

**Town of Bellefonte Board of Commissioners  
Town Meeting Minutes  
July 10, 2006**

**Call to Order:** Dave Wishowsky called the meeting to order at 7:12 pm. Also in attendance were Peter Gillott, Kathy MacDonough, and Scott MacKenzie. Terry Thompson notified the Commissioners that he was on a business trip and could not attend.

**Minutes:** Scott made a motion to waive the reading and to approve the minutes for the meetings held on May 8, May 22, May 30, and June 12, seconded by Peter, and approved unanimously. The Executive Session minutes from the May 22 Special Meeting were approved as part of the minutes, but will not be made public until pending litigation is over.

**Bills:** The following bills were read by Scott for approval:

Delmarva Power	Street lights,	1,183.80
Delmarva Power	Town hall,	33.57
Delmarva Power	Traffic light,	58.81
NCC, Police Svcs	ar000421,	481.50
NCC, Police Svcs,	ar000445,	321.00
US Post Office,	Annl. Permit fee,	160.00
IDS,	Trash collection, July,	7,685.00
NCC, Police svcs	AR000399, may,	481.50
Verizon,	Phone expense,	149.82
Green n' Clean Inc.	Lawn care/parking lot maintenance	\$385.00
Scott MacKenzie	Stipend, 2 mos., \$100	
	Fan – \$39.99	
	Labels – 6.99, Total	146.98
R.G. Anderson Inc.	Treasurer Surety Bond annual premium,	\$1,200.00
Delmar Pest Control	Regular service,	49.00
IRS	2 <sup>nd</sup> qtr. Taxes, Curt Nass,	153.00

Scott made a motion to approve the bills as read for payment, seconded by Kathy. On discussion, Kathy explained that the bill for \$1,200 from RG Anderson was the annual premium for the surety bond required for Curt by the Town Charter. The Charter requires that Curt be covered for double the total amount of money that he could handle, and increases his coverage from \$40,000 to \$250,000. The bills were approved for payment by unanimous vote.

**Tax Collector’s Report:** Curt Nass gave the Tax Collector’s Report for the period ending 06/30/06 with **\$205.64** in taxes collected.

**Treasurer’s Report:** The Treasurer’s Report was given, stating that receipts for the month were **\$5,392.01** in the general account, **\$6,303.60** in the Transfer Tax account, and **\$4.40** in interest in the MSAF account (MSAF is Municipal Street Aid Fund).

Total disbursements for the month were **\$14,896.20** from the general account, **\$1,272.44** from the MSAF account with **\$42.21** in bank fees from the MSAF account. The ending balance in the general account was **\$41,603.19**, **\$958.15** in the MSAF account, and **\$59,717.66** in the Transfer Tax account. Curt noted that the **\$20,000** CD investment is now reflected on the monthly Treasurer’s Report. The balance in all accounts is **\$120,325.30**.

Scott made a motion to accept the Tax Collector and Treasurer’s Report as read, seconded by Pete, and passed unanimously.

**Inspector’s Reports** – Steve Russo was not present and sent no report of his activity. Scott said that Mark Barnwell reported that he would be attending and the Building Inspector’s report was delayed.

**Correspondence** – The following correspondence was received by the Commission:

- Kathy received an email asking who was responsible for signs that are vandalized or have graffiti. We will ask that question of officials from DelDOT when they attend the August Town Meeting.
- Kathy received an email asking about setbacks. Residents should contact the Building Inspector with these questions.
- Kathy received an email about the removal of the mailbox at Elizabeth and Brandywine Blvd. The only mailbox in town limits is now at Talley and Beeson. This is part of the Post Office's scaling back of mailboxes that get little use, and is being done throughout the area.
- Kathy received an email from a new resident on Highland Avenue complimenting the town on its website and newsletter and its efforts to keep residents informed of government activities.
- Kathy received an email from a resident reporting the use of firecrackers on and around Independence Day on Talley Rd., Grove Avenue and Euclid Avenue. It was noted that next year's June newsletter should contain an article about the danger and illegality of fireworks.
- Dave reported that he had received an email from our NCC community police officer saying that she had talked to the parents and car owner of 1207 Talley Rd. regarding reckless driving. Dave reports that the driver is now 18 years old and will be prosecuted as an adult if caught by the police. Dave encouraged any resident who witnesses this activity to call the police and to also consider videotaping the incident.
- Kathy said that she was contacted by the News Journal to update information for its yearly almanac.
- Dave received a letter from Delaware Emergency Management (DEMA) regarding recent storms. If anyone had storm or flood damage, please contact DEMA for assistance.
- Scott said that he had talked to Richard Perillo of Brandywine Hundred Fire Company about drainage problems and that Richard said that the fire company will pump out residents' basements upon request. He said that they are the only fire company in New Castle County that still offers this valuable community service. If you have basement flooding, please call BHFC.
- Kathy received an email from a resident asking about RVs and boats being parked on the streets. Residents are reminded that there is a time limit for boats, campers, and RVs being parked on the street and that violations should be reported to NCC Police.
- Scott received a letter from Mrs. Paranczak, owner of 1012 Euclid, requesting a variance. The letter was given to Rich Mulhern, secretary of the Board of Adjustment.
- Scott received a letter from the Park Resources office of DNRC regarding the town's pre-application filing for a \$50,000 grant from the Delaware Land and Water Conservation Trust Fund for redesign of Bellefonte Park. Our application qualifies for these funds and a final application must be submitted by July 28. Scott and Kathy will handle.
- Scott reported that he had received the quarterly report from NCC Department of Land Use (DOLU) detailing which properties in Bellefonte had been reassessed from March 1 through June 12.
- Peter Gillott reported that he had attempted to contact the pastor of the House of Prayer in Brandywine Blvd. but had been unable to reach him. He did report that the church has been keeping the door closed during services. He will continue to try to contact the pastor to discuss reported disturbance.
- Kathy reported that she had followed up on a complaint received by Scott Clouthier in June regarding a foul odor on Marion Avenue. Kathy said that she found that a resident is doing taxidermy at a residence. She will be doing further research on the matter.
- Dave received a call from the office of Jack Markell, State Treasurer, regarding an upcoming workshop on municipal finances. Curt said that he had attended such workshops in the past and that the information is geared toward larger municipalities with employees and expenses that do not apply to Bellefonte.
- Dave received another call regarding the car owner at 1207 Talley Rd.

**Building Inspector's Report** - Mark Barnwell said that he was in the process of trying to close out open permits from the previous months. He issued two new permits at 1209 River Road for a dormer addition and a deck; and at 1004 Maple for drainage enhancements. Mark submitted two checks for these permits. Someone in the audience questioned whether a permit was obtained for work being done at 1004 Prospect Avenue. Mark said he would check out the location.

### Commissioner Reports

**Commissioner MacKenzie** – Scott said that he was having difficulty identifying someone to repair the broken railing in the stairwell. A mobile welder had checked the job and estimated \$150 for the job, but had not returned Scott's call for service. Scott said that he would continue to try to have the rail repaired as soon as possible. Scott reported that a recent environmental survey of the day care center by the State had also identified the lack of shade on the playground. Scott said that he had requested documentation from Keith Crawford regarding the amount of shade required by the State but had received no reply yet from Keith. Scott said that he and Pete Gillott had met and had begun to transition facilities and property issues to Pete. Kathy added that she had discussed the termite problem with Keith and that there is currently no sign of active termite infestation.

**Commissioner Thompson** -- Dave read a report from Terry noting that the DeIDOT bid process was continuing regarding the 3 signs to be put at the entrances to Town. The bids are currently out by DeIDOT, one being to Naamans Creek Signs, the original vendor identified by the Town.

**Commissioner MacDonough** -- Kathy noted that there are two vintage street lights out on Brandywine Boulevard and that they had both been reported to Delmarva Power. She said that they had not yet been replaced. Kathy said that she had begun gathering information on two items that would complete the Streetscape Project on Brandywine Boulevard: 1) installation of a brick sidewalk in front of 811 Brandywine Boulevard, and installation of two vintage lights along the Boulevard in front of Russo Brother Plumbing. Steve Russo said that Russo Brothers would gladly kick in some money toward installation of these lights if cost was an issue. Kathy said that she would try to identify some contractors to complete the brickwork at 811 and would also contact the new owner and find out if he would agree to the work being completed. She said she would also identify some contractors that could install the street lights in front of Russo Brothers.

Kathy said that we had just received a check for \$1253 as reimbursement from CNA Insurance as a result of the annual worker's comp audit.

Kathy reported that she had gathered some information regarding advertising in the Delaware Travel Host magazine. She contacted the City of New Castle and found that they were very pleased with the results of the ad, and that they felt that the ad had brought business to the Town. She also said that she had asked the merchants association for more of a commitment to this advertising and for them to develop a group marketing plan that would be supported by this advertising. She also found that other towns in Delaware have been joining as participants with Travel Host.

Regarding Town Services, Kathy said that she would be meeting with Scott Clouthier later in the month to transfer all files and information regarding Town Services.

**Commissioner Gillott** -- Peter reported that he had met with Scott to begin the transfer of responsibilities for facilities and properties. A letter has also been sent to the Crawfords at Foulk Rd. Day Care notifying them of the change of duties.

**President Wishowsky** – Dave reminded residents that it is important – in light of recent storms – to keep storm drains clear so that storm water can drain as quickly as possible. He noted that it only takes a few minutes a month and can help avoid a host of problems. He also noted that trees – especially those with damaged or dying braches – should be kept trimmed so that they do not fall and cause further damage during the next thunderstorm. Scott also added that residents should be mindful that power surges can cause serious damage to home electronics and computers – having been a recent victim – and that surge-protecting power strips are comparatively inexpensive, considering the cost of replacing appliances.

### **Old Business**

**Ordinance 2006-02:** Dave noted that there are copies of the new ordinance 2006-02, AN ORDINANCE ESTABLISHING A PLANNING COMMISSION FOR THE TOWN OF BELLEFONTE, DELAWARE, lying around the room and on the back table. The draft ordinance, which was read for the first time at the

June meeting, was also posted on the Town website. Scott made a motion to read the ordinance in title only, seconded by Peter, and passed unanimously.

Dave read Ordinance 2006-02 in title only, adding that the Town attorney recommended that the Planning Commission be formed more formally through passage of an ordinance, instead of by vote, as was previously done. Dave asked if anyone had any questions and no one responded. Scott made a motion to adopt Ordinance 2006-02 as read in title, seconded by Kathy, and passed unanimously. Scott asked for a roll call of the vote for the record: Yea: Peter, Dave, Kathy, Scott; and Absent: Thompson. The new ordinance becomes effective immediately upon adoption.

Dave also noted that the Planning Commission is being re-established and that anyone interested in serving on the Planning Commission should contact Terry before July 21. Scott noted that he had put July 22 in the newsletter, so we should be consistent and make the deadline July 22. Dave agreed. Dave said that those who are interested should submit a short bio and need not be a resident. Dave said that the first task for the newly re-formed Commission would be to review the draft Comprehensive Plan and to make recommendations for revision, if any.

**Phone Line** – Scott M. said that he would be scheduling installation of the phone line to the fax machine with Scott C.

**DelDOT** – Dave announced that Rep. Diana McWilliams had made arrangements to schedule several key managers from DelDOT to be present at the August town meeting to discuss needed repairs and maintenance. He said that we would also attempt to find out when Elizabeth Avenue and Monterey Place were to be repaved.

**Property Transfers** – Kathy said that she had recorded only one property transfer in Town during the month of June, at 802 Melrose Avenue.

**Board of Adjustment** – Dave asked Brian Donovan, chair of the Board of Adjustment, who was present, for an update as to the Board's progress. Brian said that the Board had adopted draft rules and procedures as well as some forms and letters to be used in conducting hearings, which were being reviewed by their attorney for accuracy. He said that there are currently no hearings scheduled and that they are waiting to hear from the Town's attorney about the status of Kostyshyn vs. Town of Bellefonte before they proceed with hearing dates.

Kathy said that she was looking for past correspondence in regard to the BP station on Philadelphia Pike and whatever communication was sent to Mrs. Paranczak of 1213 Euclid Avenue. Scott will send to Kathy.

### **Old Business**

Scott moved to go into Executive Session to discuss the status of ongoing litigation, seconded by Dave. On discussion, Dave explained that members of the Commission need to discuss advice from the Town attorney regarding current court actions in the case of Kostyshyn vs. Town of Bellefonte. Miroslaw Kostyshyn asked if there were minutes taken for the Executive Session and if he needed to get a subpoena to obtain these minutes. Dave said that he could do whatever he needed to do. The minutes to Executive Sessions will be made public when the litigation discussed is done. The motion passed unanimously. The meeting passed into Executive Session at 8:50 pm.

### **Executive Session**

The proceeds of the Executive Session were recorded by Dave on a hand-held recorder. Dave explained that he had received an email from Max Walton (in Terry's absence) with an offer from Mickey Kostyshyn to settle the matter of reimbursement for his court costs in his first challenge of the Board of Adjustment hearing from 2004. In return, Kostyshyn would not file in Supreme Court. Max advised the Commission to accept the offer to avoid the legal costs involved in arguing a case before the Supreme Court.

Scott asked what fees were involved in filing before Supreme Court. Dave said that it was \$500. Scott said that he thought it was silly to file a \$500 motion to recoup \$190, since the reimbursement has already been denied twice by Superior Court. Kathy asked if cases without merit are ever denied hearings by the Supreme Court. Dave said that Max said that these cases are almost never dismissed without a hearing. Scott asked if the offer to drop the suit was just regarding reimbursement, or did this mean all current actions by Kostyshyn in court against the Town. Dave said it was just the reimbursement issue. Dave said that he felt that settling the matter without a hearing would encourage frivolous lawsuits and leans toward fighting the case. Scott said that he felt that this was just a bluff to get the Town to reimburse the expenses because Kostyshyn didn't want to spend the \$500 for filing. Kathy and Peter agreed with both Dave and Scott. Dave asked if the group had reached consensus and everyone agreed. Scott said that the decision had to be made in the public part of the meeting and offered to make the motion once the Town Meeting was reconvened. Scott made a motion to close the Executive Session and reconvene the meeting, seconded by Kathy, and passed unanimously.

### **Old Business** (continued)

The Town Meeting reconvened and Dave called the meeting back to order. Scott made a motion to pursue and continue all legal options available regarding this pending litigation regarding recovery of cost motion filed by Miroslaw Kostyshyn, seconded by Peter, and passed unanimously. Scott asked for a call of the role on this vote. Yea: Peter, Kathy, Dave, Scott. Absent: Terry.

DeIDOT – Dave announced that officials from DeIDOT, at the request of Rep. Diana McWilliams, would be attending the August Town Meeting to discuss maintenance. Scott asked if MSAF fund were supposed to be used by the Town to do our own minor maintenance. He said that he had looked on the Internet and had found that many other towns in Delaware use their money to pay for repairs and then get reimbursed a certain percentage from the MSAF fund. Curt said that the reimbursement was always based on the number of residents and the number of miles of road that needed to be maintained. Scott said that the Town of Clayton has a similar population and amount of road in the town, yet they get \$24,000, almost twice the amount that Bellefonte gets. Currently, all the MSAF funds received from the State go to pay the street light bills. Scott asked if this money should be used for minor repairs that DeIDOT won't do, and what are the guidelines for making these repairs. Kathy said that she would ask Ann Frampton, former Commission president, if she knew any details about the MSAF program.

### **New Business**

Dave asked if there was any New Business from the Commission. Scott asked if we needed a motion to sell the digital recording equipment that was purchased. Dave said it wouldn't hurt. Scott made a motion to sell the digital recording equipment for the best price available in favor of the analog recording equipment currently being used, seconded by Peter, and passed unanimously.

Scott said that Kathy has been dealing with letters from the Town Hall sign being stolen and that other postings were disappearing. Scott made a motion to spend up to \$500 to make the signboard secure, seconded by Dave. Dave called for discussion. There being none, the vote was unanimous.

### **New Business (Public)**

Dave asked if there was any New Business from the public. There being none, Kathy moved to adjourn the meeting, seconded by Peter, and passed unanimously at 9:23 p.m.

Dave announced that the next meeting of the Bellefonte Town Commission will take place on Monday, August 14, at 7 pm, Town Hall. The meeting was adjourned

Attachment A – Tax Collector’s Report

Tax Collector’s Report

From: 06/01/06

To: 06/30/06

Year	Tax	Discount	Penalty	Total
2005/2006	<b>\$205.64</b>			<b>\$205.64</b>
Prior Taxes & Fees	-			-
				<b>\$205.64</b>

7/10/2006  
Date

  
Tax Collector

Comments:

Cash Turned In:	Date	Amount	Receipt Number
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**Total Turned In:** \$205.64

Attachment B – Treasurer’s Report

Town of Bellefonte Monthly Treasurers Report June 2006 Report				
	Town Account	MSAF Account	Property Transfer Account	Total
Balance 06/01/06	\$51,107.38	\$2,226.19	\$53,460.85	\$106,794.42
<b>Receipts</b>				
Transfer Tax			6,165.00	6,165.00
Rent	2,640.00			
Legal Retainer	2,025.00			
Plumbing Inspection Fees	400.00			400.00
Tax Collection	205.64			205.64
Interest	121.37	4.40	138.60	264.37
	<hr/>	<hr/>	<hr/>	<hr/>
Total Receipts	5,392.01	4.40	6,303.60	7,035.01
<b>Disbursements</b>				
Trash Collection	7,685.00			7,685.00
Attorneys Fees	2,500.00			2,500.00
Tree Removal	1,788.00			
New Castle County Police	963.00			963.00
Treasurer’s fee	923.30			
Town Hall Maintenance	470.00			470.00
Printing Expenses	292.00			292.00
Various Office Expenses	193.11			193.11
Bank Fee	46.95	42.21	46.79	135.95
Town Utilities	34.84	1,230.23		1,265.07
	<hr/>	<hr/>	<hr/>	<hr/>
Total Disbursements	14,896.20	1,272.44	46.79	13,504.13
Ending Balance 06/30/06	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
	\$41,603.19	\$958.15	\$59,717.66	\$100,325.30
Bank CD				<hr/>
				\$20,000.00
				<hr/> <hr/>
				\$120,325.30



Curt A. Nass  
Treasurer/Tax Collector

Attachment C – Ordinance 2006-02

Ordinance No. 2006-2

**THE COMMISSIONERS OF THE  
TOWN OF BELLEFONTE, DELAWARE**

AN ORDINANCE ESTABLISHING A PLANNING COMMISSION  
FOR THE TOWN OF BELLEFONTE, DELAWARE

**WHEREAS**, the Commissioners of the Town of Bellefonte (“Commissioners of Bellefonte”) and the residents of the Town of Bellefonte, desire to establish a Planning Commission to review land use concerns, now and in the future; and

**WHEREAS**, the Commissioners of Bellefonte have determined that the needs of the residents of the Town of Bellefonte are best served by establishing a Planning Commission, as permitted by, *inter alia*, Title 22, Chapter 7 of the Delaware Code.

**NOW THEREFORE; BE IT ENACTED AND ORDAINED** by the Commissioners of Bellefonte, New Castle County, Delaware, that:

1. *Creation and Membership:* A Planning Commission is hereby established and shall consist of five members. Members of the Planning Commission shall be elected by the Commissioners of Bellefonte and may be nominated to serve by any Commissioner of Bellefonte holding office at the time of the vacancy on the Planning Commission.
2. *Original Membership:* The original members of the Planning Commission shall be elected by the Commissioners of Bellefonte. One original elected member shall serve a term of one year, two original elected members shall serve a term of two years, and two original elected members shall serve a term of three years.
3. *Subsequent Membership:* Upon the expiration of the initial term of any original member of the Planning Commission, all subsequent persons elected by the Commissioners of Bellefonte to serve on the Planning Commission shall serve a three year term.
4. *Removal from Office:* Members of the Planning Commission elected by the Commissioners of Bellefonte shall only be removed by the Commissioners of Bellefonte for cause after a public hearing by a majority vote.
5. *Vacancy:* Any vacancy on the Planning Commission occurring other than by expiration of term shall be filled for the unexpired term by election of a new member by the Commissioners of Bellefonte.
6. *Compensation:* Members of the Planning Commission shall not receive compensation for the performance of their duties.



7. *Organization:*

- a. The presence of three members of the Planning Commission shall constitute a quorum at any meeting.
- b. Meetings of the Planning Commission shall be held at the call of the chairperson of the Planning Commission or at such other times as requested by a majority vote of the Commissioners of Bellefonte.
- c. All meetings of the Planning Commission shall be public.
- d. The Planning Commission shall keep minutes of its proceedings showing its action and the vote of each member upon questions requiring a vote or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
- e. The Planning Commission shall elect annually a chairperson and a secretary from among its own number.
- f. Any vote of the Planning Commission must pass by a majority of the Planning Commission members present at the hearing, except as otherwise required by State law.

8. *Powers and Duties of the Planning Commission:*

- a. The Planning Commission may make and alter rules and regulations for its conduct consistent with the laws of the State of Delaware.
- b. The Planning Commission shall have all powers which are now or hereafter granted to it by ordinances of the Commissioners of Bellefonte or by Title 22, Chapter 7 of the Delaware Code, as amended, or by any other laws of the State of Delaware relating to the powers, governance, rights, responsibilities, or actions of Planning Commissions.
- c. All recommendations of the Planning Commission made to Commissioners of Bellefonte shall be in writing.

First Reading: June 12, 2006

Second Reading: July 10, 2006

**ORDAINED AND ENACTED** this 10th day of July, 2006.

          Dave Wishowsky           President

Attest:           Scott MacKenzie           Secretary