

**TOWN OF SOUTH BETHANY  
TOWN COUNCIL WORKSHOP MEETING MINUTES  
JANUARY 29, 2015**

**MEETING CALLED TO ORDER**

Mayor Voveris called the January 29, 2015, Town Council Workshop Meeting to order at 5:05 p.m.

**ATTENDANCE**

PRESENT: Council Members Sue Callaway, Tony Caputo, Jim Gross, George Junkin, Al Rae, and Mayor Pat Voveris; Town Manager Melvin Cusick; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Councilman Tim Saxton

**APPROVAL AND VOTE OF THE AGENDA**

A motion was made by Councilman Junkin, seconded by Councilman Caputo, to approve the agenda as published. The motion was unanimously carried.

**PUBLIC COMMENT PERIOD**

There were no comments from the public.

**ADOPTION OF MINUTES**

- **Town Council Regular Meeting Minutes, November 14, 2014** – A motion was made by Councilman Junkin, seconded by Councilman Gross, to accept the November 14, 2014, Town Council Regular Meeting Minutes as amended as follows: (where applicable, additions are **highlighted** and deletions **marked through**):

Page 4: Councilman Junkin said the reason the base flood elevation went from 10 feet to **12** **13** feet is because DNREC pointed out to FEMA that the dune can wash away.

Page 12:

**DNREC Public Workshop**, Third Paragraph: Change *DNRECs* to *DNREC's*.

Where once ~~Ocean Drive~~ **oceanfront properties east of Ocean Drive** ~~was were~~ the only regulated ~~property~~ **properties**, the move now is to include the first 3 properties from the ocean.

Page 18, Planning Commission, Third Bullet: *Councilman Gross said the report was submitted to the State and the State complimented the Town, and the Planning Commission was so informed.*

The motion was unanimously carried.

- **Town Council Regular Meeting Minutes, December 12, 2014** – A motion was made by Councilman Junkin, seconded by Councilman Gross, to accept the December 12, 2014, Town Council Regular Meeting Minutes. The motion was unanimously carried.

## ORDINANCES

- **Second Reading of Ordinance 176-14, to amend Chapter 145, Zoning, Article XIV "Coastal Floodplain Regulations", to update according to FEMA request (George Junkin and Jim Gross)**

Councilman Junkin went through Ordinance 176-14 page by page. In addition to formatting changes, Council agreed to the following:

§ 145-44.1, Last Paragraph: Do not accept the following recommendation (*highlighted in blue*) from the Town's lawyer:

*The Town of South Bethany, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on 10/6/1976. Subsequent to that date or the initial effective date of the Town of South Bethany Flood Insurance Rate Map, all development, new construction, and substantial improvements as defined herein, are to be compliant with the Town of South Bethany's floodplain management regulations in effect at the time of construction, and ~~all development, new construction, and substantial improvements~~ *all substantial improvements to existing buildings and structures and all development and new construction not pertaining to existing buildings and structures subsequent to the effective date of these regulations shall be compliant with these regulations.**

§ 145-44.1, First sentence of last paragraph: Delete "by resolution".

§ 145-44.5: Accept the following recommendation (*highlighted in blue*) from the Town's lawyer:

*Except as otherwise specified herein, ~~These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but the land subject to such interests shall also be governed by these regulations.~~*

§ 145-46.1 After discussion, do not accept the following recommendation (*highlighted in blue*) from Mr. Whitney which he presented during the January 29, 2015, Public Hearing:

***§ 145-46.1. Designation of the Floodplain Administrator***

*The Town of South Bethany Code Enforcement Constable is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator is authorized to fulfill the duties and responsibilities set forth in these regulations, however, the Floodplain Administrator shall refer technical, engineering, legal and or real estate issues necessary for evaluation and/or advice to individual professionals as designated by the Town Manager and/or the Town Council. Administration of any part of these regulations by another entity shall not relieve the Town of South Bethany of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.*

§ 145-46.7:

In the first paragraph change "certifications" to "certificates".

Change A and B to the following and add C (per Rebecca Quinn):

- A. 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).**
- B. For nonresidential structures that have been dry flood proofed, a Flood proofing Certificate based on "Finished Construction" (identified in Section II, Floodproofing Information, of the Floodproofing Certificate).**
- C. For all development activities subject to the requirements of § 145-46.4B, a Letter of Map Revision shall be provided.**

§ 145-49.4: Change "V Zone" to "VE Zone".

Accept the following recommendation (*highlighted in blue*) from the Town's lawyer and insert "**and substantial improvements**" after **A. New Construction**:

**§ 145-49.4. Space Below the Lowest Floor**

**A. New Construction**

**All new construction and substantial improvements for all lots east of Ocean Drive, within the V Zone, shall have the space below the lowest floor free of obstruction. All stairs, ramps and walkways, other than a primary access as defined in § 145-37A(2), for access are permissible below the lowest floor but shall be constructed in a manner to be removable or raised up during the off season and/or pending inclement weather conditions.**

**B. Accessory Structures**

**Any accessory structures that have the lowest horizontal structural member below the current base flood elevation (BFE) shall not be rebuilt, replaced or restored if it is substantially damaged more than 50%, as determined by the Code Enforcement Constable or Town Manager.**

**C. Fuel Tanks**

**Buried gas, oil or other fuel tanks shall not be permitted on lots east of Ocean Drive.**

§ 145-50: Do not to accept the following recommendation (*highlighted in blue*) from the Town's lawyer:

**§ 145-50. Coastal Floodplain Regulation Variances**

**The Board of Adjustment has the power to authorize variances from the requirements of these regulations and appeals pertaining to the requirements of these regulations in accordance with ~~§ 145-61~~ Article XV "Board of Adjustment."**

Council made no changes to § 145-50.

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

- **Second 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)**

Councilman Junkin went through Ordinance 177-14 page by page. Council agreed to the following:

Put the definition of "Otherwise Protected Area" in alphabetical order.

**Change "REGISTERED PROFESSIONAL SURVEYOR – Surveyor licensed and registered by the State of Delaware."**

**To REGISTERED PROFESSIONAL SURVEYOR – Land Surveyor licensed and registered by the State of Delaware.**

Definition of "Violation": Accept the following recommendation (*highlighted in blue*) from the Town's lawyer:

***VIOLATION – For the purpose of Article XIV a A violation is the failure of a structure or other development to be fully compliant with Chapter 145. For the purpose of Article XIV a structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in these regulations is presumed to be in violation until such time that documentation is provided.***

§ 145-61B

Accept the following recommendation (*highlighted in blue*) from the Town's lawyer:

***B. Considerations for Variances***

***In considering variance applications, the BOA shall consider and make findings of fact on all evaluations, all relevant factors, and all requirements specified in other sections of these regulations. Additionally, the BOA may consider, and the following factors:***

§ 145-61C(1): Accept the following recommendation (*highlighted in blue*) from the Town's lawyer and make the "c" in parentheses uppercase:

***C. Limitations for Variances***

***(1) In addition to satisfying those conditions outlined in § 145-58(c) for granting variances, An affirmative decision on a variance request shall only be issued upon:***

§ 145-61C(1)(c): Do not accept the following recommendation (*highlighted in blue*) from the Town's lawyer:

***(c) Increased cost or inconvenience of meeting the requirements of these regulations cannot constitute the sole reason for finding ~~does not constitute~~ an exceptional hardship to the applicant.***

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

- **Second 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)**

Councilman Junkin went through Ordinance 178-14 page by page. Council agreed to the following:

§ 42-9: Insert "Sussex County" after "Regulations".

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

**GROUP DISCUSSION ON 2015 SURVEY TO CONSIDER OVERALL OBJECTIVES, AUDIENCE TO SURVEY, ANONYMITY OF RESPONSE, SEGMENTS BY GEOGRAPHY, GENDER, OR AGE, QUESTIONS TO REPEAT OR ADD, AND THE PROCESS TO ADMINISTER AND INTERPRET SUBMISSIONS**

Councilman Rae noted that Council had the following documents for this discussion:

The survey document with the changes from the last meeting sent out by Planning Commission Chairman Dick Oliver.

Two pages of comments that were received.

The Community Enhancement Committee comments.

The following were talking points prepared by Mayor Voveris and Council's input at this meeting regarding the talking points:

**Define Objective**

- Receive Commentary - Council accepted this objective.
- Assess satisfaction since last survey - Council did not accept this objective.
- Gather input on activities and improvements since 2011: Functions - Polar Plunge, Coffee with Council, Float, Boat Parade, Movie Night, CEC - lighting, trash bins, artwork, bulletin boards, signage. Regarding Functions, Council discussed listing these under Town Activities in one question using "such as". The property owner can give an explanation in the comments section. It was suggested to ask "Should we continue" rather than "Do you like". It was suggested to ask "Would you like to see more town sponsored activities, and if yes please make suggestions."
- Direction owners desire - This was not discussed.
- New Ideas to consider - This was not discussed.
- Issues owners have - This was not discussed.

**Audience**

- One survey per household - Council accepted this. Mail to address on the Town's records with a stamped self-addressed return envelope enclosed.
- Names on tax bills - Council agreed it should be anonymous and one per household.
- Residents (includes non-owners) - Do not accept due to one survey per household.

**Anonymous Response or Identifiable Respondent by Property** - It was decided the survey would be done anonymously and with no address on it. Each survey will have a number handwritten on it, but the number will not coincide with a specific property.

**Segments**

- Ocean side, Bay side, and Cat Hill - This and whether it is a rental property can be put on the first page. Also on the first page under primary residence ask if you plan to make this your primary residence (this question is already on the survey but it was suggested to move it to the first page).
- Age - Do not accept due to one survey per household.
- Gender - Do not accept due to one survey per household.

**Other Questions Besides Planning Input**

- Has South Bethany improved in appearance and service during the last 4 years - Do not accept.
- Has South Bethany become a more fun town to experience - Do not accept.
- Are Town communications frequent enough - This is already addressed in the draft survey.

Regarding open ended questions, Councilman Caputo suggested giving examples to help the respondent focus on the kind of answers you are looking for.

Delete the following questions because they can be addressed in the ZEPHYR or New Updates:

- Do you have specialized expertise that could be useful to assist meeting Town administration needs?
- Would you be willing to serve on a Town Committee?

Delete the following questions:

- Would you support new "dog friendly" regulations for the beach, such as allowing limited hours when dogs can be on parts or all of the beach during the summer?
- Would the availability of remote telephone access to meetings make a difference in your willingness to serve on a Committee?
- Do you agree that the Town should adopt mandatory building codes which exceed State, County and FEMA requirement for flood and storm protection?
- Do you agree that Home Owners should have the option to build to standards that exceed existing Code requirements if additional protection is desired for storm surge flooding or for storms producing high water elevations exceeding the 100-year prediction?

Councilwoman Callaway had concerns about the wording of the following two questions:

1)Would you support updating the Town street lights to minimize light pollution? 2)Would you support adding street lights for all street intersections and in extremely dark areas? The Town Manager suggested saying "improve lighting" and delete "street lights" from the question.

Councilman Junkin suggested "Would you support improved lighting for all street intersections and in extremely dark areas?" Councilwoman Callaway agreed with this suggestion but will think about how to get the concept across.

Council considered the suggestions submitted from an owner on the 2015 Survey questions.

Mayor Voveris and Councilwoman Callaway will work on placing the Town's Vision Statement in the letter from the Mayor and a question of what the respondent thinks about it.

Jack Whitney said he will redraft the questions. Mayor Voveris said she will have her graphic artist look at the format.

**DISUCSSION AND POSSIBLE VOTE ON CONTRACTING OUT THE SURVEY WORK**

Council discussed this agenda item and in the end decided not to make a decision until the requirements are properly defined and at which time an up front cost can be obtained.

Council agreed not to vote on this at this time.

**PUBLIC COMMENT PERIOD**

There were no comments from the public.

**ADJOURNMENT**

A motion was made by Councilman Junkin seconded by Councilman Gross, to adjourn the January 29, 2015, Town Council Workshop Meeting at 7:12 p.m.