

<b>TOWN OF SOUTH BETHANY TOWN COUNCIL REGULAR MEETING MINUTES SEPTEMBER 13, 2013</b>
--

**MEETING CALLED TO ORDER**

Mayor Jankowski called the September 13, 2013, Town Council Regular Meeting to order at 7:00 p.m., followed by the Pledge of Allegiance to the Flag.

**ATTENDANCE**

PRESENT: Mayor Kathy Jankowski; Councilpersons Al Rae, Jim Gross, Tony Caputo, Sue Callaway, George Junkin, and Pat Voveris; Town Manager Melvin Cusick; Cpl. Mark Burton; Beach Patrol Captain Ryan Dacey; and Administrative Assistant Pam Smith

**FY 2013 AUDIT (SOMBAR & COMPANY)**

Mayor Jankowski introduced Mr. Tom Sombar of Sombar & Company who presented the highlights of the FY 2013 Audit Report and took questions from the Council. Mr. Sombar reviewed the Town of South Bethany's Audited Financial Statements and Supplemental Information for Fiscal Year Ended April 30, 2013, (With Comparative Year Analyses 2012, 2011, 2010) of which Council Members had a copy. The report is available for review at Town Hall and on the Budget and Finance Committee page of the Town's website, [www.southbethany.org](http://www.southbethany.org). Overall the Town had in Total Assets \$3,629,369 and in Total Liabilities \$187,963. This produced Total Net Assets of \$3,441,406.

Councilman Caputo asked for Mr. Sombar's comments regarding Council amending the budget. Mr. Sombar said he believes Council should determine appropriate circumstances to amend the budget. Mr. Sombar believes Council should consider amending the budget primarily when there are events or situations that could not have been anticipated in the budget formation process - an unanticipated event for expenditures and particularly grants that come in that assist with those expenditures. Council should consider amending the original budget to deal with that new grant or that new unanticipated expense. Mr. Sombar gave the following examples: 1) unexpected expenditures as well as grant money associated with Hurricane Sandy, 2) grants that were not anticipated. Referring to the audit report, Mr. Sombar stated that if Council amended the budget, the audit report would still have the "Original" budget column and the "Final" budget column. These two columns would present what Council originally established as the budget and the amended budget. Councilman Caputo stated that if there is something that is definitive, Council should deal with it. Later in the meeting Mr. Sombar stated that most towns do not change the budget, but Mr. Sombar does not think that is right. Councilman Rae said he is not convinced the Town of South Bethany should. Councilman Rae said by not amending the budget they stand out more and therefore it draws attention to them. Mr. Sombar said he thinks that is where the bottom line is - how distressing is it if you don't amend the budget or what value do you gain by amending the budget.

Regarding the realty transfer tax issue, Councilman Caputo said the State has restrictions on how the Town may use it. Councilman Caputo said he believes it is a record keeping issue as to how Council determines these taxes are used. Councilman Caputo said Council has a lot of latitude and accordingly Council could be moving monies from restricted fund balance from other governments to unrestricted. Mr. Sombar agreed and he encouraged it if that is Council's decision.

Councilman Caputo asked Mr. Sombar what is a reasonable amount of fund balance that Council should manage. Mr. Sombar stated that he believes a good indicator is the relationship of the unassigned or unencumbered general fund balance to general fund expenditures. Mr. Sombar believes anything that is over four or five months (the Town of South Bethany is at six months) is

excellent. He added that basically this says the Town of South Bethany can operate without taking a penny of revenue in for six months.

Councilman Caputo asked for Mr. Sombar's reaction to encumbrance accounting and how the Edmunds program will stop the Town in its tracks if expenditures are exceeded. Mr. Sombar stated that he thinks it is a good thing, particularly in the last three months of the year because the Town needs to be aware of those situations where it could be over budget in certain categories. Encumbrances will hopefully make that more noticeable and controllable.

Councilman Caputo stated that he believes that when the Town produces financials, particularly expenses, they should have inception to date against budget. Mr. Sombar agreed and said the more information presented to Council the better.

Mayor Jankowski thanked Mr. Sombar and said she would like to take up at a workshop what Mr. Sombar has shared with Council. Councilman Rae agreed suggesting an educational session to help Council get a better comfort level on that approach. Councilman Gross stated that at the same time Council might address Mr. Sombar's comments in the transmittal letter.

Councilwoman Voveris pointed out to Mr. Sombar that regarding the pension he might want to change the language due to part-time employees that meet certain criteria.

Regarding Municipal Street Aid (MSA), Councilwoman Callaway asked if the Town does not spend the MSA funds would the Town be in jeopardy of not getting more the next year. Mr. Sombar said no. He added that the State has a formula based on streets and population. Mr. Sombar added that he thinks at some point in FY14 the Town will not be able to use MSA funds for Public Safety. Councilwoman Voveris stated that a large chunk of the MSA funds is allocated in the ARM account.

#### **PROPERTY OWNERS' PARTICIPATION**

- Mike Matera (311 W. 9<sup>th</sup> St.) – Referring to the Code Enforcement Constable Report where the Code Enforcement Constable reported 127 Violation Notices for Trash/Recycle Carts, Mr. Matera asked if the Code Enforcement Constable goes back and gives a ticket if the cart stays out. The Town Manager stated that the Town has not given anyone a fine so far – the Town is in the "warning mode". Mr. Matera suggested fining violators. Councilman Gross stated that there was a lot of change in the solid waste ordinance and the feeling was that the Town would be somewhat lenient during this first implementation of the ordinance. The Town Manager noted that a lot of people have complied. Mayor Jankowski said this has just occurred recently, a lot of people are complying, and the Town will find out how many don't comply and then take action.
- Jack Wise (146 Evergreen Road) – Inquired if there was anything in the Town Charter that requires the Town to keep its money federally protected versus going to mutual funds. Mayor Jankowski said yes there is, and in order to go to mutual funds there would have to be a Charter change.

Regarding amending the budget, Mr. Wise stated that he does not agree that if the Town has extra money the Town should change the budget and spend it. Mr. Wise would rather see the Town take it as a credit against next year's budget or give the money back. Mayor Jankowski said she thinks what the intention here is reflecting the information in the reporting and in the budget itself – not actually taking the money and spending it.

- Maria Johansen (3 S. Anchorage Ave.) – Thanked Councilman Junkin for a wonderful presentation (The Building of the Canals in South Bethany) on September 12, 2013, at the South Coastal Library. Ms. Johansen thanked all of the Council Members for attending. She noted that there were 109 people in attendance.

- Tom Roche (141 Henlopen Dr.) – Suggested an article be put in the ZEPHYR or an email News Update sent out recognizing the South Bethany volunteers that participated in the Warrior Beach Week (Operation Seas the Day) that ended on September 8.
- Jack Wise (146 Evergreen Rd.) – Stated that it is difficult for the property owners to follow the audit presentation with no documents to look at. During discussion the Finance Director stated that the audit will be posted on the Town's website next week.
- Mary Suazo (7 S.3<sup>rd</sup> St.) – Stated that she is very pleased with the five little lights that have been put along Ocean Dr. Ms. Suazo hopes the Town finishes putting them up because they do look nice and they really help the town.
- Carolyn Marcello (8 S. 9<sup>th</sup> St.) – Ms. Marcello had three items: 1) Thanked the Mayor and Council for considering (no matter what decision Council makes) recognizing her sister, May Fellerski, adding that May loved this town and worked hard to establish it at the very beginning, 2) Thanked Councilman Rae for thinking of having citizens of South Bethany display their work (photos, art, etc.), and 3) Life Chain Sunday is October 6 from 2 p.m. to 4 p.m., and people will be standing along the highway (in South Bethany, Lewes, Dover, and Wilmington) holding signs praying for our nation and for an end to abortion.
- Steve Achuff (1006 S. Ocean Dr.) – Inquired if the fencing on the west side of the dune, specifically the fencing that runs north-south, is going to be replaced. The Town Manager stated that today the Army Corps of Engineers assured him that everything would be restored and the work would begin in 30 to 60 days. He added that the repair project also includes the planting of the dune grass. Mayor Jankowski stated that the Town is watching it. Mayor Jankowski stated that personally she wants to make sure that the dunes are in good shape before Memorial Day Weekend so that when people come down it is a safe environment for everybody. Mr. Achuff stated that in addition to appearance of the fence, or lack thereof, it is a matter of people tromping all over the new dunes.
- Mike Matera (311 W. 9<sup>th</sup> St.) – Inquired what the Town was going to do with the old street signs. Councilwoman Callaway stated that the Community Enhancement Committee had talked about selling the east side signs at the SBPOA Bull Roast as a fundraiser. And when the west side street signs are replaced (the next go round), there is a boy scout who wants to label all the canal ends on the canal side with street signs so that when you are on a boat you know what street you are at.

#### **ADOPTION OF MINUTES**

- **Town Council Regular Meeting Minutes, August 9, 2013** – A motion was made by Councilman Junkin, seconded by Councilwoman Voveris, to accept the August 9, 2013, Town Council Regular Meeting Minutes. The motion was unanimously carried.
- **Town Council Workshop Meeting Minutes, August 22, 2013** – A motion was made by Councilman Gross, seconded by Councilwoman Voveris, to accept the August 22, 2013, Town Council Workshop Meeting Minutes. The motion was unanimously carried.

#### **LEADERSHIP REPORTS**

- **Mayor's Report**—Mayor Jankowski reported:
  1. We sponsored the Sussex County Association of Towns (SCAT) dinner on Wednesday, September 11. Over 100 people were in attendance.
  2. We believe the beach replenishment has been completed. The Town Manager will give a more complete report.

3. South Bethany will be presented with an award for its partnership with the Center for the Inland Bays (CIB). This will occur during the annual appreciation barbeque held at James Farm on September 28.
4. The next Route 26 construction meeting will be held on October 1 in the conference room at the Millville Town Hall.
5. Thank you, George, for the enlightening presentation on the history of our Canals held at the library.

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

The Town's annual Community Rating System update is due October 1. The staff has almost completed the update and it will probably be sent to the Insurance Service Office next week.

At the SCAT Steering Committee meeting this morning, SCAT voted to send a letter to Attorney General Biden and mention their displeasure with the results of the speaker at the September 11 SCAT Dinner Meeting and ask for SCAT's input on the manual regarding FOIA that supposedly is being worked on.

Beach Replenishment – The Army Corps of Engineers representative told the Town Manager today that anything that was damaged from the hurricane (Superstorm Sandy) would be repaired with this project. The representative said there was not a shortage of money for repair and that repairs included walkways, sand fencing, and dune grass. The representative did note that they have not started on walkways in Fenwick and the pumping has been completed there for almost 30 days.

The Town Manager stated that he had received an email late today, which he gave Council a copy of, with an explanation about why sand wasn't pumped onto Sandpiper beach. Councilman Rae said that he disagrees with the explanation. Councilman Rae believes the Town needs to keep fighting this battle. The Town Manager suggested that Mayor Jankowski put in a call to Tony Pratt (DNREC) because he is the one that has the final say. Mayor Jankowski said she will call Tony Pratt and ask him to come down and look at it. Councilman Rae thanked the Town Manager for getting the explanation.

Councilman Gross suggested that the Maintenance Department also submit a brief monthly report for the Town Council Regular Meetings – a one pager of what they did last month. Councilman Gross believes the department reports are helpful. The Town Manager said he would like to think about it. Mayor Jankowski said we can discuss it.

- **Treasurer's Report**—Tony Caputo reported as of August 31, 2013:

**Fiscal 2013 Final Audited Financial Statements Surplus/Fund Balances for all Funds**

Fund Balances May 1, 2012	\$ 1,574,490
Net Revenues less Expenses	<u>227,284</u>
Fund Balances April 30, 2013	<u>\$ 1,801,774</u>

**Fund Balances Breakdown for all Funds**

Non Spendable (Deferred Expenses)	\$ 7,602
Restricted by other governments (MSA & RTT)	792,114
Unassigned	<u>1,002,058</u>
Fund Balances April 30, 2013	<u>\$ 1,801,774</u>

**Fiscal 2014 Year-to-Date (5/1/13 – 8/31/13) Revenues and Expenditures**

	<u>Actual</u>	<u>Budget</u>	<u>Difference</u>
Total Revenue	\$ 1,273,110	\$ 2,223,916	\$ (950,806)
Total Expenditures	<u>927,522</u>	<u>2,223,916</u>	<u>1,296,394</u>
Revenue less Expenditures	<u>\$ 345,588</u>	<u>\$ 0</u>	<u>\$ 345,588</u>

**Fiscal 2014 Departmental Budget to Actual Summary Year-to-Date as of September 5, 2013**

<u>Revenues:</u>	<u>Actual</u>	<u>Adopted Budget</u>	<u>%</u>
Property Taxes	\$ 486,009	\$ 494,540	98.27
Realty Transfer Taxes	97,004	255,000	38.04
Gross Rental Taxes	2,780	518,450	0.54
Net Reserve Transfers In from ARM & MSA	25,184	19,700	127.84
All other revenue	<u>687,317</u>	<u>936,226</u>	73.41
Total Revenue	<u>\$ 1,298,294</u>	<u>\$ 2,223,916</u>	58.38
<u>Expenditures:</u>			
General & Administrative Department	\$ 214,080	\$ 565,526	37.86
Public Works Department	69,255	187,178	37.00
Public Safety Department	223,710	639,910	34.96
Beach Patrol Department	186,166	227,762	81.74
Town Committee	3,919	31,378	12.49
All Others (e.g. – grants, ARM, etc.)	<u>230,392</u>	<u>572,162</u>	40.27
Total All Expenses	<u>\$ 927,522</u>	<u>\$ 2,223,916</u>	41.71

Councilman Caputo said the Town has an accumulated surplus fund balance of \$1.8 million. The Finance Director and Councilman Caputo are going to work on making sure they are on top of keeping as much unrestricted as they possibly can.

**Note** - There are no known unexpected material revenue or expenditures items to report.

Councilman Caputo stated that the Town receives much of its income early in the fiscal year because the Town bills taxes, ambulance, and trash up front and pays for it for the rest of the year. Consequently, at this particular time, cash flow and revenues exceed expenses; however, that will work in the opposite direction going forward.

Council Discussion: Councilwoman Voveris inquired about an unexpected expense in the contingency fund in August in the G & A account of \$320. The Town Manager said the Town did have to replace the server in Town Hall.

Council Discussion: Regarding transfer taxes, Councilwoman Voveris stated that the Town is 20% down from the same time last year. Councilwoman Voveris said this could be a direct result of Hurricane Sandy. Mayor Jankowski stated that she did hear from one of the realtors that the ocean sales were good but the sales on the canal side were not moving. Councilwoman Voveris said she added up the four months for the same time last year and the transfer taxes were down 19%. Mayor Jankowski stated that it is something to watch out for. Councilman Gross agreed and added that if the Town has a big shortfall Council may need to look at what to do about it regarding the budget. Councilwoman Voveris stated that last year was a banner year and FY14 Budget was predicated (based) on last year.

**Update on Implementation of Edmunds Financial System**

The Edmunds Financial System is an on-line interactive and integrated system expressly designed for local governments. It's used by a number of local governments in Delaware. Edmunds Associates is located in NJ.

- 1) The Town should be in full production by the end of September.
- 2) We (Renee and Tony) set up 8 funds (separate general ledgers) that includes the following funds: General, MSA, SALLE, EIDE, .5% Realty Transfer Tax, 1% Realty

- Transfer Tax, Fixed Assets and Beach Patrol Donations. There are some Grants properly accounted for in the General Fund.
- 3) The Adopted Budgets have been loaded. Budget controls and encumbrance processing are working.
  - 4) The General Ledger agrees to the Revenue Ledger, Expense Ledger and Open Purchase Orders.
  - 5) Payroll interfaces are working.
  - 6) We are getting very comfortable with transaction processing.
  - 7) The Fixed Asset Module needs to be implemented (the Auditor gave us supporting listings.).
  - 8) Historical information needs to be loaded.
  - 9) Reporting for Council needs to be reviewed in connection with Edmunds reporting.
  - 10) Office practices and business issues need to be reviewed in light of the new system.

Councilman Rae thanked Councilman Caputo and the Finance Director for their hard work on the transition. Mayor Jankowski agreed.

- **Police Department Report/Questions**—Cpl. Mark Burton reported for the month of Aug., 2013:

- Overall for the month
- Three people were hurt on Route 1 (two were on bicycles and one was a pedestrian. A fourth person was injured right outside of South Bethany near the Cottage Café.
  - Six loud party complaints.
  - A handful of false residential alarms.

Cpl. Burton reminded property owners that if they are out walking or bicycling to always expect vehicles not to see them. Cpl. Burton encouraged everyone to use every piece of safety equipment they can because each of the above accidents occurred because the pedestrian or the person on the bike was not seen.

Referring to Ms. Suazo's statement about the lights on Ocean Drive, Cpl. Burton said the lights do help on the ocean block – he loves the lights and he wants more of them.

- **Beach Patrol Report**—Capt. Ryan Dacey reported:

The Beach Patrol had a good month and a good season and is wrapping things up. The Beach Patrol had 13 rescues from rip currents. For the first time in Capt. Dacey's ten years, a dolphin washed up on the south end of the beach near Logan St. Cause is unknown.

Mayor Jankowski thanked Capt. Dacey for a great season and for getting all of the new guards trained.

### **ADMINISTRATIVE MATTERS**

- **Discussion and possible vote on dedicating the Town Council Meeting Room to May Felerski**

Mayor Jankowski noted that Council had previously discussed this topic at a Town Council Workshop Meeting.

A motion was made by Councilman Junkin, seconded by Councilwoman Callaway, to dedicate the town meeting room to May Felerski. Mayor Jankowski asked for discussion. Councilwoman Voveris inquired about the plaque. Mayor Jankowski stated that the Historical Society is going to work on the wording on the plaque and bring a proposal to Council. Mayor Jankowski called for a vote. The motion was unanimously carried.

- **Discussion and possible vote to approve the Planning Commission's revised Rules of Procedures**

Mayor Jankowski noted that the only change to the Rules of Procedures is the change to the number of people. A motion was made by Councilman Gross, seconded by Councilman Junkin, to approve the changes of the Town of South Bethany Planning Commission By-Laws and Procedures. The motion was unanimously carried.

- **Discussion and possible vote on Reappointment of Planning Commission Members – Philip Arbaugh and John Stefani**

A motion was made by Councilman Gross, seconded by Councilman Junkin, to approve these two nominations. The motion was unanimously carried.

- **Discussion and possible vote on Reappointment of Board of Adjustment Member – Ed Chase**

A motion was made by Councilwoman Voveris, seconded by Councilman Junkin, to reappoint Ed Chase to the Board of Adjustment. Mayor Jankowski asked for discussion. During discussion Councilman Rae stated that about two years ago the Council agreed that any new members should attend the class in Dover for members of the Board of Adjustment. Because Mr. Chase is not a new member, Councilman Rae inquired if Mr. Chase has attended the class. Mayor Jankowski said the Town will check on it and will make sure that he attends if he has not already attended. Councilman Gross asked if there were others that expressed an interest in the position. Mayor Jankowski said she did not receive any requests from anyone. Mayor Jankowski called for a vote. The motion was unanimously carried.

## **COMMITTEE REPORTS**

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

The Community Enhancement Committee held a meeting on Wednesday, August 21, 2013, at the Town Hall meeting room from 1:00 pm to 3:00 pm. The following individuals were in attendance: Sue Callaway, Chair; Donna Farrow; George Junkin; Barbara Sears; Kent Stephan; Bobbe Stephan; Carol Stevenson; and Don Chrobot, Maintenance Supervisor. Also in attendance was Joe Hinks, South Bethany Code Enforcement Officer.

### **Dialogue with Joe Hinks, South Bethany Code Enforcement Officer**

The group held a dialogue with Joe Hinks to discuss community enhancement issues; to promote further understanding of the role of code enforcement and the process involved in code violations; to explore ways to work together; and to ask questions about specific concerns. Joe believes that there are community standards which property owners must adhere to and he is committed to making sure ordinances are upheld and that the appearance and maintenance of SB homes is directly linked to property values and the overall look of the community. Some other issues discussed were: concerns about properties that are either for sale and have "languished" on the market for long periods of time or are owned by older individuals who are unable to care for the properties and which in some cases, families are not permitted, interested or have the resources to maintain the properties; overgrown lawns and mowing lawns can be a laborious task – owners are frequently unaware of the lawn growth and state "we don't know who to get to do it;" how courtesy calls often find property owners frustrated with the responsibilities of taking care of the property but are attached to the property through years of ownership and fond memories; the use of property owner ropes and signs such as "no parking" and "no trespassing" on unimproved or improved lots; the enforcement process which includes sending a very specific letter to homeowners referring to a specific code – a compliance due date – a photograph of the violation – and his contact information for follow-up; the availability of the town's "Blue Sheet" for complaints and that such written complaints are anonymous; and recent enforcement focus on

identifying properties who violate the removal of trash or recycling cans for which he has seen an improvement in response to these notices. The group agreed that property improvements and maintenance are important and supported his vigilance in homeowners following up with such tasks. Joe also stated that a considerable amount of his time is spent on issuing building permits for new construction and also for repair projects.

Council Discussion: Councilwoman Callaway added that they also talked about some homeowners who take it upon themselves to put up signs of different kinds whether it is no trespassing, no parking, etc. Councilwoman Callaway stated that the Code Enforcement Constable is going to follow up on the signs they discussed and there is some gray area on some of those signs. Councilman Rae said it is an especially big problem on the east side of the highway. Councilwoman Callaway said their discussion with the Code Enforcement Constable was about signs on the west side of the highway. Councilwoman Callaway suggested that Councilman Rae send the Code Enforcement Constable an email regarding signs on the east side of the highway. The Town Manager stated that sometimes the Police Chief gets involved with having property owners remove the no parking signs that property owners have put up.

#### **Update on Ocean Drive Alternative Lighting Trial Test**

The CEC has been exploring alternative lighting options to the street lights. The Delmarva Power street lights at two locations were removed in early July due to lack of community support. The neighbors had no interest in trying the proposed surrounds.

Following a suggestion by committee member John Speer, the CEC unanimously voted to extend the decorative, solar-powered light effort (currently one is located on top of the S. 2<sup>nd</sup> Street sign) to four additional locations adjacent to the current one so the impact of the solar lighting could be evaluated. Funds remain in the CEC lighting category for this purchase. Three additional lights have been installed – Don is awaiting replacement for the 4th light that arrived broken!

Council Discussion: A discussion ensued regarding the solar-powered lights. Councilwoman Voveris inquired how much the lights would be. Councilwoman Callaway said they cost about \$200, and they are the highest grade solar-power lights the committee can find. Councilwoman Callaway asked two property owners in the audience who were a couple if they had seen the solar-powered lights on Ocean Drive. The woman had seen the lights and she liked them. The man had not seen the lights. Councilwoman Callaway welcomed feedback from the community on the lights. Councilman Rae asked what the plan is with these five solar-powered lights, and is the Town going to survey the property owners nearby (property owners that are directly affected) to have their opinion. Councilwoman Callaway said she does not know if the Town is going to do that. Councilwoman Callaway said there are five solar-powered lights up now to get a sense of how the community feels about the five and for the committee to see what kind of an impact it makes regarding light and ambiance. The five solar-powered lights are on five different street signs on or adjacent to S. 2<sup>nd</sup> St. Councilwoman Voveris asked if there is going to be a solar-powered light on every street. Councilwoman Callaway said there could be one on every street. Councilwoman Callaway said the solar-powered lights are very different from a street light, but they do give some light. Councilman Junkin said the solar-powered lights cast a little bit of light – almost 70 feet. Councilman Gross said that the light from the solar-powered light is very low. Councilman Gross stated that Council never did authorize the expenditure for the solar-powered lights. Councilwoman Callaway said Council did authorize the Ocean Drive Alternative Lighting Trial Test. Councilman Gross said Council wants to respond to the public regarding the solar-powered lights. Councilman Gross stated that if the public wants the solar-powered lights that is fine. Councilman Gross recalled that the 2011 Comprehensive Plan Community Survey results said that 70% of the people do not want lights on the streets. Councilwoman Callaway stated that the solar-powered lights are not street lights.

Public Comment: Ms. Suazo said it is a safety issue. She added that it is very dark and very isolated on Ocean Drive and it doesn't look like it is part of our town. She stated that the solar-powered lights cast just enough light that it takes away the look of desertedness.

Council Discussion: Councilman Rae said at the time when Council authorized the two street lights that have since been removed, Council talked about the procedure the Town has used in the past, and the procedure was that the lights have to be approved by Town Council and that the neighbors affected nearby have to be surveyed. Councilman Rae said now we are talking about five new lights and he does not remember Council talking about these five new lights.

Councilman Rae is wondering where the five new solar-powered lights came from, and did Council approve the five new solar-powered lights. Councilwoman Callaway said the five solar-powered lights came from the Community Enhancement Committee. Councilwoman Callaway said the Town Council approved a test lighting project on Ocean Drive. The committee had one solar-powered light on Ocean Drive that proved nothing. The Community Enhancement Committee voted unanimously to try multiple solar-powered lights using the remaining funds in the budget that the committee had for the test lighting project so that the committee could determine whether or not multiple solar-powered lights would have an impact – the committee couldn't tell from just one solar-powered light. Councilman Rae said the Town has an established procedure for new lights and he believes the Town Council should follow that. Councilwoman Callaway stated that the Council voted almost two years ago for the Community Enhancement Committee to pursue an Ocean Drive lighting initiative – Councilman Rae said Council talked about two specific lights that Council voted on. Councilman Rae said we are where we are and the solar-powered lights are in place. Councilman Rae suggested that going forward the committee adhere to the established town procedure. Councilwoman Callaway asked if the Town needs to survey the entire east side. Councilman Junkin said if it turns out that people like the solar-powered lights and the Community Enhancement Committee recommends putting them along the whole Ocean Drive, the Town should survey the Ocean Drive people to get their opinion. Councilman Rae said he is not disagreeing with the solar-powered lights – what he is saying is there is a town established procedure and it should be in the control of the Town Council not in the control of the Community Enhancement Committee to establish new lights. Mayor Jankowski suggested that going forward sending something out to the residents of Ocean Drive asking them their opinion of the solar-powered lights. Councilman Junkin and Councilman Gross agreed. Councilwoman Callaway suggested letters to everyone on the east side because everyone on the east side benefits or does not benefit. Councilman Junkin believes the people that have to be surveyed are the property owners whose lots touch Ocean Drive because the light does not shine on any house further away from that. The Town Manager asked if the Council could vote on whether Council wants a letter to go out so the staff knows what to do and so that it is in the meeting minutes. Councilwoman Voveris pointed out that there is a line item on the budget last year named Ocean Drive Alternative Lighting Trial Test and Council allocated \$1,000. Councilman Rae said that is not the issue – the issue is the authorization of specific lights.

**Motion:** A motion was made by Councilman Rae that in accordance with established Town procedure any additional lights anywhere in town go through the established procedure of being approved by Town Council. Councilwoman Callaway stated that she disagrees with the motion and that Councilman Rae is expanding it. Mayor Jankowski said she was thinking of a motion to send out a letter to people on Ocean Drive. Councilwoman Callaway stated that it makes it sound like the CEC has done something that violated Town procedure. She emphasized that the CEC had adhered to the established Town procedures. Councilwoman Callaway said she has been very upfront about the alternative lighting initiative and the testing process. Mayor Jankowski stated that she was trying to get for the record what the Town is supposed to be doing. Councilman Rae said his motion is that the Town follows established town procedure which includes Council approval and survey and all of the other specifics of the procedure. Councilman Gross seconded the motion. Mayor Jankowski asked for discussion. Councilwoman Callaway said she is not clear on what the motion is saying and she does not like the way the motion is worded. Councilman Junkin said if Council thinks it would be a good idea to put lights up along Ocean Drive then the procedure would be the property owners that are affected by that light

would be surveyed and then the Town Council would decide whether they are going to put the lights up or not. Councilwoman Callaway said she understands that, but she thinks the motion could have been simplified by saying that the Council wants to prepare a letter to be sent to all the property owners along Ocean Dr. Councilman Rae said that is part of the procedure.

**Vote:** Mayor Jankowski called for a vote. The motion carried with a 6-1 vote. Councilwoman Callaway opposed the motion. Councilwoman Callaway pointed out that she is not opposed to the idea of letters being sent to property owners but is opposed to the wording of the motion.

Public Comment: Mr. Roche stated that it seems to him the Community Enhancement Committee still has the authority to investigate in their Ocean Drive Alternative Lighting Trial other avenues of lighting as opposed to the two Delmarva Power street lights. Councilman Rae agreed. Mr. Roche believes the committee should continue with what they are doing. Councilman Rae said the procedure is the committee should investigate and recommend and the Town Council should vote on it.

The Town Manager stated he is not sure the Town is ready to send the survey out unless the Town knows how many lights are going to be along Ocean Drive.

Councilwoman Voveris questioned how a property owner will know how the solar-powered light will affect them if the trial solar-powered light is not by their house.

### **Bio-Retention Areas Along the East Side of Route 1**

Structural design plans have been completed by project director Larry Trout of AMT and will be presented to the town and CIB at a meeting on Monday, 9:00 am September, 23<sup>rd</sup> at the Town Hall meeting room. Sue Callaway and Don Chrobot will be attending the meeting. In addition, Sue Barton of the University of Delaware will be attending to discuss landscape design ideas for the 17 bio-retention areas on the east side. The group will also conduct an onsite visit of the east side areas. It is assumed that construction will start shortly thereafter.

Public Comment: Mr. Wise inquired if the Code Enforcement records are available for property owners to look at for properties that are in disrepair in their area. The Town Manager stated that if there is a particular property of concern, call the Code Enforcement Constable and give him the address of the property to make sure the Code Enforcement Constable is aware of it. Mr. Wise asked if the Code Enforcement Constable just drives around town or does he walk the properties. The Town Manager said he does both.

### **Update on Adopt Program**

The Adopt Beauty Contest, was held between Friday, August 23 and Monday, September 2. An Email News Update announcing the contest was sent to SB homeowners on August 21 and an additional reminder on August 28. *Coastal Point* featured an article about the Adopt Beauty Contest in its August 23 addition. Thanks are extended to Bobbe Stephan and Carol Stevenson who joined Sue Callaway on Friday, September 6, to count the Adopt Beauty Contest ballots and determine the results. We received 156 ballots. A results email announcing the top five winners was sent to all Adopters on Saturday, September 7. Carol Stevenson and Dick and Maryanne Schmitt whose Bayshore Drive canal end won the contest, were presented with a \$100 gift certificate from Lords Landscaping on Monday, September 9. Along with Mike Lord, Mayor Kathy Jankowski and *Coastal Point* reporter Maria Counts and photographer Chris attended. We appreciated their support.

In addition, we have confirmed adoption of the Petherton Road End; the canal end along Canal Drive between W. 5<sup>th</sup> and W. 6<sup>th</sup> Streets; and the canal end along Canal Drive between W. 7<sup>th</sup> and W. 6<sup>th</sup> Streets. We now have a total of 23 adopted canal/road ends.

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

We have not held a meeting since June. Councilman Caputo plans to have his first Budget and Finance Committee meeting in October.

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

Before talking about Canal Water Quality, Councilman Junkin stated that he attended Operations Seas the Day Veterans of Foreign Wars Post 7234 dinner. Represented were Tony McClenney from Bethany Beach, Gordon Wood from Ocean View, Gerry Hocker (Gerald's son) from Millville, and George Junkin from South Bethany. Also Senator Carper, Gerald Hocker, Ron Gray, George Cole, and George Bunting were there. The purpose of the event was to honor 25 wounded warriors and their families. It was very moving and a nice presentation. Mayor Jankowski thanked Councilman Junkin for going.

- **Diffuser Pilot Project in the Petherton Canal**

As reported in the May *Zephyr*, six diffusers were installed in the Petherton Canal on April 24 for a two year pilot test. Canal waters are tested for dissolved oxygen (DO) every week in the summer. So far the tests show that the DO in the Petherton Canal is usually higher than in the Anchorage Canal. However the DO in the Brandywine Canal is usually higher than in the Petherton Canal. It was expected that the diffusers would raise the DO in the Petherton Canal to a level higher than in the Brandywine Canal. One explanation for not achieving this is that the diffusers are doing a good job of stirring up the bottom water and mixing it with the surface water. The bottom water essentially has no DO and the aerobic bacteria that are on the bottom are being enriched by the oxygen. The aerobic bacteria may be consuming the “muck” on the bottom and possibly eliminating the sources for the spring algal blooms. Time will tell.

- **“Grey” Water Being Piped Into the South Bethany Canals**

“Grey” water is stormwater runoff from roofs, outside shower water, water from washing machines and sump pump water, etc. It is detrimental to the water quality in the Town’s Canals. The Town has ordinances in place to eliminate the grey water discharges for new construction; however existing discharges, those in place before May 2009, have been “Grandfathered.” The Canal Water Quality Committee strongly encourages those who have been “Grandfathered” to voluntarily remove the discharges.

Earlier this year committee members surveyed, from a pontoon boat, about 25% of the lots that are located on the canals. Out of 232 lots that were surveyed, 57 (25%) had one or more pipes going into the canals. There were 87 pipes identified as entering the canals. Some had been obviously disconnected. Some were obviously still connected. For many it was impossible to determine from the boat whether they were connected or not. Petherton Canal had a total of 30 pipes going into it.

- **Grant for Rain Gardens along the East Side of Route 1.**

The design work for the rain garden excavations is complete. There will be a meeting at the Town Hall on September 23 with Susan Barton from the U of D to discuss the plantings for the rain gardens with all of the stakeholders.

- **Oyster Gardens**

E.J. Chalabala from the Center for the Inland Bays (CIB) has 92 oyster gardeners participating in the program. 42 of the gardeners are in South Bethany. Oyster gardens

make a difference to the water quality in the SB Canals. A mature oyster can filter up to 50 gallons per day.

The CIB has been slow this year in getting new oysters to the SB Oyster Gardeners. This is probably a result of the efforts that they have been expanding in getting Commercial Shellfish Aquaculture into the Inland Bays. Governor Markell signed the Shellfish Aquaculture Bill into law on August 28, 2013 at the CIB before a crowd of 70 invitees including 11 state legislators.

E.J. reports in an e-mail to oyster gardeners, "We are still in the process of distributing oysters, so if you have not received your new spat yet, have no fear. I will be away until the end of the month, but we look to make one last push the first two weeks of October, to get everyone new spat and get new gardeners set up. If you do happen to leave for the winter before we drop off any oysters, let me know, and we will still drop them off but winterize them for you, so that they are there when you return in the spring."

– **Canal Water Quality Monitoring**

Dissolved oxygen (DO) went to zero in the Russell Canal on September 9/10, 2013. As reported by Dave Wilson, "The virtually zero oxygen level at Russell East and West resulted in a fish kill at both sites. Approximately 80 dead spot, 4 inches long, were counted near the bulkhead at the west end and approximately 60 dead spot were counted over a wide area at east end. There was no foul odor. No dead fish were observed in the canals adjacent to the Russell Canal. The water appeared cloudy and the 0.5m Secchi measurement was below those of other canals. DO was considerably higher at the west end last week (9.03 mg/l), suggesting an algae growth spurt that has ended in extensive decay."

If there had been diffusers in the Russell Canal the fish kill probably would not have occurred.

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

The Charter and Code Committee continues to work on revisions of Chapter 145, Zoning. It is a big chapter and there are a lot of issues that the committee is working on. The committee met on August 30 and agreed on many revisions. A meeting was scheduled for today, September 13, to hopefully finish that work in order to bring it to the next workshop; however, committee member Bob Cestone's sister passed away and the meeting was cancelled and will be rescheduled. During discussion Mayor Jankowski stated that it would be a good idea to wait for the November Workshop to discuss the recommended revisions.

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

Carolyn Marcello art display began 9-1-13. She is our second artist.

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

- The Town of South Bethany Staff and Volunteers together with the URS Corporation have completed the elevation survey of South Bethany's roads, bulkheads, and storm drains on the west side of Route 1. This survey was done under a DNREC Coastal Management Assistance Grant for projects that seek to improve Delaware's resilience to SLR & SS. This will provide data that will be used for Cost Benefit Analysis and Hazard Mitigation Action Plans relative to SLR & SS Adaptation. The survey work went very smoothly and was completed ahead of schedule, thus allowing for an elevation survey of

North and South Ocean Dr. to be added at no additional cost to the scope of work. As a point of interest, during the bulkhead survey, the boat ramps were counted. There are a total of 102 private boat ramps throughout the South Bethany Canals.

- In the near term the SLR & SS Committee will be focusing on:
  - o The Comprehensive Plan – SB should update its Comprehensive Plan (CP). The SLR & SS Committee should establish an estimate for SLR (like ½ feet for every 15 years) that would be added to the CP with recommendations and schedules for adaptation implementations.
  - o The South Bethany Code – SB should update its code to
    - Require “freeboard”. SLR & SS Committee needs to make a recommendation for required freeboard (12”, 18”, 24”, 30”, or 36”.)
    - Consider raising the height limit.
    - Establish requirements relative to fill to raise the elevation of a homeowner’s property. Care must be taken so that fill does not adversely affect neighbors.
    - Establish new requirements relative to bulkhead height. Allow or require higher bulkheads. (How much higher?)
  - o The Community Rating System (CRS) – The CRS Coordinator together with the SLR & SS Committee should strive to get more points. Suggested places are;
    - Public Information Activities, particularly Elevation Certificates and Outreach Projects
    - Mapping and Regulation Activities, particularly Additional Flood Data (we may get points for the elevation survey we are doing in the fall) and Higher Regulatory Standards (may change the code to required more “freeboard”).
    - The Flood Warning Program.
  
- There are public meetings scheduled where Delaware Coastal Programs staff will be participating in evening panel discussions about sea level rise. I am planning to attend the September 20, 2013, meeting at 7:00-8:30 p.m. at St. Peters Episcopal Church 2nd & Market Streets, Lewes.
  
- A public meeting is planned for South Bethany property owners in the spring time frame to present SLR & SS issues, results of the elevation survey discussed above and recommendations for Town Code changes that will address SLR & SS adaptation strategies.

The following state officials have participated in the meetings: Susan Love from DNREC, Wendy Carey from Sea Grant University of Delaware, and Michael Powell from DNREC. They are all very active in the State relative to Sea Level Rise issues and at least two of those three have attended each of the previous Sea Level Rise meetings and they have given the committee a lot of information and things to look at.

- Our next meeting is scheduled for September 26 at 1:30 at the Town Hall.

### **AREAS OF INTEREST**

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

Councilman Rae had updated copies of all of the soundings for people to look at after the meeting.

Since the August 9, 2013, Town Council Regular Meeting Councilman Rae met with Bob Cestone and compared the updated soundings chart to the chart five years ago. Following are questions from Councilman Rae to DNREC and the answers received back:

Question from Councilman Rae:

In studying the new chart you sent us in comparison to the old chart (dated 9-22-2010) for the same area, it seems that the channel has gotten deeper in spots, which does not make sense to us. Therefore we wonder if the same gauge / point of reference were used for the two separate soundings? What reference for MLW was used for each?

Answer from Ariane Nichols (DNREC):

I have asked the crew who did this survey work about the difference. They have informed me that the first drawing (2010) would have been calculated manually by a crew member using the tide gauge information. Since then, and for the new drawing, they are using a V-datum computer system that more accurately calculates the data based on tidal conversions within the program. They believe that the newer system is more accurate and helps to eliminate human error. They have agreed to investigate the differences in these two drawings in more depth.

Question from Councilman Rae:

Is periodic tree cutting and maintenance dredging done over the entire length of the Assawoman Canal: how often; last time done? We are still getting many complaints regarding underwater obstructions.

Answer from Ariane Nichols (DNREC):

Our crew of conservation technicians has been through the Assawoman Canal twice clearing downed trees and obstructions. They will typically do this work once at the beginning of the spring/summer, although did it twice this year, and then will go out again as needed when complaints are reported. The Division of Parks and Recreation, who are the owners of the canal property) have also been through the canal this year doing tree maintenance.

If there are trees down or other obstructions in the canal that need attention please let us know and a crew will be dispatched as soon as possible. You can feel free to email Chuck or me about the obstructions or Maria Sadler, who is now working as manager at the field crew office and organizing the field crew schedules. It is very helpful if residents can mark the area of the obstruction or have a way to pinpoint the coordinates, this allows the crew to be certain where exactly they are looking for the obstruction.

Question from Councilman Rae:

What additional dredging is planned for the Assawoman Canal before the current permit expires in 2014?

Answer from Ariane Nichols (DNREC):

Currently, we have no dredging scheduled for the canal. Our dredging crew will be operating in Pepper Creek this dredging season (fall/winter) to complete that project.

Councilman Rae recommended getting together with the other towns along the canal and see what their opinion is in terms of taking this further regarding additional dredging. Mayor Jankowski said she can ask the other towns.

Public Comment: Mr. Wise asked if there were comments on the walking trail. Councilman Rae read an email update he had received regarding the trail:

We have received several concepts for the Town Road property and other preliminary information including numerous soil boring results and plans for a pedestrian bridge.

Councilman Rae explained that the State owns about an acre of land right next to the canal at Town Road which they are going to turn that into parking and have some bathrooms and maybe picnic tables. Councilman Rae said they are proceeding along.

Public Comment: Mr. Roche asked what the southernmost point of the Assawoman Canal is. Councilman Rae said it is south of South Bethany. Mr. Roche reported two duck blind pilings that should have been removed a long time ago. Councilman Rae said that if it is an obstruction to send him an email with the longitude and latitude and he will pass it on to DNREC.

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

The Board of Adjustment has been busy making some changes to documentation. They made a change to the Application for Variance and they have made revisions to their Hearing Rules, all in line with Town Code. The Board of Adjustment is most enthusiastic about a new internal worksheet that they have created. This will help them be better organized so that when they go through their deliberations they all have the same information that they have taken from the hearing. Martha Fields was instrumental in writing the verbiage for this worksheet and Councilwoman Voveris had her graphic artist create it for the Town. The changes have been sent to the attorney for approval.

During Council discussion it was noted that a change to the Town's Code may be needed.

**PLANNING COMMISSION REPORT** – Mayor Jankowski reported:

The Planning Commission made a presentation at the August 22, 2013, Town Council Workshop Meeting. The next step is for the Town Manager and Mayor Jankowski to look at assigning the overall goals to different teams and the leads for those teams.

**ADJOURNMENT**

A motion was made by Councilman Gross, seconded by Councilman Junkin, to adjourn the September 13, 2013, Town Council Regular Meeting at 9:40 p.m. The motion was unanimously carried.