

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES APRIL 11, 2014
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MEETING CALLED TO ORDER

Mayor Jankowski called the April 11, 2014, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

ATTENDANCE

PRESENT: Mayor Kathy Jankowski; Councilpersons Al Rae, Jim Gross, Tony Caputo, Sue Callaway, George Junkin, and Pat Voveris; Town Manager Melvin Cusick; M/Cpl. Lee Davis; and Administrative Assistant Pam Smith

PROPERTY OWNERS' PARTICIPATION

- Carolyn Marcello (8 S. 9th St.) – Thanked the Town Council and the Town Manager for approving her request to use the Council meeting room for the National Day of Prayer event on May 1. Ms. Marcello said they will be praying for our nation and for this area. Ms. Marcello also announced that Friday, April 18, from 10 a.m. to 12 p.m. will be the Life Chain along Route 1. Ms. Marcello said it is great to have police visibility because of traffic speeding from Fenwick Island into South Bethany.
- Mike Matera (311 W. 9th St.) – Stated that about two weeks ago he called 911 and M/Cpl. Lee Davis did a wonderful job helping him at his rental property where two women were fighting. Mayor Jankowski asked M/Cpl. Davis what he did. M/Cpl. Davis said he separated the women and diffused the situation and worked everything out without anybody being arrested.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, March 14, 2014** – A motion was made by Councilman Junkin, seconded by Councilman Rae, to accept the March 14, 2014, Town Council Regular Meeting Minutes as amended as follows (where applicable, additions are **highlighted** and deletions **marked through**):

Page 11, Public Comment Paragraph, after the third sentence add: ***(Administrative Assistant's Note: At the April 11, 2014, Town Council Regular Meeting, Councilwoman Voveris corrected this statement saying that the owners would have to go back to the Board of Adjustment with a plan for the house that they wanted to put on the lot because the Code Constable could not approve a plan that would be in violation of the code.)***

Page 8, Sea Level Rise (SLR) and Storm Surge (SS) Committee, Number 3: To protect construction that is allowed [Parking, Storage and an Entrance to the home] below the DFE, require that it be **in compliance with** ~~to~~ FEMA Technical Bulletin 02.

The motion was approved. Mayor Jankowski abstained.

- **Town Council Budget Workshop Meeting Minutes, March 27, 2014** – A motion was made by Councilman Junkin, seconded by Councilman Caputo, to accept the March 27, 2014, Town Council Budget Workshop Meeting Minutes as amended (where applicable, additions are **highlighted** and deletions **marked through**):

Page 3, Third Paragraph: Alternative Lighting Project - Councilwoman Callaway reported that, **based on the results of the Ocean Drive solar light survey**, the CEC recommends funding the project for the entire Ocean Drive.

The motion was unanimously carried.

LEADERSHIP REPORTS

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

On March 28 Melvin Cusick, Town Manager, Sue Callaway, Mayor Pro-Tem, and Mayor Jankowski attended the meeting of the Sussex County Association of Towns (SCAT) at which SCAT presented its annual presentation of their 2014 Legislative Issues to state legislature members. The presentation included the following issues: Labor - Collective Bargaining (HB 81 regarding the unionization of police departments and how it would impact on budgets and finances in the towns), transportation (the motor fuel tax increase that the Governor is proposing), keeping the Municipal Street Aid (MSA) in tact (SCAT wants budgeted amount returned to \$6M), the environment including wastewater and stormwater regulations (Governor Markell has a clean water initiative which would create a fee for all residents of Delaware), Freedom of Information Act (SCAT wants to be involved in legislation), and downtown development.

Regarding FOIA, the Town Manager said there was an article in the local Lewes/Rehoboth paper about the FOIA Road Show presented by the Attorney General's office at the Sussex County Council Meeting in March. The Town Manager said he will make copies of the article for Council. The Town Manager said that if Council wanted to entertain their own FOIA Road Show from the Attorney General's office the Town could schedule one in South Bethany. There was a consensus to wait until the Attorney General's Office's presentation had more information than what has previously been presented. Councilman Gross said the Attorney General's Office needs to be pressed to come up with a real set of recommendations. Councilwoman Callaway said SCAT is doing that. Councilwoman Callaway added that SCAT is supposed to be able to provide input on the FOIA guide that the Attorney General's Office prepares. The Town Manager stated that it is his understanding that the Attorney General's Office has not started to write the manual yet. Mayor Jankowski said we can express our dissatisfaction with it at the next SCAT meeting.

Mayor Jankowski attended the Bethany/Fenwick Area Chamber of Commerce's annual meeting at the South Coastal Library where Governor Markell presented information on his proposed gas tax and fee to improve water quality. He said the gas tax would address public safety - Route 26 is a good example of this in alleviating congestion. He also said it would provide economic development by job creation. Regarding the clean water fee, Governor Markell said Sussex County revenue would remain in Sussex County for initiatives. It is Mayor Jankowski's understanding that the Governor does not have a lot of support for these proposals in the General Assembly. Mayor Jankowski said she is trying to get a copy of the presentation, and when she does she will send it to Council.

Mayor Jankowski met with Senator Hocker and Representative Gray at the South Bethany Town Hall to discuss the Assawoman Canal. They discussed a meeting Mayor Jankowski had with Kevin McCourt, who has been working on a project with DNREC in White's Creek, into which Assawoman Canal also flows. The issue is larger than the Assawoman Canal and White's Creek and has also included the channel markers in surrounding areas. Representative Gray and Senator Hocker decided to have a "Town" meeting to discuss these issues to be held at the Millville Fire Company. (Administrative Assistant's Note: After this meeting, the "Town" meeting was scheduled for May 13, 2014, at 7:30 p.m.) Mayor Jankowski agreed to work on a list of communities that should be invited to attend this session to try to get more people involved and hopefully get DNREC to come down and get these things taken care of before Memorial Day weekend. Mayor Jankowski stated that Senator Hocker has kind of been getting the run around from DNREC, but to be fair, DNREC says they do not have the resources needed. More information will be forthcoming. The Coast Guard is going to come down and address the channel markers because that falls under the federal government.

Mayor Jankowski stated that the Realtor "Meet and Greet" will be April 22 from 11:30 a.m. to 1 p.m. Currently 19 Realtors have responded that they will be attending. The theme of the meeting is "why would you come to South Bethany - why would you want to rent or buy property in South Bethany". Mayor Jankowski, Councilwoman Callaway, Code Enforcement Constable Joe Hinks, and Chief Deloach will be giving presentations. During lunch the Town will solicit feedback and comments from the Realtors. Mayor Jankowski encouraged all Council Members to attend.

Mayor Jankowski announced that last week Dee Burbage celebrated 30 years of employment with the Town of South Bethany. When you see Dee, please be sure to mention your appreciation for all she has contributed.

Councilwoman Callaway, Chief Joe Deloach, and Mayor Jankowski will be meeting with Ken Cimino, the Route 26 construction on-site public outreach coordinator, on April 17 at 9 a.m. to discuss the impact of detoured traffic on possible cut throughs on Black Gum Rd. in Cat Hill.

Dedication of the Council meeting room to May Felerski - Mayor Jankowski has been working with Historical Society President Maria Johansen and they have tentatively scheduled the dedication ceremony for Sunday, May 25, (Memorial Day weekend) in the afternoon. Mayor Jankowski plans to show Council a copy of what the plaque will look like at the April Town Council Workshop Meeting.

Mayor Jankowski is going to send out a News Update announcing that the Town will not be having an election. Mayor Jankowski announced that Pat Voveris will be the new Mayor and Sue Callaway, George Junkin, and Tim Saxton will be Council Members. Mayor Jankowski congratulated them and wished them good luck.

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

The March 2014 EMS Run Report, the First Quarter 2014 Ambulance Service Report, and the Code Enforcement Constable's Report were available on the sign-in table.

The Bethany Beach Volunteer Fire Company EMS Day is scheduled for May 10, 2014, from 10 a.m. to 2 p.m. at the Bethany Beach Fire House. The new ambulance will be on display.

The Town Manager attended the Route 26 Construction Workshop on April 8 in Bethany Beach. The minutes to that meeting were available on the sign-in table. These meetings are open to the public and are going to be held monthly. Once you attend a meeting and give them your email address, you will get notifications by email. The next meeting is May 13 at 10 a.m. at the Bethany Beach Town Hall.

The Town has been working on the beach walkways. The Town has prepared the area where the resting benches go. Some benches have been installed and the rest of the benches will be installed very soon. The State is responsible for the crossings that cross the dune. The State did come to South Bethany last week to start some work - they pulled some of the sand down that had built up from the storms. They have not finished. They are currently working in Fenwick Island where it is worse than South Bethany. After DNREC finishes all of the crosswalks in all of the towns (the first priority), they will finish repairing the south end of the common walkway in South Bethany that is on the western side of the dune and runs parallel to the ocean.

- **Treasurer's Report**—Tony Caputo reported:

Referring to the financial material Council received in their packet, Councilman Caputo encouraged Council to ask any questions they may have. Councilman Junkin said he talked with the Finance Director about \$6,000 in the FY 14 Canal Water Quality Budget that will not be needed.

Realty Transfer Tax (three major items) – 1) the Finance Director and Councilman Caputo renegotiated bank fees with Citizens Bank to bring the fees down \$35 a month which saves the Town about \$400 a year, 2) they also renegotiated the realty transfer tax fee from 1 3/4% down to 1% which saves the Town about \$1,800 a year, 3) combined the 1% and 0.5% realty transfer tax funds into one fund which will simplify the Town's accounting and the Town does not lose anything (Councilman Caputo cleared this through the Town's auditors and through the State).

Basically the realty transfer tax can pay for Department of Public Works and Department of Public Safety costs. Councilman Caputo and the Finance Director calculated that the Town had spent roughly \$444,000 in fees so far this year in the Department of Public Works and the Department of Public Safety. Councilman Caputo and the Finance Director moved those monies from restricted to unrestricted which increased the unrestricted funds by \$444,000. Councilman Caputo said this gives the Town more flexibility in regards to how those funds can be used.

Work is continuing on the Budget and Finance Policies Manual. Councilman Caputo hopes to write budget preparation control policies at the end of this budget cycle. Councilman Caputo stated that his approach is a little different than prior years, and he will take the best of each.

Councilman Caputo stated that as we are getting towards year end it looks like the Town will be just under in revenue projections and under in expense projections. The Town should come out with a surplus. The realty transfer tax is an unknown. The Town budgeted \$255,000 for realty transfer tax and has collected \$230,000. There is a home on Ocean Drive that we have been told will close on April 28. If that home closes and is recorded in the current fiscal year, it would put us at roughly \$250,000 (under budget by roughly \$5,000 which is pretty close). The Town did remarkably well on Building Permit revenue and is over budget in this area. The Town is over budget on several expenditure accounts by little amounts, but overall the Town is going to be under its expense budget.

- **Police Department Report/Questions**—M/Cpl. Lee Davis reported for the month of March 2014:

- Overall for the month – One false alarm.
 - A couple of agency assists with either Bethany Beach PD, Fenwick Island PD, Ocean View PD, or the State Police
 - A couple of stops where people had outstanding warrants and they were taken into custody.
 - Two incidents involving intoxicated subjects.
 - An attempted possible burglary on New Castle Dr. where it looked like somebody may have tried to force open the front door. They did not get the door open and they did not gain entry. There are no witnesses and no suspects. (M/Cpl. Davis reminded property owners to call the Police Department if they see somebody that you don't know if they should be there or not.)

Councilwoman Voveris noted that on the March Police Report the mileage is 30% less this year versus last. After discussion M/Cpl. Davis said he does not know why it would be less. Councilwoman Voveris said she will follow up with Chief Deloach.

Councilman Gross asked about an incident on Rt. 1 where two people were screaming and hollering at three or four o'clock in the morning. M/Cpl. said it was a father and son. The father grabbed his son around the throat and then the son was beating up the father. They were highly intoxicated. They were both arrested.

Mr. Matera asked if the police would be watching for vehicles not stopping at stop signs on the west side when the Route 26 Widening Project detours go in effect. M/Cpl. Davis said he will be patrolling for this.

ORDINANCES/RESOLUTIONS – RESOLUTION 1-14, A RESOLUTION TO SET THE FY 2015 PROPERTY TAX RATE AND RENTAL TAX RATE (TONY CAPUTO)

A motion was made by Councilman Junkin, seconded by Councilman Caputo, that Council adopt Resolution 1-14.

Councilman Caputo stated that when the FY 2015 Budget was developed revenues were projected based upon the property tax rate at \$1.30 for hundred dollars of assessment and the rental tax rate at 8% of total gross receipts of each residential and commercial property.

Councilman Caputo read Resolution 1-14.

A motion was made by Councilman Junkin, seconded by Councilman Rae, that Council accept Resolution 1-14. Mayor Jankowski asked for discussion. There was none. The voting was as follows:

FOR THE MOTION: Mayor Jankowski and Councilpersons Rae, Gross, Caputo, Callaway, Junkin, and Voveris

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

ADMINISTRATIVE MATTERS

- **Approval of FY 2015 Budget**

A motion was made by Councilman Junkin, seconded by Councilwoman Voveris, that Council approve the FY 2015 Budget. The motion was unanimously carried.

The Town Manager noted that Council will have to sign the signature page of the budget.

- **Consideration and possible vote on appointment of a committee regarding Mobi-Mat distribution**

Mayor Jankowski appointed Councilman Rae, Councilman Gross, Councilman Caputo, the Town Manager, and the Maintenance Supervisor to serve on the committee regarding Mobi-Mat distribution. Mayor Jankowski assigned Councilman Rae as the Chairman. Mayor Jankowski confirmed that the staff members are non-voting members. Mayor Jankowski confirmed that the committee will bring its recommendations back to Council to make the decision. Mayor Jankowski would like Council to have the committee's recommendations for the April Town Council Workshop Meeting. Councilman Rae said he will put the committee meeting together.

A motion was made by Councilman Junkin, seconded by Councilwoman Callaway, that Council accept Mayor Jankowski's appointments to this committee. The motion was unanimously carried.

COMMITTEE REPORTS

- **Community Enhancement Committee** – Councilwoman Callaway reported:

The Community Enhancement Committee held a meeting on Thursday, March 27, 2014, at the Town Hall Meeting Room. The meeting was attended by Sue Callaway, Chair; Donna Farrow; George Junkin; Diann Nazarian; Carol Stevenson; Pat Weisgerber; and Don Chrobot and Rick Gentile, Maintenance Department. There were no public comments.

Update on Proposed FY 15 Budget: The group discussed the upcoming FY 15 Budget and the CEC proposed budget items. The CEC unanimously agreed to modify its street sign plans and switch Phase 3 and Phase 4 – thus saving \$4,000 in the proposed FY 15 budget. In addition, in switching the phases, all South Bethany streets will have new street signs by the end of 2014. Sue presented the proposal at the TC Workshop that evening and it was accepted by the TC and is included in the final budget. The TC agreed to amend their previous recommendation to lower the requested solar light funds to \$1,000 for FY 15 and fund half of the Ocean Drive solar light project in FY 15. Thus raising the amount to \$1,575 with the idea of evaluating how successful the lights are and then funding the other half of \$1575 in FY16. The TC also voted to eliminate the CEC budget request for \$4,000 for two new South Bethany Welcome signs.

Discussion of Potential Landscaping Plans for Route 1: Work on Bio-retention beds, circle beds, pedestrian walkway rain gardens; York Beach Mall gardens; Richard Hall Memorial Park and Cat Hill Entrance Way has been initiated with a slight break in the weather. Public Works has been able to clean up the grasses; trim the crepe myrtles; edge beds; cut down Bayberry suckers; spray weed killer; and start the initial mulching.

East Side Bio-Retention Project: Sue and George Junkin participated in a conference call meeting on Monday, March 17, 2014, with members of the East Side Bio-Retention group that includes, CIB; Larry Trout, contractor; Sue Barton, landscaper; and LaTonya, DelDOT. South Bethany, Middlesex Beach and DelDOT are working on the Right-of-Way Use Agreements which must be completed before construction work can begin. Larry is working with the landscaping company to acquire final quotes for costs of plants. The group is in agreement that all work must be completed by Memorial Day. The plan is to begin digging by mid-April. We are currently awaiting the DelDOT revised use agreement and the date for our next conference call meeting.

Adopt-A-Canal/Road End Program Update: The following adopt a canal/road end projects are underway: the Scrugg family, who adopted the Petherton Road End; the Scott Weitz adoption of the W. 7th Street Road End; and the Boteler adoption of the Sussex Place Road End. Carol Stevenson is organizing a group of volunteers to weed adopted canal ends whose adopters have turned them back to the Town after their one-year maintenance agreement and also the Earth Day adoptions and Richard Hall Park. We are updating the Volunteer Recognition Wall that is posted on the SB website. In addition, Sue and Don are working with Eagle Scout candidate and South Bethany resident Andrew Chapdelaine, to help him achieve his goal of becoming an Eagle Scout. Andrew's community service project will be to install signs along the interior bulkheads within the canal waters identifying the streets you pass by on your boat or kayak! Andrew is the second in the Chapdelaine family to become an Eagle Scout and to choose South Bethany as his service project.

Earth Day Canal/Road End Adoption – The group confirmed the canal end on Peterson Drive, near Anchorage, as continuation of the Earth Day celebration (April 22nd). The group will utilize its landscaping plan developed for the 2013 Earth Day adoption on York Road. CEC member, Pat Weisgerber, has volunteered to maintain the adopted canal end. All junipers have been removed and so it is ready for the planting. The Earth Day planting will begin at 8:30 AM and Sue has contacted the *Wave* and *Coastal Point* to let them know about the event which Mayor Jankowski will attend as well.

Next Meetings – The CEC will meet on Tuesday, April 22nd for the Earth Day planting, and the May meeting will be held on Thursday the 29th at 10:00 am.

- **Budget and Finance Committee** – Councilman Caputo reported:

Councilman Caputo hopes to have a Budget and Finance Committee meeting later this month. The committee wants to have budget preparation guidelines and fixed assets guidelines for the workshop meeting.

- **Canal Water Quality Committee** – Councilman Junkin reported:
 - **Grant Activity**
 - **Grant for Rain Gardens along the East Side of Route 1.**
 - We are in April and excavation has not started. I have expressed my concern to Bart Wilson from the CIB of our concerns with finishing the project by Memorial Day. He has responded to me that he is also concerned, and he is going to start pushing on Larry and LaTonya to get what they have to do done.
 - **Large oyster cages and floating wetlands in South Bethany Canals**
 - No new information on this grant
 - **Bioretention areas in Sandpiper Pines**
 - No new information on this grant. We still expect the final report in May from Tetro Tech who is doing the work.
 - **Water Quality Monitoring is continuing on its twice per month spring schedule**

Councilman Rae told Councilman Junkin that one of his neighbors pointed out that there is a drain that you may not know about. It is in the middle of a bunch of bushes on Anchorage.

Thinking ahead to the talks with Senator Hocker and Representative Gray and the Governor's water quality initiative, Mayor Jankowski asked Councilman Junkin if there is any way to measure whether there is better flow since the dredging. Councilman Junkin stated that they cannot measure flow. Councilman Junkin said dredging does help because sediments that are on the bottom that have pollutants in it are picked up. Councilman Junkin said trying to measure how much it helps is difficult.

- **Charter and Code Committee** – Councilman Gross reported:

There is no action to report. The committee has not met since the last Town Council Regular meeting.

Mayor Jankowski stated that at the next Town Council Workshop she will bring up for discussion the possibility of putting on the list of ordinances to think about an ordinance regarding fire pits. Councilman Junkin said another ordinance to think about is the no smoking on the beach issue. Mayor Jankowski agreed and asked the Administrative Assistant to put both items on the April Town Council Workshop Meeting Agenda.

- **Communications and Public Relations Committee** – Councilman Rae reported:

The Realtor Luncheon is coming up on April 22.

Councilman Rae stated that he submitted information about South Bethany to the State website and they say they are going to make the changes. The website comes under the Economic Development Office.

- **Sea Level Rise (SLR) and Storm Surge (SS) Committee** – Councilman Junkin reported:

- There will be a Town Council Workshop Meeting on Wednesday, April 23, at 1:30 to discuss the SLR & SS Committee's recommended code changes to adapt to SLR & SS. It is expected that the Council will then make recommendations to the Code and Charter Committee to create an ordinance to implement the Council's recommendations to adapt to SLR & SS issues. The public is invited to attend. Robert Coleman, PE (a South Bethany resident who has voiced a concern with using the DNREC, NOAA, and IPPC predictions on SLR) has been provided an opportunity to present his analysis showing little or no true increase in canal tide level over the last 14 years.

- Grant Activity
 - *Sea Level Rise Adaptation – Baseline Survey*
 - Public meetings to present SLR & SS issues and elevation survey results will be held at the Town Hall at 7:00 PM on Friday, May 23 and 30 and June 6. Each of the presentations will be the same. There are three meetings so that more people will be able to attend. The agenda will include:
 - ❖ How high is South Bethany?
 - ❖ Flood Insurance Rate Maps (FIRMs)
 - ❖ Historical flooding and tide data
 - ❖ Estimates of what SLR & SS might be in the future
 - ❖ What Is South Bethany Doing To Adapt?
 - ❖ What Can Homeowners Do To Adapt?
 - ❖ Flood Insurance Issues

Councilman Junkin said he has sent his draft of the presentation to the Council Members, the Sea Level Rise Committee members, and other people. The Sea Level Rise Committee will have a meeting the day after the April 23 Town Council Workshop Meeting to factor into the presentation what the Council feels about these issues.

Mayor Jankowski asked Councilman Junkin to prepare news updates to go out prior to the public meetings on SLR & SS issues. Councilman Junkin agreed and added that he is also going to have a hard copy of the announcement of the presentations mailed to property owners.

AREAS OF INTEREST

- **Assawoman Canal and Trail** – Councilman Rae reported:

Councilman Rae thanked Mayor Jankowski for arranging the meeting to discuss community issues regarding the Assawoman Canal.

As reported last month, Councilman Rae said the Assawoman Canal Trail information meetings are going to be on Wednesday, April 16, at 7 p.m. and Tuesday, April 22 at 9:30 a.m. at the old (Ocean View) Town Hall at 32 West Ave.

Councilman Rae said he will send DNREC an email regarding a tree across the canal near the Jefferson Bridge.

- **Board of Adjustment** – Councilwoman Voveris reported:

An appeal hearing is scheduled for May 21, 2014, at 9:30 a.m. The notice will be in the Coastal Point on April 18.

Councilman Caputo announced the following item of interest: The Historical Society has written a book and it is ready to go off to the printer. The Historical Society hopes to have the book in distribution by the end of May.

PLANNING COMMISSION REPORT – Mayor Jankowski reported:

Mayor Jankowski stated that she would like to get the strategy document completed before she leaves office. She stated that she will be contacting the Council Members for information. It will be on the April 24, 2014, Town Council Workshop Meeting agenda.

Councilman Gross stated that the Comprehensive Plan (CP) 10 year update is going to be due in 2016 and it takes time to run through that. Councilman Gross recommended that Council talk to the Planning Commission about drafting a survey again. A survey would provide value to the

Council, and the Planning Commission can consider the survey results in updating the CP. As was done the last time the Town did a survey, Councilman Gross stated that the Planning Commission would draft the survey and the Council would revise it before sending it out. Mayor Jankowski directed the Administrative Assistant to put this item on the April 24 Town Council Workshop Meeting agenda. Mayor Jankowski said she will send a note to the Planning Commission regarding this. Mayor Jankowski believes the Council needs to discuss the 10 year update in more detail in order to give the Planning Commission some guidance.

ADJOURNMENT

A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to adjourn the April 11, 2014, Town Council Regular Meeting at 8:20 p.m. The motion was unanimously carried.