

TOWN OF OLD ORCHARD BEACH
ORDINANCE REVISION COMMITTEE MEETING MINUTES March 24, 2010

Call to Order at 7:02 pm	Call to Order
<p>Roll Call: Present: Chairman George Kerr, Vice Chair Linda Mailhot, William Daley, Steve Bryant, Robert Scoville. Staff: Mike Nugent, Code Enforcement Officer. Tori Geaumont, Secretary. Pledge of Allegiance</p>	ROLL CALL
<p>Chairman Kerr explained the background of the committee and its purpose of an advisory committee to the Town Council.</p>	
<p><u>ITEM 1: ACCEPTANCE OF MINUTES</u> March 4, 2010 Vice Chair Mailhot motioned to accept the minutes from 03/04/10. 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 26 – Environment, Article III Noise.</u> Chairman Kerr gave some history regarding the town of Old Orchard Beach going back to 2001 and why the ordinance was there. The ordinance that was in affect in 2001 was found to be unconstitutional by a court of law and subsequent councils in 2005 created committee to develop an ordinance. There was a study done by engineers. After reviewing the proposal in 2008, they never developed an ordinance. As part of our task of reviewing ordinance is looking to develop an enforceable and conducive ordinance. Any ordinance looked at up to this point have not imposed any hardships to any businesses. He pointed out the committee will only take information about the ordinance that is being proposed. At this time, the chair welcomed anyone to speak before the microphone. If anyone wishes any further information should anyone be unable to attend any meetings the committee will send any information necessary. Tonight’s meeting is really just gathering information so that whatever we do develop will be conducive to our community. Elizabeth Bell, 74 Washington Avenue explained that she is one of the residents troubled by the noise for several years. She stated that she received an email regarding the changes proposed tonight yesterday. She read the proposed ordinance changes to the committee that she was concerned with. Ms. Bell then explained the problems she has had with the noise and how she opposes this. She pointed out that both herself and the Salvation Army are in an R2, residential zone. She was concerned about the increase in time allowed and the increase in the decibel levels proposed. Chairman Kerr reiterated that this was the first step in many for this ordinance, and other residents will have multiple opportunities to voice their opinions in the future. If the committee can come up with something they feel is good for the community they are going to refer it to the council. If they cannot the committee will then inform the council that they cannot come up with something to give them. It has been a long time trying to come up with something. Ms. Bell pointed out she was on the noise committee who studied the problem and had all the information regarding that study. She pointed out that in that study there was a map showing where she lives to be in a “quiet residential zone”. She questioned if that has been changed. Chairman Kerr pointed out that this was their first meeting regarding this.</p>	<u>ITEM 2: Discussion of changes to Chapter 26 – Environment, Article III Noise</u>

Ms. Bell asked if she could email any questions to the committee for the future.

Chairman Kerr stated yes that was why he asked for her address. We will get in contact with her and reminded her we are a phone call away. Chairman Kerr then stated he called the police department today regarding complaints, and they have not had any complaints last year.

Ms. Bell stated they have called.

Chairman Kerr stated there are no registered noise complaints from last year regarding the Salvation Army.

Ms. Bell explained that when they have called there has been very little response. The last time they called no one came to the house, and they did not know what the response was. They have pretty much given up on calling because they have been told the noise ordinance is not enforceable. She just wanted the committee to know why people do not call anymore.

Chairman Kerr asked if it is her intention that the Salvation Army should not operate.

Ms. Bell responded no.

Chairman Kerr asked what an appropriate time.

Ms. Bell stated that the change had been daytime hours until 7:00 p.m. and now it is 10:00 p.m. A lot of the events end at night, and I think that is a more reasonable time. She did not know if her answer was relevant because it is different from others.

Chairman Kerr stated he just wanted to get everyone's opinion so we can have some perimeters to develop an ordinance.

Mr. Scoville asked to get a copy of the map that Ms. Bell had.

Chairman Kerr stated that we do have one.

Mr. Nugent explained the evolution of the discussion because it has been going on for some time. We can explain about the ordinance that was drafted, and we can explain where we are. He explained that the ordinance committee has worked really hard for the last 5 months going in chronicle order. When the committee reached noise and did some research with the help of Pat Brown, the committee started working with the off-shoot of the noise committee which was formed several years ago. The police were involved in those discussions too. Everyone looked at the draft that was done by the consultant, and it really was too complicated and is not enforceable. Staff is not capable of enforcing it. So the police worked with the committee to draft language from the existing ordinance to do some tweaks to it to bring some of the good work as far as measurement procedures so now the ordinance will be enforceable. Now we need to smooth out several wrinkles.

Chairman Kerr asked Mr. Nugent if we did have the map.

Mr. Nugent stated they did. He also explained that the consultant had broken the town up into subdistricts within each zoning district and based no the actual land use at that given moment, assigned almost a probability of expectation for volume based on that. What is problematic about that from a regulatory stand-point is those change. That would be a continual maintenance issue for us. Our challenge is we have a wonderful use right in the middle of the zone that we need to try to figure out how to accommodate.

Mr. Kerr asked if the map was done by Woodard and Curran.

Ms. Bell stated yes it is.

Mr. Daley asked if everyone could get a copy of that at some point.

Chairman Kerr stated that yes, in the next meeting, they will have staff give

them a copy because he does not have it on him.

Ms. Bell offered that if the committee wanted to look at it, as long as she gets this back.

Chairman Kerr asked if there were any other questions from the committee. From appearance, most of the people here are from the Salvation Army, and I know there are others from the DD1 and DD2 district. Can we just address the Salvation Army first and then we can move on because I think within this ordinance it is pretty delineated. Why don't we get a grip on the Salvation Army issue.

Ms. Bell requested this letter be added in the minutes:

March 24th, 2010

Ordinance Review Committee
P. O. Box 1
Town Hall
Old Orchard Beach, ME. 04064

To Whom it May Concern:

I respectfully request that you remove the addition to the ordinance that was added 3/23/10 at the request of the Salvation Army or table the discussion until residents can be notified. Section (13) in the new ordinance reads as follows:

(13) From June 1st to October of each year, Day Time Noise generated from Salvation Army Pavilion (Tax Map 311 Block 6 Lot 1) shall be allowed to comply with the noise level standards for the GB-1 zoning district as shown in Section 23-63. Night time noise levels shall comply with the noise level standards for the R-2 zoning district throughout the year.

Even though this proposed change is a procedural change, it has the effect of a zoning change to the abutting neighbors in that it changes the enforcement procedures for the Salvation Army to that of a GB 1 zone, which if approved, will greatly impact a large number of residents in this area.

For several years, the residents in the area of the pavilion have had to put up with excessive noise from the activities at the Salvation Army. Many of us no longer call in the complaints as nothing seems to happen as a result. The police department does not even let us know if they have responded to a complaint. I personally have had to leave my home each summer because of the impact of the noise on my stress level. The noise from the Salvation Army has driven us out of our own home. We cannot leave our windows open during the summer when an event is happening. I am not alone in my reaction to this noise. Since the impact of this amendment is so dramatic to the area around the pavilion, the residents all deserve to be notified of this proposed change. Twenty four hours notice is not enough time to notify residents or research this issue.

The circumventing of zoning laws by using a procedural change may also set a precedent for other organizations who may want to obtain similar exemptions from the ordinance. It seems to me that this is not a good practice for any town. If you decide to move this ordinance forward with the section (13) included, I would ask that you also include the following as an addition to the ordinance:

"No zoning ordinance may be circumvented by any procedural change to the noise ordinance or any other town ordinance. No group, either for-profit or non-profit, may be exempt from town ordinances or laws."

I thank you for your kind attention to the issues raised in this letter. I hope that you will truly consider the impact that your decision will have on the residents.

Yours sincerely,


Elizabeth A. Bell & Robert Bell

Cheryl Pouloupoulos, Direction of Pavilion, Salvation Army came forward and gave some history on the Pavilion. She stated the Salvation Army has been in the property since 1885 and has been holding camp meetings there every year. At one time, they were held for a month at a time, but are now

held from 7-10 days depending on the plan for the year. Concerts do not start until after graduation which is usually the middle of June and end usually by the middle of August. Typically, there are 12-13 events that occur independently of camp meetings. There are probably approximately 20-22 events that take place during the summer at the Salvation Army that sometimes do and sometimes do not generate noise. She stated she is very careful of her choices of performers. Some groups she request acoustic instead of rock, and she tries to have comedians come in and not have a music event at every event. All things are G-rated. They want to continue what they are doing. They are very proud of the property and how they take care of it. The neighbors are all able to use the property and they do. It is basically a park.

Chairman Kerr stated that he agrees with what everything Ms. Pouloupoulos. He does not want anything to change. He asked if when the Pavilion was built if there were any restrictions put on the permit or on that site.

Ms. Pouloupoulos state she did not believe so.

Chairman Kerr stated he has not found any restrictions in his research.

Ms. Pouloupoulos stated the town knew that they were building a 1400 seat amphitheatre at the time they built it.

Chairman Kerr stated we need that history for anyone who was not around at that time.

Ms. Pouloupoulos stated that she feels the Pavilion actually validates Old Orchard Beach's desire to be a family-friendly community. It gives a lot of credibility to OOB.

Mr. Scoville asked if she has every had anyone come to her and complain that the music was too loud.

Ms. Pouloupoulos stated not personally. The only time anyone has come is when the police have come due to a complaint.

Mr. Scoville asked how many times that happened.

Ms. Pouloupoulos stated since she has been there since 2002, probably 8-9 times. More often in the beginning of my career, but in the last 3-4 years almost non-existent.

Mr. Scoville stated it has not been an ongoing problem.

Ms. Pouloupoulos answered it had not.

Chairman Kerr asked about the time. The ordinance states 10:00 p.m.

Ms. Pouloupoulos stated she would like to leave it at that time, but not because she wishes to have the concerts until 10:00 p.m. She wants to end the concerts at 9:00 p.m. for the people to still have time to go downtown and ride the rides and experience OOB. There are times because of encores that the concerts go 10-15 minutes over, and I would like to have that cushion so there is not a call to the police department because we are doing our last song. She even tells them that they need to end at 9:00 p.m. or else.

Mr. Nugent stated this ordinance does not propose any changes to the definition of daytime and nighttime hours. In our existing ordinance, it is 10:00 p.m.

Chairman Kerr thanked Mr. Nugent for the clarification and thanked Ms. Pouloupoulos.

Monica Lovecky, 62 Washington Avenue stated she lives right in back of the Pavilion and explained the noise problems she has had for 28 years. She stated that during the 2 weeks of concerts the noise can be all day due to practice. She explained the hours of the concerts and practices, but also that

the park is always being cleaned, and the noise is bothersome. She has made many complaints, and they have not done anything. The police do not take her name anymore, but only thank her for the complaint to be logged in.

Chairman Kerr asked if the committee had any questions and thanked Ms. Loveky for her comments.

Ms. Loveky stated that she also wrote Mr. Nugent a note, but did not know if he shared it with the committee.

Mr. Nugent stated he did not circulate her email.

Ms. Loveky stated she did write an email to Mr. Nugent that stated they are not a business district at all. They are a neighborhood. To change this and make this look like a general business district instead of R2 is concerning.

Chairman Kerr reiterated that there has to be a starting point somewhere, and he believes in the public hearing process and working with the people in the area to give a document to the council to be able to establish and adopt an ordinance that is enforceable is where they are at tonight.

Ms. Loveky restated that she wanted the committee to realize this is not a business district.

Chairman Kerr stated the Salvation Army has been there since 1885.

Ms. Loveky stated when they were there is was an old, run-down campground where they would have their instruments to play. She stated she lived there before it was all turned down. Of course there were no restrictions. They had their meetings, and it was very low key because it was in a valley. They built the Pavilion to have their camp meetings, and then the concerts started. It got too big. Every year, there is another change going on, from adding a new building to redoing a new building.

Chairman Kerr asked if the committee had any further questions.

Bud Harmon, executive director of the Chamber of Commerce. He stated he is in support of the revisions that are in the ordinance. Several things come to mind. I would be against any changes to the time limits. In representing the chamber, he feels that we need to be careful with the ordinance so that the town is not stifling economic impact in the future. This is a great way to generate revenue for the town. Doing some quick numbers, during that 10-day period, they rent approximately 300 rooms in town. In going over some rough numbers, between the hotels that do business directly through the Salvation army and the people who come as delegates to the convention who stay all over town and eating here, going on rides, etc. This could easily be over 1.5 million dollars in 10 days. This is significant. Many people enjoy going to these functions. The community leaves, to a great degree, off tourism and need to be reasonable and live with some of this stuff. He stated he understands the concerns. He also pointed out that the noises of mowing, etc can be caused by a neighbor. He stated he thinks it is a major mistake to not allow this to happen over basically an 8-week period. If the benefits greatly outweigh the negatives everyone should learn to live with it.

Chairman Kerr stated that the only changes advised by this committee were not to have a large negative impact on businesses. We need to just get this balance a little bit. He was concerned with putting hardships on businesses at the wrong time and if these types of ordinances were necessary. There will be more work shops and sessions regarding this.

Mr. Harmon stated he hopes this comes to the Chamber so they could have input on this as well. He stated he does not look at the Salvation Army as a business. It is a non-profit organization that brings people into town to

generate business. I would be willing to bet that there is not a lot of money being made in these events.

Chairman Kerr assured Mr. Harmon that he will make sure that the Chamber understands some of these changes. In order for the DD1 to survive the committee is going to need to make some substantial changes too. At this time, I just want to talk about the Salvation Army. The committee and staff know that this is not a perfect document.

Mr. Harmon stated he is in BRD. He heard things from the Ballpark when there were concerts there. He was not upset about it, and he realizes it was summer. He feels that everyone needs to be reasonable about this and understand what it does for the community.

Chairman Kerr asked if there were any questions.

Pat Brown, noise ordinance committee. Ms. Brown wanted to give a little background regarding the noise ordinance committee. Rand Acoustics stated that when they were working with the noise committee they had never worked with a town like Old Orchard Beach before and knew there were challenges. They proposed things that they knew were going to have to get worked on. What is at the end was not a final. It was still a work in progress that was to keep going. Part of it was the noise mapping, and to finish would cost thousands of dollars. It was 3-4 years of work, and they were still at the "lots to work on" stage. The one thing to work on is the spots that are yellow. These are commercial properties and should be at certain db levels set at 70 or above. The Salvation Army falls in that. These were all things that were yet to be decided at what levels they should be at. Ms. Brown felt it was important for people to have a sense at what levels db are. She submitted a list of day to day noises and what the db levels were. She stated a simple conversation is normally above 55 db. She stated that she felt it was important that when people buy their homes they know what they have next to them. When you buy and live in Old Orchard you know the town can be noisy, and she felt that everyone needs to find a middle ground.

Mr. Kerr asked if Ms. Brown could give the hand out to staff, and she did. Mr. Kerr asked if there were any additional questions from the committee, and there were not.

Robin Dayton, 59 Fern Avenue. Ms. Dayton stated that she was concerned that she did not have enough forewarning regarding the meeting tonight. She stated she felt that the committee was making drastic changes on many, many things, but are not making it very easy for people to read what those changes are. She needed explanation regarding strike-through and underline of the ordinance.

Mr. Nugent clarified that the strikethrough regarding the litter ordinance was done after a meeting with the Police department. They have never given a summons for that ordinance, and there is state law that governs it.

Ms. Dayton commented that maybe that is because people follow it and it is a good ordinance.

Mr. Nugent pointed out that it is a duplication.

Ms. Dayton asked how the decisions are being made because it does not look like they are being made in public.

Chairman Kerr explained that as he prefaced his remarks before this is the first time that has been looked out. The committee has not made any decisions regarding the noise ordinance. The committee asked staff to prepare a document which reflected the culmination of a previous meeting that

members of the noise committee, the police department, and others who attended to try to develop a guideline for the committee. This is to facilitate a proposed ordinance to give to the council, as the council is who has the final say in implementation. This is done in the open and is the first public meeting on this issue. It is going to be continual.

Ms. Dayton felt there should be more time and a better way for people to get a copy of these changes before tonight. She felt that there needs to be a way for people to use the website. None of the changes are on the website so there is no idea to know what the committee is talking about.

Mr. Scoville asked if there is some one that staff could do that.

Mr. Nugent stated we are going to look into adding another feature to the website, but we need to be careful not to confuse people who are looking for ordinance information because they need to understand the ordinance section is the law as it is today.

Chairman Kerr stated that Ms. Mailhot wished to say something.

Ms. Mailhot pointed out the previous meeting dates that the noise ordinance was discussed that Ms. Dayton asked about; 3-4-10, 2-10-10, and 1-13-10.

Ms. Dayton then pointed out that the minutes from the 3-4-10 meeting were just approved tonight. So there is a lag time in the posting of the minutes.

Ms. Mailhot stated we did talk about this ordinance in the prior meetings as well.

Chairman Kerr reiterated that this is the first of many workshops. If it means we need to go door-to-door, televised, whatever, we will. He stated if anyone present is interested in having more direct contact please leave names, phone numbers, emails, and the staff would do that. The committee and staff are trying hard to make the changes that are needed for the community.

Ms. Dayton stated that she is a large supporter of the Salvation Army, but everyone needs an opportunity to come and speak. She felt that there were a lot of people in her neighborhood who did not know. Maybe if they had the opportunity to click on the website and check the changes. She was concerned about sound and the exception of the Ballpark. She feels the abutters of the Ballpark need to be notified. She did not feel it was appropriate to set the rules by special business permit. It looks arbitrary. She wanted to go on the record by stating that she questioned the appropriateness of exempting the Ballpark. She had very serious concerns regarding everything going on with ordinances and the Ballpark. That was one of the major complaints that shut it down. She stated she did not want to go through that again.

Chairman Kerr pointed out that any events done at the Ballpark need to go through the town council and any restrictions can be put on this. The difference with the Salvation Army is they are not licensed for anything.

Ms. Dayton pointed out again when you leave those kinds of decisions; noise, litter, alcohol, police protection up to a special event permit there could be problems involved. Ms. Dayton was very concerned regarding the Ballpark and having issues.

Chairman Kerr pointed out that there is a mass gathering ordinance which is on the agenda. It has always been governed under the Ballpark, as it is based on the number of people. There is Police protection, clean-up, etc.

Ms. Dayton asked if this was a back-fill?

Chairman Kerr stated no, the mass gathering ordinance. There is also a bond that needs to be put up for the town to be protected, but that is coming up later on.

Ms. Dayton was not sure that mass gathering is what we have in mind for the Ballpark.

Chairman Kerr stated that is what was used when the concerts were there.

Ms. Dayton stated it was her understanding that article 18 under businesses that were just completely deleted that governed all the alcohol, attendance limits, times of operation, types of events, etc. This has all been deleted. That was not televised and was before the meetings were televised. Again, the abutters were not notified. Ms. Dayton wanted to bring this up publicly to let the committee know what her concerns are. She stated she felt that integrity and transparency go hand-in-hand.

Chairman Kerr if there was anyone else who would like to speak in reference to the Salvation Army.

Michael Gray, 62 Cedar Ave. Pastor at the Methodist Church. Pastor Gray stated that he has seen a real sense of community with the Salvation Army, and he wished to thank them for that. The issue with the sound is very localized to the top of the hill. He felt that the Salvation Army would work with that. He offered himself and the Methodist Church to be a neighborhood mediator if needed.

Chairman Kerr asked for any questions.

Mr. Nugent pointed out that he is passing around a pad for anyone who wishes to get emails on this and other topics regarding to the ordinance committee, or any other way to reach you.

Chairman Kerr asked for anyone else who wished to speak.

David Ordway, Attorney at Smith, Elliot, Smith & Garmey. He stated he was here tonight on his own accord at the request of Cheryl because of historical insight. He has been practicing law for 36 years in the area and has been involved in the Ballpark ordinance, the sound ordinance, planning board, site plan review for the Pavilion, etc. He gave significant background regarding when the Pavilion was built and how long the Salvation Army has been present on the property. He also gave background regarding the legal issues with the Salvation Army and the town. He wanted to state that this was a sound ordinance and not noise. Noise implies something that is offense whereas sound is really what you are talking about. The initial draft has been doing appropriately in his opinion. The committee is not changing the zoning ordinance as suggested and making the Salvation Army location and Pavilion the new zone. This is the concept of legal, non-conforming use which is a use that has existed and predates zoning ordinances and the use that has existed for 125 years qualifies under the zoning ordinance as a legal, non-conforming use. The proposal for the sounds ordinance recognizes this use. He states that he thinks the committee has suggested reasonable controls that recognize the interest of the surrounding neighbors. In terms of the notice, he also pointed out that legally, sound issues do not have “abutters”. There are no abutters when it comes to sound, as sound can change. This can depend on the direction of the wind, etc. This is a decision that affects the town in some way.

Chairman Kerr personally thanked Mr. Ordway for giving that historical perspective. He stated that he thinks he and the committee would like to be able to bounce a few things off of you. He asked for any questions from the committee, and there were none. He then asked if anyone in the audience wanted to speak on the Salvation Army. He stated he did not think that the first speaker tonight was “in opposition”. He stated he felt this was a neighbor

who voiced some concerns and opinions. He feels that the committee, community, and neighborhood can all find something to live with.

Bud Harmon, Chamber of Commerce. Mr. Harmon stated that he agrees with Councilor Dayton regarding transparency, and he was glad that the abutter issue was clarified. He stated that he thinks the fact that the meetings are now televised is a good move and shows transparency. It also allows the general public who do work to see what is going on and provide input. Mr. Harmon stated this is a work in progress, even once it gets to council, and is then enacted as an ordinance. If there is a severe problem, it can be amended. He felt this is something that needs to be remembered.

Chairman Kerr felt that was an important issue that needed to be brought up. There is no perfect document, and the council saw that when they decided to appoint this committee. There were ordinances on the books that were not even enforced and were duplicated. The committee wishes to update and improve the ordinances.

Robin Dayton, 59 Fern Avenue. She stated she appreciates and agrees that having the meetings televised is a huge step forward. She felt there is no substitute for reading.

Mr. Scoville asked Mr. Nugent if there is some way to get these on the Internet.

Mr. Nugent stated he was just speaking with Tori Geaumont who is his associate in the planning office, and she indicated there is. The staff will need to work closely with Kim to make sure there is no confusion created by doing this. The answer is absolutely yes.

Mr. Scoville pointed out that the agenda is on, and Mr. Nugent added the minutes as well.

Mr. Nugent stated that every meeting that we have had has been duly advertised. Procedural, this committee has followed the letter of the law throughout the process. The committee will do things over and above the law to make things better for the community.

Chairman Kerr asked if there was anyone who would like to speak on the Salvation Army and also made sure that everyone who wished to put their contact information on the list that was going around. At this time, the committee went ahead to look at the entire ordinance which would reflect the DD1 and DD2 zone. Chairman Kerr asked if there were any other comments or questions on the new, proposed sound ordinance.

David Ordway stated he is disappointed that the committee's initial recommendation is to strike the entire portion of the Ballpark ordinance. The performing arts ordinance was crated specially for the Ballpark. He stated he felt the mass gathering ordinance is incomplete. He stated it did not work in the past, and that is why they were trying to develop a new one.

Chairman Kerr stated he concern was that sometimes the town puts too many restrictions on businesses. The events that are coming into the Ballpark are unknown at this time, and it is not the committees wish to restrict any events to come to the Ballpark while it is trying to get off the ground. The committee does not want to discourage business, especially since it is unknown what events may be coming to the Ballpark. The council has the flexibility to address the problems if necessary.

David Ordway corrected comments made earlier from Councilor Dayton and stated that the town did not shut down the events at the Ballpark. He stated he was councilor and represented Seapack and Ballpark Products, and both

groups left, partly because of regulations getting tighter. The businesses were not conducive to that environment.

Chairman Kerr agreed and stated it was not the neighbors either who forced anybody out. He stated he appreciated the comments from Mr. Ordway.

Mr. Nugent commented that he did not want Mr. Ordway to think his work has been slighted. The council are likely to vote to eliminate the Performing Arts Center ordinance, this is mostly because it is has very specific contractual language. There are elements within that which will be carried forward likely once the Ballpark evolves to that point.

Tony Barbano, 2 Longcove Drive, representing Pirates Patio, 2 Walnut Street. Mr. Barbano stated he thought this property was in the BRD zone.

They have a liquor license and the business relies on entertainment to draw customers down the street, as it is approximately 10 blocks from the downtown area. He is concerned about any changes in the time limits or a decibel limit. This would pretty much put us out of business. Entertainment needs to be stopped at 8:00 p.m. per the town.

Chairman Kerr clarified it is in the BRD not the DD2? He asked if the time limit is set by the town.

Mr. Barbano confirmed and stated the prior tenants had some issues, and the town imposed those limits from that time. They have since built the business into a nice family orientated place. Entertainment runs from 1-5 p.m. and sometimes from 5-7 p.m. Mr. Barbano felt this was targeting entertainment or bars.

Chairman Kerr pointed out that this was not targeting anything in particular. It is just a culmination of people trying to get something that works for everyone.

Mr. Barbano stated he was against the ordinance, but if it does go through and there are changes for DD1 and DD2, he wanted to make sure that the BRD district gets the same changes.

Chairman Kerr asked if the decibel readings in BRD are 55 decibels, and if that would be measured from the property line. He asked Mr. Barbano if he wanted this to go up.

Mr. Barbano stated he did not know, but it all depends what they are set at. He wanted to just put his input in, and wanted to work together.

Chairman Kerr stated he understands how this affects Mr. Barbano, as it affects him the same as a business man with the same concerns. He did not want anyone to leave thinking a particular portion of the town is being targeted.

Mr. Scoville asked if Mr. Barbano has had problems with the Police coming to the facility.

Mr. Barbano stated that last summer they had one complaint on record. The lifeguards had a fundraiser on July 4th weekend, and our solo entertainer ended up playing until 8:30 p.m. The neighbors complained, the Police came down, and we stopped the entertainment.

Mr. Nugent pointed out that the decibel levels in the BRD district are not proposed to change. The rules that are in effect for Pirate's Patio are exactly the rules that are proposed in this ordinance.

Chairman Kerr felt this was perception of the general public that there were many changes in this ordinance, but there has not been.

Mr. Barbano asked if there is a decibel limit now.

Mr. Nugent answered it is 55 decibel during the day and 45 decibel during

the night.

Chairman Kerr thanked Mr. Barbano and Mr. Nugent for clarifying things. He asked if there was anyone else wishing to speak on the sound ordinance. He thanked the entire room for their input. He went on to the next item, Chapter 38 – Miscellaneous Offenses. He went over the changes listed in 38-29 which reflected the state ordinance adding the word rifled.

Mr. Nugent pointed out there was a definition change in 38-25 to facilitate that and then the insertion under number 4 in 38-29. This was proposed by a citizen.

Chairman Kerr pointed out that was just to mimic the state law. He then asked the committee if anyone had questions or changes.

Mr. Bryant pointed out that in 38-29 should rifled and not rifle. Rifled is the correct wording.

Mr. Nugent stated this is a typo and there should be a “d” added onto this.

Vice Chair Mailhot asked about Section 38-281, Newspaper vending machine.

Mr. Nugent stated that this ordinance is relatively new, but the problem is that the town has never administered it after it was created. Apparently, there was some problem at one point with newspaper vending machines and felt the need to regulate them. After checking with the town’s attorney he did not feel strongly about it either way and is really a policy decision. The committee can keep it and administer it or get rid of it. It has never been administered.

Vice Chair Mailhot asked if there had been issues with this in the past.

Mr. Nugent stated that not that he knew of in the two years he has been here. Apparently something must have happened, but we are unsure what it was. He stated he sent emails around to find any information about this, but really could not get a good reason why.

Chairman Kerr asked Deputy Chief Babin if this was because there were too many being put around town.

Deputy Chief Babin stated yes. He questioned if it had ever been enacted.

Mr. Nugent stated that it is a law now, but the town has just never done it.

Mr. Scoville stated the only question is that during this winter there were some in the middle of the road and all over the place. Is there something we should have that states they are secure.

Chairman Kerr suggested we leave this in and let it go to the council for a public hearing so the council makes the ultimate decision. He asked if that is wish of the community.

Vice Chair Mailhot wanted clarification of whether to leave it as stricken or leave it in as it’s entirety.

Chairman Kerr stated it was to be left in and let the council have the say. He then went over the changes in the Chapter 38 that needed to be made for this to go to council.

Vice Chair Mailhot moved to send Chapter 38 to the Town Council, as amended.

Mr. Bryant seconded.

Motion passes unanimously.

Chairman Kerr moved on to Chapter 54. He pointed out that in earlier discussions with Councilor MacDonald, the Town Council is going to make the decision dealing with the Ocean Park, Temple Avenue issue. They are planning on implementing the public safety hazard issue initially and go from

<p>there. Chairman Kerr asked Deputy Chief Babin if the only other issue that the committee is to deal with is the removal of parking on both sides of Atlantic and First.</p> <p>Deputy Chief Babin stated that would be heading up Atlantic Avenue, 100 feet on both sides.</p> <p>Chairman Kerr explained that the committee will take that up at the next meeting, and they will have the language in front of the committee. Also, we can advertise for that and go out and look what is going on.</p> <p>Mr. Nugent stated that is something we can notify the neighborhood on.</p> <p>Chairman Kerr agreed, but stated it would be nice to inform the entire town, but that is not practical. He asked if the committee was all in favor of putting this on the agenda for the next meeting.</p> <p>Deputy Chief Babin wanted to comment for the public that if anyone has any concerns or comments about traffic issues in town to get a hold of him at 934-4911, and he would be happy to address the issues.</p> <p>Chairman Kerr reiterated for anyone interested in traffic issues to contact Deputy Chief Babin at 934-4911. The committee wanted to look at a large portion of the traffic because there is a lot of talk about onsite parking or having permits so the town could generate revenue from permit parking for those businesses. That is for another day.</p> <p>Mr. Scoville asked if the committee was going to go over this at some point.</p> <p>Chairman Kerr stated yes. There was no use tonight to go through it.</p>	
<p>GOOD AND WELFARE</p> <p>Mr. Nugent stated the mixed use question in the noise ordinance dealing with situations similar to the Brunswick is found in exemption #12, exclusions.</p> <p>Chairman Kerr pointed out that the committee would be changing the name of the noise ordinance to the sound ordinance.</p> <p>Mr. Nugent explained what exemption #12 stated.</p> <p>Chairman Kerr explained that would pertain to any facility that has dwelling units and entertainment.</p> <p>Mr. Nugent stated that it has come to light in the discussions at meetings that the time limit in the DD1 and DD2 does not fit actual business hours. It may make sense to draft some correction language to provide to the committee for the next meeting.</p> <p>Chairman Kerr had concerns about this, as the state law states that closing time is 1:00 a.m., and those bands are inside. He stated he would recommend that this be part of the change, especially in the DD1 district. He asked if there was anything else under good and welfare.</p> <p>Mr. Nugent stated the Performing Arts Facility and/or the Ballpark have always been exempt in that ordinance. The only change in the ordinance is to just call this the Ballpark, not the Performing Arts Facility, as well as keying in the Special Event Permit requirement.</p> <p>Chairman Kerr commented that the committee has worked long and hard to get these things right. The committee feels that there is no need for more regulations. The staff has made it possible for the committee to work through a lot of information. He then asked if there were further comments. Seeing none.</p>	
<p>Mr. Scoville motioned to adjourn.</p> <p>Vice Chair Mailhot seconded.</p> <p><i>Motion passes unanimously</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>

MEETING ADJOURNED AT 8:50 P.M.	
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I, Tori Geaumont, Secretary to the Ordinance Revision Committee of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of thirteen (13) pages is a true copy of the original minutes of the Ordinance Revision Committee Meeting on March 24, 2010.