

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
DECEMBER 12, 2014**

MEETING CALLED TO ORDER

Mayor Voveris called the December 12, 2014, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

ATTENDANCE

PRESENT: Council Members Sue Callaway, Tony Caputo, Jim Gross, George Junkin, Al Rae, Tim Saxton, and Mayor Pat Voveris; Chief Troy Crowson; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Town Manager Melvin Cusick

APPROVAL AND VOTE OF THE AGENDA

A motion was made by Councilwoman Callaway, seconded by Councilman Gross, to approve the agenda as presented. The motion was unanimously carried

CERTIFICATE OF COMMENDATION PRESENTATION TO CPL. MARK BURTON

Mayor Voveris read the following letter to Chief Crowson from former Mayor Kathy Jankowski who recently was a victim of a burglary and theft:

Dear Chief Crowson:

One of the most fearful moments of my life was walking alone into my home on Wednesday, November 19, to find a window had been broken and someone had been inside. I immediately called the South Bethany Police. Corporal Mark Burton arrived within five minutes of my call, was very professional, and wasted no time in gathering information, taking pictures, and getting the window secured. In my opinion, Corporal Mark Burton went above and beyond the "call of duty" in handling the situation.

He was not only "my knight in shining armour," but made me feel safe enough to stay in my home that night.

I was so impressed with his communications over the days following this home invasion. He kept me informed, when appropriate, every step of the way.

But, most of all I was impressed with his devotion and attention in finding the perpetrators and recovering my stolen jewelry and other items. I believe, if he had not acted immediately, nothing would have been recovered.

Chief Troy, compared with other communities, the people of South Bethany have the best qualified and outstanding officers. I am writing this letter because I feel it is important that our community know how fortunate we are to have this caliber of people on our police force. We are very blessed to have you, Corporal Burton, and the rest of your staff.

I can't thank Corporal Burton enough!

Kathy Jankowski

In presenting the Certificate of Commendation to Cpl. Mark Burton, Chief Crowson said, "I would like to commend Cpl. Mark Burton for his exceptional performance of duties and his outstanding investigative skills in solving a burglary in the Town of South Bethany. On November 19, 2014, Cpl. Burton responded to 310 W. 10th St. for a criminal mischief - it was a broken window complaint. Further inspection of the property would then reveal that a substantial amount of jewelry had been removed from the residence upgrading the original offense to a burglary and a theft. Cpl. Burton processed the crime scene and compiled a list of stolen items from the homeowner. Cpl. Burton worked several different leads including personally responding to four different pawn shops and reviewing hours of data entry in an effort to track down stolen items. Through his tireless and meticulous efforts, Cpl. Burton was able to locate and recover a majority of the stolen property, developed a suspect, and obtained an arrest warrant in less than 24 hours. Cpl. Burton's attention to detail and investigative skills resulted in an arrest warrant for a suspect and also the collection of an overwhelming amount of evidence which includes video footage of the suspect at the crime scene. South Bethany is very fortunate to have an officer of Cpl. Burton's caliber as a member of the Police Department. This is an outstanding achievement and one you should take pride in." Chief Crowson added that through his investigations, Cpl. Burton has also developed two other suspects (including the person that drove the original suspect to the crime scene), and Cpl. Burton has found more property that the victim did not know was missing.

Everyone applauded and Cpl. Burton thanked everyone.

PROPERTY OWNERS' PARTICIPATION

- Bob Coleman (230 Carlisle Rd.) – Mr. Coleman requested that the following be recorded in the meeting minutes:

Comments on FEMA South Bethany Points Rating

One of the justifications stated by some Council members for making freeboard mandatory was that it has the potential of reducing FEMA flood insurance premiums by earning a higher discount level for the town. To investigate whether there is a reasonable probability for such an ordinance restriction to actually achieve a higher town discount level, I have researched the town's existing FEMA discount level, as well as the FEMA guidelines on calculation of discount points for specific categories and the findings are summarized below. Since the justification claim implication was that mandatory freeboard could have enough influence to get from the 10% to the 15% discount level, this summary only discusses the points calculation related to freeboard.

*The June 17, 2013 FEMA letter confirming the results of the Community Rating System field verification findings, forwarded by Mr. Cusick, has an attached Verification Report dated June 14, 2012, which I believe to be the latest documented verification. It shows that the South Bethany Actual **Total Combined FEMA Credit Points awarded are: 1142***

*This same verification report shows that **Activity #430 – Higher Regulatory Standards Category Points awarded are (for all elements of Activity #430): 37 out of the total 1142.** Note that "**freeboard**" is just one of the components of Activity #430. The verification report does not specify the number of points awarded to each element of Activity #430, but, obviously, freeboard is some value less than 37.*

*The currently applicable 2013 FEMA Coordinator's Manual shows in Table 110-1 that the minimum number of points required to get to the 15% discount category are: 1500. Therefore, **to get to the next discount threshold requires 1500-1142 = 358 points.***

According to the Manual in Example 221-1, the maximum points achievable within Activity #430 for freeboard, with no restrictions on fill, which I believe is the case for South Bethany, are:

With 3 foot mandatory freeboard: 375

With 2 foot mandatory freeboard: 225

Section 222 of the Manual indicates that freeboard points are further reduced by multiplication factors for:

- a) Impact Adjustment, and
- b) County Growth Adjustment

Impact Adjustment is determined by the calculation of the ratio:

Either: # Buildings Affected / Total # Buildings

Or: Acreage Affected / Total Flood Zone Acreage

County Growth Adjustment is determined based upon the current building growth rate in the county. The verification report shows that for Sussex County the FEMA CGA = 1.23 (Personally, I don't see how a South Bethany ordinance on freeboard has positive impact on the whole county. Actual South Bethany growth is almost max'd out due to few available building lots, so it would appear to me that making the town less desirable due to increased restrictions on building would have the effect of reducing county growth, unless, of course, FEMA's objective is to discourage building. However, for the purpose of this discussion, I shall use the FEMA numbers, as issued.)

Since the **TOTAL Activity #430 points awarded are 30 (adjusted to 37 by the County Growth Adjustment)** and knowing that freeboard is only a portion of Activity #430, it appears that the potential outcome that adding a mandatory freeboard ordinance would cause the freeboard component of points to rise from its current amount of 37 to 358 is highly unlikely.

Therefore, in my opinion, making freeboard mandatory by ordinance would cause much friction between homeowners and Council, with little or nothing to be gained in terms of higher insurance discounts from FEMA. So the question for Council is: Is it worth creating turmoil with a large percentage of homeowners, as evidenced in recent meetings, when there is no potential gain?

Respectfully submitted, Robert Coleman 230 Carlisle Rd.

- Frank Weisgerber (148 Anchorage Dr.) – Mentioned that about a week ago he called the police regarding lights going on at a house of a neighbor whom he knew had not been in South Bethany for two weeks. Mr. Weisgerber said Officer Lee Davis responded and was very professional and did an excellent job. It turned out to be two televisions in the house that were suddenly connecting.
- Ed Bintz (302 N. Ocean Dr.) - Referring to the proposed Flood Insurance Rate Map (FIRM), Mr. Bintz reiterated the comments he made at the November 14, 2014, Town Council Regular Meeting. Mr. Bintz stated that he has spent hours working on this issue. After the November 14, 2014, Town Council Regular Meeting Mr. Bintz said he made some phone calls and was able to set up a conference call with him, FEMA, and DNREC. During this call Mr. Bintz said they told him that the Town had filed an appeal asking for an increase in the base flood elevation. Mr. Bintz stated that the submission was filed by Mr. Junkin, head of the Sea Level Rise Committee, on behalf of the Town. Mr. Bintz said he thinks the submission said the base flood elevation for the oceanfront homes should be 12 feet not 10 feet and some other changes on the west side of Ocean Dr. Mr. Bintz said this is very damaging regarding flood insurance premiums. They (FEMA) also sent Mr. Bintz a letter that FEMA sent to the Town in August in which FEMA labeled Councilman Junkin's submission an appeal. Mr. Bintz said FEMA leapt at the opportunity to call it an appeal because their mission is to have high base flood elevations, and Mr. Bintz also thinks DNREC would like our ocean homes not to be there. Mr. Bintz said the letter from FEMA said in response to the resolution of your appeal (Mr. Bintz said it is questionable if it truly qualifies as an appeal) we are raising the base flood elevation not to the 12 you asked for but to 13. In the letter FEMA told the Town to notify property owners that were affected and to let FEMA know if there are any problems. Mr. Bintz said he filed a FOIA request with the Town. Mr. Bintz stated that the Town has been very responsive in getting him

the information he requested and that has been appreciated. Mr. Bintz said there was no notice from the Town. Mr. Bintz said he went through all of the agendas for the Town meetings and he went through all the minutes for the Sea Level Rise and Storm Surge Committee meetings and Town Council meetings and he found no mention of the possibility of filing an appeal and nothing about the August letter from FEMA. Mr. Bintz said he had found out about it in the 2014 Fall ZEPHYR. Mr. Bintz said he pushed a little at FEMA and has not gotten anywhere – FEMA says the maps became final and that is that. Mr. Bintz said the big issue is the lack of notice. Mr. Bintz believes that if there was notice and community input this wouldn't have happened - someone would have questioned about flood insurance rates. Mr. Bintz said as far as he can see there is no benefit to the Town of the increase of 10 to 13. Mr. Bintz said going back to the damage, he pays \$9,200 a year in flood insurance, and he has a maximum deductible. Mr. Bintz said his premiums would have gone down 40%, about \$3,600, which is triple his South Bethany property taxes. Mr. Bintz said assuming the maps stay in place 10 years, that would be about \$30,000 in present value of economic damage to him. Mr. Bintz stated that he walked Ocean Dr. and there are about 30 homes that look like they have base flood elevations right around 12 feet so they won't get the advantage of the reduction, in fact now they have homes built below base flood elevation which Mr. Bintz thinks is damaging to the value of the homes. Mr. Bintz believes that if somebody is looking at a house in Fenwick Island and it is three feet above base flood elevation and Mr. Bintz's house in South Bethany is one foot below base elevation, all things being equal, they are going to pay more for the house in Fenwick Island rather than Mr. Bintz's house in South Bethany. Mr. Bintz stated that some of the homes in the North Bethany communities are really exposed as compared to South Bethany where we have the dune, and in some cases the houses in the North Bethany communities are maybe half the distance from the shoreline than South Bethany's are. Referring to the Town sending FEMA a letter requesting review of FEMA's August 15, 2014, decision to increase base flood elevations east of Route 1 in the preliminary FIRM, Mr. Bintz said he is happy the Town is writing this letter. Mr. Bintz said he recognizes that the Council is a part-time Council and most of the time is pretty well run, but a mistake happened here and there is a lot of damage to people living on Ocean Dr. Mr. Bintz said his goal is to get this fixed, and if the letter to FEMA doesn't work than he thinks it is incumbent of the Town to look at next steps such as bringing political pressure by having state representatives and federal representatives in our district (maybe Joe Biden) write a letter to FEMA. Mr. Bintz added that sometimes filing a lawsuit can bring pressure. Mr. Bintz said if it turns out that what was filed was not a valid appeal it could come back to haunt FEMA because they don't like material submitted that doesn't meet their technical requirements on an appeal - then they have a precedent that they have to consider. Mr. Bintz said another alternative is a letter of map revision where after a map is finalized you can submit technical data for a change. Mr. Bintz said he would also support trying to get together with homeowners and see what we can do, and Mr. Bintz said he would expect the Town's support on that. Mr. Bintz said he does not think Ocean Dr. homeowners for the most part know about this.

During his comments, Mr. Bintz said the one thing that crosses his mind about the freeboard issue is that people who have homes on the west side of Ocean Dr. are going to have towering homes blocking their views and the light.

Mayor Voveris thanked Mr. Bintz.

ADMINISTRATIVE MATTERS – CONSIDERATION AND POSSIBLE VOTE TO SEND FEMA A LETTER REQUESTING REVIEW OF FEMA'S AUGUST 15, 2014, DECISION TO INCREASE BASE FLOOD ELEVATIONS EAST OF ROUTE 1 IN THE PRELIMINARY FIRM

Mayor Voveris gave the following background information, a synopsis of key points:

- FEMA has been working to update these maps in Delaware for the past few years.
- In reviewing the proposed maps, Councilman Junkin noticed some potential issues regarding the proposed BFEs east of Route 1.

- Council never took any formal action on the matter, but as the Chairman of the SLR & SS Committee, Councilman Junkin investigated the matter.
- As part of these investigations, he discussed the issue with DNREC and FEMA and submitted historical documentation to FEMA.
- FEMA eventually responded to Councilman Junkin that they had treated his historical information as a formal appeal submitted on behalf of the Town, and decided to raise the BFE to 13 feet east of Route 1. Currently the BFE is 12 feet and it had been proposed as 10 feet.
- Council was kept informed about the situation, but Council never formally voted to submit an appeal to FEMA.
- Councilman Junkin's submission was never intended to be an appeal, and fell far short of the technical requirements necessary for FEMA to consider an appeal.
- While the Town attempted to notify property owners of the change, some property owners only recently found out about the change, and FEMA's website was just recently updated at the end of November to reflect this change.
- The Town is now considering sending FEMA a letter to ask FEMA to reconsider the proposed changes.

Mayor Voveris said our discussion and possible vote tonight is in regard to the letter that the Town's attorney has drafted to send to FEMA. Basically Council is asking that the material submitted by Councilman Junkin be removed from the administrative record and that the alternative that any decision to raise the BFE east of Route 1 be reconsidered by FEMA. Mayor Voveris asked for discussion.

Councilman Gross questioned the following sentence in the letter: "A significant concern has been raised about FEMA's use of 2005 maps to establish the BFEs for South Bethany." During discussion Councilman Junkin asked for input from Mr. Bintz because Mr. Bintz has talked to FEMA more recently than Councilman Junkin has. Mr. Bintz said FEMA's theory is that the reconstructed dune gets ignored unless it meets certain requirements; therefore FEMA used 2005 data from Fenwick Island all the way up to North Bethany. Mr. Bintz believes that some of the requirements are subject to challenge such as a man constructed beach is ignored unless it has long standing vegetation which arguably South Bethany's does and that there has been community support for funding it (Mr. Bintz made the argument with FEMA that there is a 50 year commitment from the Army Corps of Engineers subject to funding, and the State of Delaware has some money set aside, though it is not a large amount of money). Mr. Bintz said for FEMA's rules they used 2005 because they are ignoring the replenishment. Councilman Gross said if that be the case then he suggests that the Town request the attorney to change this sentence in the letter to suggest that it was based upon topographical data (maps) that had been collected prior to the construction of the dune. Councilwoman Callaway said the Town should ask the attorney if it is correct or not.

Referring to the email Councilman Junkin sent to FEMA, Councilman Rae asked if Councilman Junkin had taken a position on a specific height. Councilman Junkin stated that in previous issues with the preliminary maps there were areas in South Bethany and Fenwick Island that were in the X Zone on Ocean Dr. and Michael Powell (DNREC) talked to the towns and said that doesn't make any sense and that he was going to go to FEMA and tell them they made a mistake somewhere. FEMA redid the analysis with different assumptions (different input conditions) for the beach and came up with the VE 10 instead of VE 12. Councilman Junkin said he looked at it and said this doesn't make any sense and he treated it the same way that Michael Powell had treated it the first time around and asked FEMA to look at it and explain why it should be 10 versus 12. Councilman Junkin said FEMA took that information as an appeal where it wasn't an appeal - it was a request for them to relook at the information. Mayor Voveris said it was an inquiry. Councilman Junkin said for an appeal to go through it has to be signed off by the Mayor. Mayor Voveris said and an engineer and an attorney. Councilman Junkin said it has to have scientific data behind it. Councilman Junkin believes the most important sentence in the letter is

the following: "There is significant concern that FEMA inappropriately decided to not consider the reconstructed dunes in South Bethany and has treated the South Bethany dunes differently than similarly reconstructed dunes situated elsewhere in Sussex County." Councilman Junkin noted that when Michael Powell asked FEMA to look at it the first time around FEMA looked at the whole Sussex County and came out with new preliminary maps. Councilman Junkin said that in his email to FEMA he indicated that he thought it should be 12, but he was asking FEMA to relook at their analysis.

Councilman Gross thinks the Town should ask for more in the following sentence that is in the last paragraph: "At this time the Town Council of South Bethany respectfully requests that all material submitted regarding South Bethany be removed from the administrative record for the Preliminary FIRM panel 10005C0518K." Councilman Gross said it does not solve Mr. Bintz's problem if they remove it from the record but retain the same view. Councilman Gross thinks that in spite of the fact that they might remove it from the record they have to be requested to reconsider the data that was used to establish the BFE at 10.

Motion: After discussion, a motion was made by Councilman Junkin, seconded by Councilman Gross, that Council send the letter back to the Town attorney with the two points that Councilman Gross made, and if it is straightened out with the Town attorney send the letter to FEMA. Councilman Gross added that in discussing it with the attorney, Mayor Voveris can make the decision or she can consult with Council if she needs to. Councilman Junkin agreed. Councilman Gross asked that the minutes show that Mayor Voveris has the right to make that decision and she can consult with whomever she wishes.

Vote: Mayor Voveris called for a vote. The motion was unanimously carried.

Mayor Voveris said the Town is going to send this letter after some changes and discussion with the Town attorney.

LEADERSHIP REPORTS

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

Since my last report I have primarily been working with our Town Manager on communications.

I attended a Sussex County Association of Towns (SCAT) Dinner Meeting and Steering Committee Meeting. Discussion included freeboard and legislative issues.

I also attended a meeting at Sea Colony that included their Board, the Ambulance Board, and local Mayors. Discussion included budget and water quality issues.

DNREC has been in contact to say they will be making the repairs to the walkway and fencing on the south end of our beach. This is especially good news in light of the weather activity of the past week.

Thank you.

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

In the Town Manager's absence, there was no report.

Mr. Roche inquired about natural gas lines coming to South Bethany which he brought up at the November 14, 2014, Town Council Regular Meeting. Mayor Voveris said the Town Manager contacted Sharp and they have no plans for the next year, but they did not close the door.

- **Treasurer's Report**—Councilman Saxton reported as of November 30, 2014:

Council had a copy of the Treasurer's Report. Councilman Saxton noted that it has been reformatted a little to make it easier to read.

Councilman Saxton was happy to report that the major categories of revenue have all been met for the year. He added that property tax, transfer tax, rental tax, and building permits have gone above 100%. The only concern at this time is around the collection of magistrate fines being behind. Councilman Saxton added that it is not a significant amount.

In regards to expenditures, departmental and committee expenditures are tracking straight to budget. Councilman Saxton stated that the Finance Director is doing a good job.

Councilman Rae noted that the Planning Commission did not receive the preliminary budget material and asked if the Planning Commission should have been included. Councilman Saxton said the Planning Commission should have been included.

Councilman Rae said on the expenditure side the Town has already exceeded 129% of the budget amount for Town Functions. Councilman Saxton said that hasn't changed for the last three months and it is due to retirees.

Councilman Rae noted that bank charges are at 155% of budget. Councilman Saxton said it is between credit card and existing fees. Councilman Rae questioned how that can be with all the money the Town has at low interest rates on deposit at these banks. Councilman Rae said he thought the Town was charging the people using credit cards a fee to offset their use of the credit card. Mayor Voveris said the Town couldn't have the exact amount regulated because they wanted to track our level of business to determine our level of fee - they need some history. Mayor Voveris said the credit card fee can be extrapolated out next budget and you won't see that same concentrated amount. Councilman Saxton said his concern is the amount the Town is charged on the transfer tax account. Councilman Rae said he has worked at banks and with credit cards for years and the Town should not be paying this kind of fee.

Councilman Caputo said we are over the Sussex County Grant (line item 01-350-5605) expenses by \$14,000. Councilman Caputo asked if there is an explanation. After discussion, Councilman Saxton said he will get clarification.

Councilman Caputo asked what the plans are to deal with some line items that are over by more than \$1,000. Councilman Saxton said he is looking at doing a budget amendment in February.

- **Police Department Report/Questions**—Chief Troy Crowson reported for the month of Nov. 2014:

Chief Crowson gave a PowerPoint Presentation on the 2014 June Bug report. Mayor Voveris, Councilwoman Callaway, and Chief Crowson worked together on the report. There were 11 criminal mischiefs, 2 underage consumption, 1 fight, 4 suspicious (vehicles/persons), and 1 fireworks violation. In 2012 there were 21 June Bugs related events, 2013 there were 8, and 2014 there were 23 with a large amount of those on the bay side. The three year history by location shows 20 on the oceanfront and 1 on the bayside in 2012, 5 on the oceanfront and 3 on the bayside in 2013, and 6 on the oceanfront and 17 on the bayside in 2014.

For the 2015 June Bugs initiative the department is going to contact, as in the past, the rental agencies and the homeowners that rent and they are going to compile a list of potential problem rentals. The flyer of "dos and don'ts" that has been put out in the past will be

improved and will be distributed by the rental agents, and the Town will provide copies to any property owners that rent. The Town website is also going to reflect any concerns.

Patrolling the beach - the Police Department has obtained the Polaris from the Sussex County grant (the Polaris was parked outside Town Hall for attendees of the meeting to see). Chief Crowson attended an EIDE meeting where the Police Department got funding for officers to ride on the beach for extra patrols on South Bethany's beach. Chief Crowson said this will greatly assist with police presence on the beach.

Enforcement - the Police Department is going to continue with high saturation patrols targeting potential problem areas. The department will maintain a zero tolerance policy regarding June Bug related offences, including chaperones that are providing alcohol to minors. The department will assist realtors through the process of evictions.

Chief Crowson, Mayor Voveris, and Councilwoman Callaway have another meeting scheduled at which time they will continue improving the flyer and the letter that is mailed with the Application for Rental License or Non-Rental Declaration packet.

Chief Crowson said he has packets for Council regarding the June Bugs which includes more details.

Upon request from a Council Member, Chief Crowson and Cpl. Burton gave more detailed information regarding the burglary.

ORDINANCES/RESOLUTIONS

- **First Reading of Ordinance 176-14, to Amend Chapter 145, Zoning, Article XIV "Coastal Floodplain Regulations", to Update According to FEMA Request (George Junkin and Jim Gross)**

Councilman Junkin went through Ordinance 176-14 page by page.

Page 6, § 145-46.1: Councilman Junkin stated that Rebecca Quinn, the FEMA consultant, approved striking items B and C in Section 145-46.1. Councilman Junkin recommended striking items B and C and cross out the letter "A". Mayor Voveris added that the colon needs to be removed that is after "The Floodplain Administrator is authorized to" and the "f" in "Fulfill" needs to be changed to lowercase.

Page 7, § 145-46.2C: Councilman Junkin stated that Ms. Quinn said this paragraph has to stay in the ordinance. Therefore the term Coastal Barrier Resources has to be defined in the definitions section. Ms. Quinn has given the Town a definition to use.

Page 8, § 145-46.3: Councilman Junkin said Ms. Quinn confirmed that a permit is needed to install or replace storage tanks. Council will make no changes to this section.

Page 9, § 145-46.4: Delete "prior to the actual start of construction".

Page 10, § 145-46.4A(7): Insert the word "structural" before "fill" in the first line. Work needs to be done to define "structural fill".

Page 13, § 145-46.7: Insert the words "to the" after "and prior".

Page 17, § 145-47.5B(4): Councilman Junkin said Ms. Quinn said the slope can be less than one (1) vertical on two (2) horizontal. Councilman Gross said it was discussed at the last meeting to go with one to four. Councilman Junkin said he has no problem with one to four but he does not want to go less than that. At Councilwoman Callaway's request, Council

reviewed Ms. Quinn's response. Council agreed to put in 1 to 4 for now, and Council can talk about it again at the next Workshop meeting.

Page 21, § 145-48.2B(4): Councilman Junkin said Ms. Quinn said the code can say two sides or more. Councilman Junkin stated that he thinks it should stay exactly as it is. Council agreed not to make any changes to this section.

Mayor Voveris declared this the first reading of Ordinance 176-14.

- **First Reading of Ordinance 177-14, to Amend Chapter 145, Zoning, Article III, "Definitions", Article VI, "Establishment of Districts", and Article XV, "Board of Adjustment", to Make Consistent with Updates to Chapter 145, Article XIV, "Coastal Floodplain Regulations" Per FEMA Request (George Junkin and Jim Gross)**

Page 4: Councilman Junkin will insert the definition for Coastal Barrier Resource System that Ms. Quinn gave him.

Coastal High Hazard Area - Councilman Gross stated that "Zone V" or "V Zones" is not the same. Councilman Junkin asked Councilman Gross to formulate his question, email it to him, and Councilman Junkin will email the question to Ms. Quinn.

Page 5: Define "Fill, Structural". Define "Fill, Nonstructural".

Page 8: In order to put it in alphabetical order, move "Highest Adjacent Grade" before "Historic Structure".

Page 12: Insert Ms. Quinn's definition for "Otherwise Protected Areas".

Recreational Vehicle (1) - Change the "b" in "built" to an uppercase "B".

Page 14: "Start of Construction" - in the eighth line of the definition insert "For the purpose of Article XIV in Chapter 145 Zoning only," and make the "P" in "Permanent" a lowercase "p".

Page 17, § 145-61: In the first paragraph third line down after "regulations" insert "listed in Article XIV Coastal Floodplain Regulations".

§ 145-61A(2): Per Ms. Quinn's approval, delete "description of the existing use; description of the proposed use;"

§ 145-61A(2): In the last two lines change § 145-50 to § 145-60 in both places.

Page 18: Per Ms. Quinn's approval, delete items (5), (6), (7), and (8).

Mayor Voveris declared this the first reading of Ordinance 177-14.

- **First Reading of Ordinance 178-14, to Amend Chapter 42, Building Construction, § 42-6B(2) and § 42-9, to Make Consistent with Updates to Chapter 145, Article XIV, "Coastal Floodplain Regulations" Per FEMA Request (George Junkin and Jim Gross)**

There were no issues regarding Ordinance 178-14.

Mayor Voveris declared this the first reading of Ordinance 178-14.

COMMITTEE & COMMISSION REPORTS

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

The CEC held a meeting on Thursday, December 11, 2014.

CEC Member Comments

- The group proposed several different ideas and questions that reflect CEC interests for the upcoming survey being prepared by the Planning Commission and Town Council. Sue Callaway will present the Committee's ideas at the Town Council Workshop on December 20th.
- The group discussed the future need to upgrade the current holiday lighting to a commercial grade to better withstand the weather elements and improve quality. Don Chrobot is gathering prices for several recommended styles for the FY 16 Budget.
- The Welcome Signs will be removed in January for cleaning, sanding, repair and painting. The group discussed color ideas.

Update on Ocean Drive Art Boards

- The Art Boards were removed on December 1 for cleaning and storage during the winter months. Don reported that the boards were in good condition.
- Gallery One presented the Ocean Drive Art Board Initiative flyers to their members at a December 3 meeting. It was reported that several artists indicated interest in participating. Follow-up with Gallery One will continue in January. Additional marketing and follow-up efforts will take place in January to individuals and to SB property owners via an Email News Update in early 2015.

Review of FY 16 CEC DRAFT Budget

The CEC reviewed the FY16 draft budget. No changes were made at this time.

Discussion of SB Little Library 2! East Side Location

The appropriate location for the SB Little Free Library 2 on the East Side was discussed. The group will be assessing locations such as Division Street and South 1st Street as there is not adequate space along Ocean Drive, especially during the summer months. Martha and John Fields have agreed to serve as the library's stewards.

Update on Adopt-A-Canal/Road End Program

Currently four additional adoptions are pending for the spring. In discussing future adopted canal ends in the Anchorage forebay area it was noted that the grassy area has become an area frequently used by dogs. The group agreed that it would be prudent to post two dog waste signs at that site.

Council Discussion: Council discussed putting up a bag holder at this location. Councilwoman Callaway said the committee agreed to only put a sign and people can use their own bags. Councilwoman Callaway added that there is a bag holder a little further down the pedestrian walkway not too far from the Anchorage forebay area.

Discussion: Safety and Security in South Bethany - Street Lighting in SB – Canal Drive? Anywhere else?

In response to recent safety and security issues and to learning of the availability of Delmarva Power's free-standing decorative street light options, the group agreed to further research the idea. Exploration will include obtaining specific costs and design styles prior to presenting information to Town Council or property owners.

Future Meeting Dates

The CEC will not meet in January, but will meet in February. A date for the meeting has not been confirmed.

- **Budget and Finance Committee** – Councilman Saxton reported:
 1. Budget and Finance met on November 15, 2014. The committee reviewed the YTD financials and found revenues to be meeting or exceeding budget in general. The committee anticipates that at the current rate of revenue collection, budget will be met overall. There were no significant variances from budget in expenditures. However, it was noted that a Budget Amendment will be needed in the near future as per our Budget Amendment Guidelines. An Amendment is anticipated to go to the February 2015 Workshop.
 2. The committee reviewed the need to conduct long range planning for both revenue and expenditures. We agreed a 3 year outlook would be a start for this projection. Kent Stephan joined the committee to present some ideas on how to determine revenue projections. After discussion, Tony Caputo agreed to contact several state agencies to see if they could provide assistance/ideas on how to determine revenue projections. The committee agreed that Committees and Town Departments should provide 3 year expense projections in the FY 2016 budget process (including capital equipment replacement projections).
 3. The committee reviewed the FY 2016 budget process and approved the documents to be sent out to Town committees and departments. The committee also agreed that it would review the first draft of the budget with Mel, Renee and Troy before submitting to the Town Council at the February Budget Workshop.
 4. The committee reviewed the Investment Policy and voted to approve the policy with minor changes. Steve Farrow will work with Pam to make the final changes. We plan to take it to the January workshop for review by the Town Council.
 5. The committee also reviewed creating a formal Reserve Policy and funds. The committee agreed to create 3 policies for Operating Reserves, Capital Reserves and MSA. Jay and Keith to work on establishing the monies to be allocated to each of the reserves based on last projection (FY 2014) and funding needs for FY 2015. The committee hopes to review the funding allocation at the next meeting.
 6. The audit services contracted with Sombar expires this year and it was agreed to put these services out for bid. Renee requested for any comments on the Bid Specifications so that it may be sent out to bidders as we perform the FY 2016 budget process.

Discussion: Councilman Caputo asked Councilman Saxton if he was going to look into the overage of the Sussex County Grant expenses. Councilman Saxton said yes.

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

There have been no meetings of the Charter and Code Committee since the last report, but the members of the committee have contributed to the review and drafting of the proposed ordinances related to floodplain regulations (176-14, 177-14 and 178-14).

- **Canal Water Quality Committee** – Councilman Junkin reported:

- There was a committee meeting yesterday to develop a list of budget items to be submitted to Town Council for inclusion into the FY 2016 Budget.
- Also discussed were costs expected for the remainder of this fiscal year.
 - It was decided that the diffusers should be turned off since they did not appear to cause a significant increase in the average dissolved oxygen in the canal. The committee felt that more return from the money could be obtained in other areas.
 - The money for water testing meters is underspent by about \$3,000 because DNREC loaned us some meters.
 - Dave Wilson presented that the U of D was way behind on processing nutrient samples. They are way understaffed. They do it at no cost to South Bethany, but they are more than two years behind. It would be better if we did not have to wait years to find out what is happening in our water. Dave found a source at the U of MD that would do the samples for about \$2,000 per year with only about a six week turn around and recommended that we allocate \$4,000 that is available from underspending items in this year's budget to test the backlog of samples that are being currently stored at the U of D. Council Discussion: Councilman Rae asked if that would also be reported to the State. Councilman Junkin said yes they would present the information (data) to the Delaware Sea Grant College Program (Ed Whereat).
 - I will be asking Council to approve this reallocation of water quality funds at our workshop next Thursday. Council Discussion: Councilman Saxton said he does not see a need to come to Council as long as the committee is staying within their total budget. Councilman Saxton said we will pick it up in the February budget amendment. Councilman Caputo said technically the Town Manager can make that change from one account to another as long as it is under \$2,500. Councilman Junkin said he is going to call Dave Wilson and say he is okay. There were no objections from Council.

Council discussion on the diffuser system: Councilman Caputo said the Town owns the diffuser system. Councilman Junkin said the committee thinks the Town should maybe find someone that might want to buy a used system. It was noted that the cost for electricity to run the diffusers is about \$150 a month. Councilman Gross suggested running the diffusers through this fiscal year. Councilman Junkin said it does not make much difference in the winter because the dissolved oxygen is high. Councilman Junkin said it was suggested at the Canal Water Quality Committee meeting to keep the diffusers running only in the summer which is when dissolved oxygen is bad. Councilman Junkin said we have been running them for a year and a half and there has been no significant benefit – there has been a slight benefit but not enough of a benefit that you would want to run diffusers in another canal. Councilman Gross said he thinks Councilman Junkin has to come to Council to shut off the diffusers. Councilman Junkin said he already shut off the diffusers. Councilman Gross asked Council if there were any objections to shutting off the diffusers. There were no objections.

Update on large oyster cages and floating wetlands: Councilman Junkin said the floating wetlands were supposed to be put in the York Canal in July 2014. The Center for the Inland Bays (CIB) did not get their permits through DNREC in a timely fashion. Councilman Junkin said he thought the large oyster cages were supposed to be put in the York Canal in the

summer but he was told in the fall that they did not have their permits set up and missed the time frame to get Delaware oysters to put in the canal. The CIB went to DNREC to see if they could get oysters from the Chesapeake Bay and put them in and DNREC said no. Councilman Junkin said there are 100 large oyster cages on a lot on York Road. Councilman Junkin has talked to the owner of the lot and the owner does not have a problem with the cages sitting there. Councilman Junkin said the Town Manager has had one or two complaints about the cages, but he has not had any complaints recently. Councilman Junkin has talked to the CIB about the cages on the lot and they will move them if needed to James Farm. They would prefer not to move them because they will be putting them in the canal next year.

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

- There was no activity this past month.
- There will be a committee meeting next Thursday, December 18, to develop a list of budget items to be submitted to Town Council for inclusion into the FY 2016 Budget.

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

The Planning Commission met on December 1 at 10:00 a.m.

- The updated Survey was discussed and followed up with a consolidation of comments and email review for correctness.
- The resulting document will be sent to Council on December 17, 2014, for review at the December 18 Workshop meeting.

Assawoman Canal Report:

Several shoaled areas were reported by Joe Conway at the PC meeting.

- The Town Manager will investigate the 1st area which is within Town border next spring.
- I reported the 2nd area to DNREC on December 3 and Ariane Nichols from DNREC reported on December 4 the shoaled area is outside of the authorized channel and not in an area that we have any permitted authority to perform dredging work. (Councilman Rae had a copy of the map if anyone wanted to look at exactly where that spot is.)

PUBLIC COMMENT

Ed Bintz (302 N. Ocean Dr.) – Stated that he is a lawyer and is involved in negotiations and disputes. Mr. Bintz said he does not want Council to take his mild manner as not being committed to following this through. Mr. Bintz said if the letter to FEMA does not work, there is going to be more to happen. Mr. Bintz said he wants to assure Council that this is not going away.

In addition to reiterating his comments at the November 14, 2014, Town Council Regular Meeting and previously at this meeting, Mr. Bintz said the following:

Mr. Bintz said he was disappointed about what he thought was a little bit of lack of transparency when he asked about this at the November 14, 2014, Town Council Regular Meeting. Mr. Bintz said nobody came forward and said we filed information or received a letter. Mr. Bintz said that if he had not followed up with FEMA he is not sure if any of this would have come to light. Mr. Bintz said he realizes he caught Council by surprise and maybe people didn't know how to react, but he thinks transparency in government is important and he was a little disappointed. Mr. Bintz said on the other hand he is happy that when he submitted his FOIA request that people responded quickly and there was no effort to hide the ball or not give him what he wanted or drag their feet in getting that to him.

Mr. Bintz said he was surprised that there wasn't more of an expression of commitment that the Town made a mistake and that the Town is going to do whatever it takes to set it right. Mr. Bintz thinks that is what should be done and he would expect that to happen.

Mr. Bintz stated that he has talked to a homeowner he ran into about this and she is very upset and has asked him what she can do to help with this issue. Mr. Bintz said he has not reached out to other homeowners, but he thinks that when he does they are going to have the same reaction.

Mayor Voveris thanked Mr. Bintz for his comments and said that Mr. Bintz will be cc'd on the letter to FEMA. Mr. Bintz said he is not sure that is the best idea if he is sending a parallel letter to FEMA. Mr. Bintz said he would like to get the Town attorney's thoughts on being cc'd on the Town's letter to FEMA.

Councilman Gross asked Mr. Bintz what would be an alternate that he would suggest. Mr. Bintz said he thinks there is a good argument that the process was flawed. Mr. Bintz thinks that what the Town did was wrong and in violation of the Charter, but Mr. Bintz also thinks FEMA (and DNREC) took advantage of the submission and ran with it. Mr. Bintz said it sounds like (the submission) needed to be certified or stamped and he saw that you had to add scientific information. Mr. Bintz said most of what was submitted was photos of past storms, some data about the elevation of Ocean Dr., and something about wave action. Mr. Bintz mentioned that the people have to be notified or we have to restart the process. Mr. Bintz said he is considering filing a federal lawsuit in district court challenging it. Mr. Bintz said that if it turns out the submission was not an appeal and FEMA calculated it as an appeal that might be a bad precedent for FEMA because when somebody else comes in and argues a position that they don't like are they then going to have to recognize it even though it doesn't meet their technical requirements. Mr. Bintz said one thing that could be done is the letter of map revision submission. Mr. Bintz said that would require the submittal of technical data and there may be some costs associated with it. Mr. Bintz said he hopes it does not come to claims against the Town, but he feels like what happened was wrong.

Mayor Voveris thanked Mr. Bintz for his time, commitment, and correspondence. Mayor Voveris said she will get a copy of the letter to Mr. Bintz as soon as it is finalized. (Administrative Assistant's Note: At the February 9, 2015, Town Council Workshop Meeting Mayor Voveris stated that a copy of the letter was not sent to Mr. Bintz after considering Mr. Bintz's concerns about being cc'd on the letter.)

ADJOURNMENT

A motion was made by Councilman Gross, seconded by Councilman Saxton, to adjourn the December 12, 2014, Town Council Regular Meeting at 9:10 p.m.