

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES OCTOBER 10, 2014</b>
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**MEETING CALLED TO ORDER**

Mayor Voveris called the October 10, 2014, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

**ATTENDANCE**

PRESENT: Council Members Jim Gross, George Junkin, Tim Saxton, and Mayor Pat Voveris; Town Manager Melvin Cusick; Chief Troy Crowson; and Administrative Assistant Pam Smith

PRESENT BY REMOTE ACCESS: Councilwoman Sue Callaway

EXCUSED ABSENCE: Councilman Al Rae

**APPROVAL AND VOTE OF THE AGENDA**

A motion was made by Councilman Gross, seconded by Councilman Saxton, to approve the agenda as presented. The voting was as follows:

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

AGAINST THE MOTION: None

The motion was unanimously carried.

**ADMINISTRATIVE MATTERS – SWEARING IN OF THE NEW CHIEF OF POLICE TROY CROWSON (DEE BURBAGE AND PAT VOVERIS)**

Town Clerk, Dee Burbage, swore in Troy Crowson as the Town of South Bethany's Chief of Police. Mayor Voveris presented Chief Crowson with his new Chief of Police badge. Mayor Voveris said, "This Council unanimously voted for Troy as our new Chief and tonight we unanimously wish him success in his new job." Everyone applauded. Chief Crowson thanked everyone.

**PROPERTY OWNERS' PARTICIPATION**

- Sandy Raymond (5 N. 3<sup>rd</sup> St.) – Inquired if the Town had a contingency plan if something goes wrong or if something catastrophic happens to Mediacom's infrastructure in South Bethany. Councilman Junkin stated that people in town have options such as satellite TV. Ms. Raymond stated that internet streaming is available through Verizon.

**OLD BUSINESS**

There was no old business to discuss.

**LEADERSHIP REPORTS**

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

The month of September was devoted to work on the process of finding a new Police Chief. Detailed reports were prepared for Council to present information on the candidates interviewed and the recommendation for Chief brought forth by Melvin, Sue Callaway, and me.

The Council unanimously approved our recommendation of Troy Crowson, and today we all congratulate him on his promotion and wish him much success in his new role.

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

The Town has received notification that the Town has been recertified for another year in the Community Rating System program.

The Town has received notice that the home elevation project on Carlisle Road has received FEMA funding in the amount of \$49,200. The project will be funded 75% (\$36,900) by FEMA and 25% (\$12,300) by the homeowner. The Town has to administer this project as it has administered home elevation projects in the past. The Town will bid the project out for competitive bids, and the Town is reimbursed for the administrative duties for the project through the grant program. There are still some issues to work out with the homeowner before the project goes out to bid.

The Town took sealed bids on all of its surplus equipment (mainly three cars and old computers). The Town received bids on all of the items, and the total funds received was \$5,230.49. All of the items are gone.

The bid opening for Bid No. 14-03 All-Terrain Vehicle, which is for the police department, is next Monday, October 13, at 10 a.m.

- **Treasurer's Report**—Councilman Saxton reported as of September 30, 2014:

Councilman Saxton reviewed the Monthly Treasurer's Report of which Council had a copy.

Councilman Saxton stated that revenues are going well. The Town is just about done collecting all of the property taxes – there are three properties that still owe taxes and the Town is still trying to recover those taxes. The Town is at 82% of budget for the transfer taxes which is extremely good. The Town's rental taxes will be coming in this month. The Town is at 83% of budget for the building permits.

At the six month point, most of the expenditures by department are around the 50% mark except the Beach Patrol whose expenses were incurred this summer. Beach Patrol costs will probably come in under budget. The Town did have advertising that was higher than anticipated due to job vacancies in the Police Department that had to be advertised.

- **Police Department Report/Questions**—Chief Troy Crowson reported for the month of Sept., 2014:

The Columbus Day Drive to Save Lives will occur from Friday, October 10, to Monday, October 13. It is a multi-jurisdictional effort to decrease traffic deaths and injuries and it will increase awareness of traffic safety issues across the State of Delaware. There are 42 agencies across the state that are participating in the program.

Chief Crowson gave a PowerPoint Presentation introducing the Smart911 service. Smart911 is a service that allows residents to create a free Safety Profile for their household that includes any information they want 9-1-1 and first responders to have in the event of an emergency. Chief Crowson said it is a very beneficial program to sign up for. For more information or to sign up and create a Safety Profile, visit the Smart911 website at [www.smart911.com](http://www.smart911.com). Chief Crowson stated that if anyone does not have a computer, the Police Department can assist them in signing up. Chief Crowson took questions from the audience.

Ms. Raymond asked Chief Crowson if he would be giving the presentation to other South Bethany organizations. Chief Crowson said he would be happy to give a presentation to any South Bethany organization that contacted him.

## **ORDINANCES/RESOLUTIONS**

- **THIRD READING OF ORDINANCE 173-14, TO AMEND CHAPTER 104, PROPERTY MAINTENANCE, TO DELETE EXEPTION OF RESPONSIBILITY FOR PROPERTY OWNERS OF OCEAN FRONT LOTS TO CUT GRASS AND WEEDS AND TO REINSTATE TOWN HEARING BOARD TO HEAR APPEALS**

Councilman Gross said Ordinance 173-14 essentially permits the Town to enforce regulations by cutting weeds on the oceanfront properties. Up until now, oceanfront has been exempt from that requirement. Councilman Gross stated that it is particularly timely because if you walk Ocean Dr. now you will see big bush like weeds with a yellow flower on it which until now the Town could not require that they be cut. (Administrative Assistant's note: It has been determined since the meeting that this yellow flowering weed is actually Goldenrod, a Delaware herb and therefore it will not be cut.) In addition, Councilman Gross said in Ordinance 173-14 there is a reinstatement of a hearing board that was inadvertently left out of the previous ordinance. Councilman Gross asked for comments on the content of the ordinance. There were no comments.

Mayor Voveris declared this the third reading of Ordinance 173-14.

- **POSSIBLE VOTE ON THE ADOPTION OF ORDINANCE 173-14**

A motion was made by Councilman Junkin, seconded by Councilman Gross, that Council adopt Ordinance 173-14. The voting was as follows:

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

AGAINST THE MOTION: None

The motion was unanimously carried.

- **SECOND READING OF ORDINANCE 174-14, TO AMEND CHAPTER 42, BUILDING CONSTRUCTION, SECTIONS 42-2, 42-5, 42-8, AND 42-14.3.**

Councilman Gross said there was some confusion in the past about the meaning of "repairs" and "emergency repairs". That has been clarified by defining those terms in Ordinance 174-14. In addition there was a requirement that any extensions to a building permit be determined by the Board of Adjustment. That was neither feasible nor proper so that has been changed. Councilman Gross asked for any comments on the content. There were no comments.

Mayor Voveris declared this the second reading of Ordinance 174-14.

- **SECOND READING OF ORDINANCE 175-14, TO AMEND CHAPTER 114, SOLID WASTE, SECTION 114-7, TO ADD A THREE MEMBER HEARING BOARD TO HEAR APPEALS**

Councilman Gross said Ordinance 175-14 adds a three member Hearing Board to hear appeals. The way it is currently written requires the whole Council to hear appeals, which would soak up unnecessary time and is more cumbersome. Ordinance 175-14 clarifies the intent and simplifies this application. Councilman Gross asked for any comments. There were no comments.

Mayor Voveris declared this the second reading of Ordinance 175-14.

**DISCUSSION OF DRAFT FLOODPLAIN ORDINANCE (TRACK CHANGES DOCUMENT) AND APPROVAL TO FORWARD TO DNREC (GEORGE JUNKIN)**

Councilman Junkin made the following points:

- FEMA has required all the communities in Delaware that are in the National Flood Insurance Program (NFIP) to update their floodplain regulations to specifically define terms the way FEMA wants the terms defined and to assign a floodplain administrator (which in South Bethany will be the Code Enforcement Constable).
- DNREC issued a document in March of 2013 which had 15 recommendations of proposed standards that DNREC thought would be a good idea for communities to include in their floodplain regulations.
- The Sea Level Rise (SLR) & Storm Surge (SS) Committee went through the 15 items which were included in the model draft ordinance from DNREC to determine which proposed standards the Town should accept and which proposed standards the Town should strikethrough because they do not apply to South Bethany. In the track changes document, items that the Town wanted to include were left in and items that did not apply to the Town were struck through.
- The SLR & SS Committee accepted 8 of the 15 items. Examples of the items that the SLR & SS Committee struck through are:
  - o Studies in unmapped floodplain areas (all of South Bethany is mapped).
  - o An item relative to freeboard (the SLR & SS Committee said at this stage in the game they are not going to sign up for mandatory freeboard. Councilman Junkin said after it comes back from DNREC and the ordinance has to go through three readings, if at that time Council decides it wants mandatory freeboard Council can put it in.)
  - o A suggestion by DNREC requiring property owners to have at least 18 inches of dirt above the base flood elevation on the property in order to put in a request to get out of the flood zone
  - o Items regarding new subdivisions within the community (South Bethany is already subdivided, and anything South Bethany might annex is already subdivided).
- The most important thing in sending the track changes to DNREC is for DNREC to tell the Town if the Town is allowed to take out the items that the Town has struck through.
- The SLR & SS Committee left freeboard as it is, however, the committee did modify the height requirement slightly in the AE Zone and the AO Zone (since the elevation certificate measures to the top of the floor and not the bottom of the structure that holds the floor, the committee wrote in as a straw-man proposal to require in the A zones the top of the floor to be BFE plus 12 inches).
- If the Council disagrees with the SLR & SS Committee, just because it is in this track changes document doesn't mean it has to be in the document Council approves mid-March 2015.
- If Council approves, the committee will send the track changes document to DNREC for their review and comments.
- After DNREC reviews the document, the Charter and Code Committee will need to review it to make sure it is consistent with everything else in South Bethany's Code. The definitions in the track changes document are FEMA definitions and have to be included in § 145-3 of the Town Code. All changes to the code will have to go through the three reading process by mid-March 2015.
- The SLR & SS Committee did not wordsmith the document because the last time the document went through FEMA it did not get rejected by FEMA. Councilman Gross said that does not mean the Town is not going to improve wording as the Town processes the document. Councilman Junkin said the document is about 41 pages long and it will take some workshop time to go through it, particularly if people want to wordsmith the document.

**Motion:** A motion was made by Councilman Gross, seconded by Councilman Junkin, to forward the draft floodplain ordinance (track changes document) to the State of Delaware to get their response to the Town's straw-man.

**Discussion:**

Councilwoman Callaway asked for confirmation that the Council will go back and decide if Council wants to change South Bethany's code regarding any statements that are in the track changes document that are contradictory or don't match up with South Bethany's current code and include those changes in the three readings process that needs to be completed by mid-March 2015. Councilman Junkin confirmed that the Town's current code will have to be changed and the Town has to be through all of the readings by mid-March 2015. Councilman Junkin stated that Council is not signing anything today – the Town is sending DNREC a draft of what the SLR & SS Committee have worked on to get DNREC's comments.

Councilman Gross stated that Council should work on this document at the next workshop in parallel with the State because time is of the essence. Councilman Junkin agreed.

Referring to a meeting with DNREC that Mayor Voveris and Councilman Junkin attended, Mayor Voveris stated that she remembers DNREC advising the Town to follow this guideline. Councilman Junkin said that is what the SLR & SS Committee did.

Councilwoman Callaway inquired what the consequences are if South Bethany does not agree with something that FEMA has included. Councilman Junkin said the Town could end up out of the NFIP.

**Vote:** The voting was as follows:

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

AGAINST THE MOTION: None

The motion was unanimously carried.

Council agreed to work on the floodplain ordinance at the next Town Council Workshop Meeting.

**CONSIDERATION AND POSSIBLE VOTE TO REINSTATE THE COMMUNICATIONS & PUBLIC RELATIONS COMMITTEE AS AN AD HOC COMMITTEE AND TO APPOINT KATHY JANKOWSKI AS CHAIR OF THE COMMITTEE (PAT VOVERIS)**

**Motion:** A motion was made by Councilman Gross, seconded by Councilwoman Callaway, to reinstate the Communications and Public Relations (CPR) Committee as an ad hoc committee and to appoint Kathy Jankowski as Chair of the committee.

**Discussion:** Councilman Junkin noted that the Town's website has a page for the CPR Committee and the committee's Mission Statement is on the web page. Councilman Junkin stated that the Town is not changing any of that. Councilman Gross stated that the part that is changing is that at the October 3 Town Council Workshop Meeting Council decided to transfer responsibility to the Community Enhancement Committee and out of that it became apparent that the Town could have the CPR Committee as an ad hoc committee. Councilman Saxton asked if the CPR Committee would be its own committee. Councilman Gross said it is an ad hoc committee. Councilwoman Callaway stated that she believes it was discussed that the ad hoc committee would be in place for a year. Mayor Voveris stated that she thinks it should be done on an annual basis. After discussion it was agreed that this ad hoc committee would be in place for the rest of this fiscal year. Mayor Voveris said it would be addressed again at the end of the fiscal year.

Councilwoman Callaway clarified that during this fiscal year the ad hoc committee will be making recommendations and budgeting for FY16. Mayor Voveris said the CPR Ad Hoc Committee Chair will come forward like all of the committee chairs will come forward during the FY16 budget process.

**Vote:** The voting was as follows:

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

AGAINST THE MOTION: None

The motion was unanimously carried.

## **COMMITTEE & COMMISSION REPORTS**

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

### **CEC MEETING**

The Community Enhancement Committee held a meeting on Wednesday, September 24, 2014, at the Town Hall Meeting Room. A final summary of the meeting was posted on the CEC website on Monday, September 29, 2014.

### **Public Comments and CEC Member Comments**

During CEC Comment period, the topic of the town's north and south Welcome Signs were discussed. The signs will be removed, power washed, repaired and repainted in January.

### **Update on the Little Free Library**

Lori Cicero reported that the SBLFL has been used quite regularly. Lori will be leaving SB for the winter months and Pat Weisgerber will take on oversight of the LFL. SB homeowner Linda Lewis has volunteered to assist Pat with this task. The Coastal Point article covering the LFL's dedication is posted on the CEC website.

### **Update on Ocean Drive Art Boards**

The group discussed the outreach to professional and local artists and to photographers. In consultation with artists Tara Grim and Damon Pla, the CEC is finalizing the informational flyers, including responsibility for payment of the scan and/or imaging. The group also agreed that the artwork should be installed on Ocean Drive April 1 and removed December 1.

### **Adopt-A-Canal/Road End Contest**

The announcement of the Adopt Contest winners was featured in the Coastal Point on September 19. The September 13 "Adopt Thank You" party was well-attended and very successful. Thanks to Carol and Todd Stevenson for hosting the party at their home.

The group reviewed and updated the 2012 list of prioritized canal/road ends. Six canal/road ends assigned as "priority A" have been adopted since the 2012 list was compiled. CEC members agreed to reach out to property owners to assess interest in adopting the following canal/road ends labeled "priority A." Those include: W. 10<sup>th</sup> Road End; Brandywine Road End; Henlopen Road End; New Castle Road End; Layton Road End; and; Route 1 between Layton and Godwin.

The group agreed that the 2015 Earth Day adoption should be the proposed re-adoption and design of the Anchorage Forebay area. Sue has spoken with CIB's Chris Basin regarding funding for an official rain garden information sign that is part of the design. He is following up

on the availability of funds for such a sign. In addition, Kent and Bobbe Stephan have agreed to maintain this area.

### **Delaware Forest Service Tree Management Grant Submission**

On October 1, 2014, the Town of South Bethany received notification that we were awarded the DFS Tree Management Grant in the amount of \$5,000! These funds will be used to manage the tree growth within the Richard Hall Memorial Park. The budgeted costs for this task was \$7,390 so this is a substantial savings to the Town and an opportunity to complete the management project at one time. Sue, Melvin and Don met on October 2 regarding the grant and the associated timeline and tasks.

### **Update on Route 1 Median, East and West Side Bio-Retention Beds and York Beach Mall, and proposed landscaped area by Anchorage Forebay**

Fall and winter tasks are underway by the Public Works Department. They have removed the lantana and planted the ornamental cabbages in the Ocean Drive receptacles and are in the midst of spraying and removal of the phragmites. They will begin cutting back the plants in the walkway rain gardens and on the east side of Route 1 behind the new bio-retention areas.

### **Update on Fall installation of Street Signs**

Phase 3 (formerly Phase 4) sign project that includes the installation of 37 street signs on the west side of Route 1 will begin in late fall/early winter. In follow-up to a CEC request, Don Chrobot learned that DelDOT will be replacing all the Rt. 1 signs from Fenwick to Dewey before summer 2015.

### **New Year's Day Plunge and SB TEAM!**

An Email News Update regarding the New Year's Day Plunge and the SB Team was sent out on October 2. Five people have already responded yes to participating on the team!

### **Next Meeting**

The next meeting is scheduled for **Thursday, October 23, at 10:00 AM**. The meeting will be held at the Town Hall meeting room.

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

There was nothing to report – the Budget and Finance Committee did not meet this month. The next meeting is scheduled for October 15.

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

The Charter and Code Committee met on September 24, 2014, with all members present. The following issues were discussed and actions taken.

1. The priority list developed two years ago was reviewed. All items have been addressed with several ordinances prepared and passed. It was agreed that a few remaining items do not need action. Also, it was agreed that the list had been completed.
2. The issue of regulations for fire pits was discussed. Options include: 1) do nothing, 2) clearly prohibit permanent pits (structures) as is now covered in the Code, or 3) prepare an ordinance covering both portable and permanent fire pits. It was decided to request further direction from the Council. Subsequent to the Charter and Code Committee meeting, at the last Town Council Workshop Meeting the Council decided to request that the Charter and Code Committee draft an ordinance which would address both permanent and portable fire pits.

3. Mayor Voveris raised the possible need for additional regulations covering Advertising Signs. The Committee noted that this was addressed by an Ordinance in 2013 and felt that the current requirements are clear: § 145-30. *Permitted signs. B. Signs for maintenance, repairs, painting or similar activities are allowed only when work is in progress.*" It was agreed that the current situation does not need further attention by the Committee at this time.
  4. Joe Hinks asked the Committee to clarify the space requirement between boards in the definition of Floor-to-Area Ratio (FAR). The Committee agreed to prepare an Ordinance to clarify this issue.
- **Canal Water Quality Committee** – Councilman Junkin reported:
    - **Grant Activity**
      - **Large oyster cages and floating wetlands in South Bethany Canals**
        - Three people (Bart Wilson, EJ Chalabala and Eric Buhl) from the CIB who were working on this project have moved on.
        - From Chris Bason, "Just wanted to update you that the subaqueous lands permit for this project from DRNEC should be available by OCT 17. We are now pursuing a scientific collecting permit with DNREC F&W that will allow us to work around the later than anticipated issuance of the other permit. If all goes accordingly we should be doing the install the week of OCT 20. Thanks for your patience and I will be keeping you in the loop!" Councilman Junkin stated that they have installed two continuous water quality monitors. One is at the south end of the Carlisle Canal and one is in the York Canal.
    - **Diffuser Pilot Program**
      - A report will be compiled in the November/December time frame to compare the water quality of the Petherton Canal, which has diffusers, to the water quality of the Brandywine Canal, which does not have diffusers.
    - **"Love Our Inland Bays Dinner"** <http://inlandbaysfoundation.org/>
      - **The Inland Bays Foundation and the League of Women Voters invite all to join them and Governor Markell** to learn more about "Clean Water for Delaware's Future."
        - When: Thursday, Oct 16, 2014; 5:30 pm cocktails, 6:30 pm Dinner
        - Where: Irish Eyes Restaurant, 2nd floor, at 213 Angler's Rd, Lewes
        - Cost: \$40 per person; Cash bar, prepaid registration by Oct 13th
    - **Modeling of South Bethany Canals**
      - I am soliciting two vendors relative to their capabilities and costs to perform an analysis to determine the benefits of connecting the dead ends of our canals to increase circulation. Cardio Entrex is the company that did the analysis for the tidal pump. They have found their old model and it will run on their new software so it may not cost as much as originally thought, but Councilman Junkin does not know the answer to that yet.
  - **Sea Level Rise (SLR) and Storm Surge (SS) Committee** – Councilman Junkin reported:
    - The last meeting of the committee was Friday, October 3. (See meeting minutes for details.)
      - The committee finished their review and mark up of the DNREC model code to prepare for submittal to DNREC for review and to the Charter and Code (C & C) Committee for processing. (See meeting minutes for details.)
      - The committee is split on whether freeboard should be made mandatory.

- All members of the committee did agree that in the AE and AO Zones (where the elevation measurements are made to the top of the lowest floor rather than the bottom of the lowest floor) the top of the lowest floor should be equal to or higher than BFE plus 12 inches, so that all the floor structure would be above BFE.
  - The committee came to a consensus on a recommendation to Council relative to allowable and required bulkhead height. That recommendation is, "Homeowners should have an option to increase their bulkheads up to one (1) foot above the road adjacent to their lot and that it be mandatory that homeowners who replace their bulkheads must have them at least as high as the road adjacent to their lot or at least as high as 3 feet NAVD, whichever is lower." The committee did not attempt to develop the code words that would be required. They believed that was a task for the C & C Committee and for Council. Councilman Junkin said he would like to have this on a workshop agenda for discussion.
  - The committee came to a consensus on a recommendation to Council relative to steps in the setback for houses that have at least two feet of freeboard. That recommendation is, "Allow steps to protrude into the setback for a distance of 3 feet and a width of 5 feet maximum if the house has two feet of freeboard. This would apply to new construction or to a house that is raised." Again the committee did not attempt to develop the code words that would be required. They believed that was a task for the C & C Committee and for Council. Councilman Junkin said he would like to have this on a workshop agenda for discussion.
- **Planning Commission** – Councilman Rae reported:

In Councilman Rae's absence, there was no report.

### **PUBLIC COMMENT**

Mike Matera (311 W. 9th St.) – Asked if there is a fine if people leave their recycle can out in front of their house for a week or so. The Town Manager said the Town does have the ability to fine those people, but the Town warns them first before fining them.

Councilman Gross stated that the Town needs to remind the trash hauler to put the recycling carts back where they found them rather than just pushing them to the edge of the road. Councilman Junkin added that the trash crews put the trash cans back but the recycling crews do not put the recycling carts back. Mr. Cestone noted that the crew that picked his recycling up Friday laid the recycling cart down rather than putting it back to where it was.

Mike Matera (311 W. 9th St.) – Asked Councilman Junkin if putting a pipe under the street at W. 7th St. from the canal to the ditch that goes into the wetlands would improve water quality. Councilman Junkin said that is one of the things that can be looked at in the analysis he spoke of in his Canal Water Quality Report. Councilman Junkin noted that DNREC's approval would be required for installing such a pipe.

### **ADJOURNMENT**

A motion was made by Councilman Junkin, seconded by Councilman Gross, to adjourn the October 10, 2014, Town Council Regular Meeting at 8:10 p.m. The voting was as follows:

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

AGAINST THE MOTION: None

The motion was unanimously carried.