Ventnor City Planning Board Minutes October 7, 2008

- 1. Call to order 6:36 p.m.
- 2. Flag Salute

3. Roll Call Present Absent
Peter Weiss Julie Mealo
Mike Advena Robert Gross

Mike Ventura

John Santoro Professionals

Chief Sabo Stan Bergman, Esq. Comm. Piatt Dick Carter, PE

Jay Cooke Mayor Kelly

Julie Mealo (arrives 6:38 p.m.)

3. Resolutions: P9-2008 recommendation for outdoor seating for restaurant's and café's. Board Engineer explained that the Governing Body has remanded this back to the Planning Board since there was concern that we might be excluding food places that were not just along Ventnor, Dorset, or Atlantic Avenues. Chief Sabo mentioned the restaurant on Portland Avenue. They couldn't have any tables & chairs based on the recommendation presented.

Recommendations were to make revisions to Paragraph 1B. Include only those already having mercantile licenses and eliminate restrictions to just Atlantic, Ventnor, and Dorset Avenues. Also include that if the business is on a corner, tables and chairs could only be along one street (frontage) if not on Ventnor/Atlantic or Dorset. The intent is not to extend seating.

Mayor Kelly stated that the City and Board was not looking to stop any restaurant from being treated the same; but there are problems when restaurants do not follow the guidelines. The City wants to have ordinances that can be enforced. The Building Department can enforce them during the day; but they have to be clear enough when the Police Department enforces them nights and weekends.

Chief Sabo wanted to remind the Board of two other locations, Lafayette Avenue & Monmouth and Portland Ave- we need to include them also.

Mike Ventura referred to Paragraph 1E, seating chart, and how we would determined how many chairs and tables the restaurant could have. He also questioned the esthetics of the table & chairs, plastic, metal, etc; and how they would be regulated.

Mayor Kelly stated that the seating chart would be based on the requirement to maintain a seven (7) foot clear area from the sidewalk; and that would be it. Whatever sized tables and chairs that they used would have to be included in their numbers so as not to intrude into the seven foot area.

It was generally agreed that the seating charts would have to be approved by the Construction Official and Fire Official for safety when they submitted for their mercantile.

Public portion opens 6:52 pm

Kevin McCarthy – Owner of Hannah G's 7310 Ventnor Ave, appeared to discuss his concerns about the pending ordinance. He questioned an article in the newspapers stated that tables and chairs had to be seven feet from the curb; that would be the boundary; and what ever fits in what's left is it Was that what was intended. He realizes that there is a safety matter stating that he had purchased smaller tables and chairs to accommodate this. He wanted the Board to consider how much money he and others would lose in those 90 days with less tables and chairs. He also realizes that the public may block the access area and he tries to keep them away from that area; but it is hard to be out there and be inside at the same time. He said that he never had trouble in the past with his arrangement. He is concerned that the new restrictions will cause him financial difficulty. He stated that he feels there are only a handful of people complaining and mentioned a postal worker who filed a police report saying he could not get down the sidewalk this past summer. He asked the Board to reconsider the seven feet as it was extreme and the loss of tables would take thousands of dollars 'out of his pocket'. First it was 36 inches; then 42 and he has tried to work with whatever is required.

6:59:31 Mr. Anthony Maguzzo- representing the Red Room Café. He asks if anyone took the time to measure the seven ft. Chief Sabo stated that he and the Construction Code Official had gone to all of the sites. Mr. Magnusson stated that reducing it to six feet instead of seven would give more room for a larger person to move his chair away from the table and sit comfortably He feels that the City would be taking half of his space that he uses away. He says that he does work with a local person who is handicapped but also stated that there are other ways that he can get around. He stated that is customers are inconvenienced, they will not come either. He said that the Board should be concerned that waitress and waiters trying to make a living here and that they should reconsider the seven feet.

In response, Chairman Cooke asks how many feet would be acceptable? Mr. Maguzzo stated that four feet should be plenty and that there would be no problem with creating a seating chart. He feels 4 feet is plenty. The Board Engineer asked how many chairs were inside and how many outside. Inside there are 15 tables, so around 56 people. Outside there is room for about 40 people; but if he had to limit to just Dorset Avenue, it would be about 22 people.

Julie Mealo stated that Construction Code Official Agnesino measured and took into account where seating was at time he visited. In response, Mr. Maguzzo stated that if the measuring was taken during business hours, it would be a lot different since the tables and chairs are together when they are chained. Julie Mealo stated that Mr. Agnesino took into consideration that when he measured. Also, the seven feet takes into account any obstructions and leaves a four foot open walkway. Chief Sabo also stated the bottom line was that the Code Official determined that seven feet could be enforced and it would also work for the owners.

Mr. Charles Cianci- 228 N. Somerset Ave

He stated that the ordinance has good intentions but that seating in the sidewalk area has created a major traffic problem. He sees many times when people have to walk into the street in order to get by the people sitting at the tables; especially along Monmouth Ave. The other night he stated that the Red Room had 2 banquet tables set up and that that is a far cry from regular tables being out there. Mr. Cianci stated that the whole thing should be rescinded. He personally had a problem when a car in front of him was unloading. Traffic was backed up into Dorset Avenue and he had to wait at least 10 mins in his car while the car unloaded. He also questioned whether the canopy was legal. The Board Engineer stated that if would be deferred to the Construction Code Official

Mr. Cianci concluded that the Planning Board should think twice before changing an ordinance that would help restaurants gain more space.

Ms Amanda Perez- 817 Marshall Court. Employed at the Red Room. Wanted to talk about two things

- 1. Her brother in law is in a wheelchair and many times came to the red room—never has had a problem getting around the area, whether it is inside or outside.
- 2. If the restaurant is not allowed to have tables and chairs up Monmouth Avenue because it is a residential neighborhood, then what about boats or bicycles on other side streets that back up to residential areas.

Mr. Santoro responded that he felt that the boat comment was addressed to him since he owns the boat repair shop. He stated that he had previously gone to court to resolve that issue and that was allowed to park on the street from 8am to 4:30 pm. Mr. Santoro stated that it was not the same thing since the restaurant's busy hours are during dinner and later.

Mr. Carter also commented that there is a difference in that no one is on the bikes being displayed on the side street or the boats that are parked there. It is a different story between retail sales and people. The Ordinance parking requirements for retail sales are based on square footage; but restaurants are based on the number of chairs. Also, most commercial operations are adjacent to residential area; so there is noise and activity that affects everyone around you.

Ms Perez stated that the Red Room has parking. Valet parking stops in the 15 minute zone outside the restaurant.

Mr. Carter stated that the public has the right to occupy the full area of the sidewalk. The City and the Board must balance the loss of public space with the benefit gained by the commercial operator. The Board and the City must look at both in great detail

Julie Mealo stated she did research on other towns. The Public really has the right to use all of the sidewalk area; regardless of what the city grants. She mentioned that in a neighboring town if the City gets one complaint about a restaurant, they lose the right to put all tables outside. She also states that the sidewalk is the City's control and that originally when the Red Room came in front of the Planning Board it was for a pizza place with a brick oven and, possibly, a light take out menu—there was no outside seating in the application ever.

Mayor Kelly addressed the Public Comment by saying that the City understands that when people are waiting to get inside to eat it is hard to keep in control. Mayor also stated that they should know that the Valet sign is not legal. Further, the current ordinance requires that, when the restaurant is closed, all the tables and chairs are to be inside and not left outside as they are now. She further stated that she has met many times with the previous owners in trying to work together. She has received many complaints during the months of June, July and August about the Red Room as well as others in town. The City is trying to be business friendly and want all business to be successful but people also need to be able to access the sidewalk. In actuality, there is no obligation for the City to give any of the sidewalks to anyone.

Ms Perez spoke again and stated that he agrees with the Mayor comments and that there needs to be restrictions; but; but that seven feet is extreme. Mayor Kelly responded that she has observed many nights how the young serving people have to go into the streets to serve their food. She feels that the best way is to deal with this situation is to follow the rules (the ordinance) and still make your money. If a complaint is made and the Police are called, they will respond to the complaint. The Mayor stated that she is comfortable with 7 feet but of course she is only one member of the board she states.

Priscilla Beurel stated that Ventnor allowing tables and chairs in the sidewalk is neat; but also thinks that four feet may not be enough space to pass by on the sidewalk.

Lorraine Gatta- owner of the Red Room spoke again and apologized to Mr. Cianci for the traffic problem that he experienced. She understands that people have to walk by but asked if there was not an agreeable solution for everyone; both the businesses and the neighbors?

Mayor stated that she drove by Mr. McCarthy's restaurant around 7AM a couple of weeks ago on her way to an appointment. There were four tables in the middle of the sidewalk and there was a bike locked to the meter in front blocking the entire sidewalk. She realizes that Mr. McCarthy and she have spoken many times to try and resolve those situations and that Mr. McCarthy does try to fix it as well. The Construction Code Department tries to work with everyone to find an agreement but, for some reason, it doesn't stay that way. Then the City has to deal with another complaint. She also addressed Mr. Maguzzo in explain that the ordinance already states that when a business is closed the tables and chairs must be inside; but that is not being followed.

The Public Portion was closed at 7:54:40.

Under Board deliberation, Julie Mealo states that she feels the seven foot requirement is a good number but also asked if anyone from the Board wanted to look at other distances. Chief Sabo also asked if a plot plan could be prepared for each restaurant and then presented to the Board. The Board Engineer responded that something like that could be done and given out at next month's meeting. A question was raised as to whether the Board could take that time since winter was coming and the restaurants would be closed.

Mayor Kelly states it just should be clear so it can be enforced.

The Board Engineer said that something could be prepared quickly since there were only 14-16 restaurants involved. He also stated that the existing ordinance has worked in the past; but that there are 2 or 3 restaurants that have problem complying.

Chairman Cooke requested that the Board either consider investigating another distance if not seven feet; or go with ordinance as amended tonight.

Board Attorney Bergman advised that, under the Municipal Land Use Laws, the Board recommends to the Governing Body. The Governing Body can accept what the Board recommends or they can make changes. He further stated that the ordinance could be further amended if the Board wished to do the lay outs; approved them; and forward as a recommendation to the Governing Body.

Board member Mealo stated to vote on the recommendation to the Governing Body.

Board Member Ventura & Commissioner Piatt suggested that maybe the Board should look into the matter further; distance from obstruction and curb- i.e. sidewalk/table/chair ordinance.

Board Member Santoro suggested recommending the setback as it is currently proposed as seven feet to a table or a chair.

Board member Sabo made a motion to adopt Resolution P9-2008 with modifications as indicated in the draft revised to 10/7/08. He added that the seven feet in Paragraph 1a should be reviewed again by the Construction Code Official. Second was offered by Board Member Mealo.

On the Vote:

Chief Sabo - Yes. The seven foot requirement works. The Construction Code Official took a lot of time to come to this figure.

Commissioner. Piatt - Yes. It is a comprehensive proposal and would bring definition to the problem.

Board Member Advena - Yes. This would resolve the problem and clear up the complaints.

Board Member Santoro – Yes. Everyone can work with the seven feet.

Board Member Ventura – Yes. Believes that the objective can be achieved for all parties involved.

Board Member Weiss – Yes. Feels that we should stay with the recommendations but also feels that we could go to six feet, but no less than that.

Chairman Cooke – Yes. It addresses the needs of the Community. We are still protecting the public right of way. Agree with the seven foot setback but would also accept it being slightly reduced if it is still determined to be safe.

Board Member Mealo – Yes. It cleans up the enforcement standards.

Mayor Kelly – Yes. A lot of work was done by Code Enforcement and the Fire Chief and they did keep the businesses in mind when they recommended it.

Record reflects that Board member John Santoro left at 8:24:58 p.m.

4. Adoption of minutes:

Recommendation made to amend minutes to indicate that Commissioner Piatt was in attendance. Motion made by Commissioner Piatt to adopt minutes with recommendation. Seconded by Board Member Mealo. On a consent voice vote, all aye, none opposed.

5. Old Business

- A. **29 S.Weymouth Ave.** Board Engineer reported that he has spoken with the Construction Code Official and determined that he was satisfied with the Board's clarification as to the proper zone. The property owner did not have any specific plans at the time for the property.
- B. Ventnor Plaza and adjacent Car Dealership Properties- Board Engineer stated current ordinance standards do not coincide with what has been built. Also, there is a need to correct certain building exceptions for commercial properties. The Board should think about reviewing the current Design Commercial ordinance standards for discussion next month. There are two new pad stores proposed to CAFRA which should be coming before the Board in the near future.
- C. **Zero Lot Lines** Board Engineer referred to a sketch that was handed out earlier. Using the 37 foot wide lot requirement in the R-4 District, putting two buildings together would open up the side yards. Board previous reduced building heights to match lot widths (smaller lots, smaller buildings). Zero Lot lines would allow higher buildings but create a better balance between lot width and building height. Chief Sabo encourages combining properties because there would be a fire wall and bigger side yards for the Firefighters, giving more protection for the Firefighters and more room around the entire property.
- D. **Bi-Laws** Board Attorney provided brief explanation. Good format for Bi-laws are set by Cox. Board Attorney will prepare a brief summary for next month's meeting. Board might also want to consider a Subcommittee for them. The Board never really had them before and it is good to have something in writing for the future. He would be happy to answer any questions in the meantime.

Discussion on Next Month's Agenda.

- 1 Draft Bi-Laws by Board Attorney
- 2. Zero lot line discussion by Board Engineer
- 3. Design commercial changes to be distributed in advance by Board Engineer for discussion

4. R-6 Zoning changes to be distributed in advance by Board Engineer for discussion.

Board Member Mealo suggested that she will try and prepare a brief history and overview of the Redevelopment Area for either the November or December's meeting

Motion by Board Member Ventura to adjourn meeting, seconded by Chairman Cooke. Consent voice vote, all in favor, none opposed. Meeting ended at 8:50 p.m.