

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES DECEMBER 14, 2012</b>
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**ATTENDANCE**

PRESENT: Mayor Kathy Jankowski; Councilpersons Al Rae, Jim Gross, Pat Voveris, Sue Callaway, and George Junkin; Town Manager Melvin Cusick; Cpl. Mark Burton; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilman Mark Damato

**MEETING CALLED TO ORDER**

Mayor Jankowski called the December 14, 2012, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag. Mayor Jankowski called for a moment of silence for the victims of the shooting at Sandy Hook Elementary School in Newtown, Connecticut, that occurred earlier that day.

Regarding Agenda Item III, Agenda Public Discussion – Public comment regarding agenda items will be heard after initial Council discussion and prior to any Council vote being taken, Mayor Jankowski stated that this was put on the agenda so that it is official that the audience is allowed to ask questions after each report. A motion was made by Councilman Rae, seconded by Councilwoman Callaway, that Council make a change to its written procedures to allow public comment regarding agenda items after the initial Council discussion but prior to any Council vote. The motion was unanimously carried.

Later in the meeting Mayor Jankowski announced that due to personal reasons Councilman Damato could not attend this meeting and his absence was excused.

**PROPERTY OWNERS' PARTICIPATION**

- Mike Matera (311 W. 9<sup>th</sup> St.) – Stated that he would like to commend the Town for the nice job it did putting the dumpsters out and getting the trash company to pick up all the trash in front of each house.
- Linda Lewis (President of the South Bethany Property Owners Association) – On behalf of the South Bethany Property Owners Association Executive Committee and all South Bethany residents, Ms. Lewis presented a plaque to Mayor Jankowski. Ms. Lewis said, "For 15 years I have led leadership seminars, and now thanks to Hurricane Sandy and Kathy I have a new example to use in my seminars, and that is leading through chaos, the unknown and uncharted waters (lots and lots of water). Kathy led us with both her heart and her mind – her mind reaching out to federal, state, and local officials. Stepping into the role of Town Manager for our vacationing Town Manager. Getting done what needed to be done to support our town. More importantly, she led with her heart putting South Bethany and its residents first before her own personal needs and losses. Supporting us, providing us information, setting an example of calm, caring action in a situation that had never happened before. Leading without a model or an example to follow. Doing what her heart and her mind led her to do through hard work and dedication. Kathy, from the Executive Committee and all the residents, thank you. And to commemorate your extraordinary efforts and leadership we present you with this plaque given with respect and gratitude." There was applause from the audience. Mayor Jankowski read the inscription on the plaque – "The South Bethany Property Owners Association commend Kathy Jankowski for outstanding leadership during Hurricane Sandy. Thank you for all your efforts. October 2012." Mayor Jankowski thanked the Property Owners Association and the South Bethany residents.
- Tom Roche (141 Henlopen Dr.) – Asked if the status of the damaged Christmas lights would be addressed under the Leadership Reports. Councilwoman Callaway said she would talk about the Christmas lights during her Community Enhancement Committee report.

### **ADOPTION OF MINUTES**

- **Town Council Workshop Meeting Minutes, October 25, 2012** – A motion was made by Councilman Junkin, seconded by Councilwoman Callaway, to accept the October 25, 2012, Town Council Workshop Meeting Minutes. The motion was unanimously carried.
- **Town Council Executive Session Minutes, October 25, 2012** – A motion was made by Councilman Junkin, seconded by Councilman Gross, to accept the October 25, 2012, Town Council Executive Session Minutes. The motion was unanimously carried.
- **Town Council Emergency Meeting Minutes, November 1, 2012** – A motion was made by Councilman Junkin, seconded by Councilman Gross, to accept the November 1, 2012, Town Council Emergency Meeting Minutes. The motion was unanimously carried.
- **Town Council Public Hearing Minutes, November 9, 2012** – A motion was made by Councilman Junkin, seconded by Councilman Gross, to accept the November 9, 2012, Town Council Public Hearing Minutes. The motion was unanimously carried.
- **Town Council Regular Meeting Minutes, November 9, 2012** – A motion was made by Councilman Junkin, seconded by Councilman Gross, to accept the November 9, 2012, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Workshop Meeting Minutes, November 15, 2012** – The November 15, 2012, Town Council Workshop Meeting Minutes were still being drafted and were not ready for adoption.

### **LEADERSHIP REPORTS**

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

To try and clear up some confusion, Mayor Jankowski explained that Sussex County waived their permit for any construction on repairs needed due to the flood. Ordinarily Sussex County requires a permit for inside construction work. Regarding a permit from South Bethany for flood damage repairs, the Town Manager referred to § 145-68A(6) of the Town Code which does not require a permit for repairs less than \$500, and the permit requirement for interior renovations excludes one-for-one replacements such as wall coverings, carpet, light fixtures, floor coverings, cabinet doors, etc. Based on this, the Town has interpreted that property owners do not need a permit for those one-for-one replacement items listed in § 145-68A(6) that were damaged by the flood. The Town Manager stated that if property owners go beyond that one-for-one replacement, they do need a permit from the Town of South Bethany. Mayor Jankowski will send out a News Update regarding this information.

Later in the meeting Mayor Jankowski asked Bob Cestone to give an update on the Mediacom contract. Mr. Cestone said a week ago he participated in a conference call with the consultant the towns had hired to negotiate the new franchise agreement and the four representatives from Mediacom. Mr. Cestone said he was disappointed because he and the towns' consultant had sent the Mediacom representatives a list of items they wanted to discuss ahead of time and most of the Mediacom representatives had not looked at the list. Mr. Cestone said they did resolve a few items – one of them was to have the TV Guide Channel reinstated. Another item they requested was for Mediacom to offer a "skinny basic plan" which would have fewer channels than basic and it would be less expensive. Mediacom refused to offer this saying it was a business decision, meaning they weren't going to make any money off of it. Mr. Cestone hopes that in another month the franchise agreement will be wrapped up. Councilman Gross asked if there was any discussion about increasing the number of high definition stations. Mr. Cestone replied that there was not. Mr. Cestone said there is not too much the towns can do because no other cable company is going to come in. It does not pay other cable companies to come in and spend money on the infrastructure. Mr. Cestone said the only competition is the two satellite companies and they have their problems too. Mayor Jankowski stated that South Bethany, Ocean View, Bethany Beach, and Millville are working on this together, and Bob Cestone is the representative from all the towns that is working with the lawyer. Mayor Jankowski thanked Mr. Cestone for his work on this project.

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

The November Ambulance Report supplied by the Bethany Beach Volunteer Fire Company was available on the sign-in table.

Hurricane Sandy debris removal report – The Town handled a total of 26 roll off dumpsters at Town Hall for a total of 112.94 tons of debris. There were 9 curbside pickups completed by Allied Waste for a total of just under 76 tons. The Town Manager noted that Town forces, contracted labor, and contracted equipment were also used for curbside pickup of debris and yard waste such as tree branches. The Town also contracted with Sussex Tree Service. The Town Manager does not have the tonnage reports for these yet.

The area was declared a federal disaster area by the President. The Town has had several meetings with FEMA. The FEMA rep has been to Town Hall and the Town has turned all of its paper work into FEMA. The Town hopes to get 75% of its costs back – it will depend on what FEMA accepts and does not accept. The Town included the flooded Christmas lights in the submittal, but the Town Manager does not know if the Town will get reimbursed for them or not. The Town submitted a total cost loss of \$53,296.69 to FEMA which includes debris pickup, labor, and everything else that was involved.

Mayor Jankowski clarified that the federal Presidential Disaster Declaration was only for the public sector (State agencies, Local Governments/Communities, and certain private non-profit organizations), not the private sector. The Town Manager added that it is his understanding that the State of Delaware did not reach the threshold for the damage to residences. Mayor Jankowski said that one of the qualifications for meeting the threshold was that the house had to be the primary residence and 40% of the market value of the house had to be damaged by the flood.

- **Treasurer's Report**—Pat Voveris reported as of November 30, 2012:

**MONTHLY:**

October Total Fund Balance Brought Forward	\$ 2,181,461.96
November Revenue	\$ 175,840.58
November Disbursements	<u>\$ 139,980.68</u>
November Total Fund Balance	\$ 2,217,321.86

**YEAR TO DATE SURPLUS/DEFICIT:**

Total Revenue From All Sources	\$ 2,099,819.00
Total Expenditures Of All Funds	<u>\$ 1,438,031.00</u>
Remaining Projected Budgeted Funds	\$ 661,787.00

**OPERATING BUDGET RECAP:**

- Revenue is at 98%.
- Expenses are at 70%.

Councilwoman Voveris stated that it appears the Town will make its budget for FY 2013.

**HIGHLIGHTS ON REVENUE:**

- For Property Tax the Town has 7 delinquent owners for an amount of \$3,537.21. We have collected \$486,876.00, or 98.4% of budget.
- Transfer Tax came in at \$11,792.37 or 25% more than the same month last year. For the same 7 months of last budget we are ahead by 56%. The Town budgeted \$225,000 for FY 2013 and has surpassed this number by 17% in just 7 months of our budget cycle.

- Rental Revenue as of today is at \$511,173.60, or 103% of budgeted amount. Compared to FY 2012, we have collected \$23,219.00 more at this point. Councilwoman Voveris gave the following rental revenue comparison for the past three fiscal years and noted that it is nice that the rental revenue increased every year:
  - FY 2011 the Town collected \$459,729
  - FY 2012 the Town collected \$489,944
  - FY 2013 the Town collected \$511,174
- The Town has collected \$3,572 in Penalties/Fines where just \$500 was budgeted. This is primarily due to late fees for delinquent property taxes.
- Parking Tickets are up from last month. The Town budgeted \$12,600 and is at \$11,237 or 89%.
- **Police Department Report/Questions**—Cpl. Mark Burton reported for the month of Nov., 2012:

Cpl. Burton stated that he worked during Hurricane Sandy and saw how bad the flooding was in South Bethany and he saw the large amount of damage caused by the flood in South Bethany. He stated that the Town's Maintenance Department and everybody the Town contracted with did an excellent job of cleaning up.

Cpl. Burton reported that there have been some surrounding burglaries, but South Bethany has not had any at this time. The Police Department had one theft reported all month and it was for an inoperable washing machine from under a house. Technically it was a theft because the washing machine had not been put to the curb.

- Nov. 8        Stopped a gentleman who was wanted out of Dover. He was taken to court, arraigned, and released on bond.
- Nov. 9        On these dates two people reported that someone had been in their houses. There was no sign of forced entry, damage, or anything taken. Both houses were under construction from water damage due to the flood. The Police Department wrote them up as criminal trespasses at the time, but there is no proof of any crimes. At this time Cpl. Burton reminded property owners who rent their homes to change the lock box code at least once a year to help protect their properties.
- Nov. 15       House fire on S. Anchorage Ave. Cpl. Burton spoke to the private fire investigator for the company that insured the property when he was digging through the pile, and the private fire investigator said he was going to put in his report that the fire was accidental and that he believes the HVAC unit, which was under water and never got completely dried out, shorted out and caused the fire. Cpl. Burton emphasized that this was a private fire investigator for an insurance company out of Maryland and not an officer from the State of Delaware Office of the State Fire Marshal. Cpl. Burton said he was reporting this to put people's minds at ease that it appears to be accidental. Councilman Rae asked if the Town could get a copy of the State Fire Marshal's report. Cpl. Burton said he would ask Chief Deloach to contact the State Fire Marshall office to see if he could get a copy of the report. The Town Manager stated that he contacted the Bethany Beach Volunteer Fire Company and they said they would notify the Town once they get official word from the State Fire Marshal.
- Nov. 16       Assisted Fenwick Island Police Department, DNREC, and Bethany Beach Fire Department at Sea Dunes, which is just north of Fenwick Island, and did CPR on a gentleman on the beach. He was doing storm cleanup from Hurricane Sandy and had a massive heart attack. He survived and came home from the hospital Thanksgiving Day.

Nov. 17 Stopped a vehicle on Tamarack Dr. The driver was going out of Bethany Beach. The driver was turned over to Bethany Beach Police Department.

For the month there were six false alarms, storm cleanup, and one flat tire to report.

Mr. Matera inquired about squatter laws in Delaware. Cpl. Burton said squatter's rights are not an issue in Delaware because Delaware does not put houses in limbo. If it were to happen in South Bethany, the person could be charged with trespassing. If the person forced entry into a residence or committed a crime, the person could be charged with burglary.

**ORDINANCES/RESOLUTIONS – Second Reading of Ordinance 167-12, to Amend Chapter 42, Building Construction, to Revise and Clarify § 42-1 through § 42-14.2 and to Add § 42-14.3 (Jim Gross)**

Council discussed a few items but only made the following change: § 42-14.3(C) – Delete "warm-up" from the second line.

Mayor Jankowski declared this the second reading of Ordinance 167-12.

**COMMITTEE REPORTS**

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

The Project Manager received the proposal back from the consultant, but it did not include any costs. They are trying to look over and finalize the scope of the project before they provide any costs. The Project Manager is expecting to come out with an official update in the next few weeks.

Councilman Rae reminded people to report hazardous debris (downed trees) in the Assawoman Canal if they can get the position (GPS Coordinates). Mayor Jankowski stated that most people have their boats out of the water now. She said it would be nice to have the debris cleaned up before the season starts. Councilman Rae said he would send an email pointing that out. Mr. Cestone asked Councilman Rae to also reference the depth sounding map he had previously left with Councilman Rae for the southern part of the canal where the dredging still needs to be done. Mr. Cestone said he had gotten the map from Chuck Williams of DNREC who was the Project Manager at the time. Mr. Cestone said the State will have to put money in the budget for it and they will have to schedule it. Mr. Cestone noted that they can only dredge in the fall from September through December.

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

The Community Enhancement Committee met on December 12, 2012.

The committee had a roundtable discussion with Mayor Jankowski and the Code Enforcement Constable on things that can be done to encourage community enhancement, particularly focusing on property repairs and improvements.

Councilwoman Callaway and the committee thanked the Maintenance Department for the excellent job they did with the tremendous trash removal task. She also thanked the Finance Director who worked so hard organizing the scheduling of the trash pickup. One of the committee members said the trash removal was "Community Enhancement at its finest."

Councilwoman Callaway encouraged property owners to review the committee meeting summaries that are posted on the Community Enhancement page of the Town's website.

The committee is working closely with the Communications and Public Relations Committee in terms of promoting South Bethany as a rental community.

The committee discussed the issue of dog waste and will be discussing it a little bit more at a future meeting.

The committee reviewed the solid waste ordinance. This is a community appearance issue.

The Ocean Drive test lighting project is ongoing. Some adjustments were made on the N. 2<sup>nd</sup> St. light by moving the arm a little bit to change its direction. There are very limited options when it comes to electric pole lighting in residential communities.

The Christmas lighting was hung before Thanksgiving. About a week after the lighting was up, parts of the lighting started to go out. Delmarva Power and Nightlighters (the company that hangs the Christmas lighting) determined that the lighting was ruined during the flood from the saltwater that corroded the lights. The lights were not safe and could no longer be used. Councilwoman Callaway said the Town had 13 lights and the lights cost between five and six hundred dollars each. Councilwoman Callaway and the Maintenance Supervisor are researching the costs and options for new lighting.

The committee has done some research on the mailboxes along Rt. 1. The committee has decided to wait and see if the Town gets the rain garden bioretention grant for the east side because it might be good to address the mailboxes along Rt. 1 then.

Adopt-A-Canal Program – The committee did a complete review of all the canal ends that have not been adopted. The committee is going to do some targeted outreach to the neighbors that are adjacent to or near some of the ones that are in need of adoption, particularly on Rt. 1.

Councilwoman Callaway encouraged people to contact their neighbors that have not been down since the flood and remind them that it is important for them to come down and make sure everything in their house is safe and healthy.

- **Budget and Finance Committee** – Councilwoman Voveris reported:

The Budget and Finance Committee met today, December 14, 2012. The committee reviewed seven months of the budget. The Workmen's Compensation Rate will be a material expense item that will come up in early January. Councilwoman Voveris believes it will be over \$10,000. It is not something the Town has any control over. Councilwoman Voveris believes the Town will still make its budget.

The committee talked about some new things to add to the draft of the budget this year to give it a "face lift" to make it look a little more exciting and thorough.

All of the Town committees have gotten forms from the Finance Director to list their projects for FY 2014.

The Budget and Finance Committee will meet January 19, 2013, for the draft review of the FY 2014 budget.

Councilwoman Voveris plans to hold a public meeting for the FY 2014 budget in March, but she does not have a date yet.

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

**Diffuser System Pilot Project** – In November Envirotech submitted all applications for permits. The permitting agencies have indicated that there are no issues and that the permits should be issued by mid-January. We had tentatively scheduled Envirotech to attend the January 24 Town Council Workshop Meeting to discuss the project. It is expected that the diffusers will be in place by early spring.

**Grant for Rain Gardens on the East Side of Rt. 1** – The CIB expects to hear about this grant after the December 19 meeting of the DNREC CWAC (Clean Water Advisory Council). There will be a line item of \$10,000 for matching funds in next year's budget.

**Homeowner Education Program** – Flyers have been developed to educate homeowners on the use of fertilizer and lawn maintenance, Grey water piped into the canals, and the damage that impervious surfaces due to our canals. These will be distributed in future news updates and hard copy mailings. They are included in the packets that we give to new homeowners. There will be a line item for this expense in the next year's budget.

**Canal Water Quality Monitoring** – Continuing, no issues. The dissolved oxygen is now up because in the winter the dissolved oxygen goes up and in the summer it goes down.

**Little Assawoman Water Quality Monitoring by boat** – Discontinued for the winter months.

**Oyster Gardening** – We are always looking for more oyster gardeners. This is the year that we buy Spat (baby oysters). There will be a line item for \$1,000 for oyster gardening.

**Inspection/recommendations for SB owned storm drains** – Inspections of about 100 drains are complete. Recommendations have been made. There will be a line item for the expense of stand pipes and check valves in some drain basins included in the next year's budget.

**Tidal Pump** – The Tidal Pump was discussed in detail at the October 26 Canal Water Quality Committee Meeting. The committee agreed that a Tidal Pump was the best solution to cleaning up the water in the canals. However it is very expensive and may not be cost effective. Also, more support is required from DNREC and the scientific community before the committee is able to bring support to it to the Town Council. The committee will continue to discuss the benefits of the Tidal Pump with the scientific community.

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

Phil Arbaugh has been appointed to the Planning Commission. Dick Oliver, Robert Johansen, and Dave Wilson have been reappointed to the Planning Commission for another two year term.

The Planning Commission has scheduled their Organizational Meeting for January 4, 2013.

The Comprehensive Plan Five-Year Review, which was developed by the Planning Commission and revised by the Council, has been submitted to the State.

Martha Fields has been appointed to the Board of Adjustment.

The Board of Adjustment has a meeting scheduled for January 14, 2013, which will include two hearings.

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

The Charter and Code Committee continues to turn out an incredible amount of work. They are doing an impressive job. Councilman Rae stated that the work the committee is doing is at the request of the Town Council. The committee updates the Town ordinances based on Council's request and then brings the ordinance to Council for their input and approval before going through the normal process of three readings. Councilman Rae said the committee is a big help and Council appreciates it very much. Mayor Jankowski noted that the committee is currently working on the solid waste ordinance.

Councilman Rae has asked the committee if they have any FY 2014 budget items for paper and printing that they would like to put in a request for.

- **Communications and Public Relations Committee** – In Councilman Damato's absence, Councilwoman Callaway reported:

The committee is working on a brochure that will include photographs of South Bethany to entice people to plan their vacation in the resort of South Bethany. The committee is also working on a one page document on five things you may not have known about South Bethany. The committee is trying to get realtors involved and engaged in using these materials to promote rentals and purchases in South Bethany.

The committee is planning a Realtors Meet and Greet on February 15. The committee will give a presentation on South Bethany and encourage realtors to promote rentals and home purchases in South Bethany.

The Council has approved the concept of a float in the Bethany Beach 4<sup>th</sup> of July Parade. This will be a budgeted item in the FY 2014 budget. South Bethany property owner, Lori Cicero, has agreed to spearhead this project.

The committee is looking at sponsoring a family night on the beach in July.

The committee has met with the owners of the York Beach Mall to engage them in getting more involved in South Bethany activities and the Town doing reciprocal things to promote shopping in the York Beach Mall.

Ms. Lewis asked if the committee is responsible for the quality, look, and feel of all of the communications coming out of all the committees or is the committee more of a marketing and public relations committee. Mayor Jankowski replied that the committee is responsible more for marketing.

### **ADJOURNMENT**

Before adjourning, Mayor Jankowski stated that she is concerned about mildew and mold in the walls of rental properties that have not been looked at since the flood or have not been repaired since the flood. Councilman Rae suggested that the Town communicate with the realtors to make sure their rental properties have been inspected for damage. The Town Manager stated that the Police Chief had a list of realtors from when he was working on the June Bug issue. Mayor Jankowski suggested getting the contact list and sending something out to the realtors.

A motion was made by Councilman Gross, seconded by Councilman Junkin, to adjourn the December 14, 2012, Town Council Regular Meeting at 8:25 p.m.