



The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944-4409

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

www.fenwickisland.delaware.gov

CHARTER & ORDINANCE COMMITTEE MEETING

July 2, 2024, at 9:00 a.m.

Town Hall

Minutes

Members Present: John Nason, Natalie Magdeburger, Ann Riley, Ben Waide, Jacque Napolitano, Roy Williams

Others Present: Erin Ellinger, Luke Mette, Bill Rymer, Lori Dabbondanza

Flag Salute and call to order 9:02

- 1) Approval of the Minutes from the January 11, 2024, meeting.

A MOTION to approve the minutes from January 11, 2024.

Moved by: Ann Riley

Seconded by: John Nason

MOTION passed unanimously.

- 2) Follow up with previous areas of discussion and possible action:

- i) Noise Ordinance—draft to review, discuss and possibly refer to Council.

Natalie noted that this issue has been discussed several times. The Town Solicitor, Luke Mette, suggested adding a definition section regarding the decibel section. If we have two levels read within a two-minute interval, that would be sufficient. Also, in Fenwick we have an ordinance that says, "unreasonably loud to a normal person". Natalie noted that the officers struggle with making that determination. This fix would help with making determinations. The decibels that we chose are ones that are used by many surrounding beach towns. There are some exemptions. Code book 107-2(a). Discussion. The consensus was that the committee was comfortable with Luke's suggestion.

Regarding times, there are conflicting references. Change hours between 10 p.m. to 8 a.m. the following morning. Any sound exceeding either (1) time (2) 55 decibels between 10 p.m. and 8 a.m. and include any reliable application and/or meter that is designed to measure decibels.

Discussion about violations. If other municipalities have adopted similar penalties, do we want to have an escalation clause for multiple violations in a certain period of time?

Natalie suggested adding a section (d).



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Town Solicitor Luke Mette suggested that 77.9 language should mirror the proposed language changes. Natalie mentioned revocation of business license. Does the determination for violation go to Council or another avenue? Natalie suggested that it could be a special meeting of Council. In the event of a third violation, the matter shall be referred to the town Council automatically for consideration of implementation of penalty including but not limited to revocation of license. The Town Council upon referral shall schedule a special meeting of Town Council for consideration of the violation and appropriate course of action.

Rules should be the same for businesses and residential.

Natalie - discussion about an escalation penalty. We will work on this part of it. Special exemptions may be granted.

Ann Riley referenced outdoor speakers and amplification of sounds. Natalie suggested clarifying language to include speakers, bullhorns, etc. Luke will look into other references from surrounding towns.

Ann Riley – questioned productive activities and do we want to limit the time when people can do yard work? Discussion. Consensus was to leave that issue alone.

Natalie will work with Luke on the above changes and get them ready for review and approval at the next meeting.

ii) Changes in code from misdemeanor to civil fines status.

(1) Town Solicitor presentation on the topic for discussion.

Luke stated that civil enforcement of the Code seems to be the way many towns are going recently. Wilmington and Rehoboth both have gone this route. Civil fines that are properly assessed can create liens on properties. Natalie discussed the Alderman's Court that existed previously in the town. Fenwick is not equipped to bring that back. However, she believes having the ability to switch it from a misdemeanor to civil fines is a better option for the town. This is a complicated piece. Luke recommended creating a separate chapter that references each piece that required addressing. This creates a plug and play option to easily deal with the issue.

(a) 75-4 - Town Council could hold a special meeting quarterly for anyone that wants to appeal a civil fine. Luke recommended doing it more frequently. For example, Natalie referenced grass cutting. Could utilize language such as "unless otherwise specified". "Appeal to Town Council". Notice should be by "Sent by mail, return receipt requested".

75.2 - Luke recommended having the building official able to enforce. "Issuing entity can be the town Police Officer, Town Manager, Building Official or their designees."



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Animals, beaches, boating, building and utility construction, erosion control, building, civil, lighting, noise, parking (keep it civil and appeal to Council?), sanitation, sewer, signs, subdivision of land, vehicles and traffic, weight limits, posting of traffic signs, violations, LSV, shuttle service. Natalie recommended implementing all the changes at once.

Mr. Mette will prepare a draft for consideration.

- iii) Modification to Section 61-3(F) re: removal of all construction related equipment at time of Occupancy Permit—

- (1) Fine in lieu of withholding occupancy permit.

Alter to have a fine of \$250/day rather than hold up the occupancy permit. We will still have the ability to seek an injunction and place a lien on the house.

The Town Solicitor will be asked to draft a proposed ordinance to vote on in the next meeting.

- iv) Electronic signage ordinance re: coordination of Dark Skies provisions into proposed language.

Coordination of Dark Skies provisions into proposed language

- (1) St. Mathews withdraw of request and discussion.

Natalie gave a brief background of the issue. She noted that St. Matthews has withdrawn their request for an electronic sign. We would have to make an exemption for the town sign for the purpose of conveying emergency information.

Discussion - John would like to revisit the entire sign ordinance and take into consideration Sussex County ordinance and Dark Skies.

Ann recommends looking at the sign code and bringing the business community up to speed. The Sussex County sign code will have to be looked at. Ben noted that we should take what we have and make it work within the county code. Roy shared that everyone he has spoken to does not want electronic signs. Natalie noted that Warren's Station and Fenwick Village have indicated an interest in having an electronic sign for their businesses.



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Luke Mette will look into whether or not there are 1st amendment violations.

The issue was tabled pending input from Luke regarding Sussex County.

We should move forward to get an exemption for the Town so that the Town sign can be utilized to provide notice of Town events/meetings.

3) Old Business

a) Charter amendment re: term limits of Council.

A MOTION to refer to Town Solicitor the Charter amendment to begin working on the process.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOITON passed unanimously.

Ann noted that her concern with term limits is the limited number of volunteers we have available to serve in the town. John shared Ann's concern. Natalie noted that we need to work on growing new leadership. Ann believes we should hold an election every two years and in the month of June, preferably. John asked if we could expand the motion to include Ann's concerns. Motion amended to include Ann's suggestions.

A MOTION To refer to the Town solicitor the process of making a charter amendment to impose time limits on council members.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

Ann and John feel that it is an option to run for council and term limits are not the solution. Ann feels elections should be in June and not more than every other year.

John- expand to encompass to include the whole process of the charter to be reviewed.

b) Organization of Code status

Pat Schuchman is working under contract and going through the code. Jacque suggested having Pat look at the election process.

4) New Business/Referrals from Town Council



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John Nason asked if there is a list available of previous mayors.

5) Public Participation

None

6) Adjournment

A MOTION to adjourn the meeting at 11:50 am.

Moved by: Roy Williams

Seconded by: Jacque Napolitano

MOTION passed unanimously.