

**TOWN OF SOUTH BETHANY
TOWN COUNCIL WORKSHOP MEETING MINUTES
JUNE 26, 2014**

MEETING CALLED TO ORDER

Mayor Voveris called the June 26, 2014, Town Council Workshop Meeting to order at 5:00 p.m.

ATTENDANCE

PRESENT: Councilpersons Sue Callaway, Tony Caputo, Jim Gross, George Junkin, Al Rae, Tim Saxton, and Mayor Pat Voveris; Town Manager Melvin Cusick; and Code Enforcement Constable Joe Hinks

PUBLIC COMMENT PERIOD

Bob Cestone (140 New Castle Dr.) - Stated that he generally has problems with the proposed change in procedure in passing an ordinance without three readings. Mr. Cestone stated that he will address this further depending on what Council decides.

Jack Whitney (105 Boone Rd.) - Stated that he had given some comments on the proposed ordinance for Council's consideration. Mayor Voveris verified that the comments were in Council's mailboxes.

DISCUSSION AND POSSIBLE VOTE ON ADDITIONAL FUNDING FOR THE JULY 5 BEACH MOVIE NIGHT

Councilman Saxton reviewed the following information which was in Council's packet:

In planning for FY2015, a Beach Movie Night was budgeted. While there is not a Communications & Public Relations Committee, plans are moving forward to hold the event Saturday, July 5, 2014. A proposal for the estimated costs of this event is provided below:

Screen, generator, person to show the movie.....	\$ 765.00
Movie FROZEN	400.00
Movie shipping to and from	24.00
2 Toilets	310.00
Glow stick necklaces	114.00
Printing flyers, posters	90.00
Rope lighting (reusable)	300.00
Extension Cords (reusable)	200.00
Overtime for Town Personnel.....	200.00
Other Misc. Costs	100.00
TOTAL	\$ 2,503.00

Any overtime pay required for town personnel will be charged to departmental salaries and will be annotated as overtime for Beach Movie Night.

The FY2015 budget currently has \$1,000.00 appropriated for this event. To support this event I am requesting an additional \$1,300.00 be added to the budget bringing the total budget to \$2,300.00. In addition, \$200.00 will be added to the Maintenance Department Salary budget to cover the projected overtime costs.

Councilman Saxton stated that at the current time the Town will add no monies to the Maintenance Department's overtime budget, but if this passes it will be noted that there is an additional \$200 the Town would be willing to move to that account. Also, because the Communications and Public Relations Committee (C&PRC) account has \$3,100 in its budget, there is no need to add money at this time to the C&PRC account.

A motion was made by Councilman Gross, seconded by Councilman Junkin to approve the Treasurer's request. Mayor Voveris asked for discussion. Councilwoman Callaway asked if the request meant using all of the C&PRC money for this event. Mayor Voveris said yes at this point in time. Councilwoman Callaway asked what happens to the other budgeted items in the C&PRC account. Mayor Voveris stated that at the time funds are needed for those events, Council would need to move to amend. Councilwoman Callaway said she does not believe that was made clear and she thought the additional funding for the Beach Movie Night would come from the surplus. Councilman Saxton stated that there is \$3,100 in the C&PRC account, and if the committee wants to spend \$2,500 on the Beach Movie Night they can utilize those funds. If the other activities go over \$3,100, Council will have to decide at that point whether to fund those additional activities.

Councilman Rae stated that the way Council has been operating for a while, for this item Council would take a vote and that way it would not impair those other line items, such as the Polar Bear Plunge, that were previously budgeted. Councilman Rae stated that he is surprised at how expensive the Beach Movie Night is getting. Mayor Voveris noted that it is a community event. Councilman Gross stated that if Council wants to have the movie night it should be done right. Councilwoman Callaway stated that she thinks the movie night is a great idea, a community event, but the information in Council's packet did not make it clear that the money was going to come completely out of the Communications and Public Relations FY15 Budget at the sacrifice of the Polar Bear Plunge which Council had previously approved. Referring to the budget policy, Councilman Caputo stated that Council needs to amend the budget if the budget is exceeded. Councilwoman Callaway agreed and added that there is also money in the Communications and Public Relations Committee budget for the 4th of July float of which money has already been spent. Councilman Saxton stated that when the Town breaks \$3,100 in the Communications and Public Relations Committee budget Council will decide if it is going to keep appropriating money towards community events. Councilwoman Callaway stated that when Council voted on the FY15 Budget, Council approved those activities (Polar Bear Plunge and 4th of July Float). Councilman Saxton stated that he is not a big believer in amending budgets. Councilman Saxton said it is a cost overrun on the Beach Movie Night. The decision the Council will eventually have to make is whether it wants to add more to the \$3,100. Councilman Rae stated that Council is also setting a precedent where Council is changing the policy that they have been previously following which is to amend the line item and therefore it does not touch the other events in that budget. Councilman Rae added that if the other events are budgeted correctly they will go forward as they should have. Mayor Voveris stated that Council does have a policy in place to amend. Mayor Voveris said she does not think there is a problem right now following the policy. Councilman Saxton stated that he is opposed to amending at this point. Councilman Saxton said he does not think Council should be amending budgets. Councilman Saxton stated that the future events may require less money than budgeted, therefore amending the budget now does not make sense to him. Mayor Voveris stated that she thinks the issue is that Council does not want to impact other things that Council publicly said they would do. Councilman Saxton stated that Council has not impacted other things - Council has not even gotten to that point yet. Councilwoman Callaway said at that point Council has to have this same discussion on an event that Council already approved.

Councilman Rae asked that the motion be read the way it was explained. Councilman Gross said the motion was to approve the Treasurer's request for \$2,300 to be spent on the Movie Night Event and to take the funds out of the budget allocated to the Communications and Public Relations Committee of which the total funds in that budget is \$3,100.

Mayor Voveris stated that there really was not any preliminary work done on the Beach Movie Night event. Mayor Voveris stated that she has done a lot of leg work and the costs are as true as they can be.

Mayor Voveris called for a vote. The voting was as follows:

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

AGAINST THE MOTION: Councilwoman Callaway

The motion carried with a 6-1 vote.

Councilwoman Callaway requested that the record show that her vote against the motion was not a vote against the movie night but against the funding decision, the process, presented to fund the movie night.

Regarding cost overruns, Councilwoman Callaway does not believe it is fair for an approved item (such as the Polar Bear Plunge) that was carefully budgeted to be seen as a cost overrun.

Councilman Caputo stated that Council approved a policy regarding budget amendments and the purpose of the budget amendments is to bring to the Council's attention any material deviation from the budget because the Town is changing its operating plans.

CONSIDERATION AND POSSIBLE VOTE ON THE WORDING OF ORDINANCE 172-14, TO AMEND CHAPTER 145, ZONING, ARTICLE III, "DEFINITIONS", ARTICLE X, "DIMENSIONAL REQUIREMENTS" AND ARTICLE XI, "SETBACK REQUIREMENTS", TO MAKE AN OPTION FOR HIGHER MAXIMUM HOUSE HEIGHT WHERE FREEBOARD OF THREE FEET OR MORE IS PROVIDED

Councilman Junkin said he would prefer to use the following definitions from the DNREC Model Code because it has not been rejected by FEMA. Councilman Junkin noted that it has not been approved by FEMA, but it has not been rejected. Councilman Gross noted that Kent County used it and got by with it. Councilman Junkin said some other communities have too.

- Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 100-year flood (or the 1%-annual-chance flood).
- Base Flood Elevation: The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if the depth number is not specified.
- Freeboard: A factor of safety usually expressed in feet above a flood elevation for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, and to designate applicable flood zones. (Note: The DNREC Model Code includes definitions of Zone A through Zone VE and Limit of Moderate Wave Action [LiMWA]. Councilman Junkin does not believe South Bethany's Code needs those definitions. Councilman Gross stated that the zones are shown on the map anyway. Councilman Junkin stated that by eliminating those definitions, South Bethany's Code would not need a definition for Special Flood Hazard Area.)

For NAVD88 Councilman Junkin suggested using the following definition from FEMA because the DNREC Model Code does not have a definition for NAVD88: North American Vertical Datum (NAVD) of 1988. The vertical control datum established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988. It replaces the National Geodetic Vertical Datum (NGVD) of 1929.

After discussion, it was agreed to delete the last sentence of FEMA's definition of North American Vertical Datum (NAVD) of 1988. By doing this, the definition of National Geodetic Vertical Datum (NGVD) of 1929 is not needed in the ordinance.

Councilman Junkin stated that the next thing to look at in the ordinance is that the recommendation is to have three feet of freeboard but only give property owners two feet more in height. After looking at numerous house plans, Councilman Junkin is concerned that nobody will utilize the change to the ordinance regarding freeboard because they can't build the same house that they can build right now. Councilman Junkin believes if the requirement is three feet of freeboard then the Town has to give property owners three feet of height. Councilman Junkin added if Council only wants to give property owners two feet of height then the Town can only ask for two feet of freeboard. Councilman Junkin believes those numbers need to be the same. Councilman Gross agreed and said as this relates to houses on the ocean side of Ocean Dr. he believes the ordinance should go to two feet of freeboard which would be consistent with the two feet increase in height. Councilman Gross said it is a big change but it also addresses some of the problems where property owners have said they could not do this if the requirement were three feet of freeboard and a two feet increase in height.

Councilwoman Callaway noted that the Sea Level Rise Committee was focused on the need for three feet of freeboard. Councilman Junkin said with three feet of freeboard the committee was pretty sure that properties in South Bethany would not get hit by the waves. Councilman Junkin stated that the more the Town makes the three feet of freeboard smaller the more chance the water is going to damage property. Councilman Junkin noted that Sussex County and Kent County are asking for 18 inches of freeboard in their draft codes. Councilman Junkin stated that he prefers three feet but if people don't want the house height to go up three feet he will compromise and say two feet of freeboard.

Regarding Mr. Whitney's suggestion to measure to Base Flood Elevation (BFE), Councilman Junkin believes it would be more equitable to measure height from the BFE and allow 31 feet for a house and two feet of freeboard.

During discussion, Mr. Cestone expressed his concern with letting the houses get two feet higher and questioned just how high the Town will allow houses to go.

A motion was made by Councilman Gross, seconded by Councilman Saxton, that Council accept this document with the definitions that Council agreed upon earlier in the meeting and changing § 145-35J(2) from three (3) feet to two (2) feet and changing § 145-38E(2)(b) from three (3) feet to two (2) feet and add the words *Minimum roof pitch: 4/12* as the last sentence of § 145-38E(2)(b).

After discussion Councilman Gross tabled the motion in order to discuss the next agenda item, consideration and possible vote on proceeding with Ordinance 172-14 in one of the following ways. Councilman Gross said Council can discuss the other item on the agenda first and then he will bring the motion back up on the floor.

Mayor Voveris agreed and moved on to the next agenda item.

CONSIDERATION AND POSSIBLE VOTE ON PROCEEDING WITH ORDINANCE 172-14 IN ONE OF THE FOLLOWING WAYS:

- a. Consider and possibly adopt Ordinance 172-14 as an emergency ordinance at the July 11, 2014, Town Council Regular Meeting per Town Charter § C-7K(4).
- b. Consider and possibly adopt Ordinance 172-14 as a regular ordinance in just one reading at the July 11, 2014, Town Council Regular Meeting per Rule No. 5 of the Town Council Rules of Procedure.
- c. Consider Ordinance 172-14 at three meetings, the first reading at the July 11, 2014, Town Council Regular Meeting, the second reading at the July 24, 2014, Town Council Workshop Meeting, and the third reading and possible adoption at the August 8, 2014, Town Council Regular Meeting.
- d. Consider Ordinance 172-14 at three meetings, the first reading at the July 11, 2014, Town Council Regular Meeting, the second reading at the August 8, 2014, Town Council Regular Meeting, and the third reading and possible adoption at the September 12, 2014, Town Council Regular Meeting.

A motion was made by Councilman Junkin, seconded by Councilman Rae, that Council not consider an emergency ordinance. The motion was unanimously carried.

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council accept option b which is consistent with Council's Rules of Procedures that state an ordinance of a compelling nature can be done at one regular meeting. Councilwoman Callaway stated that she believes the ordinance is too important to do in one reading, and she thinks it is a bad precedent for the Council. Mayor Voveris stated that Council should take due diligence regarding this ordinance because it is a really big decision for the town. After more discussion, Mayor Voveris called for a vote. The voting was as follows:

FOR THE MOTION: Councilpersons Caputo, Gross, and Junkin

AGAINST THE MOTION: Councilpersons Callaway, Rae, and Mayor Voveris

ABSTAINED: Councilman Saxton

The voting result was 3 in favor and 3 against. The motion was defeated.

A motion was made by Councilman Rae, seconded by Councilman Junkin, that Council adopt option c as it is written. After discussion, Mayor Voveris called for a vote. The voting was as follows:

FOR THE MOTION: Councilpersons Caputo, Gross, Junkin, and Rae

AGAINST THE MOTION: Councilwoman Callaway and Mayor Voveris

ABSTAINED: Councilman Saxton

The motion carried with a 4-2 vote.

Councilman Gross stated that now Council has to go back and make a decision on the ordinance. Councilman Junkin said his guess is the discussion on choosing BFE versus center line of the street will come up at the Public Hearing. Councilman Junkin said that what it comes down to for him at the Public Hearing is that there are two options, the ordinance as written or tying the height to Base Flood Elevation.

A motion was made by Councilman Gross, seconded by Councilman Junkin, that Councilman Gross' motion come off the table to be considered. After discussion, Council voted on the following motion which Councilman Gross had tabled earlier: That Council accept this document with the definitions that Council agreed upon earlier in the meeting and changing § 145-35J(2) from three (3) feet to two (2) feet and changing § 145-38E(2)(b) from three (3) feet to two (2) feet and add the words Minimum roof pitch: 4/12 as the last sentence of § 145-38E(2)(b). The voting was as follows:

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

AGAINST THE MOTION: None

The motion was unanimously carried.

PUBLIC COMMENT PERIOD

There were no other comments from the public.

ADJOURNMENT

A motion was made by Councilman Gross, seconded by Councilman Junkin, to adjourn the June 26, 2014, Town Council Workshop Meeting at 7:00 p.m. The motion was unanimously carried.