Meeting Minutes

Town of Dewey Beach Planning Commission

Meeting Date: May 4, 2012

The meeting was called to Order by Chair Harry Wilson (6:00 pm), followed by the Pledge of Allegiance and Roll Call. Commission members present were: Jim Dedes, Don Gritti, David King, Gary Mauler, and George Metz. Town Attorney Fred Townsend and Code Enforcement Official Bill Mears were present in their official capacities; Deputy Fire Marshall Allen Brown and ABCC commissioner Kevin Jones were also present.

**Chair’s Comments.** Chairman Wilson noted that the purpose of this meeting was to review a draft ordinance to amend the zoning code’s regulation for expansion of patron area for special events.

**Minutes of Prior Meeting.** After a motion and second, the minutes of the January 7, 2012 meeting were approved by voice vote, with one abstention (King, who was not present at that meeting).

Attorney Townsend introduced the draft ordinance under consideration by reading the salient paragraphs, and advising that no special provisions should be made in the ordinance for either charitable events or special applicants.

Chair Wilson introduced the letters of support for (14) and opposition to (4) the draft ordinance by reading the names of the authors, and then opened the public hearing portion of the meeting.

Speaking in favor of the ordinance (14) were Elizabeth Malone, Claire Walsh, Jenny Taylor, Carol Eberhart, Dale Cooke, Kelly Ranieri, Gary Cannon, Pat Wright, Ben Wooly, Rob Marshall, Maria Muscara, Bronie Zolper, Diane Djeski, and Dave Thomas. The key issues voiced in support of this ordinance, as written, included:

* Special events foster a sense of community and bring together the various factions within Dewey Beach;
* Special events in the evening contribute to the prosperity of town businesses by bringing in people who then stay overnight (benefitting restaurants & eateries, h/motels and residential rentals), and that the town businesses need more off-season activities to stimulate business;
* Special events promote economic development and civic responsibility;
* This is a resort town and visitors expect special events to enrich their vacation experience, and these can be effectively used to market the town;
* There are safeguards in the special exception approval process to provide control and oversight;
* There is a limit to how many events will be offered because small businesses cannot afford to hold expansion of patron area events;
* Special events off season are important to local businesses because the high season is so short;
* The town needs to ensure that approved events are “good events” and that the sponsors provide increased levels of security and trash collection, etc.;
* Many businesses schedule their opening and closing around specific special events, and would open earlier/stay open later if such events were extended into the shoulder seasons;
* Home owners come in the off season to participate in special events;
* Provides for recreation for residents in neighboring townships, bringing them into Dewey;
* The above points made, there seemed to be a consensus that there should be compromise, such events should not be “all the time” and should be reviewed on a case by case basis to ensure good events are approved and bad events are not approved.

Speaking against the ordinance (8) were Betsy Damos, Ray McCloughlan, Marcia Shieck, Allen Winton, Linda Winton, Dick Cleaveland, Susan Sly, and Gary Keith. The key issues voiced in opposition to this ordinance, as written, included:

* The ordinance regards expansion of patron area in relationship to a special event; special events can be held without such expansion of patron area which only serves to make the consumption of alcohol more public;
* In this litigious environment, the town will unlikely be able to say “no” to any applicant due to the potential costs of litigation;
* Past expansions approved by the Town Commissioners have resulted in outrageous public drunkenness, have not been in good taste and have driven renters and families with young children away, and have not contributed to the family-friendly image that the town is trying to establish;
* There are lots of great special events in town that do not expand into open parking lot areas;
* Before increasing the number of expansions of patron area, the town needs to get a handle on the noise, public nuisance and public drunkenness problems in town;
* It is clear that the current events often result in the need for additional police and clean-up expense, especially in the off season, that the town should not have to bear;
* Fosters the rift between town businesses and residential property owners;
* Special events in Rehoboth are cooperative events, including Chocolate Fest, Jazz Fest, Sea Witch, not just a drunken bash at one bar/restaurant;
* Any expansion of the expansion of patron area ordinance should be the subject of a letter to all property owners and, possibly, an election referendum;
* While compromise is good, the compromise was made years ago when the Town Commissioners offered the opportunity for 2 expansion of premises per year;
* The above points made, there seemed to be a consensus that events like the two cancer benefits are “good” events that would benefit from such an expansion of patron area and of town support.

Overall, the sense of the discussion was that 1) “good” events are good for Dewey and “bad” events are not, and 2) the town needs to use the application process for expansion of patron area for special events to safeguard the safety, health and welfare of the town, its citizens and their property, and visitors.

Planning Commissioner discussion. After the close of the public hearing portion of the meeting, the Planning Commissioners discussed the testimony and proposed draft ordinance. Points raised included:

* The concerns raised over need for additional police, excessive consumption of alcohol, vomit and litter, etc. exist today under the current regulations. The town needs to develop ways to better deal with the existing public nuisances.
* Lt Hocker discussed the increased policing needs related to special events and expansions of patron areas, both in season and off season. The costs of providing an appropriate police presence could be around $2,500 per night – more off season than in season. And there will be times, e.g., during Dover Downs, when it will be difficult to staff up;
* Once the Town Commissioners approve one or more such expansions, what grounds might they then have to reject others;
* Attorney Townsend noted that the issue before the Planning Commission relates to expansions of patron area for a special event not special events in general, and the Town Commissioners have lots of room to deny or to impose conditions of approval, and that considerations of public safety and welfare were, presumably, the reason the drafters of the current zoning regulations set the limit of such expansions at 2 per year;
* The fee for an expansion of premises permit should be raised to $300, as for all other special event permits;
* The Deputy Fire Marshall responded to questioning on occupancy limits by the Planning Commission: if there is no furniture, the maximum occupancy limit is calculated by total square footage divided by 7, so the maximum in a 2,000 S.F. area with no tables, chairs or service areas would be a little less than 300 patrons and staff; if there are tables and chairs, etc., the effective floor area is appropriately reduced and divided by 15 (for seated dining); they do make site visits to check the floor plan and confirm their numbers;
* Attorney Townsend noted that he did not believe the town could charge for extra police provided by the town during a special event as a concern over appropriate allocation of costs (i.e., to this event versus other activities in town), but he would research the imposition of a surcharge or extra fee by the Town Commission as part of its review and approval process;
* The town needs to define “special event” and a process to determine whether or not any such application for a special event requires an expansion of patron area;
* There are systemic issues within the town that would warrant revisiting the issue of special events and expansion of patron area under the review of the Comprehensive Development Plan;
* While there was a consensus to limit the number of expansions of patron area, there were discussions over limiting the number of expansions of patron area

Motion. A motion was made (King) and seconded (Gritti) to amend the draft ordinance before the Planning Commission to correct the usage of “Town Council”, expand subsection c) to add a maximum of 2 expansions of patron area per applicant per year in the off season (collectively January 1 – May 14 and September 16 – December 31), and add a subsection d) to provide for application to the Town 90 days in advance of any proposed expansion, and for the Town Manager to review and recommend to the Town Commissioners an appropriate level of permit-fee surcharge to reimburse the town for any expected costs resulting from an approved expansion of patron area, to recommend this amended draft ordinance to the Town Commissioners for their approval, and to recommend the expansion of patron area for special events fee be raised to $300 as per other special event permit fees. This motion was passed in a roll call vote, with 5 ayes and one nay (Metz, who thought there should be provision for a maximum of three (3) such expansions permitted in the off season).

Adjournment. There was a motion to adjourn; seconded and passed by unanimous voice vote (8:00 pm).