

Village of Arden, Governance Task Force

Meeting Minutes: October 27, 2022

Attendance: Ray Seigfried (Chair), John Scheflen, Barbara Macklem, Lynda Kolski, Beverly Clendening, Steve Benigni

Meeting called to order at 7:37

Minutes from July 22, 2022, approved unanimously with one amendment. The last words in the minutes *“his request is outside of the scope of authority of the Village”* were replaced with *“his request is outside of the scope of authority of the Governance Task Force”*.

Ray expressed the hope that the work of the Task Force would be complete by March 2023. He raised the question to the group about how to present a profile of the work that we have done. He sees a two-step process. First, how do we organize the work that we have done? What format? Secondly, how do we present our recommendations to the Village?

In terms of organization, the Ordinance and Policy Sub-Task Force has created a template for their work, starting with the purpose and a summary of the content of the ordinance followed by a presentation of issues and recommendations. It was agreed that reasons for recommendations must be clearly laid out. It was also generally agreed that there should be a formal presentation for town residents. The presentation should lay out the background and rationale for recommended changes and that there should be with hand-outs with current ordinance with red line changes. It is probable that more than one presentation will be required. One idea is to present several changes at each town meeting or to have several special town meetings, maybe one for the Charter and one for Ordinances and Policies. Another idea was to present a sample, maybe one Ordinance, at the January Town Meeting and announce later Special Town Meetings. No decisions were made on this topic. The Governance Task Force page of the Arden Web site contains a section where draft recommendations can be posted and commented on by all Arden residents. However, it was recognized that people do not generally give feedback in advance.

Report of the Ordinance Sub-Task Force

The Ordinance and Policy Sub-Task Force sent a Status Report showing ordinances for which review was complete and those that are ready for review for the full GTF. This sub-TF will be moving onto policies and procedures. The Sub-TF prepared a survey to send to Arden committees concerning their policies. The survey was not discussed.

Ordinance #5 – Noise.

Main problem with this ordinance is that some of the ordinance is illegal. Every jurisdiction in DE has a noise ordinance and they are much the same. There are two types of criteria used to determine excess noise: 1) a subjective determination of noise that is excessive in volume, intensity and/or duration, being clearly audible at some specified distance from the source, and

2) noise exceeding a certain decibel level. State and County codes use both criteria. Arden's present ordinance is subjective and not enforceable. We may want to set some specific limits, particularly regarding electronic music. The biggest problem involves concerts at Gild Hall and Shady Groove. The ordinance does not address this.

Noise at these venues can be monitored. It reasonable to regulate volume of the music and to set time limit, for instance 10 PM. This would follow County code, which sets a 10 PM limit. Some of the concerts are very loud and some of them exceed the time limits. This volume can be monitored; even some of our watches can measure decibel levels. It would be worth talking to the Concert Guild about controlling the volume. The Concert Guild is likely to take suggestions from the community. If the Arden ordinance followed State and County code, the police could enforce the noise restrictions. Otherwise, what committee would enforce this ordinance?

It was decided that the ordinance should recommend that Arden follow the county noise ordinance. It was suggested that the sub-TF also contact the Concert Guild for comment. The sub-TF will revisit this Ordinance and report back next month.

Ordinance #7 – Discharging Rifle, Etc., or Other Explosives

Arden does not have the authority to regulate possession of firearms; the county and Arden can only regulate discharge. County also regulates stun guns and taser guns which are not considered firearms. This ordinance should follow county code. NCC can regulate discharge. NCC police can enforce the code.

Municipalities can regulate gun carry in municipal buildings. Are Gild Hall and BWCC municipal buildings? According to John, the NCC code indicates that a building does not need to be owned by the municipality; it just needs to be used for municipal business. However, someone who has a license to own and a license to carry a gun would still be able to carry a gun in a municipal building. It was suggested that the Community could take a stand (make an ethical statement) about gun carry. The Arden community could pass a resolution that discourages the carrying of guns in public places.

The question of fireworks was raised. We should prohibit firework displays. There is a State Law prohibiting firework displays.

It was suggested that this ordinance should be revised to say we follow NCC rules, with special applications in Arden, perhaps restrictions in Gild Hall and Buzz Ware Center. John does not think County Police can enforce the prohibition of guns in Gild Hall and Buzz. It may also be illegal. In addition, it may be a provocation. Arden officials should be encouraged to interact with NCC law enforcement to ensure that they are enforcing NCC and State law in Arden. In addition, the committee agrees that we should introduce a resolution stating our ethical stance.

The sub-TF will reconsider and revise the recommendations for this Ordinance.

Ordinance #8 - Dog Control

The Ordinance and Policy sub-TF recommends that Arden follow State law on dog control. According to DE State law, dogs must be on leash not just under control as is now permitted. People will still have their dogs off leash, particularly in the woods, as they do in many other places in in the County. However, our ordinance should not imply that this is acceptable.

Ordinance #11 - Rights-of Way

There are three main issues with this ordinance that need attention. First, the text at the end of section 7 is not the same as that read at the Town Meeting in June 2009. This should be corrected. Second, the ordinance lacks clarity regarding the responsibility for maintenance of rights-of-way. According to ordinance #11 leaseholders are responsible for maintaining any encroachments that pose a safety issue. At the GTF meeting with the Trustees in September 2022, Carl Falco mentioned that there is a policy that states that leaseholders are responsible for maintenance of the rights-of-way. In fact, the Virtual Welcome Packet found in the pull-down menu, *Quick Links*, in the Arden Village Web Page outlines four rules that often present issues regarding Ordinances. The first has to do with the rights-of-way. It states that the leaseholder must maintain the rights-of-way adjacent to their leasehold. In addition, at the meeting with the Trustees, Carol Larson said that the Civic Committee has assumed responsibility for maintenance of the trees in the rights-of-way. The Interactive Village Handbook in the Arden Webpage states that *"It is the responsibility of the Civic Committee, and not the leaseholder, to remove trees on Village land (the right-of-way next to the street, for example)."*

Finally, although Ordinance #11 states that leaseholders should not place any new structures in the rights-of-way, it does not mention the many long-standing plantings and structures that encroach on the rights-of-way. It was recognized that at the time of lease transfer, the Trustees consult with the Civic, Community Planning, Forest, and Safety committees regarding encroachments. In the past the Civic Committee issued "revocable licenses" for leaseholds containing allowable encroachments of the rights-of-way (those that did not present a safety issues).

The Ordinance and Policy sub-GTF thinks that Ordinance #11 should be prescriptive about the maintenance. There was a discussion about whether encroachments should be dealt with proactively or on complaint. There are many current encroachments that do not present a safety issue if all encroachments are dealt with proactively many shrubs and trees in the Village would need to be removed. There is also the question of who is responsible for trimming vegetation along Harvey Road. Technically, DeDOT is responsible for trimming but the Safety and Civic committees prefer to assume the responsibility for this task.

The GTF recommended that the document on Ordinance #11 be consolidated to a list of definitions, list of issues and a list of recommendations with rationales and then reviewed by the Full GTF.

Report of the Charter Committee

The Sub-TF recommends that the Charter subtitle preceding Section 6 be changed from Committees of the Town Assembly to Officials and Committees of the Town Assembly. The sub-TF also recommends that the duties of officers be included in a policy.

For Section 7 the sub-TF took into consideration, Mike Curtis' email regarding "the full rental value of leased lands." The email pointed out that the Charter should incorporate the concept of "community standard of living." This is what the Village has been doing. The Sub-TF proposes to change the wording of Section 7, Part c , line one to "...assessing the full rental value of leased lands or the community standard of living in the Village."

Also, in 7c, on notification on hearing, it is proposed that notices will be mailed at least 7 days before the hearing, rather than 5 days before the hearing. Finally, the sub-TF recommends that the schedule for the two open hearing be left open and not prescribed as occurring in May and June. It was recommended that these hearing would be useful during the period from February to March.

The Charter sub-TF also discussed the need for a Town Manager. The committee decided not to include this change in the Charter at this time. It is within the powers of the Town Assembly to create the position of a Town Manager when Village residents see the need for it.

Budget timing of the fiscal year will be discussed in future meetings.

The meeting was adjourned at 9:33