

TOWN OF BETHANY BEACH
TOWN COUNCIL MEETING
June 17, 2022

The meeting could be viewed on two internet platforms:

The Town's Website at: www.townofbethanybeach.com - click on the Government Tab, then go to the left side of the page and click on Live Video Broadcast

or

Go to our YouTube page at: www.YouTube.com/BethanyBeachGov

Members present for the meeting were: Rosemary Hardiman, Mayor; who presided; Lew Killmer, Bruce Frye, Jerry Morris, Patrick Sheplee, Scott Edmonston and Jim Liguori, Town Solicitor.

Excused: Faith Denault

Also present were: Cliff Gravier, Town Manager; Will Wharton, IT Manager; Terry Tieman, Assistant Town Manager and Molly Daisey, Town Clerk.

Mayor Hardiman called the meeting to order at 2:00 p.m.

Approval of the Agenda

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

Approval of minutes of Regular Meeting held on May 20, 2022

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

Approval of the Financial Report

Mr. Morris advised that this report covers the budget thru May 31, 2022. The Town is 16% thru Fiscal Year 2023.

Operating Budget Revenue

Income from Real Estate Transfer Tax, Parking Fees are above budget estimates, Licenses and Permit Fees continue to be on or above budget estimates. As a result, we have collected 42.5% of the Budgeted Revenue compared to 47.7% at this time last year.

Operating Budget Expenses

We have expended 14.8% of our budgeted amount compared to 13.7% at this time last year.

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

Announcements

Ms. Hardiman encouraged residents to subscribe to the Town's YouTube page. Once there are 1,000 subscribers, the Town can live stream concerts on the bandstand. She also stated that there are still 15 minute parking spots in front of restaurants and encouraged everyone to order take out and support the restaurants.

Ms. Hardiman stated that there are two large areas off the Delmarva Coast that have been leased for off shore wind energy development. US Wind has one area closest to the Maryland shore. Off the coast of Bethany Beach and up to Rehoboth is Orsted's Skipjack. Earlier this month the Bureau of Ocean Energy Management deemed the construction and operating plan for U.S. Wind's MarWind Project in Ocean City to be completed. Orsted is planning to submit their plan to the BOEM next year. It usually takes about a year for a plan to be deemed "sufficient and complete" to go to the next step of review: public comment and further environmental studies.

Report from the Planning and Zoning Commission

Mr. Boswell stated at the last meeting the Commission approved the combining of the Walchek and Dematitis Properties into one parcel. Action was deferred on a minor subdivision in the 6th block of 5th Street until the owner submits a tree plan that is accepted. The Commission is also reviewing a report titled Southern Lowcountry Stormwater Design Manual.

Report from the Non Residential Design Review Committee

Mr. Killmer announced that the committee met on May 25 and approved signs for Michael Orhelein, The Beach Life Gallery; S & S Market and The Ness Collective. These businesses are located inside the Bethany Town Center. All signs meet required guidelines.

Report from the Fourth of July Parade Committee

Mr. Frye stated that the committee met on June 2 to finalize preparations for the July 4th parade, which had been cancelled the last 2 years. Chris and Ray Aumiller have reported that T-shirts are selling well, this offsets some parade expenses. Banks Liquors is donating ice and CVS is donating water. Lew Killmer has graciously offered the use of his truck for hauling the ice, water and miscellaneous tasks. The parade will begin with a musket volley from the 1st State DE Regiment and end with Santa Claus. Senator Carper will be attending. In between, Julie has secured a selection of bands including: 287th Army National Guard Band, 1st Delaware Regiment Fife and Drum Band, Delmar District Pipe Band, Honeycombs, Oxford Brass, Tidewater Brass and WW Ilunes. The final meeting will be Thursday, June 30 at 9 am.

Report from the Town Manager

Mr. Gravier gave the following report:

We were happy to be able to report last month that the Town would be the beneficiary of a beach replenishment project in the fall. We are still fortunate that we will receive replenishment. We have now been told that it will happen when it happens and no one at this time is sure when that will be. We hope, as we always do, that the project is complete before next season and we will now have to wait and see.

It has been a busy few weeks for our Activities Director and as usual she has done a great job. The Poseidon Festival, her Songwriter Festival, were very well received and she has done a great job helping the Historical Affairs Committee with their Craft Show, which also a huge success. Thank you, Julie Malewski!

Fireworks hardly ever happen in Bethany Beach without some behind the scenes drama. This year is no different, but this year's drama centered around whether we would be able to have fireworks at all. We all know that we lost a significant amount of beach because of May weather and we need at least 300' of sustained beach to have fireworks. It has been touch and go, but we now have the needed beach and the show will go on as long as we don't have a north east weather event in the next few weeks.

For the last few years we have put porta johns at beach street ends. We have placed handicap accessible porta johns at the handicap ramps. This year all our porta johns are handicap accessible. Public Works has done this after listening to the concerns of parents with small children about how hard it is to negotiate a small porta john with a child. Hats off to Public Works (Brett Warner) for listening and responding.

I don't know how many have seen the very engaging mobile warning trailer south of the Indian River Bridge. It gets your attention and motorists slow down as they approach it. The reason for that is the trailer is equipped with flashing red and blue lights and as you approach it in traffic you think it is a police car. It is very effective. The trailer also has traffic and speed recording capacities and is solar powered, has adjustable font size, etc. They are expensive, \$17,000, but we have money in the budget that will cover the purchase. We have ordered one and delivery is unfortunately several weeks away. Regardless, it will be a worthwhile addition to the pedestrian crossing lights we have.

We are still waiting for DelDot approval for the painted pedestrian warning symbols in the streets where we have our flashing pedestrian lights. All we need is their ok and we will install them, at Town expense, within days.

A reminder the Museum is now open. It has been worth the wait; it is very well done and something the Community can be proud. Its hours of operation are on the Town website. Parking is always at a premium in Bethany and it was necessary to cut into the Route 26 and Kent Avenue triangle to create 4 additional parking spaces in order to accommodate Museum visitors. We will trim out a little more of the street with this Fall's paving project to make parking a little easier in the area.

Discussion, Consideration and Possible Vote on to not move forward with a Study to Determine the Feasibility of Constructing a Pedestrian Walkway Connecting Central Boulevard and 2nd Street to Proceed with Developing a Plan to Restore the Wetlands on the Property

Ms. Hardiman wanted to reemphasize a few things since the pathway has become a somewhat controversial and unnecessarily divisive issue. One is that when the idea was suggested by the Bicycle and Pedestrian Safety Committee, the Council determined that they did not have the necessary data to make a decision. Part of the Council due diligence is to obtain feasibility, environmental, pedestrian and traffic studies before making a decision. At the November 19, 2021 Town Council meeting, in letters to the editor in local papers and in email response to citizens, Ms. Hardiman always emphasized that it would be irresponsible for the Council to reject or approve the suggestion without first ascertaining the effect of applicable legal authorities and relevant facts upon which to base a decision. If a pathway was determined to be feasible under the Army Corp & DNREC regulations, there would be additional environmental assessments regarding the effects on the wetlands. In addition, traffic safety studies would be conducted on Rt. 26 and Central Blvd. to gather data in consultation with DeIDOT to determine the best course of action. All this factual information would be presented to the public at Council workshops before any decision is made on the merits of the idea. What the Council needs and what Bethany Beach property owners deserve are facts upon which to make a well informed judgement on the issues. This is why Council approved an initial feasibility study. That is still where the Council is today. To provide an example on why facts and studies by impartial experts are necessary, at the November 19, 2021 meeting, three different property owners provided their assessment of the need for a pathway. One claimed it would attract hundreds of people and create parking issues. Another property owner called it a "mini Rt. 26". And a third speculated it would rarely be used. The Council and our citizens cannot make a responsible decision on such speculative claims.

Ms. Hardiman added that she wanted to set the record straight regarding the purpose the Walcek property was purchased. Misinformation has been circulated that the property was acquired for 1.4 million dollars for the express and only purpose of preserving it, in its natural state and protecting it from any and all development. Ms. Hardiman reviewed the video from the October 18, 2019 meeting, in which the Council considered and approved the purchase of the property. The written minutes of the meeting do not report the entire discussion regarding the purchase of the property. So that everyone viewing today's meeting, and future councils understand the intent of the purchase, to protect it from residential development, Ms. Hardiman read into the record excerpts from that October 18, 2019 meeting. She also wanted to point out the primary concern expressed at the 2019 meeting that drove the discussion of the purchase was to prevent a Breakwater Beach type of development from becoming a reality in Bethany Beach.

At the time, Mr. Killmer was the mayor. He made the following statement which was not included in the minutes: *"The Town has explored the possibility of creating an ordinance to prevent a Breakwater Beach or a similar work around*

from happening. However, Attorney Max Walton, who is an expert in the area of the law, has told us there isn't an easy remedy to prevent this from happening in Bethany Beach" Chris Bason, then Executive Director of The Center of Inland Bays, supported the purchase of the property and during the discussion said, "The Regulatory landscape for that parcel has changed dramatically with what happened up the road. I'm sure the development community is looking very interestingly in what happened there. Given the history of development of proposals for the Walcek parcel, it is likely that additional proposals for wetlands themselves would come in for development."

Ms. Joan Howard, property owner, questioned what the Town plans to do with the land. Mayor Killmer replied that the Town's intent is to maintain the property, and keep it in its natural state and protect it from development. The following exchange was not in the minutes:

Mr. Graviet further explained that like the Nature Center, even though it's maintained in its natural state, we may do something that enhances it for people in the community, make it some safe place where someone can watch the birds, see nature.

Ms. Howard: You'd make some modification to it?

Mr. Graviet: I don't know if we'd make modifications, but the Town may decide maybe it would be a good thing to let people see what's on the property. To say that it will never be touched again, I don't know if the Town's willing to do that.

Mr. Killmer: What you mean is that it's not developed; there's no housing going on there. I mean if this or some future Council wants to put a pathway so people can walk on the property, that's a possibility. There's not going to be any development on the property. We'll leave it in its natural state.

Ms. Hardiman continued saying that the main point here is that the purpose of purchasing the property as well as the former Dematatis property, is to preserve them from development as residential housing. And that some public access to Town owned property, such as a pathway, could, but doesn't have to, be considered in the future. Council still does not have the data upon which to base an informed decision on the merits. It would be irresponsible to base a decision on opinions and anecdotal information. Council has determined that a decision will not be made until feasibility, environmental and traffic studies are complete. This has not been done, so discussion regarding the merits of a pathway are not on the agenda today. What is on today's agenda is whether or not to direct Mr. Graviet to continue with those studies at this time along with the many other priority projects that have to be considered.

Mr. Graviet then stated that it was over a year ago, the Town Council voted to move forward with a grant to study an environmental impact of a walkway. The Council made

it clear they would need a professional assessment of the environmental impact of the path, an assessment of pedestrian traffic safety and an assessment of path use before any further consideration of a walkway. It was Mr. Gravier's hope to have these assessments completed, had a through public review of any and all relevant issues and a Council decision regarding moving forward or not to well before the summer. This has not happened and is not likely to happen for several more months.

In the meantime, several other projects are happening in Bethany Beach, almost all of them delayed due to COVID. It is now 'all hands on deck' to complete these projects. These projects and initiatives need the staff's immediate attention and both Council and community support. The Town is about to advertise for bids for a \$600,000 paving project for constructing and completion this fall. There are two years of queued up paving projects again, due to COVID. This is a major paving project for Bethany Beach. Bid documents are being developed and will be advertised in the next several weeks for the restoration of the bulkheading of Lake Bethany landstrip, estimated to cost about \$900,000 dollars. Final design documents are being completed for the expanded Collins Street project. Collins, Kent and Wellington with a pedestrian light on Kent at Wellington is something the Town has been working on for a number of years. That project alone will need two public hearings, but we hope to be able to expedite to include with the fall paving project in order to reduce the costs for both. The estimate cost for that project is \$900,000 dollars. The RRFB pedestrian light crossing at Ashwood Street requires a redesign and repaving of the area. Design and bid documents for that will be ready shortly. That projects estimated cost is \$75,000. The design is complete for the 'bike/diner' entrance at halfmoon drive. Bid documents will be ready shortly, this is estimated to be about \$75,000. The Town has also just expended \$250,000 committing to move forward with a basic design and feasibility work on a dam project at the mouth of the Loop Canal. There have been multiple meetings on site with engineers & surveyors from McCormick Taylor. The Town will continue working with them over the next few months to see if this project is feasible and how it moves ahead. This is estimated to be 2-3 million dollars upon completion. Staff is actively writing grant applications for all of these projects right now. In addition the Town has retained a professional to go page by page in the massive infrastructure bill looking for grant opportunities for Bethany's needs. This is ongoing. In order to consider qualifying for a roadway and pedestrian safety grants in the infrastructure bill, the Town must have a completed, professionally developed, Town wide pedestrian and traffic safety study. That study, to have credibility will have to be completed this summer, with staff input, as it relates to how busy we are. Most of these projects need bid documents assembled, bids advertised, opened and awarded, projects administered & supervised and on-site administration. The administrative staff is 1 ½ to 2 people, with the Assistant Town Manager actively supervising several summer departments. The Public Works Director is the only out of office/on site administrator, who is also managing the public works department at the same time. Mr. Gravier continued that there is also a fiscal impact to all of this, all of these projects, not including the construction of the dam, will cost the Town about 3 million dollars. This money is queued up in grant money and budget money already put aside for them. When that is expended, the Town will be down to top amounts for the minimum amount of reserves, which should be considered in moving

forward with any project. The log jam in projects the Town was experiencing has broken, and given the fact of how time consuming the path is becoming, being very labor intensive with various responses to many things. Mr Gravier asked that the Council consider letting the Town stop work on the walkway, taking the project off the table at this time.

Mr. Sheplee made the following motion, at this time, the Town does not proceed with the study to determine the feasibility of constructing a pedestrian walkway on the former Walcek/Dematitis parcel, but we do proceed with the study to restore the wetlands on the same property. Seconded by Mr. Killmer. Ms. Hardiman asked Council members if they had any comments. Since there were no comments from Council members, Ms. Hardiman then opened the floor up to public comment, reminding that this is a vote to postpone the walkway, not considering the merits of having one.

Mr. Jack Walsh, 427 Wiegland Lane was recognized. Moving forward with the project, this will impact residents on Wiegland Lane. His neighborhood needs to be involved with the process.

Erin Peart, 541A Hudson Ave (Stewards Watch) was recognized. She supports moving forward with the feasibility studies and the pathway, once the studies are completed. Money has already been set aside from this study. Moving forward, this decision has to reflect the entire population of Bethany Beach. The path would be excellent to connect her to Central Park and the beach. She urges the Council to move forward with this, it will benefit the pedestrian and bicycle traffic on Garfield Parkway. She is aware of a letter/petition coming from Stewards Watch, that does not reflect the all the homeowners' thoughts on the proposed path.

Micky Hinman, 611 Spring Lake Drive was recognized. Any community that has created something similar to this, allow people to interact with nature in a responsible way, they turn out to be positive and impactful projects. The Nature Center, Central Park they add so much to the community. The path is a great opportunity to get pedestrians and bicycles off of Rt. 26, which is very dangerous. Path would provide a natural flow, similar to what is being done on Collins. If the money is budgeted, the Council should move forward. Doing the study now, find out the issues and work on those.

Joni Curtis, 531A Hudson Ave (Stewards Watch) was recognized. Based on what the Town Manager said, now is not the time. The Town does not have the time and/or money and effort to put behind the study now. It makes sense to do the feasibility study when the Town would be closer to doing the actual construction of the path. A study done now may not be appropriate two years down the road when it would actually take place.

John Savage, 419 Gibson Avenue. Based on reasons given today, postponing this would be a good thing to do. He understands the staff workload issues. What he didn't hear for a reason to postpone, are the community issues about the pathway. He feels

that should be a factor also. Mr. Gravier added there will be public hearings for comment on the path. Ms. Hardiman added, that yes, that is a factor also.

Mr. Edmonston added that there is a neighborhood that is opposed to the pathway, but there is a larger community that should be involved in the process.

Bill Bergfeld, 414 Gibson Avenue. He supports the motion that was approved today. Speaking to what Mr. Edmonston said, this is a community. There are more people on the side of Rt. 26 that need to be able to safely get to the beach. An overall comprehensive plan needs to be in place to get pedestrians and bicyclists from the west side of Rt. 1 to the east side. There are other neighborhoods that cannot safely get to the beach, like The Canal for example. Rt. 26 is the problem, but it can also be the solution. There should be a path that would benefit everyone in the community. He feels that a comprehensive study will show that Rt. 26 is the best option to get residents safely to the east side.

Meg Gaffney Smith, 428 Wiegand Ave was recognized. She supports the motion today to not move forward with the study. She also presented signatures that she collected of residents who also support not moving forward with the study. She wished to thank the Town Manager and Mayor for responding to her questions. She is still in the process of reviewing the responses she was sent. Not everyone is against or for this, and everyone should be included. There was a suggestion in one of the responses she got for a 'No Permit Required'. For this kind of study, a permit would be required. She feels the Town needs more facts. Mr. Gravier asked who references no permit required, and for what? She responded that it was a response from Mr. Gravier referencing a permit being required to construct a pathway. And if the Town would apply for an individual permit or a general permit from the Army Corps. She saw NPR in the email, and her assumption for that is no permit required. Mr. Gravier responded that no, never, it is wetlands, a permit is required. He will review his response sent to her, if he used npr, it would have been referencing something completely different and not no permit required.

Before the vote, Mr. Sheplee emphasized that his motion was not based on financial or budgetary issues, but rather on the lack of resources, in terms of personnel and time. In light of all the projects that Mr. Gravier laid out, this project does not take priority. If the study goes forward at some point in the future, it will include a long process of study and citizen input before a decision is made. Any decision will be made with full transparency and stressed the importance of citizen input. Recalling that he was opposed to the proposal to ban tents and canopies on the beach until he heard the response from citizens. That is what changed his mind. He added that he felt he was speaking for the rest of the Council when he said that any decision would not be made without public input.

Mr. Edmonston followed up on Ms. Curtis' comment regarding the timeliness of any feasibility study. Since this would be a very long process, it would be more appropriate to postpone it until such time that staff can focus on it.

Following public comment, Council voted unanimously to approve the motion that at this time, the Town does not proceed with the study to determine the feasibility of constructing a pedestrian walkway on the former Walcek/Dematitis parcel, but we do proceed with the study to restore the wetlands on the same property.

Discussion, Consideration and Possible Vote on Setting a Date for the Town Council Election – Saturday, September 10, 2022 – 12:00 Noon to 6:00 p.m.

Ms. Hardiman that anyone wishing to file as a candidate for the election must file a written notice of intention (Application for Candidacy) in the Town Manager’s Office at Town Hall no later than 4:30 p.m. on Wednesday, July 27, 2022. Ms. Hardiman made a motion that the Town Council Election be held on Saturday, September 10, 2022 from 12:00 Noon to 6:00 p.m. Mr. Sheplee seconded the motion and it was unanimously approved.

Discussion, Consideration and Possible Vote on Appointments to the Election Board and Election Officers

Ms. Hardiman made a motion to approve the following individuals to serve as members of the Election Board and Election Officers. Mr. Morris seconded the motion and it was unanimously approved.

Election Board

Charles McMullen, Chair
Chris Aumiller

Election Officers

Suzanne Evans
Andrea Gowetski
Jan Kinsella
John Gaughan
Carole Calef
Denise Folliard

Discussion, Consideration and Possible Vote on Setting a Date for the Town Council Organizational Meeting – Monday, September 19, 2022 at 10:00 a.m.

Ms. Hardiman made a motion to have the Organizational Meeting on Monday, September 19, 2022 at 10:00 a.m. Seconded by Mr. Sheplee it was unanimously approved.

There being no further business, Mayor Hardiman closed the meeting at 2:59 pm

Respectfully submitted:

*Molly Daisey,
Administrative Assistant*