

TOWN OF OLD ORCHARD BEACH
ORDINANCE REVISION COMMITTEE MEETING MINUTES February 10, 2010

Call to Order at 7:00 pm	Call to Order
<p>Roll Call: Present: Chair George Kerr, Robert Scoville, Steve Bryant, Vice Chair Linda Mailhot, William Daley, John Martinez, Gina Martinez, Pat Brown, Cheryl Poupoulos, Helene Whittaker, and Kathy Smith. Staff: Mike Nugent, Code Enforcement Officer. Tori Geaumont, Secretary. Dana Kelley, Chief of Police.</p>	ROLL CALL
<p><u>ITEM 1: ACCEPTANCE OF MINUTES</u> January 20, 2010 Vice Chair Mailhot motioned to accept the minutes from 01/20/10. Mr. Daley seconded. <i>Motion passes unanimously</i></p>	<u>Acceptance Of Minutes Motion Vote</u>
<p><u>ITEM 2: Discussion of changes to Chapter 18 – Business Licensing, Chapter 22 – Emergency Services, Chapter 26 – Environment, Chapter 30 – Fire Prevention and Protection, Chapter 34 – Housing and refer to Town Council.</u> Chairman Kerr explained the changes to others present, as well as recommendations made by the town attorney, Mr. Nugent, and Chief Kelley. Pat Brown asked how that would work. Chairman Kerr explained. Chief Kelley gave examples of administrative review and how he did not have discretion before, but will now. Mr. Nugent added that the “3 strike” is still in effect. Gina Martinez explained a situation she had as a business owner regarding administrative review and situations that were called in which were not regarding the business itself. Mr. Nugent referred to the wording of “shall” which Councilor Bolduc was concerned with at the public hearing. He explained he inquired with the town attorney who recommended keeping the “shall”. Chairman Kerr moved on to the change of having business licenses be a two year cycle. Pat Brown asked how this will be done. Mr. Nugent then explained the number of licenses was halved, and the licenses with the first half of numerical “Map, Block, Lot” numbers would be the first cycle and the second half would be the second. Chairman Kerr pointed out that the committee did not want the license fees to be a tax; only to be a fee in relation to the town service. He then moved on to the changes in the Special Amusement Permit so any business serving alcohol will go to the town council for approval. Mr. Nugent explained that the council cannot attach conditions to a liquor license, as this is a state license. The only way they can add conditions is on to the business license therefore, we added the section 18-33 Victualers which states that any business that is a victualers will go to the town council for approval. Hence all businesses with liquor licenses will have to be approved by town council giving the opportunity to add conditions. Chairman Kerr moved to 18-05 and pointed out that the insurance requirement was made to the tattoo section, as it was in the sections regarding body piercing and massage to make it uniform. Pat Brown then inquired as to prior minutes which spoke about the square</p>	<u>ITEM 2: Discussion of changes to Chapter 18 – Business Licensing, Chapter 22 – Emergency Services, Chapter 26 – Environment, Chapter 30 – Fire Prevention and Protection, Chapter 34 – Housing and refer to Town Council.</u>

footage requirements of a tattoo parlor. She wanted to voice her opposition to any change in that.

Mr. Nugent explained that was zone related, and we have not addressed the zoning chapter as of yet.

Chairman Kerr explained why it was in the minutes.

Mr. Nugent explained complimentary uses in the DD1 and DD2.

Cheryl Poupoulos asked if there is a vehicle in place now to make sure that if an establishment's insurance policy is cancelled that the town is informed.

Mr. Nugent stated no.

Chairman Kerr suggested maybe we should have some wording in this for the insurance agency to inform us upon cancellation.

Kathy Smith brought up that the licenses will be for a two-year cycle, so we will need to be aware of that.

Chairman Kerr thought maybe that is something that staff could follow-up.

Mr. Bryant asked about enforcement of body piercing and tattoo.

Chief Kelley said that the police respond to complaints. If this is code related, then Mr. Nugent would check on that first.

Mr. Nugent interjected that if it was a health issue it would be referred to the state.

Mr. Bryant wanted to know if any businesses were exempt from getting a business license.

Mr. Nugent stated yes, many.

Mr. Bryant wanted to know how owners know if they need one or not?

Mr. Nugent stated that many towns are similar, but they could just ask at Town Hall.

Chairman Kerr stated that the last issue is massage parlors, and due to councilor concerns we thought we would keep that in.

Mr. Scoville injected that this was also recommended by the town attorney.

Mr. Daley asked if staff had talked to the town attorney regarding getting rid of the Performing Arts ordinance.

Mr. Nugent stated that the attorney felt strongly that the entire ordinance can be removed, as it is specific to the business. Once the Ballpark gets to where it needs it, the town can then add an ordinance regarding that. He will send an email he has received from the town attorney regarding this to all the councilors.

Mr. Daley motioned to accept the changes to Chapter 18 to send back to the council for public hearing.

Ms. Mailhot seconded.

Motion passes unanimously.

Chapter 2: Emergency Services

Mr. Nugent stated there are no changes to this chapter, and it has been reviewed by Fire Chief Glass. He then moved on to Chapter 26: Environment and littering was addressed. The changes are reflected. The board now needs to discuss noise. He also asked the committee not to go forward with Chapter 34 until he has brought a few things into this chapter to address things in other areas of the ordinances, such as J-1 students.

Chairman Kerr asked to jump into Chapter 26 Noise. He has never been in favor of a noise ordinance only because it is difficult to get readings.

Chief Kelley said the problem is also not only limited to the downtown area. There are other issues regarding noise that need to be addressed. An example of this was the problem with the Salvation Army.

Motion

Vote

Mr. Nugent explained that the staff did not even realize there had been 3 years worth of work that had been done on the noise ordinance. Jessica Wagner has created a memo regarding the work that was done, and there are extra copies if needed.

Pat Brown was part of that committee, and she reviewed the work that had been done. The committee wanted to be the middle ground between businesses and residents.

Cheryl Poupoulos stated she has not had any complaints in the last two years.

Chairman Kerr asked if the committee adopted an ordinance at that time.

Pat Brown stated that they created one, and they sent it to council.

Chairman Kerr clarified that an ordinance was not accepted by the council, and nothing had changed.

Cheryl Poupoulos clarified that was correct, but she felt that because of the committee, people were heard. She does not think this ordinance draft is a good fit.

Chief Kelley stated that he agreed. The motorcycle noise is a large problem.

Cheryl Poupoulos stated she felt the problem is that sound is subjective.

Chairman Kerr stated he does not want an ordinance if it is not enforceable.

Mr. Nugent explained the draft is great, but it is hard to manage. He has talked to staff from other similar communities regarding their noise ordinances. He suggested exempting things you cannot control, such as the mechanical sounds of roller coasters wheels, and also regulating the sound by if the sound is "X" number of decibels above the ambient sound, it is in violation.

Chief Kelley stated the state also has a law regarding disorderly conduct.

Chairman Kerr felt that the Salvation Army Pavilion was approved by the town, and it is not right for the town to try to be shutting it down by restricting certain noise.

John Martinez stated he was on the committee in the past, and he felt that there were a very small amount of people who were driving the complaints.

Chief Kelley agreed, but felt that the entire noise ordinance is the issue.

Mr. Nugent suggested marrying the proposed ordinance from the noise ordinance committee with the current noise ordinance, as well as noise committee members and Chief Kelley's input.

Pat Brown wanted to caution the committee to remember hours of operation and measuring the sound where the sound is coming from, i.e. 100 feet from the point of emission.

Mr. Nugent felt we needed to come up with something workable.

Cheryl Poupoulos stated that she felt that the Ordinance Revision Committee was very business-minded, and she was appreciative of that. She was very encouraged by attending the meeting.

Pat Brown went on to say that the residents need to be more informed, and the committee should be more transparent.

Chairman Kerr stated that several members have reached out the business community via the Chamber of Commerce and the committee has been very pro-active in getting information out there. The committee is very interested in moving forward and not getting bogged down. He also pointed out that all meetings are advertised and information is available from staff at all times.

Pat Brown stated she did not understand the process, and felt others would not understand as well. She felt the process was going too fast.

<p>Ms. Mailhot then interjected that all the members of the committee are not only interested in businesses, but they are all residents and have the best interest of the town in mind.</p> <p>Pat Brown felt that her desire is really only for the meetings to be televised so everyone can have the opportunity to get the information easier.</p> <p>Chief Kelley informed everyone that once the new Police Station is built, the conference room is expected to be equipped with video equipment.</p> <p>Mr. Nugent stated that we will make this happen for the next meeting and thereafter.</p> <p>Chairman Kerr felt that the committee is meeting a lot, and it is very difficult for committee members to schedule their time. Adding room and video availability would be a potential problem.</p> <p>Mr. Scoville did not want to meet only once a month.</p> <p>Chairman Kerr felt that the Charter commission can do this because the charter is a very small document, specially compared to the ordinances.</p> <p>Pat Brown agreed, but felt that the ordinances were very important, much more than the Charter even.</p> <p>Chairman Kerr did not want everyone to forget that these can come back and be modified, but the charter cannot. He then asked if there were any other discussions about noise.</p> <p>Chief Kelley stated that he would like to take Chapter 54, Traffic and Vehicles and look this over, as it would take a while to go through it, if the committee was okay with that.</p> <p>Mr. Daley then left the meeting, as he had prior commitment. The time was 8:15 p.m.</p> <p>Cheryl Poupoulos also left and offered the use of the Salvation Army conference room if space was needed for any meetings.</p>	
<p><u>Chapter 38: Offenses and Miscellaneous Provisions</u></p> <p>Mr. Nugent informed the committee that this deals with a lot of things.</p> <p>Chief Kelley felt this should be reviewed from top to bottom. It could be time consuming. He also stated again that he will go over traffic piece by piece.</p> <p>Mr. Scoville wanted to see more about the Ocean Park parking issue.</p> <p>Chief Kelley felt that will change drastically from the meeting held last night in Ocean Park.</p> <p>Chairman Kerr stated we will go over this section by section.</p> <p>Mr. Nugent moved to Article III Weapons. Only feedback he has gotten from residents is regarding muzzle loaders.</p> <p>Chairman Kerr pointed out 38-29 exception #4 which referred to this. He suggested we mirror state law which is what some residents have voiced their support of. He had a copy of the state law to go over.</p> <p>Chief Kelley asked about changing Section 38-26 and increasing the 100 yards.</p> <p>Chairman Kerr moved to Article III.</p> <p>Chief Kelley stated there were many problems in the past which related to this making it necessary, but not as much now. There have been no problems so he suggested in keeping it.</p> <p>Mr. Nugent felt it has worked so keep it.</p> <p>Kathy Smith questioned if this was for T-shirts? Because language was a huge problem at one point.</p> <p>Chief Kelley stated that is not permitted.</p> <p>Chairman Kerr asked if anyone was fine with not recommending any</p>	<p style="text-align: center;"><u>Chapter 38:</u> <u>Offenses</u> <u>And</u> <u>Miscellaneous</u> <u>Provisions</u></p>

