

TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES MARCH 9, 2012

ATTENDANCE

PRESENT: Mayor Jay Headman; Councilpersons John Fields, Pat Voveris, Al Rae, Sue Callaway, George Junkin, and Jim Gross; Town Manager Melvin Cusick; Lt. Linda O'Malley and Cpl. Mark Burton; and Administrative Assistant Pam Smith

MEETING CALLED TO ORDER

Mayor Headman called the March 9, 2012, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

PROPERTY OWNERS' PARTICIPATION

- Barbara Jayne (1 S. 7th St.) – Thanked Council for including raises for the staff in the FY 2013 Budget. Ms. Jayne strongly recommended that the Town hire a second full-time maintenance person. She stated that with all of the beautification the Town is doing on Ocean Drive and the center strip, there is a lot more work for the Public Works Department.
- Ed Nazarian (20 Peterson Dr.) – Stated that he believes the Town desperately needs a second full-time maintenance person.
- Mary Suazo (7 S. 3rd St.) – Inquired about the total amount spent on beautification in the budget this past year. Ms. Suazo asked how much money spent was coming from grants and how much money spent was coming from tax payers' dollars. Ms. Suazo added that it is not that people don't approve – she believes people are very impressed with the projects. Councilwoman Callaway replied that the funding breakdown for the Route 1 bioretention areas project is posted on the Community Enhancement Committee page of the Town's website under Route 1 Project to Improve Canal Water Quality and Beautify South Bethany. Councilwoman Callaway stated that the Community Enhancement Committee budget for FY 12 was \$23,500. There is still FY 12 money left for the Town's spring expenditures to include mulching and the final planting along Rt. 1 which was the Town's contribution/match to the bioretention areas project. Councilwoman Callaway stated that the trees that were planted along the Rt. 1 median were all funded with grant monies. She added that in the spring of 2011 the Town spent money on different plants and flowers. Councilwoman Callaway noted that the monies spent can also be viewed on the Budget and Finance page of the Town's website under FY 2012 Revenue and Expense Recap Operating Budget.
- Barbara Jayne (1 S. 7th St.) – Is surprised that recycling has been changed to Saturday. Ms. Jayne's concerns are that it is more expensive to have recycling on Saturdays. Also many of the renters who come in on Saturday afternoon will have not only their trash and recycling from what they have unpacked but also the recycling from the morning because recycling pickup trucks come early in the morning before the renters leave. Mayor Headman stated that one of the overwhelming concerns from the 2011 Comprehensive Plan Community Survey Results Report was that a large percentage of people in South Bethany don't have access to recycling due to the restrictions on pulling the recycling cart out and pulling it back in. Since the Town started recycling, one of the requests has been to move recycling to Saturday so that property owners who come down on Friday can pull their carts out, get them serviced, and pull the carts back in. Mayor Headman added that close to 80% or 90% of the property owners do not live in South Bethany year round and come down on weekends. Ms. Jayne said she wonders if it wouldn't have been better to figure out a way to get their carts back either by neighbors or by having a container so that the trash company could pull the carts out of the container and put the carts back in the container.

ADOPTION OF MINUTES

- **Town Council Public Hearing Minutes, February 10, 2012** – A motion was made by Councilwoman Voveris, seconded by Councilman Gross, to accept the February 10, 2012, Town Council Public Hearing Minutes. The motion was adopted.
- **Town Council Regular Meeting Minutes, February 10, 2012** – A motion was made by Councilwoman Voveris, seconded by Councilman Rae, to accept the February 10, 2012, Town Council Regular Meeting Minutes as amended as follows:

Page 2, Last Paragraph: Change "In January the Town purchased a CD at a 2% rate which currently gives the Town a yield at 1.5%. Councilwoman Voveris hopes by August the return will be up to 1.65%" to read "In January the Town purchased a CD at a 2% rate which currently gives the Town **an overall investment** yield of 1.5%. Councilwoman Voveris hopes by August the **overall** return will be up to 1.65%."

The motion was adopted.

LEADERSHIP REPORTS

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

The Town Council is currently going through its budget process. The Town Manager and Financial Administrator put together a recommended budget and presented it to the Budget and Finance Committee. The Budget and Finance Committee reviewed it and then presented it to the Council. Council had its first Budget Workshop Meeting in February. The meeting for public input on the budget is tomorrow, March 10, at which time Council Treasurer Pat Voveris will present and review the budget. Council will have another Budget Workshop Meeting on March 22. Council's final vote on the FY 2013 Budget will be at the April 13, 2012, Town Council Regular Meeting. Mayor Headman stated that the budget is critical to the Town, and he encouraged property owners to review the budget on the website and attend the meeting for public input.

Town Election – The deadline to submit an application to run in the election is April 11. Mayor Headman encouraged property owners to put in an application to run in the upcoming election.

Mayor Headman thanked the South Bethany Property Owners Association, specifically SBPOA President Linda Lewis, for encouraging its members to sign up for the Town's Email Communications Program. Mayor Headman stated that the Town has received a good response and a lot of new people have signed up for the email program. Mayor Headman also thanked Councilwoman Callaway for her help with this project.

Mayor Headman thanked the South Bethany Historical Society for their well-constructed, informative display at the March 7, 2012, Delaware Coastal Vulnerability and Sustainability – 1962 to 2062 '62 Storm 50th Anniversary Commemoration Workshop.

Mayor Headman thanked the Budget and Finance Committee (Pat Voveris, Steve Farrow, Keith Krenz, Kent Stephan, and John Fields), the Town Manager, and the Financial Administrator for their work on the FY 13 Budget. He thanked Council Treasurer Pat Voveris for her leadership and for the time and effort she has put into the budget process.

The Mayor shared that he attended the Sussex County Association of Towns (SCAT) regular monthly meetings. This month the Secretary of Transportation was the guest speaker at the SCAT dinner meeting. One of his areas of focus is how to evacuate people from the coastal areas if there is a major storm.

He also attended the Delaware Coastal Vulnerability and Sustainability – 1962 to 2062 '62 Storm 50th Anniversary Commemoration Workshop. It was very clear from the workshop that in this geographical area the likelihood of problems from storms will not be from hurricanes but from nor'easters. The following are interesting statistics regarding coastal counties in the United States that were shared at the workshop: Fifty percent of the population in the United States live within the coastal counties, fifty percent of the GDP of the United States comes from the coastal counties, and if these counties were a country, it would be the second largest economy in the world. Therefore it is important that the coastal communities maintain what they have, and that is why a lot of time has been spent on beach replenishment and transportation.

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

The EMS Monthly Report from the Bethany Beach Volunteer Fire Company was available on the sign-in table.

Beach Replenishment – DNREC is currently pushing the dunes up in Rehoboth. They are putting the sand fence up in Dewey and reconstructing the walkways. DNREC has assured the Town Manager that South Bethany is next.

The bid opening for Bid No. 12-03 Landscaping Improvements is scheduled for April 2. It is for a project on Rt. 1 that will be funded with grant money.

Beach Patrol tryouts are scheduled for April 7 and April 14 at 1 p.m. at N. 6th St.

The Town had its five year community assistance visit from FEMA and DNREC yesterday. They toured most of the Town. They checked for flood vents throughout town and breakaway walls on homes east of Rt. 1. They also pulled many files and checked ordinances to make sure the Town is following the guidelines for the National Flood Insurance Program.

- **Treasurer's Report**—Pat Voveris reported as of February 29, 2012:

Balance Brought Forward	\$ 1,900,134.62
February Revenue	\$ 25,183.81
February Disbursements	\$ 129,061.66
Balance	\$ 1,796,256.77

Operational Reserves:	\$ 365,000
Other Reserves:	\$ 1,160,840

Profit and Loss:	Total revenue	\$ 2,046,028
	Total expenditures	\$ 1,789,545
	Leaving an excess revenue of	\$ 256,483

Operating budget recap:

- Revenue is at 89%.
- Expenses are at 84%.
- All departments are operating within budget.
- Transfer tax for February was \$9,082.34 which is 47% lower than the same month last year.
- Overall the Town's transfer taxes are at only 60% of the budget projection. The Town is off the budget projection by \$118,553.

In February there were four real estate sales in South Bethany for Leslie Kopp's company amounting to about \$2.5 million. The Town should see the transfer tax for a least \$2 million

of these sales before the end of the FY 12 budget. That should bring the Town \$30,000 in transfer taxes.

The Financial Administrator and the Town Manager are closely monitoring expenses within all of the departments. The Town's goal is to come in as close to budget as possible for the Fiscal Year 2012.

- **Police Department Report/Questions**—Lt. Linda O'Malley reported for the month of Feb., 2012:

Lt. O'Malley introduced the Police Department's new officer, Mark Burton, who is replacing Eric Watkins who left the Town of South Bethany to join the Delaware Capitol Police in Georgetown. Lt. O'Malley stated that the Police Department is very fortunate to hire Cpl. Burton who brings with him 11 years of service from the Ocean View Police Department. Mayor Headman reiterated that the Town is extremely fortunate to get Cpl. Burton.

- Feb. 2 Open door on Division St. Everything was secure.
- Feb. 2 During a traffic stop, found person in vehicle that was wanted on six different warrants in various courts.
- Feb. 5 Subjects on Black Gum Dr. reported a missing gallon jug full of coins. There was no forced entry. The contractors that were working at the residence were questioned. Up to this point there are no suspects.
- Feb. 5 Assisted Fenwick Island with a traffic stop.
- Feb. 9 Three heat pump units were stolen on N. 4th St. There are no suspects at this time.
- Feb. 11 Check on welfare. Report of a woman in the water was found to be unfounded. The woman was located near Sea Colony and she was just walking.
- Feb. 17-20 Various alarms and suspicious vehicles reported mostly due to construction in the area where they were reported. Everything was checked out and everything was okay.
- Feb. 29 Vehicle towed for a traffic violation.

Councilman Rae said he noticed that the new speed signs have not been working for a couple of weeks. Lt. O'Malley stated that the Chief is aware of the issue and is working on it.

Carolyn Marcello asked if there was a possibility of putting some of the important criminal incidents on the website on the Police Department page. Lt. O'Malley said she would check with the Chief.

ORDINANCES/RESOLUTIONS

- **Third Reading of Ordinance 160-11, to amend Chapter 6, Contracts and Bidding, to increase bidding monetary amounts. (Pat Voveris and John Fields)**

Councilman Fields reviewed Ordinance 160-11. He noted that he had revised § 6-2B to conform to the comments that were made by Mr. Cestone at the second reading of this ordinance. Councilman Fields noted that this ordinance shall become effective upon the date of adoption except for § 6-2.B which shall become effective upon approval of Town Charter changes under review by the 2012 session of the Delaware General Assembly.

Mayor Headman declared this the third reading of Ordinance 160-11.

A motion was made by Councilman Fields, seconded by Councilman Junkin, to adopt Ordinance 160-11. The voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Fields, Voveris, Rae, Callaway, Junkin, and Gross

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

- **Second Reading of Ordinance 161-12, to amend Chapter 84, Licenses and Permits, Article I, entitled "Mercantile Licenses" to add a temporary mercantile license. (Pat Voveris)**

Councilwoman Voveris reviewed Ordinance 161-12.

Councilwoman Callaway noted that in § 84-2C the period should be outside the parenthesis.

Mr. Nazarian asked what the penalty would be if people don't adhere to the ordinance. Councilwoman Voveris stated that the penalties are in the Town Code. The Town Manager believes it is a \$250 fine. Mayor Headman said Council will get back to Mr. Nazarian and Council will bring it up at the next meeting. Councilman Junkin noted that Council is not changing the penalty.

Mayor Headman declared this the second reading of Ordinance 161-12.

- **Second Reading of Ordinance 162-12, to amend Chapter 104, Property Maintenance, Article III, entitled "General Provisions", to require the removal of dead trees from all Town lots. (John Fields, Pat Voveris, and Jim Gross)**

Councilman Fields stated that this ordinance is in line with making South Bethany a more pleasant, prettier place to live. Councilman Fields referred to Japanese pines that grow on the east side of Rt. 1 and are short lived. Japanese pines die and people tend to leave them standing.

Councilman Gross stated that the way it is written in the second reading of Ordinance 162-12, only un-wooded lots have to be kept free of dense underbrush and/or accumulations of noxious vegetation. He believes this should also be a requirement for wooded lots. Council agreed to work on the wording at another time.

Diann Nazarian referred to a lot on Councilman Rae's street that is not wooded but she thinks is a mess. She said she believes the former Code Enforcement Constable sited the owners once and they came in and did a few things, but Ms. Nazarian feels it is still a mess. Ms. Nazarian asked how that situation would fall under this ordinance. Councilman Rae replied that the lot does not trouble him and he knows the neighbors like it the way it is. He guesses that "a mess" is a matter of opinion, and beauty is in the eye of the beholder. He added that the birds and the animals like it too. Mayor Headman stated that in Cat Hill there are lots that are wooded and have a lot of undergrowth, and it is a nice natural reserve. Councilman Rae stated that he would not want to see the Town leveling and clearing every lot because our interpretation of beauty is that there should be no bushes. Councilman Gross said that is not the intent of Ordinance 162-12.

Mayor Headman declared this the second reading of Ordinance 162-12.

- **Second Reading of Ordinance 163-12, to amend Chapter 145, Zoning, Article XV, entitled "Board of Adjustment", to change the terms of office of Board of Adjustment Members from four years to three years. (John Fields and Pat Voveris)**

Councilman Fields stated that to ask people to serve a four year period on the Board of Adjustment (BOA) is a very long time. He added that three years is reasonable and hopefully people will be more willing to serve on the BOA for three years rather than four. Mayor Headman noted the State recommends three year terms for BOA members. There was no further discussion.

Mayor Headman declared this the second reading of Ordinance 163-12.

- **Resolution 1-12, a Resolution to amend the Charter of the Town of South Bethany**

Councilman Fields said Resolution 1-12 will go to the Delaware General Assembly along with a letter from Mayor Headman and a bill which has been drafted by the Town's attorney for five changes to the Town of South Bethany Charter. The five charter changes are listed on Resolution 1-12 after each "Whereas".

Councilman Rae was concerned that Council was being asked to sign Resolution 1-12 without seeing the specific wording changes to the Town Charter that are in the bill that will be sent to the Delaware General Assembly. Councilman Rae said he would feel more comfortable if he could see the specific wording changes to the Charter that Council would be agreeing to. Councilman Fields stated that the changes were approved at the February 23 Town Council Workshop Meeting. Councilman Fields stated that the only change at the Workshop was to change 1 ½% to 20% of last year's gross revenue (Councilman Fields did not have the exact wording). Councilman Rae stated that he would like to see what the final changes are that Council would be agreeing to. Councilman Fields stated that he could provide Councilman Rae with all the changes, but if Council keeps holding up on this it won't make this year's General Assembly. Councilman Fields added that the Town has spent a good bit of money on this and if it were held up until next year's General Assembly the Town would have to spend more money on it next year. Councilman Fields stated that he had not gotten back from the attorney the change to 20%, but he will send it to Councilman Rae as soon as he gets it. Councilman Rae asked if the timing with the State would allow for Council to delay this until the March 22, 2012, Town Council Workshop Meeting. Mayor Headman stated that he trusts that Councilman Fields has made the changes per the vote at the Town Council Workshop Meeting. After discussion Mayor Headman stated that Council does not vote on resolutions at Workshops. Consistently resolutions have been voted on at the Town Council Regular Meetings. Councilman Fields stated that if the vote on this resolution were held up until the April 13 Town Council Regular Meeting there would be a risk that the Town would not get the bill submitted to the General Assembly in time. Councilman Rae stated that he is generally in agreement with the concept, but he would like to see the words that Council is agreeing to. Councilman Rae stated that if Council is going to make changes that allow a Council to spend up to three or four hundred thousand dollars without any public meetings and votes, he would like to see the wording. Councilman Gross stated that he believes Councilman Rae makes a valid point.

A motion was made by Councilman Fields, seconded by Councilman Junkin, that the Council approve Resolution 1-12. Mayor Headman asked for discussion.

Mr. Cestone had a concern about the following paragraph in Resolution 1-12: "Whereas, the Town Council of the Town of South Bethany has determined that in instances where the Town will not be borrowing money, it is unnecessary to hold a public hearing and referendum for the Town to make capital expenditures of money." Mr. Cestone noted that currently any capital expenditure over \$100,000 has to go to referendum. He added that the people currently have some power in this and he believes this change would take the power away

from the people. Mr. Cestone agrees that the \$100,000 should be raised due to inflation to maybe \$300,000 or \$400,000, but he does not think Council should take the power from the people that they have now to vote on it. Councilman Fields stated that in past discussions he had had with Mr. Cestone, Mr. Cestone agreed that \$100,000 was not enough but that \$500,000 (as Councilman Fields was looking at) was too much. The Town then took it to the attorney who suggested removing § C-14 Use of town moneys. The attorney noted that other towns do not have this requirement on funds that they have and that Councils are allowed to spend the money that they have without having to go to referendum. Councilman Fields pointed out that this does not apply to borrowing money. Mr. Cestone stated that it is still the property owners' money and just because other towns do it does not mean South Bethany has to do it. Mr. Cestone believes the people should be able to decide. Using the recent paving of Ocean Drive as an example where the Town nearly lost out on going to contract because of the spending limit, Mayor Headman noted that town officials are elected officers and sometimes need to spend money. Mr. Cestone stated that if the \$100,000 amount was higher, the paving of Ocean Drive would not have been an issue.

Mayor Headman asked for a roll call on the motion. The voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Fields, Voveris, Callaway, and Junkin

AGAINST THE MOTION: Councilpersons Rae and Gross

The motion carried with a 5-2 vote.

COMMITTEE REPORTS

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

Councilman Rae encouraged property owners to report shallow areas or trees blocking the Assawoman Canal to him and he will coordinate with the State.

The Assawoman Canal Trail – The towns involved and Sea Colony have passed resolutions in support of the trail. DNREC is working on environmental impact studies and working with the communities affected. DNREC is negotiating with a marina at White's Creek for access to their property. Once that is resolved, DNREC will probably put the project out for engineering and design.

Mayor Headman stated that one of the concerns at the meetings that has to be addressed is safety for people who live along the trail and for people who will use the trail.

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

The full committee did not meet in January or February. The next meeting will be sometime in April.

The TEP project (Landscaping Improvements) is progressing well. The project will provide South Bethany with visible changes along the Rt. 1 walkway, at York Beach Mall, and in the circle beds. Council will award the bid at the April 13, 2012, Town Council Regular Meeting. Subject to everything falling into place, work will begin April 23 and should be completed by May 18.

The Community Enhancement Committee is in support of the Council funding the Ocean Drive signs. The committee is recommending the use of MSA grant funds to fund the signs. The signs are on display in the Council room. The committee believes the signs will make a considerable improvement along Ocean Drive. Councilwoman Callaway encouraged

property owners to let Council Members know if they are in support of the signs. Mr. Cestone inquired about the term "the promenade". Councilwoman Callaway stated that the Community Enhancement Committee recognizes that Ocean Drive is a place that people walk and gather along and the committee wanted to give it a different twist, a different look, and a different identification. The committee voted on "the promenade". Councilwoman Callaway noted that the Blueprint for Ocean Drive is posted on the Community Enhancement Committee page of the Town's website. Ms. Jayne asked if "the promenade" was definite and are the property owners going to have anything to say about it. Councilwoman Callaway stated that it has been discussed since October. Ms. Jayne added that she thinks the term is pretentious and that South Bethany is a casual town.

The Adopt-A-Canal Adopt-A-Road End Program subcommittee met in February. The committee is approaching the one-year anniversary of the program. The committee has developed a renewal application for the adopters and is working on getting that out to the adopters April 15. The committee reviewed the marketing materials and the applications. Based on budget approval, the committee has a small allocation for recognition signs to be placed in the adopted areas. The committee has five new potential adoptions and two that are very secure.

The final phase of the landscaping along Route 1 will occur beginning April 7. This will be the planting of the herbaceous plants in the bioretention areas. With this, the Route 1 median work will be completed.

Ms. Jayne commented that the boxes for the garbage cans on Ocean Drive look great and she thanked the committee for putting those up.

- **Budget and Finance Committee** – Councilwoman Voveris reported:

The committee met on February 11 to finalize its budget recommendations from the prior January meeting. The only change the committee made was to lower the transfer tax revenue number to \$200,000.

The committee discussed a new construction fee and deck repair fee. Councilwoman Voveris will be bringing a recommendation to Council at the March 22 Town Council Workshop Meeting.

The Budget and Finance Committee will meet after the Budget and Finance Committee Meeting for Public Input Regarding FY13 Budget on March 10, 2012.

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

The committee is waiting to hear from the EPA on a grant proposal to do a pilot project for diffusors. In the meantime, Councilman Junkin is pushing that Council allocate funds for the pilot project for diffusors in case the Town does not get the grant.

The committee is looking forward to the landscaping improvements on the west side of Route 1 regarding rain gardens.

The spring weather and the low level in the canals are contributing to the bumper crop of vegetation in the canals. The Town Manager stated that property owners can go to the Local Links page of the Town's website and click on the [To Report Algae Blooms](#) link. This web page gives an email address to contact the Macroalgae Harvesting Team and report algae blooms. The email goes directly to DNREC, which is the agency that has the harvester (the State only has one harvester). DNREC is the agency that would have to come in and clean up the canals. The Town Manager encouraged all property owners to report the algae blooms to DNREC. The Town Manager stated that DNREC does their own inspections and

they are aware of the algae blooms in the canal. He added that DNREC encourages individual residents to report alga blooms. Mayor Headman stated that the Town would also follow up. Councilman Junkin said that when sending an email to DNREC it would be helpful to attach a photograph of the canal/canals.

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

There has been no commission action since the last town council meeting.

ADMINISTRATIVE MATTERS – ADOPTION OF 2012 SUSSEX COUNTY TAX ASSESSMENTS

Mayor Headman read the following from Council's meeting packets: Our Town Charter requires that we 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 FY2013 property taxation purposes.

A motion was made by Councilman Fields, seconded by Councilman Gross, to adopt the 2012 Sussex County tax assessments. The voting was as follows:

FOR THE MOTION: Mayor Headman and Councilpersons Fields, Voveris, Rae, Callaway, Junkin, and Gross

AGAINST THE MOTION: None

The motion carried with a 7-0 vote.

ADJOURNMENT

A motion was made by Councilman Fields, seconded by Councilman Gross, to adjourn the March 9, 2012, Town Council Regular Meeting at 8:20 p.m. The motion was unanimously carried.