must adopt it by resolution.

Councilman Youngs volunteered to sponsor the resolution.

- **Artesian Lease Agreement**

Mayor Headman explained that the Town's lease agreement with Artesian is a 33 year lease. Every year there is a consumer price index increase. On the tenth year Artesian is required to do an appraisal for its value. Councilman Saxton, the Town Manager, and Mayor Headman have reviewed the appraisal and would like to get feedback from the Council.

Councilman Saxton noted that the appraisal was due to be done 20 months ago and he thanked Councilman Cestone for bringing it to the Town's attention. He also noted that the appraisal was done in a down market. Councilman Saxton explained that the Town Manager sent a letter to Artesian in February of 2010 asking them to do the appraisal. The appraisal is dated May 25, 2010. Councilman Saxton said that the Town can accept Artesian's appraisal or reject their appraisal and have a second appraisal done at the Town's expense (the appraiser has to be agreed upon by both parties). Councilman Saxton reported that the current lease fee is \$12,580 per year and the appraisal went to a market rent value of \$14,900 per year. The appraiser used two comps from 2007 and three comps from 2009. Local properties were used for the comps. The averages came out to \$18.65 a square foot and the offer is for \$20 a square foot. Councilman Saxton stated that the Town should request that Artesian pay the 20 months of retroactive rent fees. Councilman Saxton said he considered how much the Town could gain by a second appraisal and how much a second appraisal would cost the Town. Councilman Saxton's recommendation is to accept Artesian's appraisal. Councilman Cestone and Councilwoman Callaway were surprised that the appraised value was not higher. After a discussion, Councilman Cestone was satisfied that Councilman Saxton, Mayor Headman, and the Town Manager had thoroughly researched the issue. Mayor Headman noted that there is some concern on the Council but believes Council is saying it is okay. Council did not disagree.

Councilman Saxton noted that the Town is waiving the late fee but he would not have an issue with going after the late fee. Councilman Cestone said it would depend on how much the late fee is and added if it is \$100 it is not worth the effort.

- **Communications Strategies (Headman/Callaway/Youngs)**

- **Use of 800 Number – Access to Town Hall**

Councilwoman Callaway got prices from Verizon and AT&T for an 800 number. AT&T does not have monthly usage charges. Verizon has monthly usage charges. AT&T charges about 5.9 cents per minute with an 11 month term commitment and 6.9 cents per minute with no term plan. There is no annual cost with AT&T. Verizon charges \$15 a month. Councilwoman Callaway would like to do further research and get a price from Mediacom. Councilman Fields questioned why the Town needs an 800 number noting that most people have unlimited phone service. Councilwoman Callaway stated that it was in regard to conference calls and she was asked to look into it. Councilman Fields stated that conference calls have not been approved yet. As an alternative to an 800 number, Councilman Youngs would like the Council to consider broadband internet access in the Town Hall Meeting Room if Council approves conference call attendance.

Mayor Headman suggested holding this discussion for the July 22 Workshop when Council discusses Participation and voting by remote access (§ C-7K (7) of the Charter).

- **Meeting Minutes Format**

Councilman Youngs stated that there are two choices before Council regarding the meeting minute's format: The format that the minutes are currently in which are thorough and complete or, as required by law, record only action items (no discussion, no comments). Councilman Youngs had considered a third option which would be a summary but a shorter version of the format that is currently used. After talking to different typists, Councilman Youngs concluded this format would take longer to produce. Councilman Saxton added that it takes judgment also. Councilman Cestone stated that in the 1990s property owners asked for more detailed minutes. He added that there have been times that he has referred to meeting minutes and they have been very helpful. Council agreed to continue with the current format for minutes.

Mayor Headman stated that he is looking into the reason behind why Council does not vote in the Workshop Session. Currently Council holds the votes until the Special Meeting is reconvened. Councilman Youngs stated that FOIA states that any meeting that is not a town council regular meeting at which articles, amendments, etc., are brought up has to be a special meeting. He suspects there was time when Workshops were just Workshops and nothing could be approved or moved on and then they became Special Meeting/Workshops.

### **RECONVENE SPECIAL MEETING**

Council reconvened the Special Meeting at 7:55 p.m.

### **PUBLIC COMMENT PERIOD**

There were no comments.

A motion was made by Councilman Cestone, seconded by Councilman Fields, to move into Executive Session. The motion was adopted.

### **EXECUTIVE SESSION**

Council went into an Executive Session at 8:00 p.m. for preliminary discussions on site acquisitions for publicly funded capital improvements.

**RECONVENE SPECIAL MEETING**

Council reconvened the Special Meeting at 9:15 p.m.

A motion was made by Councilman Junkin, seconded by Councilman Cestone, to hire the new police officer. The voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Cestone, Callaway,  
Junkin, and Youngs

AGAINST THE MOTION: Councilmen Fields and Saxton

The motion carried with a 5-2 vote.

**ADJOURNMENT**

The July 1, 2010, Town Council Special Meeting/Workshop was adjourned at 9:25 p.m.

phs:Workshop Notes.7.1.10

Attachments: Cable Consortium Memorandum of Understanding (MOU)  
Memo dated June 1, 2010, from the Town Manager with background information on the MOU  
Memo dated June 17, 2010, from the Town Manager regarding the All Hazard Mitigation Plan