

COMMISSIONERS OF OXFORD
Regular Meeting Minutes
August 8, 2017

The Commissioners Meeting was held in the meeting room of the Community Services Building on August 8, 2017. Commission President Carole Abruzzese called the meeting to order at 6:00 p.m.

PRESENT

Attending the meeting were Commission President Carole Abruzzese, Commissioner Gordon Fronk, Commissioner Gordon Graves, Police Chief Patrick Maxwell, Public Works Superintendent Scott Delude, Administrator/Clerk Cheryl Lewis, and Town Attorney Brynja Booth. Also in attendance were a very large number of citizens and a representative from the local newspaper.

The meeting opened with the Pledge of Allegiance.

APPROVAL OF MINUTES

Commissioner Fronk made a motion to approve the minutes of July 25, 2017 as distributed, Commissioner Graves seconded the motion, all were in favor, and motion carried.

Commissioner Fronk made a motion to approve the minutes of a special meeting held by the Commissioners on June 29, 2017. The motion was seconded by Commissioner Graves, all were in favor, and motion carried.

BID OPENING FOR PUBLIC WORKS BACKHOE

Bids received for Bid #18-01, titled Backhoe/Loader, were opened by the Commissioners. The bids received were as follows: Folcomer Equipment at \$88,056.95 (read by Commissioner Fronk) and Jesko, Inc. at \$94,166.55 (read by President Abruzzese). The Commissioners agreed that the bid will be awarded pending Superintendent Delude's review of the bids as received.

MAINTENANCE REPORT

Superintendent Delude reported the following:

- The public works department installed a new storm water ditch and culvert on Sinclair Avenue to alleviate the water that has been puddling in the street after heavy rains. The street is on the town's priority list to repave in the near future.
- The town purchased a new sewer line cleaner that can be used for smaller cleanout lines and blockages that will save the town from having to contract out smaller jobs.
- A dying tree was removed from Town Park last week and a dead tree removed from Tred Avon Ave. Both trees were a hazard and needed to be taken down. Small trees have been planted in Town Park over the last few years and in the future should fill in the gaps nicely.
- The public works department went over the Town Hall roof and sealed up all the vents/pipes on the exterior roof. The roof is still in good shape and only needed some minor repairs.
- The WWTP is slowly coming along with the removal of the sludge from the old lagoon.

POLICE REPORT

Chief Maxwell reported the following:

- 15 – Police information – service calls
- 1 – Patrol check
- 1 – Summons Service
- 1 – Suspicious vehicle (ID)
- 1 – Assist the fire department
- 1 – Parking complaint
- 1 – Assist other police agencies
- 5 – Suspicious persons (ID and possible drug use). No drugs found.

Chief Maxwell reported that the annual Fraternal Order of Police fundraiser is underway. He asked if residents wished to donate, to please do so. Though he has not been a member for 10 years, Chief Maxwell noted that the order may use his name and the Oxford Police Departments name as well. He asked if the order did so, to please let him know.

CURRENT BUSINESS

President Abruzzese announced that a lot of email correspondence, letters, and recommendations had been received and made with regards to Ordinance 1706 – AN ORDINANCE OF THE TOWN OF OXFORD TO REPEAL AND REPLACE CHAPTER 4, ARTICLE IV OF THE TOWN CODE TITLED "NOISE." She noted that Attorney Booth had made some recommended revisions to the Ordinance from what had been introduced at the Commissioners meeting on July 11 and turned the meeting over to Attorney Booth to

explain. Booth stated that there is an environmental law statute requiring certain language about noise regulations. The town's ordinance on noise does not comply with the environmental article and is impossible to enforce. On July 11, the Commissioners introduced a drafted noise ordinance and after that meeting, as a result of review and different comments, Booth stated she was recommending several amendments. The revisions made were as follows:

- Revising the decibel level to 65/day and 55/night for all properties, regardless of the zoning district, which is the state standard applicable to residential properties (Section 4.15A)
- Adding a definition of vibration and a prohibition against taking actions which cause vibrations on a receiving property, also found in the state standard (4.132 and 4.16 B)
- Section 4.16 B (in original) regarding the placement of exterior audio speakers has been removed, as the language in section A before it sufficiently covers prohibited acts and there is not a need to call out "audio speakers"
- Reference to Food and Beverage has been removed from Section 4.17 Am as it is sufficient to say any commercial property which desire to permit or provide outdoor music
- Reference to outdoor Dining Area has been removed from Section 4.17 A 2, for the same reason as above
- An exemption for operation, work and work in progress for marinas, boatyards and marine repair and fabrication facilities..." has been added to protect the ongoing and historic operations of these entities

Commissioner Fronk commended Attorney Booth on her extraordinary efforts to bring the noise ordinance together to make it as complaint with the State of Maryland and that the Commissioners were attempting to address a situation that had arisen, which was disagreeable to some and not to others. Fronk added that he was the one who had moved to introduce this because counsel had challenged the effectiveness of the ordinance the town did have. Commissioner Graves made a motion to accept the amendments to Ordinance 1706. The motion was seconded by Commissioner Fronk, all were in favor, and motion carried.

PUBLIC HEARING

President Abruzzese opened the Public Hearing for **Ordinance 1706 – AN ORDINANCE OF THE TOWN OF OXFORD TO REPEAL AND REPLACE CHAPTER 4, ARTICLE IV OF THE TOWN CODE TITLED "NOISE" WITH AMENDMENTS AS JUST APPROVED.** President Abruzzese addressed those in attendance and asked that those who wanted to speak to come forward and give their name and address and that they would be allowed to speak a maximum of 3 minutes.

- Christopher Drummond requested to speak first as he was representing those property owners closest to Doc's Sunset Grille and did not want to incur any unnecessary costs to his clients by having to stay late at this meeting. He stated that his clients were in favor of bringing the ordinance to the minimum state requirements and offered some further suggestions. The first involved the point at which the noise in question should be measured, which the new ordinance recognizes as either being at the receiving property or at the zoning district line. Mr. Drummond felt that what was proposed was the least restrictive point from which to measure the noise. He felt that if one were to measure the sound at the zoning district line, one would find that in most cases that is more restrictive than at the receiving property. He strongly recommended amending the ordinance to measure at the more restrictive line. He also asked the Commissioners to reconsider allowing "these uses" every night of the week in order to give the nearby residents a break.
- Robert Lippincott, Bonfield Court, introduced himself as a 26 year old living right outside of Oxford all his life and loving the place. He spoke of many restaurants being in town when he was younger that had gone out of business. With the new restaurants coming into town, he was seeing Oxford as finally being a fun place for himself and his young friends to hang out and enjoy live entertainment. He spoke of the music being a great thing to draw young people into town to socialize and his desire to see the town survive.
- Tom Ray, 402 S. Morris Street, stated he agreed with Mr. Lippincott's sentiments. He asked the Commissioners to consider that while the ordinance is modeled after state code, Mr. Ray felt it was still vague and unenforceable. He noted that Doc's restaurant was not playing music all the time, that it basically rounded off to 4% of one's waking hours in the course of a year, and that it was providing 83 jobs. He asked the Commissioners to consider at what point does the town legislate itself to absurdity.
- Robert Higgins, resident out on Morgan's Point, spoke stating that as a resident on Town Creek he had experienced music pointed directly at his house over the years from the Tilghman Street restaurant and that it was nothing but pleasant. He noted that Doc's restaurant's music was pointed in such a way that it was facing away from the town's residential houses. He added that times were changing and that restaurants were no longer only about food and the food experience. Now it was more about the family experience and many, many restaurants are having music. He further stated that the Oristian family was a good group of operators who

were dealing with a business within a residential zoned environment and working hard to be good neighbors.

- Kathy Sykes, resident at 204 South Street, agreed with Mr. Higgins comments and that, as a resident near the Tilghman Street restaurant, with her house closed and the a/c running she could not hear anything inside her home.
- Jennifer Cox, resident at 105 First Street, noted that her family had lived in Oxford for generations. She felt the noise level should not be measured off of the bulkhead and questioned why noise should be measured where someone doesn't live. She reminded everyone that the property at 104 W. Pier Street was a commercial property long before those complaining moved into town. She asked why someone would buy a house near a commercial property without knowing what is going to happen there.
- Alex Burrella, resident at Peachblossom Point on Bailey's Neck, spoke stating that though he was not a resident of Oxford he was a musician and retired attorney who had played at numerous public events all over the Eastern Shore to support public causes. He noted that most musicians are very public oriented people and thought should be given to the musicians who are trying to support the community.
- Emilie Knud-Hansen, resident on Bonfield Avenue, stated that if the Commissioners were going to enforce noise they should enforce it across the board. She questioned the difference between 70 decibels of music compared to 70 decibels of lawnmowers. She noted that the area in which she lives was loud with the sound of lawnmowers and believed that should the new noise ordinance be adopted it should be enforced on everything which produces noise, noting that as it is written it exempts every other noise except music at restaurants.
- Sarah Mayock, resident on E. Division Street, stated that the success of the restaurant has helped throughout town, and has been a help to her commercial soft crab business.
- Elizabeth Wainwright, resident on E. Pier Street, stated she has had her home for 10 years and expressed her joy of having Doc's Restaurant in town which offered a venue for everyone to get together. She offered her support in asking that the decibel levels not be registered at the bulkhead but rather at individual homes.
- Nick Papson, resident on Willows Avenue, expressed concern about the difficulty in isolating noise, especially when the noise from boats, lawnmowers, and music are all going on at the same time. He felt it would be difficult to go to one location and register a noise reading and determine where all the noise was coming from.
- John Pepe, resident at 103 Richardson Street, offered up some thoughts to those in attendance. He stated that he was a marine surveyor and had also worked with noise with the DNR in supplying decibel ratings, as well as the manager of an airport for several years and worked for 3 years on the noise abatement project for that airport working on noise maintenance in an airport. Mr. Pepe supplied the audience with figures of just how loud various everyday things are such as his own a/c unit on his property 10 ft. away - 72 decibels, Mr. Pepe's weed eater - 102 decibels, a regular pick-up truck - 73, the Ferry from his house on Jack's Pt. a quarter of a mile away - 68 decibels, the Ferry on the Strand - 77 decibels, and at the end of Pleasant Street with a SE wind - 68 decibels. He added that you can't use the rating for music that you use for normal sound and that there are many variables taking place that have to be considered when rating the decibel level such as temperature, wind, barometric pressure, etc. He summed up his message by stating that the bottom line is that 86 decibels is the average for most sounds and the ordinance is calling for 20 to 30 decibels below that.
- Russell Dashiell, attorney representing the owners of Doc's Sunset Grille, addressed the Commissioners stating he and his clients believed the noise ordinance was fair based on the state law being presumed as fair, whereby the state has set the standards. He added that the law is all there is to rely on and the town's current law is unenforceable. He felt that measuring sound at the edge of the zoning district, at mean high water was not appropriate and it should be from the complainant's point of origin, as no one is affected at the water's edge. He added that the owners of Doc's restaurant have spent \$15,500 to comply with both the complaints of noise and parking including insulating the band area to cut down on the sound as well as ordering noise reducing curtains to put around the speakers to reduce the sound. He asked the Commissioners to give his clients a chance with the new ordinance.
- Joe Sykes, resident on South Street, noted that restaurants need music to be able to survive throughout the winter months.
- David Valliant, property owner of the land on which Doc's Restaurant is located, spoke stating that the crowd supporting tonight's meeting were there to support the restaurant and that he felt sorry for the owners of the restaurant and all that they have had to go through. He asked why the Commissioners were looking into the specific level of noise they were considering, when they should be looking at a different level for commercial noise. Attorney Booth responded that the noise ordinance was not intended to apply just to Doc's, but will apply to all commercial buildings in town.
- Bo Oristian, owner of Doc's restaurant, spoke stating that he and his son have done everything the town has asked from them as well as the from the people who agree with the restaurant

and those who do not. He asked the Commissioners to go ahead and pass the revised ordinance and that by doing so it would put borders on the whole thing.

- Judy Bixler, owner of Oxford Ferry, voiced her concerns for all the businesses in town that may be affected by this ordinance in the future. She noted as an example, that the ferry uses a power washer to clean the boat, pointing out that it is loud but it was a necessary part of their business. She also noted that the Ferry does and has run beyond normal business hours found in the ordinance. She felt there were many “what ifs” involved in the ordinance change and thought other businesses may have concerns as well. She added that the town already has so many ordinances and that thought needs to be given as to where the town is going overall. In serving on the Talbot Co. Board of Tourism, Mrs. Bixler stated she has seen a change in the perception of Oxford as now being a friendly town and did not want to see the town go back to being seen as not a business friendly town.
- Peter Dunbar, past Commissioner and resident on Myrtle Avenue, noted that the MD Dept. of the Environment, who is tasked with enforcing the noise ordinance for the State of MD, decided a decade ago not to initiate noise enforcement because of the difficulties involved and that they will now only respond to complaints. He felt the town should think about that as well. He felt that Mr. Pepe gave a great summary adding that the Commissioners should keep the ordinance as it already stands.
- Graham Norbury, General Manager at Brewer Oxford Boat Yard and Marina, noted that the town has managed 334 years without an ordinance. He questioned if the town really needed this ordinance and also thought that the information provided by Mr. Pepe showed just how silly this proposed ordinance was.
- George Curlin, Pleasant Street, thanked the Commissioners for writing the ordinance and for taking in all considerations. He noted that though he was disappointed in certain things he felt everyone was adjusting, including those who were against the noise. He felt the town was not well served by schism and did not want to foster it, but that the town needed to figure out how to monitor noise and produce citations.
- Jennifer Cox, resident on First Street, again spoke stating that she did not understand how the Commissioners could say this ordinance is not about Doc’s restaurant when noise was never an issue until now that the new restaurant has opened. She questioned how a select few could have so much power when the majority of the town’s residents are fine with the way things have always been.
- Chooch Oristian, owner of Doc’s restaurant, said it has been a tough time for him but that he and his father were willing to make adjustments.
- George Alvares, resident on Market Street, spoke stating that he used to have a restaurant in town called Mathildas and that he too went through the same sort of conversation several years ago. His thought was that the town could overcome this problem and that music was an integral part of the restaurant business.

President Abruzzese reminded everyone that the public comments were to be in reference to the ordinance, which was regulating noise and that it was not a hearing on Doc’s Sunset Grille.

- Susan Campbell, property owner on Myrtle Avenue and Oxford business owner, stated she had mixed emotions about the ordinance. She felt the town was opening a Pandora’s Box in some cases and felt the town really needed to look at all the actual decibel levels produce in town before doing anything else.
- Tom Bixler, owner of the Oxford Ferry, felt the decibel levels given in the proposed ordinance were way too low and that the town should go on operating the same way as it has been.
- Barbara Ranson, who identified herself as a new resident on E. Strand, spoke stating that prior to purchasing a house on The Strand she had rented a house on Town Creek and heard the noise of what was Schooners Restaurant, the boatyards, and the Ferry. She looked at Oxford as working town, a community with all kinds of people. She felt the proposed ordinance, with the decibel levels given, did not make sense.
- Joanne Patchett, resident on W. Pier Street, felt that the town was finally thriving and that when construction on The Mews begins, that was going to be noisy but the outcome would be good. She too agreed that more thought should be given on the proposed ordinance.
- Steve Keenan, resident at 26108 Bachelors Point, stated he was very concerned about the ordinance. He noted that he lived right next to a boatyard and that there were noises in his area beginning at 4 a.m. with the waterman starting their day. He felt that Oxford should be a community geared towards business because if not, half the people in town would be gone. He thought the Commissioners needed to be careful about the ordinance and needed to approach it from a business standpoint.
- Ian Fleming, owner of the Robert Morris Inn, stated that though he understood the public need his feeling was that he did not want to endorse the ordinance. His feeling was that the town was built on businesses and the town should be able to work on this problem without an ordinance and suggested that the ordinance be put aside and the problem worked out without it.

- Cameron Turkington, resident at 109 Third Street, echoed the sentiments of Oxford being a small town and that certain businesses have already been compromised to meet the concerns of other. He asked where there were compromises on the other side. He thought it was wonderful that people want to come to Oxford now and thought that everyone should work towards a compromise.
- Marilyn Keenan, resident at Bachelors Point, stated she loved living next door to a boatyard. She stated that a normal conversation has a decibel level of 75 and thought the numbers being considered were too low. She felt it was going to make things more difficult and more problems could arise out of it.
- Kimberly Baldwin, resident at 105 Bonfield Ave., thought the ordinance would suffocate Oxford and that along with being extreme, it didn't seem necessary at this time. She asked that the Commissioners just keep the existing ordinance the way it is.
- Todd Bishop, resident at 100 Richardson Street, as an example of normal noise, pointed out that the church bells are pretty loud.
- Nora Jeffcoat, resident at 703 S. Morris St., as an example of normal noise, pointed out that between 6:30 and 7:00 a.m. tractors and backhoe beepers are loud.
- Dyke Van Booser, resident at 29766 Oxford Road, stated that all 3 of his children had jobs in Oxford. He felt that if the Commissioners started putting restrictions on noise, jobs will no longer be available in town. He asked if the town was going to consider putting a curtain wall around the ferry too.
- Emilie Knud-Hansen spoke again only to emphasize the enforcement aspect of the proposed ordinance. She pointed out that most everything that creates noise is exempted in the ordinance and only points a finger at certain creators of noise. She found that to be quite anti-business and questioned how the ordinance would be enforced and thought that the town would be adding more barriers by legislating human activity.
- Rick Schmitt, resident on Bachelor Point Road, pointed out that every time one makes legislation, one is forcing oneself to be restricted. Each time one makes conformance for everyone, one discriminates against someone else. He stated his belief was that one should live in a town, not exist in a town. He stated he felt the ordinance was unnecessary and that once one adds more legislation it never leaves.
- Joe Sykes spoke stating with all that loud clapping one would have to close the meeting if the new ordinance were to be in place.
- Jane McCarthy asked if Doc's restaurant was going to be the only place that would be monitored for sound.
- Sue Schmitt, resident on Bachelors Point Road, observed this as a complaint driven ordinance. She asked what the perimeters of a complaint would be if the same people were to complain again. How does one determine if a complaint really is an official complaint?
- Bo Oristian addressed the Commissioners again noting that some individuals continue to complain on a regular basis and asked if there was anything he could do to about it.

President Abruzzese reported that letters and emails were received from John Mckelvy, Timothy Kearns, Peter Dunbar, Graham Norbury, Skip Case, Elliot Anderson, Ian Fleming, Skipper Marquess, Earl Sheck, Marcia LoVerdi, Pamela Baker, Laird Larrimore, Susan Campbell, Rich Wagner, Larry Myers, Stephanie Rose, and Doris Hughes, the majority of which were opposed to the change in the ordinance.

- Steve Gordon, resident on Oxford Road, stated that he was thankful for the environment created by Doc's restaurant and seeing all ages having fun there. He felt they had done everything they could to make it a better and attempt to accommodate everyone.
- Gil Anderson, resident at 102B Robes Harbor Court, pointed out that he had been to all 3 meetings on this subject and though he himself was not complaining, he felt that those who had been complaining about the noise had been heard. He did not know why the town would have to pass a law to let them know again that they have been heard. He suggested that a very courteous response to those people would be that the town had heard them, responded, made compromises, and leave it where it is.

This concluded the public hearing which closed at 7:35 p.m.

UNFINISHED BUSINESS

President Abruzzese revisited **Ordinance 1706 – AN ORDINANCE OF THE TOWN OF OXFORD TO REPAL AND REPALCE CHAPTER 4, ARTICLE IV OF THE TOWN CODE TITLED “NOISE” AS AMENDED.** She asked her fellow Commissioners for their thoughts on the ordinance.

Commissioner Fronk responded that he did not think it was right for the Commissioners to move forward on the ordinance this evening. With what had been heard at the meeting and communication given to the Commissioners he thought consideration should be given as to whether or not the ordinance, as drafted, was what the Commissioners wanted to adopt. He added that he appreciated

Chooch and Bo Oristian in what they had done to ameliorate the situation and that he appreciated the input and civility of the public comments which he found to be illuminating but that he was not ready to go forward with the ordinance at this time.

Commissioner Graves stated that some comments made about Oxford historically being a center of commerce were correct and with the addition of more residents, it has created a closer interface. In drafting the ordinance, he commended Attorney Booth for her efforts to bring this ordinance together, but in its present form he could not vote on it at this night's meeting. He stated he still needed some legal questions answered and that in his opinion he did not see any great rush to get it done.

President Abruzzese concurred with her fellow Commissioners in that this was not the night to vote on this ordinance. With all the correspondence, the majority of which was from businesses and people in town, this is being seen as opening a can of worms with unintended consequences. She noted that this was started because of one restaurant and added that the Commissioners were here because they all care about this town and truly hope, along with the staff, they that are making some difference. She added that she wants to see the community work together to get this problem solved and not put stress on the town's businesses.

LETTERS AND REQUESTS

President Abruzzese read aloud a letter from the Edie Beglin, Vice President of the Oxford Library, requesting assistance from the Commissioners in closing off Market Street from Morris Street to the intersection of Factory Street on Saturday, September 30, between the hours of 7 a.m. and 2:30 p.m., in order to have their annual book sale. In case of rain on September 30, the alternate date would be Sunday, Oct. 1st. The Commissioners all gave their approval in favor of the request.

ATTORNEY

Attorney Booth reported that between now and the next meeting she would like to have a close session for legal advice on a contract matter. All agreed to meeting on August 16 at 9 a.m. for a close session for legal advice on a contract matter at Attorney Booth's office.

ADMINISTRATOR/CLERK COMMENTS

Administrator Lewis reported that she was working on a draft agreement with DNR personnel for the town's grant funding for the Causeway project. She asked if the Commissioners would give their approval for President Abruzzese the authority to sign the final agreement pending legal review. Commissioner Graves moved to accept giving the President the authority to sign the final agreement, the motion was seconded by Commissioner Fronk, all were in favor, and motion carried.

Lewis asked if the Commissioners would be agreeable to resubmitting a grant for the replacement of the swings in town park, if she was in fact able to pull it together in time, adding if not she would resubmit next season. Commissioner Fronk moved, Commissioner Graves, seconded, motion carried with all in favor.

Lewis asked for a vote in reappointing Kim Kearns to the Talbot Co Parks and Rec Advisory Board. She added it was good to have a citizen out there willing to attend the meetings. President Abruzzese motion to approve the reappointment, Commissioner Fronk seconded, all were in favor, and the motion carried.

COMMISSIONER COMMENTS

President Abruzzese announced she would be out of town on the next meeting date.

PUBLIC COMMENTS

Jennifer Cox asked if the ordinance would go to a public vote or if just the Commissioners got to vote on it. President Abruzzese responded that the Commissioners vote on all Ordinances, but would only do so in a public meeting.

Tom Bixler thanked the Commissioners for their consideration.

Tom Ray noted there was a lot of passion at this meeting and would like to see the same enthusiasm in getting young people to serve in the volunteer fire company.

There being no further business, Commissioner Graves made a motion to adjourn, the motion was seconded by Commissioner Fronk, all were in favor and the meeting adjourning at 8 pm.