

**TOWN OF SOUTH BETHANY
TOWN COUNCIL WORKSHOP MEETING MINUTES
DECEMBER 13, 2012**

ATTENDANCE

PRESENT: Mayor Kathy Jankowski; Councilpersons Al Rae, Jim Gross, Pat Voveris, George Junkin, Sue Callaway, and Mark Damato; Town Manager Melvin Cusick; and Finance Director Renee McDorman

MEETING CALLED TO ORDER

Mayor Jankowski called the December 13, 2012, Town Council Workshop Meeting to order at 5:00 p.m.

PUBLIC COMMENT PERIOD

Joe Conway (160 Henlopen Dr.) – Thanked those who personally or on behalf of the Town distributed information and updated the website with information regarding Hurricane Sandy.

ADOPTION OF MINUTES – TOWN COUNCIL REGULAR MEETING MINUTES, OCTOBER 12, 2012

A motion was made by Councilman Gross, seconded by Councilman Junkin, to accept the October 12, 2012, Town Council Regular Meeting Minutes as amended as follows:

Page 1, FY 2012 Audit (Sombar & Company), First Paragraph, Last Sentence: Change "This produced a net total asset of \$3,278,950" to read "This produced net Total Assets of \$3,278,950".

Page 9, Community Enhancement Committee, Fourth Paragraph: Remove the asterisks.

The motion was unanimously carried.

DISCUSSION OF DRAFT ORDINANCE TO REVISE CHAPTER 114, SOLID WASTE (JIM GROSS)

Councilman Gross led the discussion as Council reviewed the draft ordinance page by page. Charter and Code Committee members John Fields and Bob Cestone were present and took notes on Council's suggested changes. Mr. Fields said the Charter and Code Committee will make the revisions and have the revised draft ordinance ready for Council to review at the January 24, 2013, Town Council Workshop Meeting. The Charter and Code Committee will also prepare a draft ordinance to change Chapter 104, Property Maintenance, for Council to review at the January 24, 2013, Town Council Workshop Meeting. If Council approves the draft ordinances at the January Workshop Meeting, the three readings of these two ordinances can be at the February, March, and April 2013 Town Council Regular Meetings. If the ordinances are adopted at the April 2013 Town Council Regular Meeting, a letter explaining the new regulations can go out with the Town Tax Bills the end of April 2013.

Councilman Gross has talked to the Community Enhancement Committee about the need to put together a brochure or a flyer that explains the meaning of these new ordinances, the penalties, and some recommendations/drawings of appropriate bins. Mr. Cestone noted that there are examples of suitable bins on the Town's website.

On behalf of the Council, Councilman Gross expressed his thanks to the Charter and Code Committee for their work.

REQUEST TO REMOVE STREET LIGHT ON W. 5TH ST.

Mayor Jankowski explained that this request came from two neighbors on W. 5th St. There are two lights on W. 5th St. One is on the corner of W. 5th St. and Canal Dr. which everybody is happy with from a safety standpoint because it is the last public light on Canal Dr. The other light is on W. 5th St. near the canal end (a dead end). These people have requested that the light be turned off because it is

bothersome to them. Previously the Town Manager and the Mayor discussed the request and felt it was best to follow the same procedure that was in place for adding a street light – bring the request to Council and if Council approves of proceeding, the Town would survey the people who live around the light. A record of who requested the light originally could not be found in the Town files, and the Town Manager said the light was installed before his time with the Town.

Motion: A motion was made by Councilman Junkin, seconded by Councilman Damato, that Council address that specific light the way Council has addressed other lights by surveying the property owners, and based on the survey the Town Council will decide what to do. Mayor Jankowski asked for discussion.

Councilwoman Voveris stated that the Town has not had a light removed in 29 years and has not had a request for one. Councilwoman Voveris does not think the addition of a light can be equated to the removal of a light. She said adding a light adds safety and security and taking away a light takes away safety and security. Councilwoman Voveris is concerned of the precedent Council sets. Councilwoman Voveris believes a decrease in Town services is not responsible. Councilwoman Voveris does not think the process of surveying the property owners to make a decision in this situation is good leadership.

Councilmen Junkin, Rae, and Gross believe the process of surveying the people affected by the light is a good process in order to get their input.

Councilman Junkin explained that his motion was to get the results of the survey of the neighbors and then Council will discuss it and see what Council thinks should be done. Councilman Junkin said if Council feels there is a safety impact, Council may decide to leave the light there even though everyone surveyed wants it removed. Councilman Junkin said he does not have a problem with going against what the majority surveyed says, but Council has to have a good reason if it goes against what the majority surveyed says.

Vote: After discussion, Mayor Jankowski called for a vote. The motion carried with a 4-3 vote.

BUDGET AND FINANCE COMMITTEE LONG RANGE CONTINGENCY FINANCIAL PLANNING PRESENTATION REGARDING THE TOWN'S ABILITY TO RESPOND FINANCIALLY TO A COASTAL CATASTROPHE

Councilwoman Voveris said the Budget and Finance Committee is happy to bring a plan to Council regarding what might happen in a catastrophic event. Councilwoman Voveris said that Budget and Finance Committee Member Joe Conway has put together a wonderful, thought provoking presentation. The presentation sheds good light on where the Town is financially and what the outcome might be if the Town had to come up with some money. It was noted that the plan was for an absolutely worst case scenario.

Budget and Finance Committee Member Joe Conway gave the following PowerPoint Presentation:

**Long Range/Contingency
Financial Planning
December 13, 2012**

Background

- New members added to Budget and Finance Committee this year.
- Indoctrination and reviews generated interest in understanding:
 - Rationale for SBB accounts
 - Revenue and expense estimation and sources
 - Processes for sizing ARM and Long Term accounts
 - Goals/Restrictions on size
 - Authorities to generate, transfer and expend funds
 - Long range plans/projects requiring accrued funds
 - Contingency plans for unexpected expense(s)

Process

- Reviewed standing SBB policies, plans, history, current state
- Looked at some other municipalities
- Created a contingency case scenario to identify:
 - Sources of funding and likely required amounts
 - Rules & impediments to use
 - Strengths and weaknesses
- Met with Town Manager/staff
- Identified a few issues for Town Council

Reviewed Sources of Funds

- Operating Budget and Associated Unrestricted Reserve
- Designated Capital Reserves
 - ARM
 - Long Term
- Federal funding
- State funding
 - DNREC: 1% Hotel/Motel Room Tax for beach replenishment
- Grants
- Special Assessment
- Short Term borrowing
- Long Term borrowing/Bond issue

Key Authorities of the Town Council

- **Special Assessment.** “The Town Council is empowered to levy a special assessment against any or all real property situated within the corporate limits of the town, when determined by the Council to provide a necessary public work, improvement or municipal service.”
- **Short-Term Borrowing.** “The Town Council shall have the power to borrow money on the full faith and credit of the Town, without approval of the voters and without regard to the provisions of Sec. 13.2 of this Charter, such principal sum or sums.....”
- **Long-Term Borrowing.** “In addition to other borrowing powers granted to the Town under this Charter or by State law, the Town Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other evidence of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Town Council shall elect.”
- **Use.** “The Town Council shall have full power and authority to use the money in the Treasury of the Town, or any portion thereof, from time to time, for the improvement, benefit, protection, ornamentation, and best interest of the Town, as the Council may deem proper.”

Restrictions/Caveats

- **Special Assessment:**
 - Requires special election; majority of voters
- **Short Term Borrowing:**
 - No voter approval required; majority of town council
 - May not exceed twenty percent (20%) of the total amount of the Town’s operating revenue for the immediately preceding fiscal year,
 - For *general purposes* only when the needs of the Town require it
 - Repayable in full within five (5) years
- **Long Term Borrowing :**
 - Limited to 5% of appraised value of all real property....subject to assessment for the purpose of levying the annual taxes as provided in the Charter.
 - Requires special election; majority of voters
 - Nominal 20 yr pay back
- **Annual Operating Budget:**
 - ...shall adopt an annual balanced operating budget and may adopt a capital budget for the ensuing fiscal year, including sufficient revenue to meet the fixed and anticipated expenses and obligations of the town, *reasonable and appropriate reserves and a reasonable amount to cover emergencies*

So how do we define “reasonable and appropriate” ...What’s an “emergency”?

“Reasonable and Appropriate”

- **Operating Reserves:**
 - Compared to some benchmarks, we more than pass the test. (Typically 10% of annual budget before used to reduce taxes).
- **ARM Account :**
 - ARM line items are based on auditor recommendations.
 - ARM is periodically reviewed and line items updated.
 - Could not identify wording in Charter to institutionalize the ARM reservation process nor Council decisions which guide its administration.
- **Long Term Reserves:**
 - Could not identify wording in Charter to establish this fund, approved rationale for its sizing nor a plan for its expected use to meet the “reasonable and appropriate” test..... so to support its sustenance.....

B&F postulated an unexpected event /emergency and looked at what that might mean to our tax and reserve strategies.

We Wanted to Answer Two Questions

1. What would we do if we had a catastrophic event for which a higher % of restoration participation costs was required?
2. Do we have a financial contingency plan, in-place authorities, and an understanding of the funds available from our potential sources?
 - *Does the Town Charter support what we need?*
 - *Are reserve funds sized and available to meet worst case cash flow needs?*
 - *Do our annual taxes and /or rates impact the results?*

Planning Factors/Scenario

- Based on statistics: 100% chance of some major erosion event in next 5 yrs. (This was pre-Sandy)
- 2010 beach replenishment cost \$8.172 M for Bethany Beach and South Bethany.
- Emergency occurs in late March. Major beach event.
- Assume no Federal and State Support.
- Need \$3M to support restoration.
- Goal is to be essentially open for the season.
- Probability of lost revenue is 30%; so lost rental tax is \$150K

Sources of Funding

(Current Authorities &Resources)

• Town Council authorized to spend:	
– Operating Reserve	\$451,356.
– 100 % of ARM	\$936,000.
– Long Term Reserve	\$294,492.
Total Available Reserves	\$1,681,848.
– Short Term Loan (maximum limit)	\$338,400.
Total Short Term (non-vote) authorized funds	\$2,472,540.
– If use 40% of operating reserves	-\$180,542.
– If use 50% of ARM	-\$468,000.
Total Probable Fund Availability	\$1,823,998.
Scenario Shortfall Range:	\$527,460. – \$1,178,002*.

* Assumes there are no other projects in LT reserve

(Administrative Assistant's note: It was noted at the meeting that the above Sources of Funding numbers don't add up correctly.)

Some Options

- Increase operating reserves
 - Reserves already exceed standard for operating accounts
 - Increase property tax: Effect is nominal; ineffective.
- Increase authorized S/T loan limit
 - Might make sense; would require another Charter change
- “Right Size” Long Term reserve account
 - Council could affirm a reasonable set of planning assumptions
- Some combination of above
- Count on Issuing bond/debt
 - Process takes 120-165 days for special election, protest period, underwriting, etc. to fund \$500K-\$1M.
- Do nothing
 - Change assumptions

Recommendations

- Better to agree to a general strategy and process vs. specific numbers.
- Establish 1 year goal for B&F to recommend a “Right- Sized” Long Term Reserve.
 - annually assessed for acceptable risk based on current conditions and varying assumptions
- Coordinate with Charter and Code Committee to include ARM and Long Term Reserve accounts in Charter.

(End of PowerPoint)

Councilman Junkin stated that none of the past beach replenishment projects have cost South Bethany anything. The Town Manager said the only thing he was required to do for the major beach replenishment when the dune was built was to get easements for the Sand Piper Village area. The Town Manager later stated that even with the new project, the Town had to repair the walkways on the Town's side of the dune.

Councilwoman Voveris stated that Budget and Finance Committee Member Keith Krenz, who knows some lobbyists in Washington, has pointed out to the committee that there is a lot of talk about less federal help regarding this. Therefore this is a very real kind of situation the Town could be facing.

Mayor Jankowski stated that she is afraid the federal funds are not going to be available and added that South Bethany is at the end of the totem pole because DNREC goes to towns with the greatest population first.

Councilman Junkin pointed out that even after really bad storms there has always been a beach. He added that what the Town has had to pay for in the past was the cost to repair the road (Ocean Drive). Councilman Damato later stated that if it is a miniscule beach, it is probably not as attractive to someone wanting to build a million dollar house.

As a next step, Councilwoman Voveris thinks the Town should be working on determining a number in the long term reserve which has been talked about a better part of this year. Councilman Gross suggested identifying the scenarios or the probability of the scenarios before talking about the amount of money needed. Mr. Conway said the recommendation to the Council is that the Budget and Finance Committee take the next year to come up with, based on research, reasonable probabilities and come back to the Council for approval. If Council agrees with the scenario(s), then the Budget and Finance Committee will run the model (a tool Mr. Conway is building to project a cost based on probabilities) in order to get a benchmark to come back to Council with.

Councilman Gross had concerns about having too many committees working on long range planning.

Regarding the model Mr. Conway is building, Councilman Junkin stated that he thinks it is a super tool and he learned a lot from the PowerPoint Presentation. Council thanked Mr. Conway for his work.

PUBLIC COMMENT PERIOD

There were no comments from the public.

At 6:45 p.m. a motion was made by Councilman Junkin, seconded by Councilman Damato, that Council go into Executive Session. The motion was unanimously carried.

EXECUTIVE SESSION

Council went into Executive Session to discuss individual citizens' qualifications as potential candidates to fill a Board of Adjustment vacancy and a Planning Commission vacancy.

RECONVENE WORKSHOP MEETING

At 7:00 p.m. a motion was made by Councilman Gross, seconded by Councilwoman Voveris, that Council come out of Executive Session. Council reconvened the Workshop Meeting.

ADMINISTRATIVE MATTERS

- **Consideration and Possible Vote to Appoint Board of Adjustment Members**

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council accept Mayor Jankowski's recommendation of Martha Fields for the Board of Adjustment. The motion was unanimously carried.

- **Consideration and Possible Vote to Appoint Planning Commission Members**

Mayor Jankowski recommended Phil Arbaugh to fill the Planning Commission position.

A motion was made by Councilwoman Callaway, seconded by Councilman Junkin, that Philip Arbaugh be confirmed for the position on the Planning Commission. The motion was unanimously carried.

Mayor Jankowski made a recommendation that Council reappoint Dick Oliver, Robert Johansen, and Dave Wilson to the Planning Commission. A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council accept the Mayor's recommendation. The motion was unanimously carried.

Councilman Gross noted that the Board of Adjustment Chairman is appointed by the Mayor. The Town Manager read the following from Chapter 145, Article XV, Board of Adjustment, of the Town Code: § 145-56 "The Mayor shall appoint, with the consent of the Town Council, one member who shall be Chairman and who shall serve at the pleasure of the Mayor." Council agreed that Chairman Allenspach's term had not expired and there would not be a new appointment by the Mayor until Chairman Allenspach's term expired. Councilman Junkin said when the Board of Adjustment has an organizational meeting they need to know that they are not supposed to vote on who the chairman is.

ADJOURNMENT

A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to adjourn the December 13, 2012, Town Council Workshop Meeting at 7:05 p.m. The motion was unanimously carried.