

TOWN OF OLD ORCHARD BEACH
ORDINANCE REVISION COMMITTEE MEETING MINUTES **October 28, 2009**

<p>Call to Order at 7:01 pm</p>	<p>Call to Order</p>
<p>Roll Call: Present: Chair George Kerr, Vice Chair Linda Mailhot, Mr. Steve Bryant, Mr. Robert Scoville, Deputy Chief Keith Babin, Animal Control Officer Will Watson Staff: Mike Nugent, Code Enforcement Officer. Tori Geaumont, Secretary.</p>	<p>ROLL CALL</p>
<p><u>Acceptance of Minutes</u> Mr. Daley moved to accept the minutes of October 15, 2009. Mr. Kerr seconded. <i>Motion passes unanimously.</i></p>	<p>ACCEPTANCE OF MINUTES</p>
<p><u>REVIEW PROPOSED REVISIONS FROM 10/15/09:</u> Mr. Nugent stated he took notes throughout the discussions at the last meeting. The proposed additions are underlines and removals are shown in strikethrough form. There were questions concerning ambiguous language concerning Roberts Rules which he tried to simplify. If there is anything he missed he wishes to add that today. Mr. Kerr asked if there were any questions on page one. Ms. Mailhot stated yes; Section 2 concerning the language about advertising. Mr. Nugent stated it cannot be done at this time because it is also in the charter. We will present this to the council, but the committee must wait for the Charter Revision. Mr. Kerr asked if there were any other questions. Mrs. Mailhot questioned in Section 2-54 she thought what was underlined was not the prior discussion. She believed the wording was or, but not with. She wanted to add or in the event of an uncooperative chair. Mr. Kerr stated the council can override it with council vote. Mr. Kerr asked if everyone agreed. All members agreed. Mr. Kerr asked for any questions on page 3. Mr. Nugent stated the only changes were added yes or no instead of yea or nea. Mr. Kerr continued to Section 2-65. This section was omitted. He then went on to Section 2-69 and asked for any questions. Mr. Kerr went on to read the sections and asked the committee to stop if any questions. Mrs. Mailhot stated on Section 2-77 to delete the section of part 5 which pertains to the public speaking. Mr. Kerr stated he felt if the public came to speak on an issue, it is up to the chair to object, but it is a privilege and right of the citizens. Mrs. Mailhot asked about Section 2-80, as the section was going to be checked for accurate numbering. She stated that Mr. Lamb thought it was section 405 and not section 404. Mr. Nugent stated he would double check. Mr. Kerr moved on to Section 2-81 and 2-87. Mrs. Mailhot questioned Section 2-82 where it talked about seating arrangement; can we remove. Mr. Nugent stated this would be taken out after roll call. This was noted. Mr. Kerr asked if there were any questions on Sections 2-98 to 2-95; no questions. In Section 2-96, deleted the entire section. This carries on to the next 2 pages. Moving on to Section 2-152, under 2-154 eliminate school board in that section. Mr. Nugent noted this. This also includes references in 153 and 152. Mr. Kerr moved on to Section 2-231 to 2-234 and asked for any questions. Mrs. Mailhot thought on 2-2334 continuing on to the next page; strike out as well as town manager. Mr. Nugent stated that was correct. We will change that. Mr. Kerr asked if there was anything else on the page. Mrs. Mailhot thought the committee had talked about Section 2-322 as an overlap of 2-334 with</p>	<p>REVIEW PROPOSED REVISIONS</p> <p>Motion</p> <p>Vote</p>

more information.
Mr. Nugent stated it sort of does but sort of doesn't.
Mr. Kerr asked to omit Section 2-232.
Mr. Nugent stated 2-331 outlines purpose and the next section outlines how they are appointed.
Mrs. Mailhot found an extra space in Section 2-326 as well as missing period in Section 2-471.
Mr. Nugent noted this.
Mr. Kerr stated that takes care of the prior revisions.
Mr. Nugent stated he will fix the revisions and get them to the committee tomorrow. He would like to have the council have them at the 11/17/09 meeting.
Mr. Kerr asked if the committee needs to vote on that.
Mr. Nugent thought it would make things tidy.
Mrs. Mailhot moved to accept the revisions as amended and provide a copy to the Town Council.
Mr. Bryant seconded.
Motion passes unanimously.

CHAPTER 6: ALCOHOLIC BEVERAGES

Deputy Chief Babin stated he does not have any issues with the special amusement permit section. We will address the licensing aspect of this when we work on the license ordinances. He then had questions about bottle clubs.
Mr. Kerr asked to go each Section 6-29 to 6-31 one at time.
Mr. Bryant questioned part b. Is this a pre-inspection to be done before you give the license?
Mr. Kerr also asked if there is inspection with renewals.
Mr. Nugent stated there is no inspection upon renewal unless there is a complaint or a change of ownership.
Mr. Kerr asked if there is a document that states that.
Mr. Nugent stated that will be part of Chapter 18.
Mr. Kerr referred to b. and questions if we did this.
Mr. Nugent stated if the person did not allow the inspection. This is not about pre-licensing. This is if we do an inspection due to problems with the day to day stuff.
Mr. Kerr asked if there is a red flag due to Fire Department or Police?
Mr. Bryant asked why give them 15 days.
Mr. Nugent answered it was probably part of due process. If there is something dangerous we would get an injunction and bypass the 15 days.
Mr. Scoville asked if you do have the option.
Mr. Kerr stated you should be able to do that.
Deputy Chief Babin stated he believes there is something in Section 18 about this.
Mrs. Mailhot stated she did not know why you need to inspect before getting the special amusement permit.
Deputy Chief Babin stated this is necessary.
Mr. Kerr states if this is after the license has been granted. Why do we need this language, why not address it immediately?
Mr. Daley asked why an inspection before a special amusement was given?
Mrs. Mailhot stated this is only for the special amusement permit, is this correct? This all has to do with special amusement. Section 6-29 refers to inspections for special amusements.
Mr. Nugent answered Mr. Daley and stated we do not.
Mr. Kerr asked if this is for renewals.
Mr. Nugent stated this is only for new permits.
Mrs. Mailhot stated that is not how she understood it reading it word for word.
Mr. Nugent stated it basically states you need to let us in if there is a complaint. He then read from the ordinance.
Mr. Kerr asked to move on to part b.

**CHAPTER 6
 ALCOHOLIC
 BEVERAGES**

**CHAPTER 10
 AMUSEMENT
 AND
 ENTERTAIN-
 MENT**

**CHAPTER 14:
 ANIMALS**

Mr. Scoville felt that this clashed.

Mr. Nugent stated they should get a written report. Staff will clean this up but we will want to talk to the town attorney to find out how it got there. He can see why it is there. Unless there is a life safety problems.

Mr. Kerr asked if staff could double check on that.

Mr. Nugent stated he would.

Mrs. Mailhot asked what kind of notice would be needed.

Mr. Nugent stated any time you revoke a license you have a hearing and is done here.

Mr. Bryant asked if that is part of the repeals.

Mr. Kerr believes that is part of Section 6-70, the appeal procedure. He asked if it goes to the ZBA.

Mr. Nugent stated it is. He said there are a lot of things that are not zone related that can go to the ZBA.

Mr. Kerr then asked if anyone had anything for Section 6-30 or 6-31.

Mrs. Mailhot stated she had an issue in Section 6-341. Is the committee concerned with it where alcohol is not served?

Officer Watson stated it is addressed in the obscenity ordinance.

Deputy Chief Babin suggested this could be good to stat here.

Mr. Bryant had questions about wet t-shirt contests and lap dances. Is that included in this?

Mr. Nugent asked currently when we have a limited engagement what do the police do?

Deputy Chief Babin stated Section 8 covered the wet t-shirt as far as covering. It has never been challenged. We have not had it since we shut that down.

Officer Watson stated it may be under miscellaneous.

Mr. Kerr stated there is never a police officer there when there is a wet t-shirt contest.

Deputy Chief Babin stated at times there have been complaints, and the Police have gone to the owner and showed him the ordinance without problems.

Mr. Nugent stated exhibitions and performances cover the lap dances, etc. He knows staff has used that when people inquire about it. The answer is that it is covered.

Deputy Chief Babin asked if people tried to open up topless bars, etc?

Mr. Nugent stated no one has tried since the 1990's. That was a mess.

Mr. Kerr inquired as to any other revisions in Section 6-31.

Mrs. Mailhot had grammatical questions and felt items should be indented.

Mr. Nugent stated we will correct that.

Mr. Kerr asked as to Section 6-32, part b. the hours 8 a.m. Do we need that so early?

Mr. Scoville stated the sound ordinances in Section 8. Should we refer to that?

Deputy Chief Babin stated the time changes depending on the time of the year.

Mr. Kerr stated this is referring to a special amusement permit. He did not think anyone opens at 8 o'clock in the morning with entertainment.

Mrs. Mailhot had concerns with this, as a special amusement permit is necessary even for use of a television. People could not use a television either if we change the time. Should we take out television?

Mr. Nugent asked if the committee wished him to cross out television. When something is so all-inclusive people will try to do stuff here that they would not do anywhere else.

Mr. Daley stated we do not want to deter people either. We need to find a good balance. He does not want to deter business people.

Mr. Kerr stated at the very least take out television.

Mrs. Mailhot stated it is nice to watch the news in morning at breakfast. Maybe they should not take it out.

Mr. Nugent asked would that include film?

Mrs. Mailhot replied yes, film too.

Mr. Nugent asked if the committee wanted to leave time as it is?

The committee agreed.

Mrs. Mailhot felt the wording was dated.

Mr. Kerr stated we have a noise ordinance and we do not really need this. He asked if want to change language and is that language sufficient.

Mr. Nugent stated it is.

Mr. Mailhot referred to Section 6-61 and asked about what mechanical device meant.

Officer Watson stated things like juke box, player piano, etc.

Mr. Kerr stated none of this is allowed unless you have a special amusement permit.

Mrs. Mailhot wanted clarification of what a business could do regarding music, etc without a special amusement permit.

Mr. Nugent verified you cannot have any music without a special amusement permit.

Mrs. Mailhot did not think item 2 in Section 6-62 was relevant. She questioned why staff would need a resident's physical address.

Mr. Nugent stated in case we need to arrest them. To serve someone you need t physically find them?

Officer Watson stated as a person who is usually responsible for this, the Police have a lot of people who have just the business down as their residency and it makes it very difficult to track them down to summons them.

Mr. Bryant asked if a background check was done.

Mr. Kerr stated that the state requires this on the liquor license.

Deputy Chief Babin added the Police have an in-house check, but does not do a state check. He believes they do not have background checks. He asked if we do on other licenses.

Mr. Nugent stated we do on massage parlors.

Mr. Kerr stated this would be a good idea, especially with a new license.

Mrs. Mailhot asked if the town needs to pay for that.

Mr. Kerr answered that if there is a fee than the committee will change the language for the applicant to pay the fee.

Deputy Chief Babin stated he will find this out tomorrow, and let Mr. Nugent know.

Mr. Kerr asked if Deputy Chief Babin had a problem doing that.

Deputy Chief Babin stated no.

Mr. Kerr asked if there was anything else about bottle clubs.

Mrs. Mailhot referred to Section 6-65 and wondered why there is any need to have a public hearing on special amusement permits.

Mr. Nugent replied that it is important with problematic places.

Mrs. Mailhot asked isn't this just at the town councils discretion?

Mr. Nugent tatted the public needs to have input. It is very important. A lot of the special amusement stuff is tied to the legislature process.

Mrs. Mailhot moved to section 6-67 and felt if the ordinance states the special event is for the entire licensing year, shouldn't that be included into the license?

Officer Watson clarified the difference between a special event permit and a special amusement permit. A special event permit is for a limited time, and the special amusement permit is for the licensing year.

Mrs. Mailhot thought it seemed a little odd to her.

Mr. Nugent stated that special amusement permits is part of it. Some businesses that have a liquor license do not have a special amusement permit.

Mr. Kerr felt that what Mrs. Mailhot was saying was if an owner has a special amusement permit it should be part of the renewal.

Mrs. Mailhot felt it may be duplication.

Mr. Nugent stated it is not about the fee. Special amusements in the wrong hands are very dangerous. What happens is there is a stigma attached to that in any town.

Mrs. Mailhot referenced Section 6-68. She did not understand if an applicant was turned down

why do they need to wait 340 days. If there was a deficiency and they need to wait 30 days.
Mr. Bryant felt what was more important is what legislature specifies.
Mrs. Mailhot stated she crossed out the entire part.
Mr. Nugent stated it is also in Section 6-65.
Mr. Daley inquired about the amount of time to reapply.
Mr. Nugent stated there are two references, but he will find out why the second is in there. This may allow the town to continue the way it is, but if the legislature changes we don't have to change.
Mr. Kerr asked Mr. Bryan if he had anything else.
Mr. Bryant stated he did not.
Mr. Kerr moved to section 6-69 and 6-70; he questioned that board of appeals is the ZBA.
Mr. Nugent felt it was, but would double check that.
Deputy Chief Babin asked if they hold a special meeting.
Mr. Nugent stated possibly.
Deputy Chief Babin asked if someone gets denied can they have it reheard in a week.
Mr. Nugent stated, no, due to advertising. ZBA can have a quicker meeting, but they need to have the right time frame for advertising and abutter notices.
Mr. Kerr asked why this is going to ZBA.
Mr. Nugent stated it actually should go to 80-B appeals and to superior court. It would make more sense. He will check with Chris.
Mrs. Mailhot asked in Section 6-69; does not say what notice is required for hearing.
Mr. Nugent replied that this is probably in Chapter 1. What is notice and hearing.
Mr. Kerr moved on to Section 6-70 and asked for any questions. The committee will move on to bottle clubs.
Mr. Daley asked if OOB has any bottle clubs.
Mr. Kerr felt the town used to have a few. They then started in the campgrounds at Pinehurst which was called the Pines.
Deputy Chief Babin asked if this covered anything like bring your own bottle.
Mr. Nugent answered that this does not cover it. It is a good point. It was like that for a few places.
Mr. Nugent added that bottle clubs are pretty much defunct.
Mr. Scoville felt that technically the way this reads it is a bottle club.
Deputy Chief Babin stated yes, and you cannot bring anyone in under 21.
Mr. Kerr questioned maybe the committee needs to address that under bottle clubs.
Mr. Nugent stated in the definition, staff will create an exemption for you to look at.
Mr. Kerr inquired as to the reason why they do that: Is it possibly the cost of a liquor license. Do bottle clubs need to have parking?
Mr. Nugent answered probably 0only allowed in DD1 and DD2. If it does not spell it out as a permitted use it is a prohibited use.
Mr. Kerr stated that under the bottle club license you need to pay the license fee before you apply. He does not think any license does that.
Mr. Nugent stated when the applicant applies they will need to pay the fee.
Mr. Nugent stated he is not seeing that bottle clubs are permitted. He will check and report back to the committee. If it is not allowed anywhere in the town in the ordinance we should probably give rid of the ordinance.
Mr. Kerr asked if the council has any ability to allow by law.
Mr. Nugent answered not if it not allowed in the district.
Mr. Kerr stated if the committee does that we need to accommodate for a bring your own bottle businesses.
Mr. Nugent stated he will check all the districts to see.
Mrs. Mailhot stated in Section 6-131 under b, there are numbers, 1, 2, 3, and 4 and should be

indented.

Mr. Nugent noted this.

Mr. Kerr asked if there was anything else in reference to bottle clubs. That may be deleted altogether.

Mr. Kerr moved on to chemical free dances/drinking establishments. He stated there is a new ordinance recently adopted by town that stated you cannot have chemical free dances in a drinking establishment. They also enacted to not have any chemical free dances in town.

Mrs. Mailhot asked why.

Mr. Nugent stated there were a lot of very large problems with it concerning fighting, drugs, drinking, etc.

Deputy Chief Babin stated if someone wishes to have a chemical free dance there are dances at schools, etc.

Mr. Nugent stated the Town Council Chair enacted this over the past summer.

Deputy Chief Babin stated thus far the new ordinance has not been challenged.

Mr. Kerr inquired if there was anything else under chemical free. The committee will go to adult entertainment. He asked if this was developed after other communities.

Mr. Nugent stated this came into effect in 1992.

CHAPTER 10: ADULT ENTERTAINMENT

Mr. Daley stated that a lot of this might need to be changed or relaxed. He does not feel that the law should restrict an adult from going to a strip club.

Mr. Scoville stated it causes a lot of problems with fighting, etc.

Mr. Daley felt that the club owner has the responsibility.

Mr. Scoville stated that once patrons are out of the building and on the street it is the Police's responsibility.

Mr. Daley felt that things are over-policed and over-regulated and the committee should start to lighten up on things. As an adult of this community he felt he should have the opportunity to choose that activity. He stated he did not really care either way, but felt it would bring in business, revenues, jobs, etc. He felt the ordinance should be relaxed, as this is a beachfront community. It is another form of entertainment that people would be drawn here to.

Mr. Kerr asked if adult entertainment was permitted within the zoning ordinance currently.

Mr. Nugent stated not it is not.

Mr. Kerr asked maybe this is similar to bottle clubs if it is not allowed currently.

Mr. Nugent offered that this is a hot button in this community. There is along history going back to problems with adult entertainment.

Mr. Kerr stated the council directed the committee to review these ordinances and if the shoe did not fit to get rid of it. If there is not a need, if it is not a permitted use in the town, let's not debate the issue.

Mr. Nugent stated in prohibitions it states this in Section 10-30.

Mr. Kerr asked if Mr. Nugent can get back to us on this, as well as the bottle club issue.

Mr. Kerr directed the committee to the animals section.

Mrs. Mailhot wished to put indentations on 1 and 2 in section 10-30.

Mr. Daley asked if not allowing any adult entertainment in town is something the town can legally do?

Mr. Nugent stated yes. If the town could not prohibit it, it would be everywhere. There is a ton of history with this. This is not in line with trying to get the family atmosphere here.

CHAPTER 14: ANIMALS

Mr. Kerr addressed Officer Watson and stated this was his area and asked if there were any issues he had.

Officer Watson stated that the definitions are basically verbatim from state law. Complaints need to be directed to the Police station and not to Town Hall. Staff has been informed, and this is part of the ordinance. There was an issue with this in the past, and the Police need to be

informed directly to generate a response. Under impoundment fees, he wished to change the language. Town rates may be too low. He inquired with surrounding communities and only Buxton and Scarborough replied. Buxton is \$30.00 for the first offense and \$50.00 for subsequent offenses. Scarborough is \$30.00 across the board. Buxton is only for dogs. Scarborough is for cats as well.

This is just for claiming the animal. Both communities contract with the Animal Refuge league in Westbrook and a \$17.00 a day impoundment fee is also charged per day. He suggested either to raise that two amounts or come up with a third. They could also add in a day to day impoundment fee. His wish is to make this animal control user funded.

Mr. Kerr inquired what the cost is to keep a dog or cat on a daily basis. Does animal control go up and check on the animals. What does it entail. This should be a service fee.

Officer Watson stated animal control does not incur any special fees due to someone being on duty. The only expense is food, medical care, etc. Either he or another on-duty police officer checks on the animals and fees, etc. it does take someone from being proactive to being reactive and away from something else they could be doing. There is money that is used.

Mr. Kerr wanted to know how much revenue through fees.

Officer Watson stated he did not have the figures in front of him, but he could get that.

Deputy Chief Babin asked if we would want a warning first.

Mr. Kerr stated no.

Officer Watson stated the impoundment fee is \$5.00 plus the fine of \$10.00 or \$25.00. The total is either \$15.00 or \$30.00. There is currently no fine for cats that we pick up. There were 56 dogs, 30 cats, 1 python, and a rabbit picked up last year.

Mr. Kerr suggested that any animal should have a fee.

Mr. Scoville felt that would be difficult due to cats not being tagged.

Mr. Kerr asked if it should specify animal and should be first offense, second offense, and third offense. The committee could change to animal.

Deputy Chief Babin asked if the first should be a warning.

Mr. Kerr commented that maybe in the sense that the fee is minimal.

Mr. Scoville felt that it was.

Mr. Kerr asked what the committee felt the fee schedule should be. Mr. Kerr stated the impoundment fee is almost as much as a car. It should be not be too expensive to claim the animal.

Officer Watson stated the town holds dogs for 7 days and cats for 2 days. After this, they are then the property of the town. The town does not euthanize. Homes are found or they are sent to a place to be placed.

Mr. Kerr asked if it was easier to just come up with a fee structure and not deal with the animal thing.

Mr. Nugent felt a per-day fee would be good and could state in the amount of X per day.

Officer Watson stated that if the town holds a stray animal, the state does reimburse the town for \$4.00 a day, but animal Control does not use this often due to it being constantly out of money.

Mr. Kerr asked of the 56 animals what was the money generated.

Officer Watson stated he would get that from the Finance Director or her assistant. At a minimum it would be approximately \$700.00.

Mr. Kerr wanted to know if he was asking for the committee to change to fees to cover this.

Officer Watson stated his goal was to simply charge a little more money as comparatively the town's fees are very low. He did not wish to make it an undo hardship, but to cover the costs of taking care of the animal.

Mr. Kerr asked if he felt %5.00 a day was reasonable.

Officer Watson stated yes.

Mrs. Mailhot agreed this should be a small fine.

Mr. Kerr stated the committee is doing the daily fee and then there will be a fine in addition. He asked if this was correct.

Officer Watson replied it was correct. He was thinking to leave it at \$15.00 and \$30.00. He also informed the committee that if they pick up an animal, but it does not make it to the kennel before the owner claims the animal, the Police do not charge a fee.

Mr. Nugent clarified the changes to the impoundment fee, and to insert words per day and for each animal.

Mr. Scoville inquired if the town is connected to Kennebunk shelter.

Officer Watson stated no. Due to the work of a group of citizens it was shot down. They did not feel it was the right thing to do.

Deputy Chief Babin stated there is a fee and a contract involved too.

Mr. Kerr reiterated the \$5.00 each animal per-day fee, and longest you keep the animal is 7 days.

Officer Watson stated yes.

Mr. Kerr suggested to get the fee structure taken care of and to cap it at \$35.00.

Mr. Nugent stated to make the terminology consistent change to animal at large.

Officer Watson wanted to remove the statement referring to taking the owner to court, as it does not happen.

Mr. Nugent reiterated the language.

Deputy Chief Babin asked if we want to continue with April through August in reference to Section 14-41.

Mrs. Mailhot wanted the numbers to be consistent.

Officer Watson had no issues with Section 14-5.

Mr. Kerr did not like removing this due to food and dogs in the same area.

Mr. Daley felt this was an issue of common sense for dog owners.

Mr. Kerr felt it would only invite trouble.

Mr. Nugent touched on new regulations regarding Piping Plovers. The committee can remain silent and let the state deal with this.

Officer Watson had no issues with Section 14-7.

Mrs. Mailhot only wanted to change the gender.

Mr. Scoville inquired about animal waste and fines.

Officer Watson stated there is a state fine of 250.00.

Mr. Kerr asked if Officer Watson summoned people for this.

Officer Watson stated no, but he believed the state was harsh with the fine.

Mr. Scoville felt this would give the Police the discretion.

Mr. Kerr suggested to start off with \$100.00 fine.

Officer Watson felt he would site municipal ordinance and then summons someone.

Mr. Daley asked how it works between the State and the Town.

Officer Watson stated the town does not have a fee, only the state.

Mr. Nugent asked if any of that comes to the town.

Officer Watson stated yes.

Mr. Nugent stated they would add this to Section 14-2.

Officer Watson would like to have the new enforcement area state it will be enforced by animal control or a police officer.

Mrs. Mailhot wanted to know if there are medical issues does the owner pay for this.

Mr. Nugent stated they could add this under impoundment fees.

Mr. Kerr wanted Officer Watson to obtain the fiscal notes regarding these things.

Mr. Nugent stated he would have the revisions back to the committee by the weekend. He asked for direction from the committee concerning the next meeting date, as the next Wednesday was a holiday. We will try to work out where and when the next meeting will take place and coordinate with you.

<p>Mr. Daily moved to adjourn. Mrs. Mailhot seconded.</p>	<p>Motion</p>
<p><i>Motion passes unanimously.</i></p>	<p>Vote</p>
<p>MEETING ADJOURNED AT 8:53 P.M.</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 nine (9) pages is a true copy of the original minutes of the Ordinance Revision Committee Meeting on October 28, 2009