

**TOWN OF BETHANY BEACH  
TOWN COUNCIL MEETING  
February 19, 2021**

BECAUSE OF THE GOVERNOR'S COVID-19 RESTRICTIONS, THE BETHANY BEACH TOWN COUNCIL HELD A REGULAR MONTHLY MEETING VIA TELECONFERENCE (ZOOM) AT 2:00 PM ON FRIDAY, FEBRUARY 19, 2021 IN THE TOWN MEETING ROOM, 214 GARFIELD PARKWAY, BETHANY BEACH, DE 19930.

Members present for the meeting were: Rosemary Hardiman, Mayor; who presided; Lew Killmer, Jerry Morris, Faith Denault, Bruce Frye, Joseph Healy and Patrick Sheplee.

Also present was: Cliff Graviet, Town Manager; John Apple, Assistant Town Manager.

Mayor Hardiman called the meeting to order.

Mr. Graviet advised members of the public how to access the meeting online and how to submit a comment.

Approval of the Agenda

Ms. Hardiman requested that the three items under Old Business be moved to the March Meeting. All agreed. Ms. Hardiman made a motion to approve the agenda as amended. The motion was seconded by Mr. Sheplee.

Approval of minutes of Regular Meeting held on January 22, 2021

Mr. Killmer so moved. Mr. Morris seconded the motion and it was unanimously approved.

Approval of minutes of Public Hearing held on January 22, 2021

Mr. Morris so moved. Mr. Frye seconded the motion and it was unanimously approved.

Approval of minutes of Workshop/Special Meeting held on January 19, 2021

Mr. Killmer so moved. Mr. Frye seconded the motion and it was unanimously approved.

Approval of the Financial Report

Mr. Morris advised that this report covers the budget thru January 21, 2020. The Town is 83% thru Fiscal Year 2021.

Operating Budget Revenue

The Town has collected 90.9% of the budget revenue compared to 104.9% this time last year.

Operating Budget Expenses

The Town has expended 74.5% of its budget expenses, compare to 82% at this time last year.

Recognizing that this report is subject to audit, Mr. Morris respectfully moved that the Council accept and approve this unaudited report. Mr. Killmer seconded the motion and it was unanimously approved.

#### Report from the Budget and Finance Committee Meeting

Mr. Morris reported that the Budget & Finance Committee was scheduled to meet on February 17, but had technical difficulties so it was rescheduled to Thursday, February 25 at 10am. The Committee will review the results of the current fiscal year and the effects of the COVID-19 pandemic. We are projecting that the Town will end the year \$125,000 under budget in revenue and \$580,000 under budget in operating expenses. The Town has received \$167,247 in assistance from the Coronavirus Aid, Relief and Economic Security Act (CARES). The new budget for fiscal year 2022, which starts on April 1<sup>st</sup>, will be discussed in detail. We are budgeting for a normal summer season, hopeful that the pandemic will continue to ease as vaccines are distributed. Town-wide revenues are currently budgeted at \$10,561,000, operating costs are \$9,338,000 and the capital and debt budget is \$1,811,000. There are no tax or fee increases in the draft budget for the coming year. We expect to discuss a trash fee increase next year and a water fee increase the year after that, both on schedule at five years since the last adjustment.

#### Report from the Charter and Ordinance Review Committee

Ms. Hardiman reported that the Charter and Ordinance Review Committee (CORC) met on February 3 via Zoom. We welcomed Mr. Lee Bunting as a participant. His appointment to the committee is being considered at today's meeting. We talked about two issues: First is a Possible Amendment to Section 26-4 of the Bethany Beach Town Code to establish a permanent voter eligibility registration list for non-property owner residents and those residents who hold property in an LLC or corporation. At the present time they have to register to vote each year. We discussed additional revisions to the draft that would better address our situation in Bethany Beach and hope to bring it back to Council in the next month or two. Second was a Possible Amendment to Chapter 223, Beach, of the Bethany Beach Town Code to address public safety considerations in the digging of holes on the beach. This item was brought to us by John Apple, assistant town manager. We had a very informative discussion with Mr. Apple. Apparently the beach ambassadors have brought the issue to his attention because of large holes being left on the beach after people leave. These pose a danger to personal safety as we saw in ocean city not too long ago as well as to the machinery that cleans and smooths the sand. Mr. Apple provided us with sample ordinances to show how other beach communities have addressed this and he explained provisions that he and his staff would find helpful in carrying out their duties.

We'll be working with Mr. Apple as we draft an ordinance and hope to bring a draft to Council for their review in the next month or two.

### Report from the Stormwater and Tidal Flooding Committee

Mr. Frye reported that The brand new Stormwater and Tidal Flood Committee had its first meeting yesterday on Zoom. As the title suggests, we are interested in flooding caused by storms, as well as sunny day flooding caused by high tides. The committee members are Mark Bauernhuber, Ron Calef, Jack Gordon, John Koby, and Chip Smith. We expect flooding to only increase as storm severity increases and sea level rise continues in Bethany Beach. At our first meeting our Town Manager and Assistant Town Manager provided a very comprehensive history of town flooding, the town's geography, the many studies of the situation, and the current tidal gauges available on the town website. The latest study received in 2020 holds promise that the combination of a bladder dam at the confluence of the Loop Canal and the Assawoman Canal, plus a tidal gate at the Fred Hudson bridge can prevent most flooding in the town without affecting our neighbors. The next step is to verify this result with more detailed 2-dimensional mapping. The Council will vote on this proposal today. The Committee looks forward to working with the Town on future proposals and concerns.

### Report from the Telecommunications Committee

The Telecommunication Committee held our initial meeting on February 12, 2021 via Zoom. All committee members were present along with Cliff Gravier, the Town Manager, John Apple, the Assistant Town Manager, and Molly Daisey, the Town Clerk. Since this was our first meeting and the entire committee is new, we began by giving a brief introduction of ourselves including background and our connection to Bethany Beach. The week before our committee meeting the town held a Zoom meeting for all members of the three new committees to introduce key personnel and operations of the town. This meeting was very well received by our committee members and the town received many positive comments. Cliff and John then presented a summary of the current situation in the two main areas of our concentration – the first being mobile cell phone service including cell towers and antenna placement. Verizon has been granted permits and installed multiple 5G enabled antennas in the Boardwalk and business areas to improve their service and coverage in those areas. The second area of interest to us is television, internet, and telephone service offered to our businesses and residential homes. This is currently offered by Mediacom, with Comcast service coming in the next 18 – 24 months. We were informed of Mediacom's efforts to replace aging equipment and Comcast's progress to date. Comcast has laid fiber optic cables in the downtown business district and are currently proceeding on Rte. 26 west of Rte. 1.

After much discussion, questions, and answers, the following action items were identified.

1. We will investigate developing some education materials that we can provide to residents to improve their current services. This may include instructions, tips, potential equipment, etc.
2. Cliff and John will see if it would be possible and beneficial to communicate updates on Comcast's progress with their installation, as well as any future

developments with Mediacom. This could be done on the Town's website with links on the BBLA website.

3. It was suggested the Town should explore other methods of 5G service delivery in Bethany Beach with vendors. The committee discussed forms of 5G service that would not require a massive deployment of 5G antennas, but still satisfy the community's needs for 5G service. We will form a small subgroup of our committee members to discuss alternative 5G service with the major telecom providers in the region. This subgroup is being formed and the Town Manager is already in the process of trying to arrange those meetings.

### Report from the Town Manager

Mr. Gravier gave the following report:

#### Replenishment

Is complete. Beach grass has been planted and fence installed as needed. There is some piping on our beach that will be removed in the next week.

#### Water Department

We have signed a contract to have the exteriors of our water tanks cleaned. Our milder and wetter winters in the last couple of years are causing the tanks to develop a full bloom of mold more quickly than we have seen in the past. This work will be done as soon as the contractor is comfortable that we are past any chance of a significant freeze.

#### Parking Department

Residential Parking Permits are set to be mailed over the next few weeks. They will go out in batches of 600 a week.

#### Seasonal Hiring

In this year's budget you will see a significant hike in seasonal employee costs. Some of that increase is due to our ongoing policy of trying to keep our hourly pay comparable or slightly higher than other coastal communities. There is real competition for seasonal police officers and lifeguards! But the main driver this year is because I have asked managers to over hire seasonal police officers, lifeguards and our seasonal code enforcement officials. At this point it would seem this summer may be very similar to last summer with masks and distancing and the potential to lose staff for extended periods of time as we did last summer because of Covid. In addition we had seasonal police officers resign last year because they did not like responsibility of demanding compliance with the mask mandate and some of the resulting interaction with the public as a result of that demand. And you will all remember at one point last year we had 18 guards out simultaneously quarantining with positive Covid tests.

#### Summer

Right now, we are planning (as we did last year) to have and host summer as we traditionally would. We are scheduling entrainment, picking our movies for the summer,

planning our bonfires, reviewing our fireworks contract, etc., etc. With that said, I know that sooner rather than later we may need to amend or change those plans. I ask Council members that when they feel changes may need to be made, they contact us so we can put any possible changes on an agenda as quickly as possible.

The Town's Cultural and Historic Affairs Committee has received work ups of the display's that will be in the museum. The vendor has provided a portfolio of what is being proposed for the museum and it is available for Council Members to view. The funding for the display's is already in the budget and will be on the March Agenda.

Mr. Morris asked Mr. Gravier to consider the reports be distributed electronically instead of being handed out at the meeting.

Mr. Sheplee asked the status of the park sign at Central Park. Mr. Gravit responded that is on hold right now.

#### Discussion, Consideration of an Ordinance Amending Chapter 425-16, Regulation of Perimeter Fences

*(A Public Hearing regarding this ordinance was Held on 1/22/2021)*

*This Ordinance Amends Section 425-16 Concerning Fence Restrictions within the Town of Bethany Beach to clearly articulate the restrictions that apply to all fences within the Town.*

Mr. Killmer advised that this is a Zoning Change and can be voted on today. Mr. Killmer made a motion to adopt the ordinance as presented. Mr. Morris seconded the motion and it was unanimously approved. Ms. Hardiman stated that there have been no public comments regarding this.

#### Discussion, Consideration, and Possible Vote on Proposed Changes to the Town Council Procedure and Protocol Manual

Ms. Hardiman stated that the suggested changes made by herself and Mr. Killmer at the workshop held in January were sent to Council Members. Ms. Hardiman made a motion to approve the changes presented today. Seconded by Mr. Morris and it was unanimously approved.

#### Discussion, Consideration, and Possible Vote on Proposed Changes to Committee Guidelines

Mr. Sheplee asked for a motion to delete the sentence on Page 2, Item H, "Committee members must be citizens of the Town of Bethany Beach in order to be a full voting member of any committee". Ms. Denault seconded the motion.

Mr. Sheplee said that the definition of “Citizen” in the guidelines is any person who owns property in the Town of Bethany Beach or has been a resident for a minimum of 30 days. He explained the reason for his proposal, saying that we ask all committee members to devote their time and energy to committee business, as well as attend and participate in committee meetings. And yet we do not allow non-citizen members to vote. He felt that this is wrong. If we ask them to serve on a committee, we should allow them to participate fully as committee members, including the right to vote. Non-citizens should not feel that they are treated as second-class members. He added that they are nominated by the chair and approved by Council. Even if they are allowed to vote, committees serve in an advisory role to Council, which makes the final decision.

Council members discussed the pros and cons of the proposal. While those disagreeing acknowledged that the town sometimes needed the expertise of non-citizens, they did not believe the original intent was to allow them to vote. If asked to join, they would be told that they would not be able to vote. Another reason expressed was that non-citizens should not have the same vote as someone who pays taxes. They are not stakeholders.

After some discussion, the proposal was defeated by a vote of 4-3 (Messrs. Frye, Killmer, Healy and Ms. Hardiman opposed).

Ms. Hardiman then offered a clarification, “Committee members must be citizens of the Town of Bethany Beach. However, subject to Council approval, a non citizen with expertise in matters within a Committees purpose and scope of work may be invited to join a committee as a non voting member to provide input on such matters. Town staff may serve on Committees as non voting members.” Ms. Hardiman asked for a motion to approve this. Seconded by Mr. Killmer. Ms. Hardiman withdrew this motion since some Council members said they did not have ample opportunity to review it.

Mr. Sheplee made a motion to modify the sentence on Page 3, Item J to read, “Committee members should be accommodated as much as possible, if such accommodations does not interfere with the workings of the Town” The motion was seconded by Mr. Morris. It was unanimously approved.

Mr. Sheplee made a motion on Page 2, under “Term”, to replace the first and second sentences with the following, “Committee appointments expire annually, except those with multi-term limits, at the close of business on the Thursday prior to the Town Council Organizational meeting. Normally, committee chairpersons shall be appointed annually during the Town Council Organizational meeting and committee members shall be appointed annually during the next regular Town Council meeting after the Organizational meeting.

And on Page 4, last paragraph—replace the word “November” with “next regular Town Council meeting after the Organizational meeting. The first sentence will then read: “These guidelines shall be reconfirmed annually at the next regular Town Council meeting, after the Organizational meeting.” It was seconded by Mr. Morris and

unanimously approved.

Ms. Hardiman made a motion to enable the Fourth of July Parade Committee to fulfill its unique role more efficiently by exempting the Committee from the following paragraphs of this section: E, F, G, H, I. Mr. Morris seconded the motion and it was unanimously approved.

Discussion, Consideration and Possible Vote on Appointment of Lee Bunting to the Charter and Ordinance Review Committee

Ms. Hardiman made a motion that Lee Bunting be appointed to the Charter and Ordinance Review Committee. Seconded by Mr. Morris it was unanimously approved.

Discussion, Consideration, and Possible Vote on Recommendation to the Governor that He Affirm the Town of Bethan Beach Alderman (Hardiman)

Mayor Hardiman made a motion to adopt a Resolution requesting the Governor to reappoint Charles McMullen as the Town Alderman. Mr. Healy seconded the motion and it was unanimously approved.

Discussion, Consideration, and Possible Vote on a Contract Submitted by McCormick Taylor for a Flood Study in the Amount of \$88,107

Mr. Gravier asked for a motion to approve the contract submitted by McCormick Taylor for the amount of \$88,107. Mr. Killmer so moved. Ms. Denault seconded the motion and it was unanimously approved.

There being no further business, Mayor Hardiman asked for a motion to adjourn. Moved by Mr. Killmer and seconded by Mr. Morris, the motion was unanimously approved. The meeting adjourned at 3:13 pm

Respectfully submitted:

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*Molly Daisey,  
Administrative Assistant*