

MINUTES OF THE MEETING
SMYRNA TOWN COUNCIL
December 3, 2012

PUBLIC HEARING

The public hearing was opened at 7:15 p.m. by Mayor Patricia A. Stombaugh. Council members present were Joanne Masten, Valerie M. White, Regina I. Brown, and Robert C. Johnson.

Also present were Town Manager David S. Hugg III, Chief Wilbert R. Bordley, Attorney John Terence Jaywork, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh said the purpose of the public hearing is to consider an ordinance to amend Appendix A ("Zoning") of the Town Code of the Town of Smyrna by amending Section 5 ("District Regulations"), Subsection 9 ("Central Commercial District - CC"), to include Craft Distilleries and ancillary activities as a permitted use.

Mr. Hugg stated that Council had a memo from the Planning Department reflecting the action of the Planning & Zoning Commission, who unanimously approved sending this forward; also attached is the actual amendment. He said there is one minor wording change - Section 15(c) currently reads "...other retail items that may be sold pursuant to 4 Del. C. Chapter 5" and the new wording is "...other retail items identified in 4 Del. C. section 512E(c)(5)."

Mayor Stombaugh asked if there was anyone present who would like to speak in favor of the proposed change. Ron Gomes, Middletown, came forward to speak. Mr. Gomes said he is totally in support of all this; he would not be able to bring his business here without this change.

Mayor Stombaugh asked if there was anyone present who would like to speak against the proposed change. No one came forward.

Mayor Stombaugh asked if there were any questions from Council. Councilwoman Brown asked about portion of the proposed amendment where it talks about no more than 4 special events within any 12 month period. This was discussed at length.

Mayor Stombaugh stated that this would be further discussed during the regular meeting, and opened the regular meeting.

REGULAR MEETING

The meeting was called to order by Mayor Patricia A. Stombaugh at 7:30 p.m. Council members present were Joanne Masten, Valerie M. White, Regina I. Brown, Robert C. Johnson, and Jeff Flairty.

Councilman Anthony H. DeFeo was excused.

Also present were Town Manager David S. Hugg III, Chief Wilbert R. Bordley, Attorney John Terence Jaywork, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh asked everyone to rise for the Pledge of Allegiance. Mayor Stombaugh asked for everyone to remain standing for a moment of silence.

ADDITIONS/DELETIONS TO PUBLISHED AGENDA

Mr. Hugg asked that item 9(c) be postponed until the next Council meeting.

Chief Bordley asked for a motion to add the promotion of Evans Leighty under 'new business' - he stated this has been discussed at Personnel, Finance and Public Safety Committee meetings. Councilwoman White made the motion to add discussion and possible action on the promotion of Evans Leighty under 'new business' as item 9(d). Motion was seconded by Councilman Johnson. Mr. Jaywork recommended to not take any action on this tonight due to FOIA regulations. It was decided to add this to the next Council meeting agenda.

Councilwoman Masten made the motion to accept the agenda as amended. Motion was seconded by Councilwoman Brown and carried unanimously.

MINUTES OF PREVIOUS MEETING

Councilwoman Masten made the motion to accept the minutes of November 19, 2012 as presented. Motion was seconded by Councilwoman Brown and carried unanimously.

REPORTS

- A. Presiding officer** - Mayor Stombaugh stated she had nothing at this time.
- B. Town attorney** - Mr. Jaywork stated he had nothing to bring to Council at this time.
- C. Police chief** - Chief Bordley said he had no report; he supplied Council copies of the statistics for November.
- D. Town manager** - Mr. Hugg stated that for the third year in a row Gary Stulir and the Town of Smyrna have received the Award of Financial Reporting Achievement from the Government Finance Officers Association.

Councilwoman Brown congratulated Mr. Stulir and his staff.

E. Committees – Councilman Flairty said the Long Range Planning Committee will meet December 17th.

Councilman Johnson said the Utility Committee will meet December 6th.

Mayor Stombaugh said the Business Development Committee will meet December 6th.

Councilwoman Masten said the Shade Tree Commission hosted the community Christmas event on December 1st, there will be no meeting in December – the next meeting will be January 16th, 2013; the Personnel Committee will meet December 11th.

RECOGNITION OF VISITORS

Visitors present were Ed Ide, Janet Vinc, Beverly Hirt, Suzanne Casey, Cheryl Rhoades, Brian Rhoades, Cody Sandoz, Daryl Jester, Bill Oldham, Jonette Oldham, Tim Sparrow, Dana Wattay, James Harkins, Larry Thornton, Cindy A. Cogar, Sally Lee, Dean Laumbach, Ron Gomes, and Conrad Hebert.

A. Presentation by Tim Sparrow on behalf of the Smyrna Library Guild – Tim Sparrow, President of the Friends of the Duck Creek Regional Library, and Dana Wattay, who is the Treasurer, came forward and gave a PowerPoint presentation to let everyone know what is going on with the Guild, what they have been doing over the last year, and to keep the lines of communication open.

Mayor Stombaugh asked Brian Rhoades and Cody Sandoz of Boy Scout Troop 135 to come forward. Mayor Stombaugh asked them to tell Council a little bit about themselves and the badges that they are working on tonight. Brian Rhoades explained that he is working on the Communications badge. Cody Sandoz explained that he is also working on the Communications badge which is a requirement for Eagle Scout, and one of the requirements is attending a council meeting.

NEW BUSINESS

A. Resolution proposing the borrowing of \$1,156,275.00 from the Delaware Drinking Water State Revolving Loan Fund to fund replacement water mains, service lines, and related attachments on East Commerce Street and West Commerce Street between Market Street and U.S. Route 13 – Councilwoman Brown made the motion to adopt the resolution proposing the borrowing of \$1,156,275.00 from the Delaware Drinking Water State Revolving Loan Fund to fund replacement of water mains, service lines, and related attachments on East Commerce Street and West Commerce Street between Market Street and U.S. Route 13. Motion was seconded by Councilman Flairty and carried with a vote of 6-0.

B. Consideration and possible vote on an ordinance to amend Appendix A (“Zoning”) of the Town Code of the Town of Smyrna by amending Section 5 (“District Regulations”), Subsection 9 (“Central Commercial District – CC”), to include Craft Distilleries and ancillary activities as a permitted use – Mr. Jaywork stated that the wording is ‘*craft distilleries and microbreweries*’. Councilwoman White made the motion to approve Ordinance 012-12, an ordinance to amend Appendix A (“Zoning”) of the Town Code of the Town of Smyrna by amending Section 5 (“District Regulations”), Subsection 9 (“Central Commercial District – CC”), to include Craft Distilleries and Microbrewery establishments and ancillary activities as a permitted use. Motion was seconded by Councilwoman Masten.

Councilman Flairty made the friendly amendment to strike the words ‘*provided that not more than four special events shall be authorized within any 12-month period*’. Motion was seconded by Councilwoman Masten and carried unanimously.

The original motion with the amendment - to approve Ordinance 012-12, an ordinance to amend Appendix A (“Zoning”) of the Town Code of the Town of Smyrna by amending Section 5 (“District Regulations”), Subsection 9 (“Central Commercial District – CC”), to include Craft Distilleries and Microbrewery establishments and ancillary activities as a permitted use and striking the words ‘*provided that not more than four special events shall be authorized within any 12-month period*’ – carried unanimously.

OTHER COUNCIL BUSINESS

There was none.

EXECUTIVE SESSION

A. Executive session to a) discuss the content of documents excluded from the definition of public records due to containing trade secrets and commercial or financial information of a privileged or confidential nature, and b) for preliminary discussions on site acquisitions for a publicly funded capital improvements to discuss possible contract terms for the purpose of extending an offer, and c) for a strategy session with respect to collective bargaining involving SPEA where an open meeting would have an adverse effect on the bargaining position of the Town - Councilwoman White made the motion to go into executive session to a) discuss the content of documents excluded from the definition of public records due to containing trade secrets and commercial or financial information of a privileged or confidential nature, b) for preliminary discussions on site acquisitions for a publicly funded capital improvements to discuss possible contract terms for the purpose of extending an offer, and c) for a strategy session with respect to collective bargaining involving SPEA where an open meeting would have an adverse effect on the bargaining position of the Town. Motion was seconded by Councilwoman Masten and carried unanimously. Council went into executive session at 8:24 p.m.

Councilwoman White made the motion to come out of executive session. Motion was seconded by Councilwoman Brown and carried unanimously. Council came out of executive session at 9:27 p.m.

B. Discussion and possible action on matter discussed in executive session regarding documents containing trade secrets and commercial or financial information of a privileged or confidential nature - Councilwoman White made the motion that the town manager move forward with negotiations. Motion was seconded by Councilwoman Brown and carried unanimously.

C. Possible discussion and action on matter discussed in executive session regarding extending an offer on a site for publicly funded capital improvements - Councilwoman White made the motion that the town manager move forward with the discussion. Motion was seconded by Councilwoman Brown and carried unanimously.

D. Possible discussion and action on collective bargaining matters discussed in executive session - no action was taken.

ADJOURNMENT

Mayor Stombaugh adjourned the meeting at 9:30 p.m.

Council Secretary