

**TOWN OF SOUTH BETHANY
TOWN COUNCIL MEETING MINUTES
OCTOBER 13, 2023
9:00 A.M.**

Meeting Called to Order and Pledge of Allegiance

Mayor Saxton called the October 13, 2023, Town Council meeting to order at 9:00 a.m., followed by the Pledge of Allegiance to the Flag.

Attendance and Absences

In attendance were Mayor Tim Saxton and Councilmembers Randy Bartholomew, Bob Biciocchi, Edie Dondero, and Chris Keefe; Town Manager Maureen Hartman, Town Finance Director Renee McDorman, Chief Jason Lovins, and Town Clerk Matt Amerling. Public attendees: 6. Virtual attendees: 6. Councilman Tim Shaw was absent but arrived later. Mayor Saxton stated he was moving item number four (4) ahead of item number two (2) so the audit could be presented. Councilman Randy Bartholomew motioned to move item four ahead of item 2, with Councilwoman Edie Dondero seconding the motion. Motion carried 5-0.

Presentation of FY23 Audit – Ashley Stern, CPA, MBA, CGMF, Partner, PKS & Co.

Ms. Ashley Stern, of PKS & Co., stated on the basic financial statements, her company rates the Town of South Bethany with highest level of opinion Certified Public Accountants can give, and they did not identify any material weaknesses in internal control over financial reporting. Ms. Stern stated the Town remains financially stable from 2022 to 2023 and that they did not identify any instances of noncompliance that we were required to report under *Government Auditing Standards*. 41% of expenses go toward public safety, particularly 30% going toward the police and 11% toward beach patrol; and the remaining 33% going toward public works and 26% going toward general government.

The actual amounts were favorable compared to the budget by \$424,214, which is a combination of revenues and expenses; and revenues are over budget due to the intergovernmental grants and licenses and permits. The Town has consistently fully funded the required contribution for the retirement plans. Mayor Saxton thanked Ms. Stern and her auditors, as well as Town Manager Maureen Hartman and Town Finance Director Renee McDorman for their hard work on this audit.

Public Comment

Larry Laura, 28 Peterson Drive, commented about another resident's issue regarding a permit fee for their shed and the ICC fee structure. Mayor Saxton stated the Council is aware of this situation, and it's an incorrect statement that the Town doesn't understand the ICC as the Town has applied the ICC consistently.

Bruce Bryson, 111 Canal Drive, stated he has a concern with speeding along Canal Drive, especially during the summer, so he would like Council to consider placing one of the solar-paneled speed limit/reading signs on the corner of West 9th Street and Canal Drive.

Adoption of Minutes

Motion by Councilwoman Edie Dondero, second by Councilwoman Chris Keefe to adopt the September 8, 2023, Town Council Meeting minutes. Motion carried 5-0.

Councilwoman Dondero motioned to adopt the September 22, 2023, Town Council Workshop Meeting minutes, seconded by Councilman Randy Bartholomew. Motion carried 5-0.

Action to accept FY23 Audit

Councilman Bartholomew motioned to accept the FY23 audit and auditors' communications. Councilwoman Dondero seconded the motion. Motion carried 5-0.

Discussion and possible action to approve reallocation of reserve (Bartholomew)

Councilman Randy Bartholomew stated that the Town's fund balance is \$4,997,865. Councilman Bartholomew stated there are multiple funds of which that balance comprises, and the Town will allocate those to certain categories as follows: operational reserve, the asset replacement maintenance (ARM), carryover costs for Town Hall, infrastructure costs, municipal street repairs, and the capital budget.

Councilman Bartholomew motioned to adapt this allocation of fund balances. Councilwoman Chris Keefe seconded the motion. Motion carried 5-0.

Review and possible action to approve a proposal to amend the Investment Policy (Bartholomew)

Councilman Bartholomew stated the amendment is simply to add language of the authorization and suitability of investments as follows: adding item E, investment brokerage accounts may be utilized as a platform to facilitate the investments noted above" and "investment brokerage accounts may include A) Brokered CD accounts which are issued by banks in denominations that stay within the FDIC limits, where the limit applies, and "B) money market fund accounts. The whole purpose of this is just adding clarity to the policy.

Councilman Bartholomew motioned to accept the Investment Policy change, seconded by Councilwoman Keefe. Motion carried 5-0. Councilman Tim Shaw joined the meeting via Zoom.

First Reading of Ordinance 213-23 to Amend Chapter 42, Building Construction, Enforcing Officer, Periods of Prohibited Construction and Penalties for Offenses Regarding Establishing Stop Work Orders, Amending Hours of Construction and Types of Violation Notice Correspondence (Dondero)

Councilwoman Edie Dondero stated this ordinance adds a new section to Chapter forty-two (42), as follows: §42-4.1 Stop Work Order, A. Authority. Whenever the Code Enforcement Constable or Town Manager or their designee finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the Code Enforcement Constable or Town Manager or their designee is authorized to issue a stop work order. B. Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume. C. Emergencies. Where an emergency exists, the Code Enforcement Constable or Town Manager or their designee shall not be required to give a written notice prior to stopping the work. D. Failure to comply. Any person who shall continue any work regarding the cited work/condition after having been served with a stop work order, except such work as may be necessary to remove the cited violation or unsafe condition, shall be liable to a fine as defined in §42-16. If a fine is not satisfied within five (5) days, a stop-work order will be issued on the entire site.

Councilwoman Dondero further stated under section 42-14.3, Periods of prohibited construction, the time for prohibited construction is changed from between 6 p.m. and 8 a.m. to between 4:30 p.m. and 8 a.m. and changing no construction work on national holidays between May 15 and September 15 to no construction work on national holidays throughout the year. The last change in this section is item E, where it states, "For purposes of this section, 'owner' is defined as and is limited to the person(s) or entity owning the property"; to which Councilwoman Dondero is proposing after the word "property" to add "and excludes property managers, handymen, or other for-hire contractors." The final amendment is in section 42-16, Penalties for offenses, to clarify how a property owner will be contacted, which is by regular mail, and specifics as to how much will be charged for a first offense and subsequent violations.

Councilman Biciocchi asked who is ultimately responsible for paying the fine. Councilwoman Dondero stated the property owner is, so language can be changed in Section 42.16 from "whenever a person shall be notified to "whenever a property owner shall be notified" Mayor Saxton suggested changing "national holiday" to "federal holiday." Councilman Bartholomew and Councilwoman Keefe stated they would like the daily construction end time to change from the proposed 4:30 p.m. to 5 p.m. After a lengthy discussion, Council agreed work must be stopped and packed up by 5 p.m.

Councilman Tim Shaw asked how the Town will first be getting in touch with a property owner when contacting about a stop work order or violation fee. Mayor Saxton stated the Code Enforcement Constable will be calling the property owner first to notify them of the violation. Councilman Biciocchi suggested having the process rules printed on the building permit. Town Manager Maureen Hartman agreed. Mayor Saxton stated this concludes the first reading of Ordinance 213-23.

Discussion and possible action to nominate Councilman Bob Biciocchi as Chair of the Charter & Code Committee (Saxton)

Councilwoman Dondero motioned to approve Councilman Bob Biciocchi as Chairman of the Town Charter & Code Committee, seconded by Councilman Bartholomew. Motion carried 6-0.

Discussion and possible action to nominate Councilman Tim Shaw as a voting member of the Canal Water Quality Committee (Saxton)

Councilman Biciocchi motioned to approve Councilman Tim Shaw as a voting member of the Canal Water Quality Committee, seconded by Councilman Bartholomew. Motion carried 6-0.

Discussion and possible action to appoint a new member to the Resiliency Committee (Dondero)

Councilwoman Dondero stated she would like to nominate two members to the Resiliency Committee, since it was agreed upon by Council that the committee would consist of three (3) residents and two (2) Council members. She would like to nominate Geoffrey Kolberg and Mayor Tim Saxton. Councilwoman Keefe motioned to appoint Mr. Kolberg and Mayor Saxton to the Resiliency Committee, seconded by Councilman Bartholomew. Motion carried 6-0.

Discussion and possible action to approve proposal for new trash bins on Ocean Drive & SPV (Hartman)

Town Manager Hartman stated after the last meeting, Public Works Director Jon Stiffler received some pricing quotes for construction of 16 new trash bins, with the first being at a cost of \$984 per bin, for a total of \$15,744. The second proposal came in at \$2,500 per bin, with a grand total of \$40,000, and the only difference with this quote is the contractor would place the bins as opposed to the Public Works department placing them. Councilwoman Dondero stated she would like to

have the bin openings turned around so that the opening is not facing Ocean Drive but rather the opening is facing back towards the beach so they can be a little more aesthetically pleasing. Ms. Hartman stated she would have to talk to the Public Works Director to make sure there would be enough room for the trash containers to be pulled out from that back direction.

Councilwoman Keefe motioned to approve the \$15,744 proposal for replacement of the trash bin. Councilman Biciocchi seconded the motion. Motion carried 6-0. Councilman Shaw joined the meeting in person.

Discussion of CWQ's recommendation for the floating wetlands and possible action to approve new contract with Envirotech regarding removing or retaining them (Shaw)

Councilman Tim Shaw stated regarding the Envirotech quote, there are 2 choices, which are 1) to move forward to decide to pull all of the floating wetlands or 2) choose to take out now the ones that are clearly in bad shape, spend money to maintain the others, and recognize that over the next couple of seasons we'll continue to spend money to maintain them, and, as they fall apart, remove them. Councilman Shaw stated it's a total of \$2,700 to remove 17 mats at \$100 per mat. Councilman Shaw further stated the Town doesn't have money in the budget for either pulling all the mats or pulling some and maintaining the others. He indicated that there was never any monies budgeted to maintain or address the issue of floating wetlands, which is why they remain an issue for the Town to address.

Mayor Saxton stated at the last meeting, Council had a long discussion about the floating wetlands and voted to remove them and as far as water quality goes, there is no indication that the mats provide any benefit. Councilman Shaw stated he doesn't see any reason why Council would want to go forward with anything except total removal of the mats. Councilwoman Dondero stated the 2 mats which sank at the end of Anchorage canal have vegetation which essentially has established itself. Councilwoman Dondero stated she certainly is in favor of pulling the mats out except those 2 at Anchorage, which should remain. Councilwoman Dondero motioned to remove all of the floating wetlands except for the 2 located at the Anchorage canal end. There was no second and the motion died.

Councilwoman Keefe motioned to remove all of the Town-owned floating wetlands, seconded by Councilman Shaw. Councilwoman Dondero stated the establishment of vegetation at the Anchorage canal end is the dirtiest with the lowest oxygen level and the lowest water level in the canal system. Having these floating wetland plants in the Anchorage canal end is an advantage there; it is not in other places in Town, but here, where you have a sufficient, significantly low water level and oxygen level, those plants are adding a benefit and they've established themselves on the floor of the canal. Councilwoman Dondero stated there isn't necessarily in her mind a reason to remove those, and it is arguable whether they will need ongoing maintenance if it's established vegetation. She believes these submerged wetlands at the Anchorage canal end are a different situation than the remainder of the floating wetlands that are disintegrating and need ongoing maintenance. Motion carried 4-2 with Councilwoman Dondero and Councilman Bartholomew voting no.

Discussion of parking space study by the Planning Commission (Saxton)

Mayor Saxton stated the goal of this study is to try and see if there's a way to find some additional parking space inventory on the east side of Coastal Highway and the first 150 feet on select roads on the west side of Coastal Highway. Council agreed to go over the results the Planning Commission finds at the February Council meeting. Councilman Biciocchi motioned to approve the parking space data collection study to be conducted by the Planning Commission, seconded by Councilman Shaw. Motion carried 6-0.

Discussion of Budget and Finance results regarding possible revenue changes with parking permits and possible action to reduce the number of parking permits sold to residents (Bartholomew)

Councilman Bartholomew stated if there is to be a parking permit reduction, there are 3 scenarios with which the Town Budget & Finance Committee (B&F) came up with for such an action to be revenue neutral within the budget. The first scenario is the Town selling just two (2) seasonal parking permits to each property owner, with no weekly permits, at a cost of \$28.68 each; and this is assuming that the people who used to buy two (2) or more permits will each buy the maximum of two (2) permits. The second scenario would have the Town selling two (2) seasonal parking permits and only two (2) weekly permits, for the entire season, but would be assuming everyone that previously bought three (3) or four (4) permits in the past will buy the two (2) weekly permits. Both seasonal and weekly permits would cost \$20 each. The third scenario would be for the Town to sell just three (3) seasonal parking permits, but no weekly permits, with the first two (2) permits each costing \$20 and the third costing \$35. Councilman Bartholomew stated if Council goes to three (3) permits and keeps them all at \$20 each, there would be a revenue loss of \$6,600. Mayor Saxton stated these numbers give the Council a path to being revenue neutral going forward, but he doesn't think Council needs to make a final decision.

Councilman Biciocchi stated he attended the B&F meeting held on October 5, and he was going to suggest today to make a motion to reducing the residential parking permits from four (4) to two (2) and then we could also discuss if there's support for weekly permits. Councilman Bartholomew stated he suggests going with scenario 3 as a test and charging \$20 for the first two (2) permits and \$40 for the third permit. Councilwoman Dondero stated she is not in favor of reducing to three (3) permits because she doesn't think reducing to three (3) makes a significant enough difference in what Council is trying to achieve. Councilwoman Dondero stated she supports a reduction to two (2), and a weekly option, which seems to be the most revenue neutral and the least disruption to price. Councilwoman Dondero further stated it seems to be the most logical thing to do if the weekly permits prove after a year or two to be too much of an administrative burden or aren't working out for people or are being abused, then Council can eliminate the weekly permits later; so, she supports scenario 2. Councilwoman Keefe stated the Town already offers weekly permits in the form of buying daily permits at the outside kiosk, so she thinks the Town should only offer two (2) permits per property owner and if residents need any more parking, they can purchase any additional permits at the kiosk. Mayor Saxton stated he doesn't support weekly permits because Councilman Shaw and Mayor Saxton spent a lot of debate on the kiosk when it was first introduced, and to automate ways for both residents and visitors to get it. Mayor Saxton stated Council spends a lot of time here, making sure there is the availability of online purchasing of certain things. The Councils have been voting to make the Town more efficient by utilizing automation versus using personnel. It is Mayor Saxton's opinion that by going back to weekly permits, Council is going backwards instead of trying to make the Town more efficient. Mayor Saxton further stated he understands the residents can't park on the east side with the daily permits, but they can buy eight (8) weekly permits out there if they want right now, costing \$140 per week, and Council is not stopping them.

Councilman Biciocchi motioned to move forward with the reduction of residential seasonal parking permits from four (4) to two (2) per property, seconded by Councilwoman Dondero. Motion carried 6-0.

Leadership Reports

Mayor's Report – No report submitted, but he had a meeting with DeIDOT regarding the escape routes on Route 1 in the event of a flooding, and his takeaway from the meeting is DeIDOT is only looking at raising the road probably in two (2)-inch increments until they're satisfied. Also, the Bureau of Ocean Energy Management (BOEM) Draft Environmental Impact Statement (DEIS) is available and information about meeting reviews of the DEIS was sent out as an email blast on October 5.

Town Manager Report – Report submitted. The median light has been installed and a big congratulations to Town Clerk Matt Amerling for winning the Delaware Municipal Clerk Association's (DMCA) 2023 Town Clerk of the Year.

Police Chief Report – Report submitted. Mayor Saxton and Councilwoman Dondero expressed their thanks to the South Bethany Police Department.

Treasurer Report – Report submitted.

Committee and Commission Reports

Budget and Finance Committee – Report submitted.

Canal Water Quality Committee – Report submitted.

Charter and Code Committee – No report submitted.

Community Relations Committee – No report submitted, but this past weekend the CRC sponsored a successful bonfire with about 70 people in attendance.

Planning Commission – No report submitted.

Adjournment

Motion by Councilman Shaw, second by Councilman Bartholomew, to adjourn the October 13, 2023, Town Council Regular Meeting at 10:49 a.m. Motion carried 6-0.

Respectfully submitted,



Council Secretary



Town Clerk

11/9/2023
Date of Approval