

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES DECEMBER 13, 2013

MEETING CALLED TO ORDER

Mayor Jankowski called the December 13, 2013, 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; Lt. Linda O'Malley; and Administrative Assistant Pam Smith

PROPERTY OWNERS' PARTICIPATION

- Mike Matera (311 W. 9th St.) – Stated that there were lights out in the Town Hall side parking lot. Referring to complaints people have had about the lights being on, Mr. Matera thinks it is better to have the lights on so burglars won't rob the building. The Town Manager stated that when the building was first opened the Town received complaints that there were too many lights and it was too bright. Since then some of the lights have been turned off. The Town Manager will check to make sure the lights that are supposed to be on are lit.
- Tom Roche (141 Henlopen Dr.) – Complained about the way the traffic light on Layton Dr. works in the winter. Mr. Roche asked if the Town could ask DelDOT to extend the length of time for the green light for traffic on Layton Dr. Mayor Jankowski said the Town will talk to the Chief of Police regarding the safety. In addition, Mr. Cestone complained that the trip starts the timing when a vehicle comes up to the intersection and it is timed at 1 minute and 45 seconds. Mr. Cestone said the light at York Road is not as bad but has the same problem.
- Frank Weisgerber (148 Anchorage Dr.) – Inquired about the four or five cats on Anchorage Dr. that he has noticed. Mr. Weisgerber is concerned that the number of cats is getting bigger. Councilman Rae gave a summary of what he knew about the cats on Anchorage Dr. Councilman Caputo asked Mr. Weisgerber if there was a problem with the cats. Ms. Weisgerber said the cats were sleeping on their back porch until they covered their furniture for the winter, but the cats still come in the yard. Ms. Weisgerber said that the cats drive their dogs crazy. A discussion ensued. Mayor Jankowski asked the Town Manager if he could call Bethany Cats and also Sussex County to see what their policy is on feral cats.

ADOPTION OF MINUTES

- **Town Council Regular Meeting Minutes, November 8, 2013** - A motion was made by Councilman Junkin, seconded by Councilwoman Callaway, to accept the November 8, 2013, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Workshop Meeting Minutes, November 21, 2013** - A motion was made by Councilman Junkin seconded by Councilman Caputo to accept the November 21, 2013, Town Council Workshop Meeting Minutes. The motion was adopted. (Councilwoman Callaway abstained.)

LEADERSHIP REPORTS

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

1. Vance Phillips and George Cole are donating a total of \$1,500 toward the purchase of a new ATV for the lifeguards. Vance Phillips is donating \$1,000 and George Cole is donating \$500.
2. The Council agreed to offer employment to Rick Gentile, as Maintenance Worker, reporting to Don Chrobot.
3. Diane Hanson, Mayor of Dewey Beach, is the Sussex County Association of Towns (SCAT) representative for the Center for Inland Bays. I agreed to be her backup.
4. Dog feces are becoming a “mounting” issue in our community. The Chief of Police collected a large amount yesterday. We are meeting to discuss how to address this in the near future. Dewey Beach has a member of the police force who patrols for smoking, alcohol, and dog feces. SB will investigate how to enforce our ordinance on dog feces, since most times you can't catch the dog owner in the act.
5. Attended the Center for the Inland Bays' Christmas party. The DNREC people attended that party and so I used that opportunity to talk with them about the Assawoman Canal. They assured me they will be addressing the cleaning up of the Assawoman Canal.

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

The Ambulance Report and the Code Enforcement Constable Report were available on the sign-in table. The total ambulance calls were up over last year, but they were down for South Bethany.

There is a new ambulance ordered. After it comes in, the Town would like to get it to South Bethany for a Town Council meeting possibly in the spring so people will have a chance to see the new ambulance.

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

Edmunds Finance System and attached financial reports

The Edmunds Finance System is running very smoothly, allowing us to operate more timely, efficiently and effectively. It will take a few more months experience to get our routine processes (bank account reconciliations, Realty Transfer Tax processing, etc.) all on a consistent schedule.

I encourage Council to look at the packet of financial material and ask questions, preferably by email or one on one with Renee or me. You can function as a second set of eyes on our financial management. Council's attached packet of Edmunds reports include, for all funds, the following: Summary of Expenditure Status (1 page), Abbreviated Expenditure Account Status (6 pages), Abbreviated Detail Revenue Account Status (2 pages), and Balance Sheets (9 pages). The Balance Sheets provide helpful cash and CD information.

FY 2015 Budget Process

We have started the FY 2015 budget building process, which is different from prior years. Renee will be distributing instructions, schedules and forms shortly to all those who have budget responsibilities. This year's budget process will be asking for budget information for FY 2016, 2017, 2018 as well as FY 2015.

Budget & Finance Policy Manual

Currently the Town does not have a B & F Policies Manual, and we need one. There are no formal guidelines or policies regarding budgetary controls, fixed asset capitalization and depreciation, reserves management and investment management. I have drafted budgetary control and fixed asset guidelines and circulated them to the Budget & Finance Committee for their review. I plan to work with the Committee and be able to introduce to the Council these two areas in the near future. Reserve management and investment management will follow. Once those sections are done we will be working on sections regarding reserves. We need to get the fixed assets section done first and then reserves will follow and investments will follow that.

Town's Financial Status Year-to-Date

We are 7 months into the fiscal year and things are beginning to allow us to project our full year revenues with greater accuracy. We have concerns regarding Rental Tax, we could fall short by as much as \$13,000. There are some Rental Tax payers who traditionally do not pay their Rental Tax until they have their personal income taxes completed, but we cannot determine the extent of these future receipts.

Council Discussion: At this time there was a discussion regarding transfer tax. Councilman Gross requested that it be put back in place for Council to receive historic data. He believes the historic data is useful. Councilman Caputo stated that the cost of the feature should not exceed the benefits anticipated to be derived, and the cost would be taking hours' worth of the Finance Director's time to duplicate reports. Councilman Caputo stated that he knows some of the Council Members want to get these comparisons, but he questions what Council has done with that information in the past. Councilman Caputo said that if Council had been doing something with the information in the past (such as amending the budget) he would agree. Councilman Caputo said this would be extra work and he is focusing on what he believes are higher priorities. Later in the discussion Councilman Caputo noted that when Council does the budget Council has the comparative data. After more discussion Councilman Caputo said he would provide the report for transfer tax. Mayor Jankowski encouraged Council to look at the financial reports closely and then come to Councilman Caputo or the Finance Director with questions. Councilman Caputo agreed.

On the expenditure side, we are over budget in 10 accounts most of which are not material. However without a written guideline I am not sure how to proceed with Council at this time. So, I wish to bring to your attention all of the items over \$1,000, plus the Ambulance Service Budget:

- 1) We are over budget by \$3,014 for G&A Business Meetings due to the SCAT meeting we sponsored. This amount will be reduced to below budget once we receive reimbursement from participating communities,
- 2) we are over budget by \$1,598 for G&A Computer Maintenance because of an unplanned equipment upgrade,
- 3) we are over budget by \$6,501 for DPW Street Drainage due to work that had to be performed for an unexpected drainage project,
- 4) we are over budget by \$1,557 for a DPS Sussex County Grant. This was caused by an accounting error and will likely be corrected through correction accounting, and
- 5) we will need to increase the budget due to the January 1, 2014 planned increase in our BB Ambulance Service fee of roughly \$11 per home. We will need to amend the FY 2014 budget for the increase in expenditures starting on January 1, 2014. I estimate the amount to be about \$6,400 (((\$9 increase) X (1,409 properties) / (2 billing cycles)). **Council Discussion:** A discussion ensued. In the end, Councilman Caputo said he will come to Council regarding amending the budget after the Town has gotten a bill for the Ambulance Service (probably in January).

Nothing else seems to be materially out of line. I encourage you to ask questions.

- **Police Department Report/Questions**—Lt. Linda O'Malley reported for the month of Nov., 2013:

Lt. O'Malley reported that South Bethany has not had any burglaries reported since the most recent string of burglaries in surrounding areas. Lt. O'Malley added that South Bethany has a good neighborhood watch. One suspect has been caught regarding the burglaries in surrounding areas and it is believed that there is still one at large.

- Overall for the month – Several agency assists with the State Police, Bethany Beach Police, Fenwick Island Police, or Ocean View Police.
- Four false alarms
 - A report from a property owner of a computer scam regarding rental property.

ORDINANCES/RESOLUTIONS

- **First Reading of Ordinance 171-13, to Amend Chapter 145, Zoning to Revise and Update Requirements**

Councilman Gross noted that Council has discussed Ordinance 171-13 in two previous Town Council Workshop Meetings.

During this first reading of Ordinance 171-13, Council agreed that the effective date of § 145-51C would be May 1, 2015.

A property owner attending the meeting stated that he would like more clarification regarding § 145-51C. Councilman Gross stated that they would look at it.

Councilman Gross commended the Charter and Code Committee on the good work they had done preparing Ordinance 171-13.

Mayor Jankowski declared this the first reading of Ordinance 171-13.

- **For the record, vote of Councilman Gross' support of Resolution 8-13, A Resolution Recognizing May Felerski by Dedicating the Council Meeting Room to Her Memory**

For the record, Councilman Gross voted yes in support of Resolution 8-13.

COMMITTEE REPORTS

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

The Community Enhancement Committee held a meeting on Wednesday, December 11, 2013 at the Town Hall meeting room from 10:00 a.m. to 11:45 a.m.

CEC General Comments

Thanks are extended to Don Chrobot for purchasing and organizing the installation of our new holiday lights along the South Bethany Route 1 corridor. They look bright and festive. Thanks are also extended to SB residents Kent and Bobbe Stephan who helped decorate the outside and inside of Town Hall on Monday, November 26th. They were joined by Sue Callaway, her two granddaughters Cammie and Makayla, Dee Burbage and Don Chrobot in this decorative projection! Several SB homeowners have commented on how cheery and festive the Town Hall looks! Thank you all for volunteering your time!

Update on Phase 2 Street Sign Project – 33 New Street Signs along Route 1 East and West Sides

All 33 signs for Phase 2 have been installed along the Route 1 East and West sides. Thanks are extended to Don for getting this major task completed in such a timely fashion. Several comments have been received about how nice they look and how much easier it is to read the street names. The CEC presented the idea of having the Historical Society organize the sale of the old signs as a fundraising event. Sue has confirmed the Historical Society's interest with Maria Johansen and she will organize the sale and distribution of the old signs. A few requests to purchase the old signs have already been made by SB property owners.

Council Discussion and Motion: The Town Manager stated that the Town Council would have to approve donating the signs to the Historical Society. A motion was made by Councilman Gross, seconded by Councilman Caputo, to donate the signs to the Historical Society. The motion was unanimously carried.

Ocean Drive Alternative Lighting Trial Test

In response to the Town Council recommendation, on November 26, 97 letters and photographs were mailed to Ocean Drive homeowners regarding the solar light test experiment along Ocean Drive seeking their input. A total of 54 responses were received as a result of the letter survey, as tabulated by Town Clerk Dee Burbage: 48 homeowners checked the box "Extend the lights all along Ocean Drive," and 6 homeowners checked the box, "Do not extend the lights and remove the test lights." The next steps are to continue the test period and to include a request for funds for the solar lights in the FY 15 budget.

Council Discussion: Mayor Jankowski asked if the six people who did not like the lights could be approached and talked to about the issue. Councilwoman Callaway said yes.

Ocean Drive Art Initiative – Painted Designs on Ocean Drive Planters

The Ocean Drive Art Initiative is moving along very well. After meeting with local professional artist Tara Grim in November to review the planters along Ocean Drive and the proposed idea, Tara is excited about the plan and has agreed to serve as point person for the artists along with Sue Callaway and Don Chrobot organizing the logistics and material details. A summary of that meeting was forwarded to all Town Council members for review. Since the meeting, the size of the art boards has been confirmed and boards have been purchased (exterior grade as recommended by 84 Lumber), prepared by the Maintenance Department (sanded and smoothed and covered with Kilz) and approved by Tara (December 12). Design sketches were submitted by Celeste Speer and Carolyn Marcello and approved at the December 11 CEC meeting. The artists are working together on confirming the appropriate paints. The plan is to have the three art boards in place by Memorial Day. In addition, Sue distributed an informational flyer she prepared that describes the Art Initiative and its details and will be used to introduce the Initiative to SB homeowners in the spring. One of the potential future plans is to introduce the Initiative to other gallery artists that Tara is associated with.

Council Discussion: Councilman Rae suggested extending this initiative to Sea Side Drive. Councilwoman Callaway said the committee can add Sea Side Drive. Council agreed.

Discussion of DRAFT CEC Budget Items

Don and Sue met in late November to review the status of the FY 14 CEC budget and to prepare a draft of the FY 15 budget. At the recent CEC meeting copies of the FY 14 budget and the DRAFT FY 15 CEC budget were distributed. The group reviewed the new and annual expenses in the proposed FY 15 CEC budget and some of the CEC proposed ideas that would be requested in the Public Works FY 15 budget.

Dog Waste Flyer

A point that arose through the discussion of the FY 14 CEC budget was the development of the proposed flyer regarding dog waste removal. Because of recent comments from homeowners, particularly on Ocean Drive, regarding the extent of dog waste found, the group agreed to work on the flyer in January and February for an early spring distribution to SB homeowners.

Message Boards in Town

Don noted that the two new message boards for Ocean Drive have been ordered. The group agreed to keep the one at North 6th Street but to move the other one to the handicapped access walkway located on Ocean Drive.

Council Discussion: Councilman Gross suggested leaving the other message board where it is. He feels it is too congested to add a bulletin board at the handicapped access walkway with other signs, etc. Councilwoman Callaway said the CEC will take a look at it.

Update on Adopt Program

We have approved a new application received from Ann and Don Boteler requesting adoption of the Sussex Place road end. The application and design plan were approved by the Adopt sub-committee members, Bobbie Stephan, Sharon Nonn, Carol Stevenson and Sue Callaway. The junipers will be removed in early 2014 with planting scheduled for early spring.

Looking Ahead:

- Town Council approved the hiring of Rick Gentile to fill the vacant Maintenance Worker position. Rick will begin on Monday, December 16th.
- SB homeowner (Anchorage) and new full-time resident Pat Weisgerber has agreed to join the CEC. The CEC has set a goal of adding 3 new members to the CEC in 2014!

Conclusion: The annual CEC Christmas luncheon was held following our December 11th meeting and we were pleased to be joined by so many South Bethany staff.

On a different subject, Councilwoman Callaway stated that she appreciates the time Councilman Caputo has put into Edmunds.

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

Currently the Town does not have a B & F Policies Manual, and we need one. There are no formal guidelines or policies regarding budgetary controls, fixed asset capitalization and depreciation, reserves management and investment management. I have drafted budgetary control and fixed asset guidelines and circulated them to the Budget & Finance Committee for their review. I plan to work with the Committee and be able to introduce to the Council these two areas in the near future. Reserve management and investment management will follow. Once those sections are done we will be working on sections regarding reserves. We need to get the fixed assets section done first and then reserves will follow and investments will follow that.

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

- **Diffuser Pilot Project in the Petherton Canal**
 - Status report submitted to Council and DNREC
 - Status presented at the Sea Grant Citizen Water Quality Monitors QA meeting. It was well received and they appreciated the issues. I may have found some sources for technical help and equipment and for grants. I thanked Ed Whereat for asking me to present and opening up these contacts.
- **Grant for Rain Gardens along the East Side of Route 1.**
 - Excavation/Construction is scheduled for March, 2014 so that planting will occur in the spring.
- **Water Quality Monitoring**
 - Dave Wilson and I attended a QA session at the U of D Lewes Campus to verify that our hand held meter is working correctly.
 - Dave Wilson reported at our 12/13/13 meeting that dissolved oxygen was better, 38% fewer samples had DO less than 4mg/L, this year than last year. However there were increased bacteria levels probably due to more rain.
 - There was a fish kill of about 140 menhaden in Russell canal due to low DO in September.

– **New Grant Opportunities**

- The CIB has been awarded a grant from DNREC to install large oyster cages and floating wetlands in South Bethany Canals. The floating wetlands would have bright colored flowers, probably purple. The project would involve installing a large volume of mature oysters so that the benefits of oysters could be measured. Each oyster can filter up to 50 gallons of water per day. George Junkin and Dave Wilson met today with Bart Wilson & EJ Chalabala from the CIB and with the CIB consultant, Doug Janiec from Cardno Entrix to discuss the project and to look at potential sites for installing the oysters and floating wetlands. The most promising canal is the York Canal since it is so wide and deep. The CIB will develop a plan and submit it to us for our review.
- The CIB has been awarded a grant from the EPA to create concept plans for bioretention areas around the 14 storm drains in the Sandpiper Pines section of South Bethany. I attended a phone meeting with EPA, Tetro Tech (EPA's vendor) and AMT (Larry Trout) at the CIB on 11/20. On December 12 all the stakeholders (Nancy Larson and Jamal from the EPA, Mike Clar from Tetro Tech, CIB; Chris Bason from the CIB and George Junkin from the Town of South Bethany) attended a meeting and walk around Sandpiper Pines to discuss the project. It was emphasized that there is a lot of parking that would have to be accommodated. The retrofits would likely be a combination of "Rock Diaphragms" (George says they are fancy French Drains) and rain gardens.
- At our 12/13/13 meeting we developed a list of budget items that will be submitted to the financial committee for the next budget cycle.

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

The committee is working on revising Town Code Chapter 104 to enforce regulations on vegetation control on the east side of Ocean Drive. The committee will revise Chapter 104 and bring it forward to Council.

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

A little progress has been made in getting information in the Coastal Point's Agenda section. After discussion, Councilman Rae asked committee chairpersons and Town Council members to submit items for publication in the Coastal Point's Agenda section to the Town Clerk before the end of the month.

The Delaware Tourism website has no information on South Bethany. Councilman Rae has not received a response from the state agency regarding this.

Polar Swim – At this time 21 people have signed up. Mike Tine has ordered the T-shirts. Councilwoman Callaway is organizing the brunch. Councilwoman Callaway will be taking pictures. Councilwoman Callaway will do another news update to encourage people to go and cheer the team on.

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

- There have been two committee Meetings since the last Town Council Meeting. They were on November 19 and December 12. We are developing recommendations for potential code changes required to adapt to SLR & SS. They are:
 - Add a requirement on bulkhead height.
 - Maximum height is limited to the BFE as documented on the most current FEMA Map.
 - Any bulkheads that require replacement must have a height of at least 3.0 feet NAVD.

- Change Code Chapter 145, in all places necessary, to require that for all new construction or substantial improvement, including house raising, that there be 3 feet of freeboard added to the BFE.
- Change requirement for Building height from 32 feet above the street to 34 feet above the street or to a maximum height of 38 feet NAVD, whichever is higher.
- Mayor Jankowski and I attended the *Flood Management & Coastal Resilience Workshop* presented by Pennoni Associates on November 12, 2013 at the Virden Retreat Center, U of D Lewis Campus. The workshop identified basic tools necessary to measure the Town's preparedness for coastal storm events and provided guidance on how to plan and respond before, during and after a major flooding event.
- Tony Caputo, Dave Wilson, Jay Headman and I attended a meeting on November 21, 2013 in the Town Police Conference Room with three representatives from Pennoni Associates Inc. to convey to them our goals and activities relative to SLR & SS and Canal Water Quality issues and to find out from them where they could help us with resources and obtaining grants.
- As an outcome from the above meeting Pennoni Associates submitted a proposal to develop for South Bethany a formal *Coastal Resilience, Risk Assessment and Mitigation Plan*.
- I have requested from URS a similar plan
- URS has completed all their Survey Grant Tasks; actual surveying, developing the elevation maps, delivering both paper copy and electronic copy of all the data and maps.
- As a final deliverable for the Survey Grant we will have public meetings in the spring to educate homeowners relative to SLR & SS Risks to SB, Flood Insurance and the CRS (Community Rating System)
- At the 12/12/13 meeting we developed a list of budget items that will be submitted to the financial committee for the next budget cycle.
- So far George Junkin and Tony Caputo are scheduled to attend Delaware Community Resilience and Adaptation Workshop to be held 1/29/14 at the St. Jones Reserve Coastal Training Center.

Council Discussion: Councilman Junkin stated that in the spring the Town will have public meetings to go over things like FEMA maps and insurance and elevation surveys. Councilman Gross noted that the Sea Level Rise Committee recommendations need to go to the Planning Commission for their input because of the zoning and building requirements.

Mayor Jankowski asked Councilman Junkin to thank the committee for their work.

AREAS OF INTEREST

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

Councilman Rae attended an Assawoman Canal Trail Team ACT II public meeting on December 5 at the old Ocean View Town Hall. This was considered to be the 30% design look meeting. The meeting was chaired by Bob Ehemann, DNREC's Division of Parks and Recreation Community Assistance Grant Coordinator for this project. The project is divided into Phase 1 and Phase 2. Phase 1 is everything from Route 26 north on the canal, and Phase 2 is everything from Route 26 south including South Bethany. They will be meeting with 37 adjacent property owners over the winter to make sure that everything is co-esthetic with the trail being near their houses. In the spring of 2014 they are going to complete the design of Phase 1 and in the fall of 2014 they are hoping to complete the building of Phase 1. Councilman Rae believes the design of Phase 2 will begin in FY 2015 with the build of Phase 2 completed by 2016. Councilman Rae said he was disappointed because he was hoping it would be done sooner than that. The trail will be in the six to eight foot range made from crushed stones. Councilman Rae said the trail will be a nice asset for South Bethany.

Discussion: Mr. Cestone asked Councilman Rae if he had heard back from DNREC regarding the dredging of the southern part of the canal. Mr. Cestone stated that the Army Corps of Engineers' permit expires the end of next year (2014). Mr. Cestone said the problem is the canal in the southern part is just deep enough in the middle, but the channel is very narrow so when two boats are passing each other and have to go wide they run aground.

Councilman Rae stated that he reported at this meeting last month that Ariane Nichols from DNREC reported back to him that the response she got from the survey crew in regards to the differences in the two surveys is that after comparing the two surveys from 2010 and 2013 they did notice they were very similar. Each survey was run in slightly different spots so it looks different even though in reality they are very comparable. If you find a spot that the decimal point or the tax from each survey fall in the same place, they are almost identical depths. The depths can change fast in a small distance around the channel. Also keep in mind that the text type is about 10 feet so that reads are about 10 feet apart. Even with the two different techniques for tide conversations both surveys are close. I do not see any errors. It was explained to me the survey lines may not have been in exact locations on the second survey so a slight shift could account for the differences in the reading because they would not have been in the same exact location.

Regarding the information above from Ariane Nichols, Councilman Rae stated that our complaint was why were the depths on the two charts (six years apart) different. Mr. Cestone said the original complaint is they didn't dredge there and the channel is not wide enough. Mr. Cestone said the problem is still there. Mr. Cestone suggested going to Senator Hocker to get something done. During discussion Mr. Cestone said there are two problems: 1) branches and other things in the canal, and 2) the need for the dredging. Mr. Cestone said the need for dredging has become critical because the Army Corps of Engineers' permit expires the end of next year (2014). Mr. Cestone said now is the time to push them so they put money in next year's budget to do the dredging.

Mayor Jankowski thinks the point right now is to get them here and to get them talking about what our issues are. Councilman Rae said let's include the dredging part too. Mayor Jankowski said she was giving them until the beginning of the year since they said they would be down after Thanksgiving. Mayor Jankowski agreed that Senator Hocker is the first step.

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

Last Meeting: Brought forward monitoring the useful life of a variance...i.e., a handicap ramp that has served its useful life. Councilwoman Voveris stated that the Town does not have a formal or informal policy in place to monitor the useful life. In other words, if the ramp is no longer needed how do we identify that this ramp should be removed. Council agreed to take the matter to a workshop and talk about possibly sending an application every year to see if the circumstance is the same. In the meantime Councilwoman Voveris went to Bethany Beach to see what they had in place, and they don't have anything in place. Bethany Beach referred Councilwoman Voveris to an attorney, Max Walton.

Subsequent Finding: Max Walton, the attorney overseeing BOA seminar at the U of DE, spoke to Councilwoman Voveris about applicable case law (which Councilwoman Voveris included in Council's packets). In the ruling, language supports a variance running with the land and not the ownership or circumstance. Once the variance is put in place it stays in place. Councilwoman Voveris took two applicable case laws that Max Walton had sent her to the Board of Adjustment. In reading them they felt that these case laws were use variances and not area variances so the Board of Adjustment is asking our attorney to take a look at the case law and determine if they are area variance or use variance. If they are area variance then we will need to revise our code because it states that we have to remove the ramp, and

if it is a use variance our code will probably stand as it is. Councilwoman Voveris asked the Town Manager to take the two cases and have the Town's attorney take a look at them.

Action Needed: The BOA questions whether the cases attached to Council's meeting packets point to use variance, rather than area variance. Should our attorney agree these are area variances, our Code 145-28 (attached) will need revision since it states a ramp fulfilling its useful life needs removal. If our attorney finds the attached cases reflect use variances our Code may stand in the absence of applicable case law to the contrary.

PLANNING COMMISSION REPORT – Mayor Jankowski reported:

The Planning Commission has done some revision to the Vision Statement regarding two property owners who responded with updates, and there is still conversation going back and forth regarding this.

ADJOURNMENT

A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to adjourn the December 13, 2013, Town Council Regular Meeting at 9:25 p.m.