

with the current ordinance.

Officer Mattia explained the use of the meter. He stated it needs to be parallel to the sound. He then pointed out that current decibel levels of just his voice were at 83.

Chairman Kerr explained he felt it was important to see how it is measured how loud things really are. He asked if under this ordinance, if the noise is loud, the Police Department checks ambient noise.

Officer Mattia stated under the old ordinance, the Police Department would go to the property line and take the level there. There were problems with this because the noise could be caused by something different.

Chairman Kerr stated that it is referred to as ambient noise. He expressed that the committee wants to have a sound ordinance in place that is conducive to the town. Most times when noise complaints come to the Police Department, if they just ask them to turn down the music, people will.

Mr. Scoville stated that the way he read the ordinance, noises above 80 decibels would be too loud.

Mr. Nugent explained that with noise complaints which break the noise ordinance, it is something that usually takes several weeks to mitigate because it is much more of a detailed investigation. The staff believes the corrections in procedures has solidified the ability of the Police Department to enforce the ordinance.

Chairman Kerr read from the ordinance and asked if 10 decibels above the ambient is a problem.

Mr. Nugent explained the way ambient noise works and the addition of 10 decibels will give the Police Department the ability to make the noise stop.

Chairman Kerr explained further. He stated the community and staff have worked very hard for many years to create a compatible ordinance for the committee. Chairman Kerr asked if there were any questions or comments from the audience.

John Byrd, Massachusetts Avenue, Ocean Park. HE asked why the current noise ordinance was not enforceable and he felt the 10 decibels was a great deal higher.

Chairman Kerr asked David Ordway, who was in the audience, to speak as far as the legal issues back when the noise ordinance was not enforceable.

Mr. Ordway stated it was due to a failure to take into account of the neighborhood. He brought the report of the sound level study in and around the Salvation Army Pavilion and around the town. He proceeded to explain what LEQ is and how it is a average of the sounds and is taking for a longer period. He was also concerned because the judge felt there were some

concerns regarding unequal enforcement . There were technical issues regarding how to take the readings. Chairman Kerr stated that people who had taken the readings were not qualified to do that.

Mr. Ordway stated there may have been 1 or 2 officers who were trained on how to use these.

Chairman Kerr stated knowing all this we did put ambient noise levels in so we would enforce this early.

Mr. Nugent stated that the bottom line is the court was not prepared to throw the case out, but concluded the town could not prove it's case.

Mr. Ordway explained that unless the court reaches a "constitutional question". He then stated that there are a lot of things the operator of the meter needs to do to obtain an accurate reading. It is not as simple as just turning it on, standing somewhere, and reading the amount of decibels. The officer needs to perform the tests correctly. He suggested reading LEQ readings which averages out the noise over a certain period of time.

Chairman Kerr asked Mr. Byrd if his questions were answered. Mr. Byrd felt they had, but also stated again how much higher 10 decibels is, and asked for the board to consider decreasing that.

Chairman Kerr asked if anyone wanted to speak on the proposed ordinance. He pointed out that Elizabeth Bell was here earlier, but had to leave, as she felt ill. He also pointed out that Ms. Bell submitted a letter at the last meeting which had been entered in to the minutes, and each member of the committee received a copy.

Bud Harmon, Chamber of Commerce. He felt it was helpful to have Officer Mattia here, as well as having Mr. Ordway to explain the past court case and the particulars of noise/sound. He asked if this will be the last meeting where the sound ordinance will be looked at.

Chairman Kerr stated that at the next meeting the committee will probably vote to send to the council. The public will have another opportunity to speak on it then.

Mr. Harmon suggested that someone from the Police Department be at the Town Council meeting this is sent to, as well as having Mr. Ordway there to answer questions, as this is a difficult thing to grasp. The council will probably have a lot of questions. He stated the ordinance is great work, and he would not like to see it pushed aside and defeated by the council because they may not understand it.

Chairman Kerr agreed and gave the example of the Ballpark where some members of the council thought that because the

committee wanted to get ride of the "Performing Arts Center" ordinance that would include the Ballpark where it was specific to the company that ran the events. He then asked if anyone had any further questions at all. No one did.

Mr. Nugent stated that on the April 20th meeting, the Town Council will set a public hearing for Chapter 18, Chapter 30, and Chapter 38.

Chairman Kerr asked if it was the wish of the committee to vote on Chapter 26, Art. III at the April 28th meeting? The committee will then take action to refer the sound ordinance to the Town Council.

Vice Chair Mailhot asked under Section 26-65, item 4, if that was any decibel level?

Mr. Nugent explained that this was just this side of disorderly conduct. It was important to have this in there because the prior sound committee wanted this in the proposed ordinance.

Chairman Kerr asked Officer Mattia if he felt this was relevant for this ordinance.

Officer Mattia answered the Police Department gets these kind of complaints all the time, and the officers would not look at the ordinance.

Mr. Scoville felt there should be something in here regarding this type of behavior.

Pat Brown, prior sound committee member. Ms. Brown explained this was for instances where it would not really be disorderly conduct, but just to have a Police Officer have something to fall back on when they need to just disperse people making noise and not formally charge them with a crime.

Vice Chair Mailhot felt she understood the need for this now. She inquired why the number 3?

Ms. Brown explained that was just the number the committee felt was a "crowd".

Mr. Scoville asked how prevalent this is in the summer?

Officer Mattia answered that this happens a lot. Officers need to disperse people all the time.

Mr. Scoville then wanted to know how many result in arrests?

Officer Mattia stated not many.

Chairman Kerr asked if this ordinance would be given the Police the tool.

Officer Mattia felt that this is an option, but did not think it was practical.

Mr. Harmon commented that he liked this because it is an "in between" area less than disturbing the peace, but definitely a problem.

Chairman Kerr then agreed and stated he felt it made sense, especially in the DD1 district.

TOWN OF OLD ORCHARD BEACH
 ORDINANCE REVISION COMMITTEE MINUTES April 7, 2010

<p>Chairman Mailhot asked for clarification of Section 26-66, #13. She was not sure at what point the officers decide to do two readings.</p> <p>Mr. Nugent answered and stated they must at all times try to take two readings. If they cannot get two readings that are equal they need to stop, and they would need to go back at another time and do the two readings. This could take quite a bit of time.</p> <p>Chairman Kerr commented that this is difficult to explain to the abutters. He then asked Mr. Nugent what would cover outside noise.</p> <p>Mr. Nugent clarified that this entire ordinance covers that. Chairman Kerr thanked the audience, the Police Department, staff, residents, David Ordway, and the committee. He then asked if anyone had any final questions. Any questions that the committee has can go through the Police Department or Mr. Nugent.</p>	
<p><u>Good and Welfare</u></p>	<p><u>Good And Welfare</u></p>
<p>Vice Chair Mailhot moved to adjourn. Mr. Daley seconded. <i>Motion passed unanimously.</i></p>	<p>Motion Vote</p>
<p>MEETING ADJOURNED AT 8:40 P.M.</p>	<p><u>Adjournment</u></p>

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 five (5) pages is a true copy of the original minutes of the Ordinance Revision Committee Meeting on April 7, 2010