

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL WORKSHOP MEETING MINUTES JUNE 28, 2012</b>
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**ATTENDANCE**

PRESENT: Mayor Kathy Jankowski; Councilpersons Al Rae, Jim Gross, Pat Voveris, George Junkin, Sue Callaway, and Mark Damato; Town Manager Melvin Cusick; and Code Enforcement Constable Pete Brockstedt

**MEETING CALLED TO ORDER**

Mayor Jankowski called the June 28, 2012, Town Council Workshop Meeting to order at 5:00 p.m. followed by the Pledge of Allegiance to the Flag.

**PUBLIC COMMENT PERIOD**

There were no comments from the public.

**PROPOSED CHARTER AND CODE COMMITTEE (PAT VOVERIS)**

Regarding the proposed Charter and Code Committee, Councilwoman Voveris presented the following for Council's consideration:

***Why do we need to establish such a committee? Why is it a good idea?***

1. *There has not been a systematic review of the South Bethany Charter since the early 2000's. Both the Charter & Code should reflect our current reality. Laws need to be understandable, predictable, affordable, and enforceable. This committee effort can produce optimum results.*
2. *A committee assigned to a dedicated effort for the Charter & Code makes great sense, offering both thoroughness in effort and efficiency in delivery.*
3. *This committee would serve as a vehicle to afford the Council expertise, research, organization, and reduction on time spent for such activity. Herein, a dedicated service for South Bethany not currently in place.*
4. *In my research of neighboring town practices, I learned both Bethany and Fenwick have such a committee. The Fenwick C&C Committee has diligently worked on a review of their entire Code over the last 2 years, and are bringing forth amendments to the zoning code for Town Council approval in readings over the next 3 months. They have met monthly during these last 2 years, and plan to meet as needed, or quarterly, here on out. The Bethany committee work has been to maintain and keep current their Charter & Code. They review ordinances on a routine basis to edit outdated and redundant entries, and upgrade their Code to meet any anticipated changes in law, evolving technologies, and new regulatory issues. Both towns report great success in having this committee support for their Council and have worked hand in hand with their Council every step of the way.*
5. *I believe the prep work of the committee would be of great value to our Council. Once a proposed ordinance concept has been approved by the Council, the committee could provide support to Council members interested in sponsoring and writing a new ordinance. This concentrated, time consuming, and detailed effort, could only be of benefit.*

*In the final analysis, the Council would dictate committee activity, and have the final say on any committee recommendation. The Council would be the driving force behind committee undertakings and determine any implementation.*

Councilwoman Voveris submitted the following revisions to the proposal for a Charter and Code Committee that she had first presented to Council at the June 2, 2012, Town Council Organizational Meeting:

*Per her original memo, Councilwoman Voveris is still proposing an ad hoc committee for a one year trial period, with review for effectiveness after that time.*

### **Charter and Code Committee (SBCCC)**

**Purpose:** *Whereas the Charter and Code are in need of update to make them current, clear and consistent, this committee, under the direction of the Council, is to review the Charter and Code for South Bethany and make recommendations to the Council in areas that they feel need revision to make them current, clear and consistent. In addition, when requested, this Committee will assist Council members in writing ordinances.*

**Scope:** *Initially, this committee will review the Charter and ordinances that have been brought to the attention of the Code Enforcement Constable.*

**Action:** *This committee will make recommendations to Council for action in the form of draft ordinances or other written communication.*

*It would be highly beneficial to have impartial committee members with no vested interest (for or against) to compile, research, and analyze information, and come forth with recommendation to Council. Prior Council experience and institutional knowledge gained from such, would be instrumental in achieving objective. The committee would write, after research and legal opinion\*, to produce an optimum result.*

*\*Legal opinion should be sought at the appropriate time when Council approves final draft and via the appropriate avenue of Mayor or Town Manager.*

Councilwoman Voveris also proposed having the Town's Code Enforcement Constable on the committee.

Councilwoman Voveris suggested that the Council may want to have a Council Member on the committee as a liaison or a chair.

Mayor Jankowski noted that Council had a copy of a list of possible Code revision items prepared by the Code Enforcement Constable. Council also had (on a separate page prepared by Mayor Jankowski) an ordinance in question by Councilman Rae and an ordinance in question by Kent Stephan. Councilman Rae and Councilman Junkin believe the committee should have a list of things that the Council wants them to work on rather than the committee creating their own list. Councilman Gross believes the committee could create a list as well. Councilman Gross noted that the committee can only recommend.

Referring to members of the committee, Councilman Gross stated that experience is valuable, but he would also like to see some fresh eyes on the committee to question some of the ordinances. Councilman Gross does not believe the committee needs to be limited to three members.

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council establish a committee called the South Bethany Charter and Code Committee and that the committee follow the guidelines presented by Councilwoman Voveris at this meeting. The motion was adopted. Council approved the South Bethany Charter and Code Committee.

(Administrative Assistant's note: The guidelines Councilman Junkin referred to are on Pages 1 and 2 of these minutes in italic.)

Councilman Gross stated that he would change the Scope so that the committee would have a free hand to study the Code from beginning to end. Mayor Jankowski stated that as the Scope is

presented in the proposal it could be used for testing the effectiveness of the committee. Councilwoman Voveris stated that she was concerned about making it sound like it was far reaching. However, Councilwoman Voveris stated that she feels comfortable changing the language of the Scope because whatever the committee does still comes back to the Council for approval. Mayor Jankowski stated that she would still like the committee to have a guideline and an initial goal set forth. Councilman Rae believes the Council should prioritize the list. Councilman Gross does not agree that Council should prioritize the list.

A motion was made by Councilman Gross, seconded by Councilman Junkin, that under Scope Council only keep the words in the first line (Scope: Initially, this committee will review the Charter and ordinances.) The motion was adopted.

Mayor Jankowski mentioned that the section of the Code that Councilman Rae is concerned about (§ 104-12) is included in the list that the Charter and Code Committee would review. Councilman Rae expressed his concern that in the meantime the Town has notified the property owner of a vacant lot on Anchorage Drive to clear the lot down to the ground. Councilman Rae does not want this to happen until Council has talked about it. Councilman Rae believes the Code Enforcement Constable's interpretation of § 104-12 (Vegetation) is different from the intent as discussed at the Town Council meeting at which the ordinance was adopted. During discussion, the Code Enforcement Constable stated that he believes the lot is also in violation of § 104-7 (Duty to mow and trim). The Code Enforcement Constable stated that § 104-12 adds to it by using the words noxious and invasive. The Code Enforcement Constable's interpretation was that there was invasive plant material present that has grown over whatever trees and shrubs there are.

During discussion Councilman Rae asked if Council wants every wooded lot that has underbrush to be turned into lawns and trees. Councilman Junkin does not believe that is what the Code says. He believes the Code says that if you have shrubs they will be neatly trimmed around them – it does not say you can't have bushes or shrubs. Councilman Rae asked the Code Enforcement Constable to describe what he is having the owner of the lot do. The Town Manager read the following email from the Code Enforcement Constable:

*In regards to the vacant lot on Anchorage Drive, please note that we are in the process of seeking the owner's cooperation of having the lot "cleaned up". I took the initiative to do so following the adoption of the recent amendment to Chapter 104-12 (Vegetation) and following two separate inquiries from residents. Both residents wanted to know if the passing of the amendment would bring about cleaning the lot and I indicated, based on my interpretation, that it would. I base this decision on my reading of the final wording of the amendment that requires lots to be kept free of invasive or noxious vegetation. I am also of the opinion that most of the vegetation that has grown over the ground and up into most of the trees and bushes is a clear example of the intent of the amendment and the failure to address this particular situation would make it nearly impossible to enforce this provision in other locations. The clearing of the underbrush is in no way intended to remove any trees that are healthy and not in violation of any other provision of the code. Some trimming will most likely be needed, in particular anything that projected beyond the bulkhead. Please note, we believe that the condition of the lot was clearly in violation of the Code prior to the adoption of the amendment and that numerous violation notices were sent to the owner during the previous 24 months. I hope that this explains our position in this matter.*

Councilman Junkin and Councilman Gross believe that the lot is more in violation of § 104-7 (Duty to mow and trim) than § 104-12 (Vegetation). Councilman Junkin said he agrees with the words in § 104-7.

During discussion Councilwoman Voveris raised the question as to whether Council was talking about selective enforcement. Mayor Jankowski and Councilman Rae said no. Councilman Rae said he is not asking for that. Councilman Rae stated that selective enforcement is not a good idea.

Councilman Gross stated that he has no problem with § 104-12 the way it is right now. Councilwoman Voveris agreed.

Mayor Jankowski suggested that Councilman Rae meet with the Code Enforcement Constable and the Town Manager to discuss his concerns. Councilman Rae stated that he is not opposed to having some trimming done on the lot. Councilman Rae agreed to meet with the Code Enforcement Constable and the Town Manager to get a clearer understanding.

A motion was made by Councilman Junkin, seconded by Councilwoman Voveris, to appoint Councilman Rae as the liaison for the Charter and Code Committee. The motion was unanimously carried.

### **PROPOSED ORDINANCES FOR REVIEW (JANKOWSKI/BROCKSTEDT)**

This discussion took place during the Proposed Charter and Code Committee discussion.

### **BUDGET AND FINANCE COMMITTEE REPORT (PAT VOVERIS)**

The Budget and Finance Committee met on Friday, June 22, 2012.

In a memo to Council dated June 26, 2012, Councilwoman Voveris (on behalf of the Budget and Finance Committee) wrote that the new Code Enforcement Constable, Pete Brockstedt, reviewed the information presented to Council at the February 23, 2012, and March 22, 2012, Town Council Workshop Meetings on changing the current building permit fee to a % based index based on ICC square foot value. Mr. Brockstedt determined that an incorrect square footage was used in the compilation with ICC formula. Only the Living Area should have been used, and instead the total square footage was used. Therefore, the Budget and Finance Committee is bringing the concept back to Council for consideration of changing the New Construction Fee calculation to be based on a 3% index of ICC calculated value. Council had a chart showing the correct mathematical computation of permits used in the original chart. Councilwoman Voveris' memo stated that the overall increase for permit fees would have been increased from \$122,608.55 to \$131,913.00, or 7.6%, resulting in additional revenue generation of \$9,304.45. (Councilwoman Voveris noted that at the February and March 2012 Workshops the increase was incorrectly calculated to be from \$122,000 to \$175,000, and Council did not support that large of an increase).

Council also had a fee comparison chart prepared by Councilwoman Voveris which included building permit fees from Millville, Bethany Beach, Fenwick Island, Ocean View, Lewes, Dewey Beach, and Rehoboth Beach.

**Motion:** A motion was made by Councilman Junkin, seconded by Councilman Damato, to accept the Budget and Finance Committee's recommendation.

**Discussion:** Councilman Gross stated that the building evaluation data for the ICC refers to building gross area not living area. The Code Enforcement Constable explained how he had arrived at his calculations using the living area as defined in the Town's Code. Councilman Gross stated that he is in favor of the index but he would not be able to consider whether he is in support of this or not until the Council knows exactly how it is to be applied.

Councilman Rae asked if Council could see the actual wording that would be on the Town's Schedule of Fees. Councilwoman Voveris said yes she would write that.

**Motion:** A motion was made by Councilman Gross, seconded by Councilman Junkin, to table this matter until such time as Council knows what it is talking about. Councilman Junkin took his previous motion off the floor. Council agreed that they would like to see the words and how the arithmetic comes out based on those words.

**Vote:** Councilman Gross' motion to table this matter was unanimously carried.

**ADOPTION OF MINUTES – TOWN COUNCIL REGULAR MEETING MINUTES, JUNE 8, 2012**

A motion was made by Councilman Junkin, seconded by Councilwoman Voveris, to accept the June 8, 2012, Town Council Regular Meeting Minutes. The motion was unanimously carried.

**RESOLUTIONS – Resolution No. 4-12, A Resolution to Recognize Jay Headman, and Resolution No. 5-12, A Resolution to Recognize John Fields**

A motion was made by Councilman Gross, seconded by Councilman Junkin, to approve Resolution No. 4-12 and Resolution No. 5-12. The motion was unanimously carried.

A motion was made by Councilman Junkin, seconded by Councilman Gross, to go into Executive Session to discuss individual citizens' qualifications as potential candidates to fill the Board of Adjustment vacancy. The motion was unanimously carried.

**EXECUTIVE SESSION – DISCUSSION OF INDIVIDUAL CITIZENS' QUALIFICATIONS AS POTENTIAL CANDIDATES TO FILL BOARD OF ADJUSTMENT VACANCY**

Council went into an Executive Session at 6:20 p.m. to discuss individual citizens' qualifications as potential candidates to fill Board of Adjustment vacancy.

**MOTION TO RECONVENE TOWN COUNCIL WORKSHOP MEETING**

A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to reconvene the Town Council Workshop Meeting at 6:28 p.m.

**ADMINISTRATIVE MATTERS – APPOINTMENT OF BOARD OF ADJUSTMENT MEMBER**

A motion was made by Mayor Jankowski, seconded by Councilman Gross, to appoint Jerry Masiello to the Board of Adjustment. The motion was unanimously carried.

**PROPOSED COMMUNICATIONS AND TOWN RELATIONS COMMITTEE**

Mayor Jankowski proposed the following committee to Council:

***Communications and Town Relations Committee***

**Mission**

*To strengthen and enhance South Bethany's identity, communication and outreach to residents, visitors, and prospective property owners and renters*

*The scope of the Committee's support to South Bethany Town Council initiatives shall include 1) graphic design materials, 2) multimedia/social media, 3) events, and 4) other public relations efforts.*

**Potential Short-Term Projects**

- *Communicate Town Council Committee accomplishments*
- *Develop brief marketing piece to highlight South Bethany's competitive advantages and assets for use with regional events and other points of contact to sway interest in South Bethany.*
- *Assess social media outlets (Facebook, blogs, Twitter, etc.) to engage community (full and part-time residents) as well as renters/prospects.*
- *Explore additional uses of the SB promotional video*
- *Investigate need/development of South Bethany Blog/homeowner forum*
- *Organize Welcome Bags for new property owners with support from local businesses*
- *Review current communication processes and assess improvements to provide timely and pertinent information to residents and media outlets*

**Potential Long-Term Projects**

- Promote, plan, and implement a July Beach Night event (i.e. fundraising event for Bethany Beach Volunteer Fire Department)
- Work with Town Committees to develop coherent message, and promote awareness, understanding, and commitment. Measure changes in support of Committee initiatives as related to long-range plans as identified in the Comprehensive Plan
- Explore Town website improvements
- Prompt Council members to identify news items i.e. Zephyr, local newspapers, town website and Email news updates
- Plan town-sponsored events to capture greatest participation rate
- Work with realtors to develop message for renters and buyers; implement annual site ride and/or meet and greet and tout recent accomplishments
- Engage businesses in support of town initiatives

**Term**

*This committee will be a pilot ad hoc committee for a test period of one year. At the end of the year, a review will be made to determine continuation or termination.*

**Membership**

*A Town Council member will be appointed by the Mayor to chair this committee with additional property owners as committee members.*

Council agreed to change the name of the committee to South Bethany Communications and Public Relations Committee.

A motion was made by Councilwoman Callaway, seconded by Councilman Rae, to form the Communications and Public Relations Committee. The motion was unanimously carried.

Mayor Jankowski appointed Councilman Damato to chair the Communications and Public Relations Committee.

**DRAFT ORDINANCE FOR REMOTE PARTICIPATION IN MEETINGS (KATHY JANKOWSK)**

For discussion, Mayor Jankowski presented a draft ordinance which would allow attendance at the meetings of the Town Council, Planning Commission, Board of Adjustment, and standing committees by audio/video conferencing. After discussion, Mayor Jankowski stated that she would rewrite the draft ordinance to include suggestions made by Council. Mayor Jankowski plans to discuss the revised draft ordinance at the July 26, 2012, Town Council Workshop Meeting.

**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 June 28, 2012, Town Council Workshop Meeting at 7:00 p.m.