

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES FEBRUARY 13, 2015

MEETING CALLED TO ORDER

Mayor Voveris called the February 13, 2015, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

ATTENDANCE

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

EXCUSED ABSENCE: Council Member Sue Callaway

APPROVAL AND VOTE OF THE AGENDA

A motion was made by Councilman Gross, seconded by Councilman Junkin, to approve the February 13, 2015, Town Council Regular Meeting Agenda. The motion was unanimously carried.

PROPERTY OWNERS' PARTICIPATION

- Bob Buhner (504 S. Ocean Dr.) - Asked if it would be possible to elaborate on the letter or read the letter that the Town sent on Monday to Delaware's U.S. Congressional Members. Mayor Voveris said the Town sent the letter on February 9, 2015, to Senator Carper, Senator Coons, and Congressman Carney. Mayor Voveris read the letter aloud:

Dear Sirs:

We are writing to enlist your assistance in an issue the Town of South Bethany currently has with FEMA, the Federal Emergency Management Agency.

FEMA has produced new Flood Insurance Rate Maps (FIRM) scheduled to become effective in South Bethany on March 16, 2015. After preliminary maps were provided to South Bethany, the Chair of our Sea Level Rise Committee observed our oceanfront properties' Base Flood Elevation (BFE) was being reclassified from our current 12 feet to 10 feet. He questioned FEMA about the lowering of the BFE in light of historical flood damage at 12 feet.

FEMA reviewed this inquiry, decided to consider it a formal "appeal" filed on behalf of the Town and as a result reclassified the South Bethany oceanfront at 13 feet BFE for the FIRM effective March 16, 2015. Owners came forward citing grave financial impact on flood insurance premiums due to this reclassification to 13 feet from 10 feet.

On December 15, 2014, our Town Council government requested FEMA re-evaluate the BFE requirement planned for our town (enclosed). Except for confirmation that FEMA received our letter, our only response has been an indication that they are still investigating the matter (enclosed).

South Bethany never intended to file a formal appeal with FEMA and never followed the criteria set by FEMA for a formal appeal. FEMA should practice consistency in its determinations and not mischaracterize the written inquiry as a formal appeal by the Town.

Specifically we ask you to contact FEMA on our behalf to secure an answer to our communication, support our town in asking FEMA to remove what they are calling an appeal, and ask FEMA to revert back to their VE 10 classification as shown on the FIRM of August 2, 2013.

We appreciate your attention to this matter and respectfully request you to intercede on the Town's behalf to resolve the Town's issue with FEMA regarding the reclassification of the BFE for oceanfront properties in South Bethany since time is of the essence. I can be reached by cell phone at 301-370-7318 or email at patvoveris@gmail.com.

Sincerely,

*Pat Voveris, Mayor
On Behalf of the South Bethany Town Council*

Regarding what has transpired, Mayor Voveris read the following from the Mayor's Report: As a follow up to our Workshop this past Monday where Council voted to send a communication to our legislators regarding the issue we have with FEMA and their proposed BFE requirement that becomes effective next month, I would like to report that on Tuesday I made contact with all of our legislative offices to include Carper, Carney, and Coons. They are coming together as a united front to approach FEMA on our behalf, with Congressman Carney's office leading the charge with support from Senator Carper's Housing Legislative Assistant in D.C.

Mayor Voveris added that since writing the Mayor's Report there have been further developments. On Thursday, February 13, at 3:30 p.m. she had a conversation with Drew Slater from Congressman Carney's office. FEMA had told him they would respond to him shortly. On Friday at 2 p.m. Drew spoke again to FEMA because they didn't respond to him shortly, and he was told they expect to have an answer for him by mid next week. Mayor Voveris stated that she wanted to publicly say our Legislatures' offices have really made an impact and she thanks them for this.

ADMINISTRATIVE MATTERS

- **Approval of 2015 Board of Election**

Reappointment of Carolyn Marcello and Bonnie Rae

A motion was made by Councilman Gross, seconded by Councilman Caputo, to reappoint Carolyn Marcello and Bonnie Rae to the 2015 Board of Election. The motion was unanimously carried.

Appointment of Sally Baker

A motion was made by Councilman Caputo, seconded by Councilman Rae, that Council appoint Sally Baker to the 2015 Board of Election. The motion was unanimously carried.

- **Approval of 2015 Election Workers – Reappointment of Barbara Jayne, Pat Spangler, and Jay Headman**

A motion was made by Councilman Caputo, seconded by Councilman Rae, that Council reappoint Barbara Jayne, Pat Spangler, and Jay Headman as the 2015 Election Workers. The motion was unanimously carried.

LEADERSHIP REPORTS

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

The weeks since my last report have been busy!

At the January 2 SCAT breakfast I attended with our Town Manager, we were told of \$20,000 of unexpected grant money that would be awarded to our Town. \$10,000 for Town Hall and \$10,000 for Police, to be spent by June 30, 2015.

During January I worked closely with Chief Crowson to understand and affirm his vision to expand our Police Department with a 6th officer. With that in mind we worked towards having the \$10,000 grant made available to offset the new officer's Academy/salary expense and were successful in having Sussex County grant this request.

On January 28 South Bethany hosted the Ambulance Group meeting where we named Mayor Audrey Serio of Fenwick the new Chair of the Group.

On February 4 I attended a SCAT dinner with our Town Manager and several Council members to hear Governor Markell's plans for his upcoming budget.

On February 6 I attended a SCAT breakfast with our Town Manager and learned about the new lobbyist that would be working for SCAT and learned that no legislation would be brought forward this year to consider unionizing municipal Police Departments.

During the last three weeks I have worked closely with our Town Manager to bring forth ideas to Sussex County for consideration of the other \$10,000 in grant money. This Tuesday our ideas were approved and I will be bringing these forward to Council for their approval at our February 26 Workshop. There are some very solid initiatives to be considered for the betterment of our Town!

On February 20 I have the privilege to attend the presentation of the Medal of Valor Award by the Chamber of Commerce to our very own Corporal Mark Burton for his resolve and closure of the recent burglary on Canal Drive. Congratulations, Corporal Burton!

Thank you.

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

Bid 15-01, Audit Services, was opened on February 11, 2015, and the bids have been forwarded to the Treasurer and the Budget and Finance Committee for recommendation. Bid 15-02, a FEMA grant to elevate a house on Carlisle Dr., is pending while the Town is in the process of obtaining more engineering information. Bid 15-03, the Sandpiper Pines Stormwater Retrofit Project, is due for bid opening on March 4, 2015.

The Town Manager announced DNREC's Annual Beach Grass Planting on March 21, 2015, between 9 a.m. and noon. DNREC is looking for volunteers. A flyer was available on the sign in table.

The Code Enforcement Constable's Report was available on the sign-in table.

- **Treasurer's Report**—Councilman Saxton reported as of January 31, 2015:

Council had a copy of the Treasurer's Report.

Councilman Saxton stated that the Town continues to do extremely well on the revenue side. For the year, the Town is about \$60,000 shy of meeting the amended budget regarding revenue.

Regarding "All other revenue" under Fiscal 2015 (5/1/14 - 1/31/15) Summary of Year-to-Date Departmental Budget to Actual, Councilman Saxton explained that there is a reduction in total revenue of approximately \$15,000 (to which Council amended the budget) due to the decrease in trash revenue for the year and an increase of \$5,000 from the grant for the tree work that was done in the Richard Hall Memorial Park.

The Town has exceeded the amended Realty Transfer Tax revenue of \$350,000. The Town is now at \$405,218 for the year. Councilman Saxton said this is the largest amount of Realty Transfer Tax received in the last seven fiscal years and the Town is having an extremely good year in Realty Transfer Tax revenue. The Budget and Finance Committee has discussed amending the Realty Transfer Tax budget again to a number around \$425,000 based on historical data. However the Town's auditor's thought was to amend it once and not worry about amending it again. Councilman Saxton thinks he will take this issue back to the Budget and Finance Committee. The committee may or may not recommend amending the budget again.

Recent grants received and approved will be reported on next month. The total is approximately \$182,000 worth of grants.

The Town is about 8% over budget in Building Permits. With other permits coming in, the budget will be over by more than 8% for the year.

Councilman Saxton thinks there is no issue with meeting the total revenue of the total budget for the year. Councilman Saxton added that the Town is on target for expenditures.

Councilman Gross stated that it would be helpful to have a one sheet document on the amendments with a description of what they were.

Councilman Rae asked if the Town was completely on the new financial system now. Councilman Saxton said yes. Councilman Saxton added that the Town does have to work through issues from time to time, and the Town has had the Town's auditor come back to assist with some issues.

- **Police Department Report/Questions**—Chief Troy Crowson reported:

In November the Police Department started to look for a potential employee, which evolved into employees. The potential employees were subjected to written, physical, and psychological testing along with two separate interviews. Chief Crowson took great pleasure in introducing the department's selections, Nathan Hudson and Megan Loulou, who both excelled at all phases of testing and interviewing. Chief Crowson gave background information on both selections. Mayor Voveris welcomed them both to the Town.

The Administrative Assistant/Dispatcher position will be filled on March 2.

Project Child Safe is a nationwide program which provides gun locks to help ensure safety and responsibility for firearm ownership and storage. The department has locks available for any type of gun.

The Office of Highway Safety just came out with an initiative called Slow Down and Buckle Up - Speed Thrills But it Also Kills. The following are some interesting statistics regarding speed crashes and accidents: 1) 124 people lost their lives on Delaware roadways in 2014, 2) Speed was a primary contributing factor in nearly 40% of those fatal car crashes, 3) Although the state-wide seat belt use rate is 92%, only 44% of the people killed last year were properly restrained, 4) A crash at just 40 MPH has the same impact as falling from a six story building. Chief Crowson said the department is working in conjunction with the Office of Highway Safety regarding seat belt and speeding initiatives.

The department saw a significant number of complaints regarding frozen water pipes and leaks. The department was able to turn off the water on all of them and Artesian was contacted. Chief Crowson expects that after this next cold snap there will probably be a few more busted water pipes.

ORDINANCES/RESOLUTIONS

- **Third Reading of Ordinance 176-14, to Repeal and Reenact the Code of the Town of South Bethany, Chapter 145, Zoning, Article XIV "Coastal Floodplain Regulations", to Update According to FEMA Request (George Junkin and Jim Gross)**

Page 13:

Councilman Junkin said the question came up as to whether an elevation certificate is needed for a detached accessory structure. Councilman Junkin said the answer is no and Rebecca Quinn thinks it is in the Code adequately. Councilman Junkin said there have been comments that it is vague, and Bob Cestone suggested adding the following sentence (in blue) to § 145-46.7A: ***For new or substantially improved structures, and for structures that have been elevated, an Elevation Certificate based on "Finished Construction" (identified in Section C, Building Elevation Information, of the Elevation Certificate).***
EXCEPTION: Detached accessory structures that meet the requirements of § 145-48.4.

Council agreed to Mr. Cestone's suggested change.

Council agreed to change the following letters in blue to uppercase letters: ***§ 145-46.7 Submissions Required Prior to Issuance of a Certificate of Compliance/Occupancy.***

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

- **Possible Vote on the Adoption of Ordinance 176-14**

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council adopt Ordinance 176-14 into the South Bethany Code. The voting was as follows:

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

AGAINST THE MOTION: None

The motion carried with a 6-0 vote.

- **Third 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)**

Council agreed to the following change:

Page 13, Recreational Vehicle, 1): Change Built to **B**uilt.

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

- **Possible Vote on the Adoption of Ordinance 177-14**

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council adopt Ordinance 177-14 as part of the South Bethany Code. The voting was as follows:

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

AGAINST THE MOTION: None

The motion carried with a 6-0 vote.

- **Third 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 third reading of Ordinance 178-14.

- **Possible Vote on the Adoption of Ordinance 178-14**

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council adopt Ordinance 178-14 into the South Bethany Code. The voting was as follows:

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

AGAINST THE MOTION: None

The motion carried with a 6-0 vote.

COMMITTEE & COMMISSION REPORTS

- **Community Enhancement Committee** – In Councilwoman Callaway's absence, Mayor Voveris reported:

The NEXT CEC meeting is scheduled for Thursday, March 12, 2015, at 1:00 pm. No meetings were held in January and February. While CEC has not met, the following activities occurred since the last CEC TC report:

Update on Ocean Drive Art Boards

- Gallery One will present another overview of the Ocean Drive Art Board Initiative at their March 9, 2015, Gallery meeting. Additional flyers will be distributed.
- As of this report, one painting and one photograph will be scanned and enlarged in March.
- Additional artists are being recruited. An *Email News Update* encouraging participation by local South Bethany artists will be distributed in March.

South Bethany Welcome Signs

- The South Bethany Welcome Signs were removed, repaired, refinished and repainted during January. Thanks to our Maintenance Department, the signs have been restored and their lifespan has been expanded!

Adopt-A-Canal/Road End Program

- Six canal/road ends are currently in the adoption process. Four adoptions will take place along Route 1, improving the appearance of our town along Route 1 and in particular, along the pedestrian pathway. The other two adoptions are at W. 10th Street Road End and Henlopen Drive Road End. Notification letters to homeowners adjacent to the canal/road ends are being prepared and will be sent in March. The Earth Day adoption (April 22) will be located along Route 1 in front of the Anchorage Canal Forebay.

Discussion of SB Little Library 2! East Side Location

The appropriate location for the SB Little Free Library 2 on the East Side is being reviewed. The group has assessed potential locations such as Division Street and South 1st Street as there is not adequate space along Ocean Drive, especially during the summer months. Frank Weisgerber will begin construction in late spring. As mentioned previously, Martha and John Fields have agreed to serve as the library's stewards.

Discussion: Safety and Security in South Bethany – Improved Street Lighting in SB – Focus on Canal Drive

In response to recent safety and security issues and concerns about the darkness in the Canal Drive area, and to learning of the availability of Delmarva Power's free-standing decorative street light options, the CEC has gathered information from Delmarva Power concerning specific installation costs, design, wattage options and monthly utility costs. A summary of the research will be presented to Town Council at the February 26 TC Workshop as well as suggested next steps, timeline and proposed funding option.

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

Councilman Saxton stated that when the Town gets a grant from Sussex County the Town only does one billing to Sussex County at the end once everything has been expended. Councilman Saxton noted that the county is on a different fiscal year schedule than the Town of South Bethany. Councilman Saxton said the draft of the FY 2016 Budget will probably have the actual grant and the expenditure of the grant next to or below it so that it is easier for Council to follow. Councilman Saxton said the Town (working with the committees) has to make sure the carry over is right for the next fiscal year as well as having an estimate of what will be spent for the remainder of the current fiscal year.

The committee has performed the following activities:

1. The committee met on 3 occasions since the December Town Council Meeting. The committee reviewed the Budget versus Actual for the months of December and January. The budget will be amended to include approximately \$182,000 of grants that have been awarded to the Town. Also the receipt of Realty Transfer Tax is now at approximately \$405,000 which is \$55,000 above the revised estimate of December. The committee is considering amending this estimate again but does not want to over estimate.
2. The committee has agreed that the FY 2016 budget should have reserves defined. Three reserves are suggested, Operating Reserves, Capital Reserves and MSA Reserves. The committee has approved a policy for Operating Reserves and is currently working on the policy for Capital Reserves. These policies should be ready for the March Workshop for Town Council review. In addition, the Committee has approved an Investment Policy for review by the Town Council. Work also has been done on a revision to the Budget Control Guidelines and will be ready for the March Workshop.
3. The committee reviewed the first draft of the FY 2016 Budget. Suggestions were made for revisions and additional inclusions. The budget should be ready for distribution to the Town Council on February 17.

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

The Charter and Code Committee will meet on February 25.

Agenda items to be discussed which may lead to new ordinances proposals are:

1. Clarification of the definition and enforcement requirements for **Substantial Improvement** and **Substantial Damage**.
2. Further define requirements for enclosure requirements excluded from the **FAR** calculations, including space between boards.
3. Development of new requirements to address portable and permanent **Fire pits**.

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

- There was a committee meeting December 11, 2014, to develop a list of budget items to be submitted to Town Council for inclusion into the FY 2016 Budget.
- An RFP has been prepared and published for a consultant to support the Sandpiper Pines Stormwater Retrofit Design/Build Project for Sandpiper Pines. We expect responses by early March. There have been numerous vendors requesting the RFP package.
- Marianne Walch, Ph.D., has been selected to fill the position at the CIB, Estuary Science & Restoration Coordinator, which was vacated last year by Bart Wilson. Marianne Walch comes from DeIDOT where she was in charge of the stormwater management best management practices facilities which included the forebay at Anchorage Canal. She should be a good addition to Chris Bason's Center for the Inland Bays (CIB).
- I have been in contact with Marianne to discuss the Large Oyster Cages and Floating Wetlands Project that was delayed from implementation last year. She intends to have a meeting within the next month to get this project back on track. 100 oyster cages are currently being stored on a vacant property on York Rd. They are awaiting the delivery of oysters. The floating wetlands are currently stored on the James Farm Property awaiting the delivery of plants. They will eventually get put into the York Canal to help improve the water quality in that canal. Council Discussion: Councilman Caputo asked who will physically put those into the water. Councilman Junkin said the CIB.

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

- There was a committee meeting December 18, 2014, to develop a list of budget items to be submitted to Town Council for inclusion into the FY 2016 Budget.
- A proposal was submitted 1/30/2015 to DNREC titled *Sea Level Rise Adaptation – Multi-Criteria Evaluation*, for a DNREC Coastal Management Assistance Grant. We expect to hear from DNREC within the next week on whether we were a successful bidder.

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

- The Planning Commission representatives attended the Town Council Workshop meetings on December 18 and January 29 to present the proposed new Survey developed by the Planning Commission. Changes to the new Survey resulted from each meeting and after completion were/will be sent to Council for additional discussion at the next Workshop on February 26.
- The Planning Commission will convene a Public Hearing on February 20, 2015, to hear an application from the owner of 161 Layton Drive to sub-divide lot 68/69 into two lots.

Assawoman Canal report:

- Bob Ehemann, Community Assistance/Grant Coordinator, DNREC, Division of Parks and Recreation, reported on January 8 that "The Bid to construct Phase 1 of the Assawoman

Canal Trail has been awarded to Grassbusters Inc. They were the lowest bidder at just under \$700,000. After the contract is signed, Grassbusters will submit construction specification to our engineering consultant for review and approval. The trail construction should begin by Mid-late February.”

Public Comment: Mr. Weisgerber asked in what phase of the project is South Bethany. Councilman Rae said the project is divided into Phase 1 and Phase 2. Phase 1 is everything north of Route 26. Phase 2 is everything south of Route 26. Phase 1 is now about to begin construction. Phase 2, which will be all the way down to South Bethany, will go through the same process Phase 1 went through where they will have a design and they will have public meetings. It will eventually go to bid and then construction. Councilman Rae said it will probably be 2017 before that will get done.

Councilman Gross noted that there is a Board of Adjustment Hearing coming up regarding a request for a variance. Property owner Bob Buhner from 504 S. Ocean Dr. and BOA Member stated that the hearing is on March 6 at 1 p.m.

PUBLIC COMMENT

Jerry Injaian (406 Bristol Rd.) - Asked if South Bethany has any responsibility for maintenance on any part of the Assawoman Canal waterway. Councilman Rae said the Town has no official responsibility and no authority over the canal. Councilman Rae said the Town periodically gets comments from citizens about fallen trees or low spots and communicates those comments to the State. Councilman Rae told Mr. Injaian that if there is anything that he is specifically aware of to use his cell phone and get the exact latitude and longitude of the location in order for the Town to report it to the State. Councilman Junkin noted that the canal is DNREC's responsibility. Mr. Injaian said he has tried to go north a couple of times and it is pretty much impossible for any regular prop boat to get through.

ADJOURNMENT

A motion was made by Councilman Junkin, seconded by Councilman Gross, to adjourn the February 13, 2015, Town Council Regular Meeting at 8 p.m. The motion was unanimously carried.