

GTF: Ordinance and Policy Sub-Task Force Meeting Minutes

Thursday, June 9, 2022

Attendees: John Scheflen (via Zoom), Kate Threefoot, Bev Clendening

Meeting called to order at 7:37 PM.

1. Changes to Memo on Ordinances, Resolutions and Policy

The Sub-Task Force reviewed changes made by John as a result of comments by the full GTF.

Ordinance Recommendation 4 was revised to clarify the process for the reading of resolutions on Ordinances. Resolutions must be read at two consecutive meetings. The revision was to clarify that only Special Meeting called for the specific purpose of considering the resolution under discussion would count toward these two meetings. Ordinance Recommendation 1 was revised to include a role for advisory committee who “shall determine whether to refer the proposed ordinance to the applicable committee...”

Resolutions Recommendation 3 was removed.

Policies Recommendations added. The recommendation creates a “policy for policies”. There was a discussion concerning whether all policies must be shared at Town Meeting. Some committee policies affect only members of the committee others potentially affect the community at large. Do policies that affect only the inner working of the committee need to be shared at Town Assembly? There are Village level policies and committee level policies. Only Village level policies are shared at Town Assembly. It was decided that this issue does not need to be included in the recommendations on policies.

2. Ordinance 3

Kate’s revision of Ordinance 3 was discussed. There was a lengthy discussion about the language in Arden’s Ordinance 3 and the Delaware Code, Section 1102 title 9. Kate and Bev thought that the statement that responsibility for local service functions was transferred from the Village of Arden to New Castle County contradicts what actually happens. Arden is charged for service functions which are provided by default and claims an exemption for two categories: local parks and recreation. John pointed out that historically the municipality had to transfer the responsibility to New Castle County for all functions and then exemptions can be claimed. The new version of Title 9, Section 1102 (effective July 2022) states that the transfer of function can be either from the municipality to the county or from the county to the municipality. Kate will re-write her revision of Ordinance 3 and share it with the Sub Task Force before presenting it at the full GTF on June 23.

A further discussion ensued regarding the list of local service functions that are assigned to the county. Among those listed are trash and garbage collection but Arden pays for its own trash and garbage collection. The new version of Delaware Code, Title 9, Section 1102 which become effective on July 1, 2022 does not enumerate the service function. This resolves the problem concerning trash and garbage collection.

Ordinance 11

Bev is still gathering information about this ordinance. One of the biggest issues with Ordinance 11 has to do with Section 7 which specifies the widths of the rights-of-way as recorded in the Deed of Transfer between the Trustees of Arden and the Village of Arden on April 17, 1967. There are many examples of plantings and structures that encroach on the rights-of-way as defined in the Deed of Transfer. Many of these are long-standing and most do not present a safety issue. It will not be possible to change this definition of the rights-of-way but it may be possible to remove Section 7 from Ordinance 11. Bev met with Sue Rothrock, a former Chair of the Civic Committee, who was instrumental in the enforcement of rights-of-way in the past and in the writing of the most recent amendment to Ordinance 11 (2009). Sue explained the evolution of responsibility for Ordinance 11. In 2009 enforcement of the ordinance in terms of safety was placed in the hands of the Safety Committee. Encroachments on the rights-of-way that are not a safety issue are supposedly handled at the time of lease transfers. Leaseholders may be issued a revocable license for encroachments on the rights-of-way that are not safety hazards. These licenses may be revoked if an encroachment becomes a safety issue. The Trustees consult with the Safety, Civic and Community Planning Committees before each lease transfer is finalized. Bev also met with the current Civic Committee and the current Safety Committee. Members of the Safety committee say that they enforce Ordinance 11 using the criteria set out in Section 1 of the Ordinance. They do not pay attention to Section 7 which defines the width of the rights-of-way. They implied that the issuing Revocable licenses is not a current policy. Members of Civic Committee noted that there are issues with the rights-of-way that do not involve safety (for example, trees that fall) and that these are handles by The Civic Committee. A meeting with representatives of Civic and Safety Committees will be arranged to discuss their conflicting interpretations of Ordinance 11. Bev will also contact the Trustees for more information about revocable licenses. It was also recommended that Bew check the County code for wording used in rights-of-way regulations. It appears that Ordinance 11 at a minimum needs a new Title because all issues with respect to the rights-of-way are not safety issues. It is possible that two different ordinances are needed. Bev will not report at the next full GTF meeting but will be ready with recommendations for the next meeting the Ordinance and Policy STF.

3. Ordinance 6 and 10

Ordinance 6 – Excavations. Kate questioned whether the procedure in the ordinance is followed by the Village. She will ask Civic Committee about this. A permitting process needs to be a part of the procedures policies. There need to be clear procedures for the permits and fees. Fines need to be addressed as a bigger issue.

Ordinance 10 – Public Utilities. What authority does Arden have in these issues? This ordinance does not seem to be in the purview of the Village of Arden. Is there a county ordinance that deals with this? Can we just get rid of this ordinance? This may be a holdover from times when Arden was or at least considered itself to be more autonomous.

The meeting was adjourned at 9:14