



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

PUBLIC HEARING

January 3, 2025, at 9:00 a.m.

Town Hall

Minutes

Members Present: Bill Rymer, Jacque Napolitano (Zoom), Natalie Magdeburger, Janice Bortner (Zoom), Kurt Zanelotti (Zoom), Susan Brennan (Zoom)

Others Present: Erin Ellinger, Kathy Grab, Chief Morrissey along with 5 in person attendees 15 on Zoom.

Flag Salute and Call to Order at 9:04 AM.

1. Public Hearing before the Town of Fenwick Island Town Council to consider Amendments to the code of the Town of Fenwick Island as follows:

Mayor Magdeburger stated the Public Hearing has been posted on the Town's website, at the Town Hall and published in the *Coastal Point*.

- Amending Chapter 107 – Noise (see proposal on Town website).

Public Comment:

Janet Hess – Questioned the reasoning behind lowering the decibel level, especially on weekends, and asked whether the town has received many noise complaints. She also pointed out that beach bonfires are permitted until 11 PM.

Rose Mary Hoy – Commended the Town Council and Police Department for their efforts in preserving the community. She shared concerns about the lack of awareness among some residents regarding the public hearing. She questioned whether there is a significant noise issue in town and expressed support for having measurable decibel criteria. However, she opposed the proposed time change, stating it could create an environment of fear. She suggested addressing repeat offenders directly instead of imposing such strict changes and advocated for keeping the time at midnight. She also raised concerns about the potential impact on police resources during the busy summer season and encouraged the town to adopt a more proactive communication strategy. Additionally, she suggested scheduling public meetings at more convenient times of the year.

Ann Riley – Stated that the ordinance aims to provide measurable standards for addressing issues, making enforcement less subjective. She emphasized that the goal



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

is not to restrict fun in Fenwick but to establish clear guidelines. She also stated that ordinance change did not require residents to come in the house at 10 p.m. They still would be able to socialize but would need to do so in normal conversational voices (which is what is permissible under the decibel levels) so as to not to disturb their neighbors.

Cheryl Carey (via Zoom) – Praised the Town Council for maintaining Fenwick’s character and acknowledged the need for ordinance revisions to make regulations less subjective and more measurable. She supported the ordinance as written and encouraged the council to consider how the proposed changes align with the town’s identity. She lives on the south side of Town, near a business which repetitively caused excessive noise. She believes the ordinance change would be beneficial to ensure that the type of people we attract to Fenwick are those who are family centric.

Amy Kyle (via Zoom) – Thanked the Council for addressing the issue but noted difficulty understanding the rationale behind the proposal. She agreed that decibel levels needed clarification and supported the proposed limits as reasonable. However, she suggested 11 PM as a more appropriate time for restrictions. She questioned the timing of the public hearing, which fell after a holiday week, and recommended including clear explanations about the purpose and goals of the ordinance in the proposal.

Terry & Doug Thran (via Zoom) – Expressed full support for the noise ordinance. They live next to the House of Sauce restaurant and have experienced noise issues in the past, though police responded promptly. They applauded the council for preserving Fenwick’s character and believe that the proposed changes would continue to maintain Fenwick’s quiet character.

Geri Verlaque (via Zoom) – Thanked the council for their efforts but felt that a 10 PM restriction is too early, especially during the summer. She proposed extending the time to 11 PM or midnight, noting that she only experienced one noise issue last year, which was rare.

Mayor Magdeburger – Explained that the public hearing was announced during the December Town Council meeting and scheduled to comply with time regulations.

Linda Poggi (via Zoom) – Expressed gratitude to the council and police department for their efforts in preserving Fenwick’s unique character. She suggested that a 10 PM restriction is too early during the summer and recommended extending it to



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

midnight. Linda proposed addressing the decibel levels first before implementing a significant change to the timing. She also mentioned being unaware of the meeting and questioned why it was scheduled during a holiday week. Additionally, she stated her preference for police focusing on highway monitoring rather than responding to noise complaints.

Steve Larson – Recommended setting the time restriction at midnight.

Kurt Zanelotti requested that Mayor Magdeburger provide an overview of the ordinance change process. Mayor Magdeburger explained that the issue originated within the then named Residential Advocacy Committee in 2022. Minutes from the April 11, 2022, meeting revealed that the current noise ordinance prohibits disturbances between midnight and 8 AM, but Patti Breger suggested extending enforcement to 24/7. Minutes from the March 6, 2023, Residential Concerns Committee meeting further indicated that a motion was made to remove time restrictions on noise ordinance enforcement. The motion, supported by all members except Shaunessy Pierce, called for Council review and referral to the Charter and Ordinance (C&O) Committee to make noise restrictions 24/7 to maintain the “quiet resort”.

At the March 24, 2023, Town Council meeting, Council Member Janice Bortner, representing the Residential Concerns Committee, proposed sending the recommendation to the C&O Committee to consider removing all time constraints on the noise ordinance in Section 77-9A. Mayor Magdeburger noted that the ordinance had previously set the enforcement start time at 10 PM before being adjusted to midnight. The Residential Concerns Committee sought 24/7 enforcement, but the mayor expressed concerns about overly restricting outdoor activities, which are a key aspect of the Town's identity. During that meeting, a motion to refer Chapter 107 to the C&O Committee was moved by Janice Bortner, seconded by Jacque Napolitano, and passed 5-1.

Minutes from the April 3, 2023, C&O Committee detailed the C&O taking up the referral that had been made to Town Council by Council member Bortner and was consistently placed on the C&O Agenda and worked on for almost 2 years before taking back the proposed ordinance to Town Council in December, 2024.

Mayor Magdeburger clarified the progression: the ordinance originated with the Residential Concerns Committee, was sent to the Town Council, and then referred to the C&O Committee for further refinement. She acknowledged ongoing noise



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

problems in specific areas and emphasized the need to balance business and resident interests. Former Police Chief Devlin previously highlighted the importance of clear enforcement parameters, and concerns were raised about the current fine structure being too low.

The ordinance, once finalized by the C&O Committee, was brought back to the Town Council. A hearing was scheduled, and was posted at Town Hall, on the Town website, and advertised in the *Coastal Point*.

Mayor Magdeburger emphasized that the Public Hearing allows for further modifications and community input. Residents can share feedback via email, letter, or public comment at Town Council or committee meetings. She underscored that this issue has been publicly debated for three years, with significant discussion within the C&O Committee about enforcement times. The initial proposal for 10 PM enforcement went forward, but changes can still be made before the Second Reading.

Ann Riley shared that, as someone actively involved in the community and various committees, it can sometimes be challenging to stay updated. She recommended checking the C&O and Town Council agendas as the easiest way to track town activities. She also noted that ordinance changes take time and do not happen quickly.

Mayor Magdeburger added that all draft ordinances are reviewed by the town solicitor and highlighted the extensive legal work that was done for the dredging project. She pointed out that no objections were raised during any of the C&O meetings and noted that Council Member Bortner attended many of them without objection to the direction the C&O Committee was pursuing. Mayor Magdeburger was not sure why Council Member Bortner did not share this history as many within the Residential Concerns Committee were now expressing reservations about the extension of the quiet hours, despite the fact that Council Member Bortner had specifically requested that the C&O Committee extend limitations on noise 24/7.

Ann Riley explained that the proposed decibel level is equivalent to the sound of a normal conversation or a typical radio and would be measured from the property line.

Mayor Magdeburger emphasized the importance of ensuring that citations issued by officers are legally sound and able to withstand scrutiny in court and expected that many of the noise complaints would continue to be handled with a warning and a request to turn the volume down. She further stated that noise violations would



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

occur if someone complained and there would not be active patrolling to find noise issues without a complaint from a neighbor.

Janice Bortner mentioned that this issue originated from former committee members, the Bregers, who faced an extreme situation that required attention. Janice Bortner then started to advocate for a change in the proposed ordinance; however, Mayor Magdeburger responded, stating that it is not appropriate to advocate for a specific position in this context as it would violate FOIA since this was a hearing and not a vote. Mayor Magdeburger suggested to Council Member Bortner that she should save her comments about the proposed ordinance for the next Town Council meeting so that the discussion could be properly noticed with an agenda.

- Adopting a new Chapter 75 – Civil Offenses and amending Chapters 48, 52, 56, 61, 65, 69, 73, 77, 81, 88, 95, 100, 102, 107, 112, 116, 127, 131, 135, 153 and 160 (see proposal on Town website).

The mayor explained that this change reclassifies misdemeanors in the town code as civil fines, making it easier to adjust fines in the future. She noted that the current code poses a risk of exposing the town to claims of malicious prosecution. The update is intended to simplify enforcement for officers and enable the building official to issue violations. Additionally, it establishes a due process review within the Town Council, allowing issues to be heard and resolved at that level.

There was no public comment on this matter.

- Amending Chapter 61 – Building and Utility Construction (see proposal on Town website).

Mayor Magdeburger explained that the amendment would require that all construction equipment, including porta-potties and dumpsters, be removed from the property within five days of receiving the certificate of occupancy. This addresses complaints about porta-potties remaining on properties after construction has been completed.

There was no public comment on this matter.

- Amending Chapter 135 – Signs (see proposal on Town website).



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

302-539-3011 ~ 302-539-1305 fax

www.fenwickisland.delaware.gov

Mayor Magdeburger said a referral was made to the C&O Committee to amend the entire electronic sign ordinance, but the two entities that initially submitted the request later withdrew it. During the process, it became apparent that town signs related to public and pedestrian safety were not exempt under the current ordinance. The proposed amendment would exempt the Town's use of electronic signs. This is necessary to ensure sign usage for public safety and community notice.

Rose Mary Hoy expressed her support for proposed ordinance change and thanked Council for working to find a solution.

Janice Bortner inquired whether the proposed changes would allow flashing signs to be placed on all residential streets. The mayor clarified that the changes would exempt the town from the prohibition in the current ordinance. Decisions regarding the placement of such signs on specific streets would rely on the expertise and judgment of the police department.

2. Public Participation

No further public participation.

3. Adjourn

The hearing adjourned at 10:12 AM.