

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES MARCH 14, 2014
--

MEETING CALLED TO ORDER

Mayor Pro-Tem Callaway called the March 14, 2014, Town Council Regular Meeting to order at 7:16 p.m., followed by the Pledge of Allegiance to the Flag.

ATTENDANCE

PRESENT: Mayor-Pro Tem Sue Callaway; Councilpersons Al Rae, Jim Gross, Tony Caputo, George Junkin, and Pat Voveris; M/Cpl. Lee Davis; and Administrative Assistant Pam Smith

EXCUSED ABSENCE: Mayor Kathy Jankowski

PROPERTY OWNERS' PARTICIPATION

- Gerry Masiello (309 W. 4th St.) – Stated that this past summer he noticed a lot of people, who he assumes were renters, swimming in the canals. Mr. Masiello suggested posting signs that say the canals are not swimmable. After discussion Mr. Masiello asked that in lieu of a sign could the Town have something in the rental information warning that the canals are not advised for swimming. Councilman Junkin and Mayor Pro-Tem Callaway said that is something Council can discuss. Councilman Gross agreed that it was a good idea and suggested adding it to the Town's list of rules on the General Information sheet. Mayor Pro-Tem Callaway said it is something the Town can bring up at the Realtor Luncheon in April.
- Steve Bunoski (417 Victoria Road) – Inquired about the investigation of a break-in on Victoria Road and questioned why the Town did not spend any effort to collect the DNA. M/Cpl. Davis said it is an ongoing investigation, and DNA was collected and sent up to the Delaware Medical Examiner's Office who will be getting back to the South Bethany Police Department when they get to it. The Medical Examiner's Office said it could take up to a year because murders, rapes, assaults, etc., have priority. (Administrative Assistant's Note: The following is an excerpt from the February 14, 2014, Town Council Regular Meeting Minutes - Mayor Jankowski asked about an incident on Victoria Road. M/Cpl. Davis stated that it was a broken window on the outside of a residence. It is not known if it was criminal mischief. There was blood on the broken window and a sample is being sent to the State of Delaware, but they said in the scheme of things the Town probably would not receive the result until within a year. It did not constitute a burglary because access was not gained to the residence and nothing was taken.)
- Steve Bunoski (417 Victoria Rd.) – Inquired if there was any thought of the Town's Public Works Department cleaning out the end of the canals using a backhoe because the canal ends are full of pine needles and trash. Mr. Bunoski said all of the canal ends behind York Beach are bad. Mayor Pro-Tem Callaway and Councilman Junkin noted that the Canal Water Quality Committee has set up volunteers to pick up trash (paper, etc.) in the canals. Councilman Junkin stated that pine needles are not picked up and once they sink to the bottom and start decaying they are sediment. Councilman Junkin said removing sediment requires dredging. Dredging requires a permit from DNREC and a dredge has to be brought in to do the work. Councilman Junkin added that when the canals were dredged a few years ago the very ends of the canals were not dredged because they did not go within about 5 or 10 feet of the bulkheads in order to prevent damage to the bulkheads.

Mr. Nazarian stated that years ago the Town had a pontoon boat to pick up trash. Mr. Montigny stated that several years ago a backhoe was brought in and they dug out all the pine needles that were collecting on the south end canals. Mayor Pro-Tem Callaway stated that Council can talk to Public Works about some strategies regarding this problem.

- Gerry Masiello (309 W. 4th St.) – Inquired how many below ground level electrical transformers are in town. Mr. Masiello stated that during Hurricane Sandy his block and another block were without electricity for almost 48 hours, and the reason was that the transformer was below ground level. Mr. Masiello asked if the Town could deal with Delmarva Power to put in sealed underground lines or move them to places where they don't flood out. Councilman Junkin said that is something the Sea Level Rise Committee should look at. Councilman Junkin said he has someone assigned to look at electrical things and he will make sure they look at that.
- Paul Andreades (145 New Castle Dr.) – Inquired if there was an ordinance that says trees growing over the bulkhead towards the canal water should be cut back to the bulkhead. Councilman Junkin referenced the following section of the Town Code: *§ 125-2A(3) - Tree branches more than 2 feet, seaward from the bulkhead, over canals are allowed, but must be no lower than 12 feet above the height of the bulkhead.* Mr. Andreades asked what the rationale is behind allowing a taller tree to overhang and drop things in the canal versus a smaller tree. Councilman Junkin said the intent of the ordinance is so that when a boat or something goes by it does not hit a tree. Councilman Junkin said from a canal water quality point of view he would like to not see anything hanging over the canals, but that is not the way the code is written. Councilman Gross suggested that the Canal Water Quality Committee take a look at that and consider whether an ordinance should be written to improve that situation. Diann Nazarian stated that she thought you couldn't have anything going down into the water. Councilman Junkin said he would have to look at the code again to be sure.

ADMINISTRATIVE MATTERS

- **Approval of 2014 Election Workers**

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council approve the following 2014 Election Workers: Barbara Jayne, Pat Spangler, Jay Headman, Mary Suazo (alternate), and Tom Roche (alternate). The motion was unanimously carried.

- **Communications and Public Relations Committee Budget Request Amendment - Request to Reduce FY14 Budget Line Item Assawoman Canal from \$5,000 to \$0**

A motion was made by Councilman Rae, seconded by Councilman Junkin, to reduce the FY14 Budget line item Assawoman Canal from \$5,000 to \$0. The motion was unanimously carried.

- **Adoption of 2014 Sussex County Tax Assessments**

Mayor Pro-Tem Callaway stated that the Town Charter requires that the Town annually notify the public that we will be using assessments established by the Sussex County Board of Assessment for the purpose of evaluating property tax assessments for properties located within the corporate limits of the Town. As in previous years, the Town of South Bethany elects to use the assessment and any supplementary assessment listing established annually by the Sussex County Board of Assessment for FY2015 property taxation purposes.

A motion was made by Councilman Gross, seconded by Councilman Junkin, to adopt the 2014 Sussex County Tax Assessments. The motion was unanimously carried.

LEADERSHIP REPORTS

- **Mayor's Report**—Mayor Pro-Tem Callaway reported:

Meetings attended on behalf of South Bethany:

March 7, 2014 – Mel Cusick attended the SCAT Steering Committee in Georgetown – Discussion focused primarily on the March 28th Legislative Session to be held at the Georgetown Cheer Center at 9:00 a.m.

February – March, 2014 – South Bethany beach replenishment, sand fences and the dune grass plantings and crossovers on the oceanside are all completed. This work was completed by the Army Corp of Engineers.

Council Discussion: Councilman Gross said the handicap walkway does not have the hard surface and the sand has not been removed from the walkway. Councilman Rae said that is true for Sandpiper Village. Councilman Rae said the sand dune has blown off a lot of sand and it is much higher than the walkway. Councilman Rae said it had been cleared last year, but it has not been cleared this year. Councilman Rae added that they did not put up any of the fencing. Councilman Rae said it is an ongoing issue where some people don't think that beach is part of South Bethany. Mayor Pro-Tem Callaway said she will make sure the Town Manager gets that information.

March 13, 2014 – Sue Callaway attended the SR 26 Project update meeting held at the Coastal Library. In addition to others, the meeting was attended by Governor Jack Markell, Secretary of Transportation Shailen P. Bhatt, Senator George Hocker, Representative Ron Gray and representatives from Carper's, Coons' and Carney's offices. Here are some of the highlights of this informative meeting:

- They are determined to get ahead of any problems and issues so their Senior Leadership team is involved in all aspects of the project.
- While there has been a great deal of utility work going on, the 901-day project officially kicked off on January 6, 2014, when the George and Lynch construction company received the contract to proceed.
- Governor Markell sees this road project as a “win win for everyone as this is ground zero for tourism.”
- The project is over 4.14 miles – and will feature 2 11' lanes; a shared turn lane and walkable/bikable 5' shoulders.
- The project's challenges include traffic, bikes, drainage, 237 intersections/entrances (an entrance every 100'), safety and time restrictions on summer work.
- The stated acquired 250 land parcels for the project – land acquisition cost more than the road construction itself.
- Monthly update meetings will be held at 10:00 am on the 2nd Tuesday of each month at the Bethany Beach Town Hall beginning April 8.
- It was stated that the only time the road will be completely closed is when the two bridges are worked on. The estimated timeframe for this is January – March, 2015. This decision will be finalized in the fall 2014.
- Sue requested that Ken Cimino, construction manager, arrange a time to meet with SB Police, Mayor and Town Manager regarding detour routes and concerns about possible impact on SB roads – particularly off Kent Ave. and possibly impacting Cat Hill traffic. Mr. Cimino wants to be aware of any possible concerns ahead of any issues occurring.

Mayor Pro-Tem Callaway left information for the Administrative Assistant to post on the Town's website. Mayor Pro-Tem Callaway noted that there is a website for the project where you can follow everything that is happening with Route 26. (Administrative Assistant's Note: The web address for the Route 26 project is:

<http://deldot.gov/information/projects/sr26/index.shtml>.

The link is posted on the Local Links page of the Town of South Bethany's website. The Town is also posting updates on the News & Events page of the Town's website.)

Public Comment: Mr. Montigny asked if the project has any sidewalks. Mayor Pro-Tem Callaway said there will be sidewalks on 3.5 linear miles.

March 22, 2014 – Volunteers are needed for the Beach Dune Grass Planting at Indian River – There will be no dune grass planting in South Bethany this year as it has already been done for us by the Army Corps of Engineers.

- **Town Manager's Report**—Melvin Cusick reported:
In the Town Manager's absence, there was no report.
- **Treasurer's Report**—Tony Caputo reported:

Edmunds Finance System and attached financial reports

The Edmunds Finance System continues to operate smoothly, allowing us to operate more timely, efficiently and effectively. We are in the process of establishing our routine processes.

Regarding Council's packet of material from Councilman Caputo, Councilman Caputo encouraged Council to ask questions, preferably by email or one on one with Renee or him, so they have an opportunity to conduct research on your questions. The packet includes Edmunds reports for all funds including the following: Abbreviated Detail Revenue Account Status (2 pages), Summary of Expenditure Status (1 page), Abbreviated Expenditure Account Status (6 pages), and Balance Sheets (7 pages). The Balance Sheets provide helpful cash and CD information. A Revenue Summary is also included that is taken from our prior systems.

FY 2015 Budget Process

We have started the FY 2015 budget building process. Renee and Melvin have been working on the draft budget report. Traditionally the Town "Council" conducts 3 reviews before the budget gets adopted in April, just before the fiscal year starts on May 1. The Council conducted its first review at the Council "Workshop" on February 27, and it will conduct our second at the March 27 Workshop. The first review was the first time the Council had an opportunity to look over the "big picture". The draft budget includes some wish list type requests, and this review could be considered a shake-out exercise where projected revenues can be compared to operating and capital expenditure requests, in light of projected Fund Balances (surpluses). Our meeting went 4 hours and some items were evaluated, revised, corrected and aligned. Renee distributed a revised draft budget this week for Council and B&F "Committee" members. The Committee is reviewing the revised draft and will have recommendations for the March 27 Workshop.

Budget & Finance Policy Manual

We are now beginning to build a B&F Policies Manual starting with the Budgetary Control Guidelines policy that was approved by Council at the January 23 Workshop. I plan to present to Council for approval Fixed Asset Capitalization and Depreciation guidelines at the March 27 Workshop. I plan to work with B&F and be able to introduce to the Council these areas: Reserve Management, Investment Management and Budget Preparation Guidelines.

Town's Financial Status Year-to-Date

We are 10 months into the fiscal year and things are beginning to allow us to project our full year revenues with greater accuracy. We have concerns regarding Rental Tax and Realty Transfer Tax. There were no Realty Transfer Tax receipts for January or February, however it looks like our Building Permits have compensated for the lower Realty Transfer Tax. Rental Taxes and Rental Licenses, as anticipated, are now coming in at great numbers. We will be keeping a close eye on Revenues over the next few weeks and 2 remaining months.

On the expenditure side, we are over budget in 13 accounts most of which are not material. We implemented our new Guidelines and will be bringing forward proposed Amendments to help us focus on potential problems

- **Police Department Report/Questions**—M/Cpl. Davis reported for the month of Feb., 2014:

- Overall for the month – Several agency assists with Fenwick Island, Ocean View, Bethany Beach, or the State Police
- Four false alarms
 - Incident on a vehicle stop where a female gave a false name.
 - Criminal mischief where something (unknown) busted a third story storm window. Entrance to the house was not gained.

M/Cpl. Davis told the property owners to contact the Police Department at any time if they have any concerns, complaints, or questions.

ORDINANCES/RESOLUTIONS – THIRD READING OF ORDINANCE 171-13, TO AMEND CHAPTER 145, ZONING, TO REVISE AND UPDATE REQUIREMENTS (JIM GROSS)

Councilman Gross stated that over a year ago the Town formed a Charter and Code Committee, and the primary purpose of that committee is to address new technology changes that come about and to develop the initial drafts of ordinances that the Council can then act upon. Councilman Gross said the committee has worked very well, and the Town has made a lot of progress on improving the Town Code.

Councilman Gross pointed out the following two changes since the second reading:

1. The following paragraph was on Page 4 which was an addition (it is not currently in the Town Code) and has been deleted for the Third Reading because the Code Enforcement Constable determined that it made the Code much more difficult to enforce: ***Not considered repairs are new, upgraded, or complete replacement of such things as roofs, siding, windows, decks, stairways, railings, and fences.***
2. § 145-37(2)(c) has been deleted because in 2013 the Town adopted the International Residential Code which covers handrails more explicitly. Therefore this section no longer needs to be in the Town Code.

Mayor Pro-Tem Callaway noted that the last word of the first paragraph on page 4 needs to be changed from "belongs" to "belongings". Councilman Gross agreed.

Mayor Pro-Tem Callaway stated that throughout the ordinance it addresses "maintaining in good repair" and she notices that frequently around town real estate signs are not maintained in good repair. Mayor Pro-Tem Callaway suggested using that terminology in § 145-30C. Mr. Cestone agreed that it was a good idea but suggested possibly addressing this in the future when the Town is revising this chapter again rather than changing this ordinance at the Third Reading. Councilman Gross said the committee can look at it, but he thinks the Town has to be careful about how it is worded. Councilman Rae suggested talking about it at the Realtor Luncheon.

Public Comment: Regarding § 145-51C, Mr. Bunoski inquired if 20 pound tanks are part of this or are not part of this. Councilman Gross stated that 20 pound tanks are not part of the anchoring requirement. Councilman Gross said that a four gallon tank is a 20 pound capacity tank – they are basically the same thing. There was discussion regarding the possibility of overfilling the tank. Councilman Junkin noted that the people who fill the tanks are not supposed to fill them above 20 pounds. Councilman Gross said what would be the difference if it is 21 pounds. Mr. Bunoski agreed.

Councilman Gross asked for any other comments from the Council or the public. There were none.

Mayor Pro-Tem Callaway declared this the third reading of Ordinance 171-13.

A motion was made by Councilman Gross, seconded by Councilman Junkin, for acceptance of the ordinance as amended during this meeting (on page 4 change "belongs" to "belongings") and become law for the Town of South Bethany.

The voting was as follows:

FOR THE MOTION: Mayor Pro-Tem Callaway and Councilpersons Rae, Gross, Caputo, Junkin, and Voveris

AGAINST THE MOTION: None

The motion carried with a 6-0 vote.

COMMITTEE REPORTS

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

The Community Enhancement Committee will hold its next meeting on **Thursday, March 27, 2014, at 10:00 AM in the Town Hall Meeting Room.**

The following CEC related activities have taken place since the last CEC report or are scheduled:

Spring Landscaping throughout town: With a break in the weather, Public Works has begun landscape work on the bio-retention beds, circle beds, pedestrian walkway rain gardens, and York Beach Mall gardens.

Adopt-A-Canal/Road End Program: Junipers will be removed from the adopted Sussex Place Road end and the Peterson canal end within the next two weeks. In addition, CEC received an application and plan for adoption of the W. 7th road end and notification letters are being prepared. The Peterson canal end adoption is in tribute to the Town's April 22nd Earth Day celebration.

Dog Waste Flyer: On February 27, the Town Council approved the final version of the *Dog Waste Flyer* which will be distributed via email to homeowners and at the forthcoming Meet and Greet with realtors on April 22, and posted on the Town's website.

New Information Bulletin Boards: The two new bulletin boards have been installed on Ocean Drive.

East Side Bio-Retention Project: Sue Callaway and Don Chrobot will attend a kick-off meeting for the project on Monday, March 17, at CIB. George Junkin will participate via phone.

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

The Budget and Finance Committee will be holding a meeting on Friday, March 21, at 3:30 p.m. in the Council Meeting Room. Everyone is invited, and the agenda has been posted.

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

Canal Water Quality Committee Status Report – March 14, 2014

– **Grant Activity**

- **Grant for Rain Gardens along the East Side of Route 1.**
 - Meeting at CIB March 17 at 10 AM. Sue and Don will be attending in person. George will attend by telephone.
 - Excavation/Construction is scheduled for March 2014 so that planting will occur by May 1.
- **Large oyster cages and floating wetlands in South Bethany Canals**
 - This grant will place a lot of oysters (about 200 bushels) and floating wetlands in the SB Canals. Total surface area of the project is expected to be around 5,000 square feet. Potential locations are the south end of the York Canal or along the York Canal where the algae harvester worked from. The York Canal is our widest canal. Other potential locations are road ends at the South Anchorage Canal. The South Anchorage Canal is our second widest canal.
 - A letter of agreement and permission will be necessary for all land owners on York Canal for the state subaqueous lands permit and to ease shellfish safety concerns. You are not allowed to eat oysters grown in “prohibited” waters.
 - EJ and Bart will be presenting at the Wetlands and Subaqueous Lands (WSL) Section staff meeting, either on March 18th or April 1st, to discuss the scope of the project. WSL thought a meeting, outside of Joint Permit Processing (JPP), would assist in identifying potential concerns and path forward for the state permitting needs and requirements. No federal permits will be necessary.
 - George will be working with the South Bethany Water Monitoring Committee to start collecting DO data in York and Carlisle Canals, as part of the normal spring to fall monitoring.
- **Bioretention areas in Sandpiper Pines**
 - This project is on schedule. On February 24 we have received the first inputs from Tetro Tech. This had conceptual designs for raingardens, stone diaphragms (fancy French Drains) and Storm Tech Inserts. ROM cost data was also supplied. They plan to supply concept drawings by the end of April.
 - Chris Bason has submitted a proposal to EPA to further develop this project. Chris is currently in Hawaii so I do not have full details on his submittal.

– **Water Quality Monitoring is on its two times per month spring schedule.**

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

The Charter and Code Committee has not had a meeting since the last Town Council Regular Meeting. Councilman Gross did confer with the members on developing recommendations on how to respond to the Town attorney's recommendations on Ordinance 171-13.

The committee has pending an ordinance to address the issue of invasive plants on the oceanside of Ocean Drive where the current Town Code prohibits the Town from requiring removal of those weeds.

- **Communications and Public Relations Committee** – Councilman Rae reported:

The Real Estate Agent Thank You Luncheon is scheduled for April 22, 2014, at Town Hall. The objective is to meet with the agents and bring them up to date on what has happened with the Town for the last year. Councilman Rae stated that a couple of issues that have

been brought up at this meeting should be included – (1) swimming in the canals is against the Town rules and (2) the condition of rental signs. The Chief of Police will attend and one of the major objectives of the meeting is to deal with the issue of June Bug week and the rental of properties to unsupervised younger people. Councilman Gross suggested including on the agenda feedback from the Realtors on what the Town can do to make the properties in town more rentable. Councilman Rae stated that an invitation was mailed to each company and an email invitation was sent to the Realtors that the Town has dealt with over the years.

Delaware Tourism Website (www.visitdelaware.com) – It was noticed months ago that this website makes no mention of South Bethany. Councilman Rae has been working on getting South Bethany on the website for months and they have finally added verbiage about South Bethany, including a hot link back to South Bethany's website. However, South Bethany is still not on the list of beaches. Councilman Rae is continuing to work on this. Delaware Tourism has asked for additional information regarding South Bethany's top dining places, attractions, etc. Councilman Rae asked for Council's feedback regarding this as soon as possible. Councilman Rae stated that this is important for people in town who have their houses up for rent. Councilman Junkin suggested including the number of rental houses in town and that South Bethany has lifeguarded beaches.

Public Comment: The subject of no smoking was discussed. Mr. Bunoski said that he asked for a no smoking ban on South Bethany's beach five years ago. Mr. Bunoski stated that having done litigation for 30 years he believes second hand smoke is coming forward and will be the next big tort.

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

Sea Level Rise and Storm Surge Committee Status Report – February 14, 2014

- A presentation was prepared for Council addressing the SLR & SS Committee's recommended code changes to adapt to SLR & SS. We need to select a date for a workshop to discuss the recommendations. So far I have had no questions from the presentation that I sent to Council. I guess that means that everyone understands it.
 1. Require 3 feet of freeboard above that required by the FEMA Flood Insurance Rate Map (FIRM). This would make SB's Design Flood Elevation (DFE) equal to 3.0 feet plus that which is required by the FIRM. This is the most important item to protect new construction from damage due to SLR & SS.
 2. To allow space for this freeboard, make the height restriction the higher of 34 feet above the road or 38 feet NAVD.
 3. To protect construction that is allowed [Parking, Storage and an Entrance to the home] below the DFE, require that it be in compliance with FEMA Technical Bulletin 02.
 4. Relative to bulkhead height
 - Maximum bulkhead height should be limited to the BFE as documented on the most current FEMA Map.
 - Any bulkheads that require replacement should have a height of at least 3.0 feet NAVD.

Public Comment: Bob Coleman (230 Carlisle Dr.) – Stated that because of his professional engineering background he has taken a strong interest in the climate change and sea level rise issues from the inception of those discussions. Mr. Coleman stated that he has been following it very closely and doing his own research. Mr. Coleman believes the State of Delaware has blindly accepted the Intergovernmental Panel on Climate Change (IPCC) report. Mr. Coleman has read reports from groups who refute the IPCC report. He has also attended meetings presented by the State of Delaware. He has also attended meetings presented by the Caesar Rodney Institute and some other internationally recognized experts who seem to have a really good case for refuting the evidence that is being presented and

used by the State in their predictions of sea level rise. Mr. Coleman is concerned that the State of Delaware is making its regulation recommendations based on the IPCC report. Mr. Coleman believes the State's regulation recommendations have serious consequences financially and otherwise. He said there is a lot of scientific evidence that the IPCC's predictions are flawed by orders of magnitude. Mr. Coleman asked if this issue has ever been brought up at any of the Sea Level Rise and Storm Surge Committee meetings. Councilman Junkin stated that it has been brought up, but Councilman Junkin disagrees that it is orders of magnitude. Mr. Coleman stated that the experts at the Caesar Rodney Institute have confirmed in their analysis orders of magnitude. Councilman Junkin stated that the SLR and SS committee has data in the South Bethany canals for the last 14 years and the average highs in the canals has risen .43 feet in the last 14 years. Councilman Junkin stated that the committee has 880,000 data points to go by. Mr. Coleman stated that there are a lot of things that affect that. Mr. Coleman said his purpose for bringing this up is that he has research that he has done and reference material that shows the other side of the argument which he would like to offer to Councilman Junkin and to also sit down with Councilman Junkin at some time to discuss it. Councilman Gross suggested that Mr. Coleman come to a meeting when the issue is addressed. Councilman Junkin stated that the committee is planning two or three meetings in May (probably) to give property owners an opportunity to attend at least one of them. Councilman Junkin noted that the recommendations from the SLR and SS Committee are not saying that anyone has to do anything to a house that is already there. Councilman Gross stated that the committee looked at all the new houses that were built during the last year and all of those but one would fall within the committee's recommendation. Councilman Gross stated that by allowing an extra two feet, and in some cases up to four feet, higher on the height restriction the Town would be relieving a situation that exists now. Mr. Coleman asked if the committee recommendations influence flood insurance programs. Councilman Gross stated that it can reduce as much as 2/3 (67%) of the cost of a property owner's insurance for new houses that comply with the three feet of freeboard the committee is recommending. Councilman Junkin stated that by the Town making the SLR and SS Committee's recommendations a rule the Town can approach increasing the savings on the amount that everybody in town pays for flood insurance by another 5%. Councilman Junkin noted that the flooding from Hurricane Sandy came in at about the Design Flood Elevation (DFE) so even if there is not an increase in sea level, if there is another storm like Sandy the flooding will be at that DFE.

Mr. Cestone referred to Senate Bill 75 which Senator Hocker introduced almost a year ago. Mr. Cestone stated that in an interview with the Coastal Point in January Senator Hocker said his intent for the bill is in connection with sea level rise requirements. In the article Senator Hocker said the issue needs to be looked at before jumping in.

Councilman Gross asked Mr. Coleman if his research refutes the existence of sea level rise. Mr. Coleman said that from what he has reviewed of the other experts that are opposed to the concept, they are disputing the amount of rise – they are coming up with numbers on the order of a couple of inches over the next 20 years whereas the State's estimates are considerably higher. Councilman Gross stated that the data from the South Bethany canals over the last 14 years shows that for every five years there has been two inches of rise – four inches every ten years. Mr. Cestone stated that he has been here for 40 years and he does not notice the tide being higher by an average of six inches. Mr. Coleman agreed. A discussion ensued. Councilman Junkin said the actual data for South Bethany is on the Town's website.

In the end, Mr. Coleman said he would email Councilman Junkin the information he has.

- Grant Activities
 - *SLR & SS Adaptation – Code Changes and Risk Assessment Mapping.*
 - On February 4, 2014, we submitted a grant proposal to DNREC

- On February 21 we were informed that our proposal had some inconsistencies in what was proposed by Pennoni for a U of D task to be performed as part of the match requirement and what the U of D described in their commitment letter. She allowed us three week to get our act together.
- Today I informed Bonnie Arvay that we would not be resubmitting the proposal because Pennoni was unable to get a commitment from the U of D.
- *Sea Level Rise Adaptation – Baseline Survey*
 - Public meeting to present SLR & SS issues and survey results will be held in May.

Mayor Pro-Tem Callaway told Mr. Coleman that Council discussed the SLR and SS Committee recommendations at the January Town Council Workshop Meeting and the latest document that Councilman Junkin prepared was a response to a lot of questions the Council had. Mayor Pro-Tem Callaway stated that it is not something Council is blindly going into or agreeing to – there is a lot of discussion going on.

Council agreed to schedule a Town Council Workshop Meeting regarding sea level rise on Wednesday, April 23, 2014, at 1:30 p.m. Mr. Coleman suggested sending out a notice to the property owners regarding the meeting. Mayor Pro-Tem Callaway said the Town will send out an email News Update.

AREAS OF INTEREST

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

Councilman Rae read the following letter which he received from Bob Ehemann who works for DNREC's Division of Parks and Recreation and is heading up the new Assawoman Canal Trail that is being developed over the next couple of years:

You are invited to attend an information meeting to learn about the Phase 1 construction of the Assawoman Canal Trail. A plan for the Assawoman Canal Trail was developed in collaboration with the towns of Ocean View, Bethany Beach, and South Bethany, the communities of Bahama Beach Cottages, Sea Colony, Salt Pond, and Waterside and the Division of Parks and Recreation. The plan was finalized in 2009.

The Phase 1 construction will take place between Route 26 and Elliott Ave. – approximately one mile in length (Councilman Rae said that is the north side of the canal – north of the Assawoman Canal bridge on Route 26). Construction is expected to begin in fall 2014.

These information meetings are intended to cover trail-related topics including trail layout and design, carry-in carry-out, hours of operation, enforcement as well as examples of native vegetation planting options.

For your convenience, we have set up the following dates and times to share information and answer questions about trail construction. Both meetings will be held at the old (Ocean View) Town Hall at 32 West Ave.

Councilman Rae stated that the dates are Wednesday, April 16, from 7 to 8:30 p.m. and Tuesday, April 22, from 9:30 to 11 a.m.

Councilman Rae said having a walkable, bikable trail along the Assawoman Canal is going to be a very nice asset for our town and it is going to be good for our property values.

Councilman Rae said the other item he had was the \$5,000 that Council eliminated from this year's budget which had been put aside for the Assawoman Canal Trail. Councilman Rae

said we thought it might be needed this year but it was not so it is removed from this year's budget.

- **Board of Adjustment** – Councilwoman Voveris reported:

RECENT ACTIVITY: New member, Bob Buhner, attended a seminar at the U of DE on Land- Use Law & Regulations

BOA TOPIC: Appeals brought before Superior Court were reviewed

NOTEWORTHY: Mackes vs. BOA of Fenwick Island

Mackes owned a lot that would not allow both set back and building requirements to be met. The BOA denied any variance for a home on this lot.

Decision was made by the Court to reverse the BOA ruling. The Court predicated this on a BOA member stating no variance should be granted in this situation. The Court found this member tainted the proceedings and did not allow Mackes to have a fair hearing.

Zoning applications should be judged on their merits and granted where facts and law warrant such a result. Through the language used by one BOA member the Board expressed an unwillingness to grant any variance, even if the facts and law dictated a contrary result.

The Board cannot rely on facts known to them personally but not made a matter of record by proper evidence.

Public Comment: Mr. Bunoski asked if the property owner gets to build the building or does he have to go back to the Board. Councilwoman Voveris stated that she does not think there has to be a whole new meeting. She believes the property owner has to bring in an acceptable plan that won't violate both, but it can violate one and it will have to be accepted. (Administrative Assistant's Note: At the April 11, 2014, Town Council Regular Meeting, Councilwoman Voveris corrected this statement saying that the owners would have to go back to the Board of Adjustment with a plan for the house that they wanted to put on the lot because the Code Constable could not approve a plan that would be in violation of the code.) Councilwoman Voveris said the interesting thing is the BOA is a volunteer group and they are held to this high standard because they are part of a quasi-legal activity. Councilman Rae stated that all of South Bethany's Board of Adjustment members are asked to go to special training run by the University of Delaware.

PLANNING COMMISSION REPORT – Mayor Jankowski reported:

In Mayor Jankowski's absence there was nothing to report.

ADJOURNMENT

A motion was made by Councilwoman Voveris, seconded by Councilman Gross, to adjourn the March 14, 2014, Town Council Regular Meeting at 8:50 p.m.