

TOWN OF OLD ORCHARD BEACH
ORDINANCE REVISION COMMITTEE MEETING MINUTES December 23, 2009

Call to Order at 6:37 pm	Call to Order
<p>Roll Call: Present: Chair George Kerr, Robert Scoville, and Steve Bryant. William Daley arrived after roll call. Excused; Vice Chair Linda Mailhot, Staff: Mike Nugent, Code Enforcement Officer. Gary Lamb, Town Planner.</p>	<p>ROLL CALL</p>
<p><u>REVIEW PROPOSED REVISIONS FROM 11-19-09</u></p> <p>Mr. Nugent pointed out the changes that were made thus far in Chapter 18 definitions. Reviewed some omissions of superfluous language.</p> <p>Mr. Nugent stated that the two-year renewals were accepted by all, but our licensing clerk was a little concerned about the change.</p> <p>Mr. Kerr stated he spoke with Ms. Smith and understood her concerns, but felt that the change would actually help her work load. Initially it may be difficult because of it being a change, but it will be much better in the end. The committee continued to review the changes put forth in Chapter 18 concerning various verbiage.</p> <p>Mr. Lamb brought up references to license administrator. He asked whether the committee wished to change whether only the Town Council can grant licenses or if they wish to add either/or the license administrator.</p> <p>Mr. Kerr said license administrator. Mr. Scoville agreed. Mr. Kerr then explained that they wished to give the staff the ability to grant licenses in the event that the council is not meeting in a timely fashion, and then the council could vote on it at the next meeting.</p> <p>Mr. Lamb stated he felt there were certain categories that should not be done by staff. Those that are would be a done deal.</p> <p>Mr. Kerr stated that if the staff was not comfortable with a certain license they could refer it to council. 90% of licenses are “no-brainers”.</p> <p>Mr. Daley felt it seemed like a little bit more over-governing. Why does it need to go to council?</p> <p>Mr. Kerr stated that as long as the applicant meets the criteria, staff should be able to do that.</p> <p>Mr. Daley felt that there was too much red-tape. Most things should be streamlined.</p> <p>Mr. Kerr stated we will be taking the politics out of it.</p> <p>Mr. Lamb clarified that he was in support of having staff grant licenses.</p> <p>Mr. Nugent stated we will need to go back and check the state statutes regarding advertising.</p> <p>Mr. Lamb also stated there are issues regarding the Charter involved.</p> <p>Mr. Kerr stated that he felt the committee needed to make recommendations to the Charter Committee regarding things they would like to change that relate to the Charter. If there is a conflict they wish to make it clear that the Ordinance Committee wishes to be very business-friendly and the intent is to generate jobs and business within the town.</p> <p>Mr. Nugent stated we will need to rework Section 18-34 and will have that for you at the next meeting. In the event that the council does not want to do that we can create alternate language for that.</p> <p>Mr. Kerr felt this was a critical part of what they wish to do as a committee. They are willing to take the time to make some changes, and they feel it is a critical part of what they are doing.</p> <p>Mr. Lamb felt it was important for either all or some of the committee to come to the Town Council meetings to explain why the committee is doing what they are.</p>	<p>REVIEW PROPOSED REVISIONS</p>

<p>Mr. Kerr felt that was important. He stated that someone had claimed to him that the staff was running the committee, and he took offense to that because the committee is all working very hard to make some significant changes to benefit the town. He is not interested in having back-up language, but he respects having it and needing it.</p> <p>Mr. Bryant asked what the council would know that the code/planning department doesn't?</p> <p>Mr. Nugent felt this was not expertise, but was control. He stated staff will go ahead and redo the language.</p>	
<p><u>CHAPTER 18: BUSINESS LICENSES</u></p> <p>Mr. Lamb pointed out 18-35, second sentence should go into the definitions part of Chapter 18.</p> <p>Mr. Nugent also added any personal property tax verbiage should go to the definitions part as well, as they are definitions.</p> <p>Mr. Lamb moved on to Sec. 18-35 and pointed out he had discussed this with Chief Kelley, and his recommendation was to add the words "and relevant" in subsection (7) after the word "documented". The police department enforces the licensing, not code or planning. It should be up to the Chief whether a documented disturbance is relevant to the license. He also stated under subsection (c) and (d) to add license administrator. In Section 18-38, the only real substantial change would be in section (2) that we would propose would be; the license administrator have received over the past 12 months any written and relevant complaint from any person documenting that the license has violated the terms of this article....the rest of the sentence remains.</p> <p>Mr. Daley wanted to know what Mr. Lamb's definition of relevant was.</p> <p>Mr. Nugent interjected that in the first page where it said documented, we added the word relevant and gave a definition. The word relevant is defined.</p> <p>Mr. Lamb went on to the next section that Chief Kelley is fine with that talks about relevant. This would read "relevance of complaint shall be determined by the police chief in consultation with the license administrator or other appropriate staff." It should stay under the police purvey since they enforce this ordinance.</p> <p>Mr. Nugent stated that in the past staff has needed to bring owners in for administrative review for issues that were not relating to the business license, just because there were three police calls. These could be for anything and not directly from the business.</p> <p>Mr. Kerr also felt that there was times that he, as a bar owner, would not call the police because he did not want his license to be taken away.</p> <p>Mr. Daley expressed deep concern with that practice possibly happening and felt this would help.</p> <p>Mr. Kerr asked if the police should be responsible for enforcing this.</p> <p>Mr. Nugent felt yes they should because they have the ability to walk up to the business owner and give them a ticket.</p> <p>Mr. Kerr was concerned about the police harassing business owners.</p> <p>Mr. Nugent stated he did not think that was an ordinance issue, but was a personnel issue. There are new police officers every year, and they need to be trained correctly.</p> <p>Mr. Kerr wanted to have things written very clear to be business friendly.</p> <p>Mr. Daley asked if part of hiring new police officers for the summer is to look for candidates who have worked at seaside communities before.</p>	<p><u>CHAPTER 18-</u> <u>BUSINESS</u> <u>LICENSES</u></p>

Mr. Kerr stated they are mostly college students who are in criminal justice studies. There are not very many students who come back. Most of them go on to another full-time job.

Mr. Lamb stated minor change in 18-38, was to add relevant. He also pointed out 18-39, section (b) could refer to the previous page where we have already defined that. Refer to 18-38.b.

Mr. Kerr agreed.

Mr. Nugent suggested to get rid of the wording and just refer to the state regulations. He will need to research whether our ordinances are stricter than state ordinances and if not we could get rid of it and refer to the state.

Mr. Daley questioned if this was health related and what inspections are done.

Mr. Nugent stated this is all done by the state. It is very similar to tattoo parlors, beauty shops, etc. He felt that they could do this.

Mr. Kerr stated he felt this was nothing more than a mirror image of the state.

Mr. Nugent stated he thought they state took the wording from OOB in the beginning.

Mr. Daley asked if you need a license to be a body piercer.

Mr. Nugent stated yes, both state and town. I think the establishment needs to have the appropriate equipment. I do not know if there is a proficiency test per say.

Mr. Lamb asked if we need to give body piercing a separate section.

Mr. Nugent stated it may be in a different section. We will move that.

Mr. Daley asked how many body piercers were in town.

Mr. Nugent stated only one. There was one that opened, but has since shut down.

Mr. Kerr asked to verify the fee; \$75 for establishment and \$75 for the individual.

Mr. Lamb asked if state statute still states you cannot pierce from mid thigh to the waist.

Mr. Nugent confirmed that. I will finish the research with Anita Anderson and have all the information back at the next meeting.

Mr. Kerr stated 18-66 through 18-138 would be only the body piercing.

Mr. Lamb stated that the next meeting the committee will see a letter drafted by someone who wishes to open a 500-sf tattoo parlor where Halfway Video is located now in the GB-1 district. Right now tattoo parlors are only allowed in the DD-1.

Mr. Kerr stated back in 1981 that the ordinance worked.

Mr. Lamb stated if you do change the sf to a smaller amount there would be more tattoo parlors in town.

Mr. Kerr felt he would rather see them on the outskirts of town and reduce the square footage.

Mr. Daley felt that 2500 sf was too large.

Mr. Nugent felt this should go away. If the state health laws are better or the same it should go away, and it should be a zoning issue in chapter 78.

Mr. Kerr agreed.

Mr. Lamb questioned 18-202 and 18-203. He felt this was redundant. This is talking about application fee or the license fee. Under 18-203 put in renewal fee.

Mr. Kerr felt the tattoo restrictions are not relevant now, as they were back

in the 80's.

Mr. Nugent stated Article VI was a big one and was pertaining to the Ballpark.

Mr. Kerr gave background to this Article.

Mr. Daley stated that if a person lives here they need to accept the fact that this is the type of town that has these things. So there should not be restrictions because of people not accepting it. When I see the older people who live downtown in the Grand Victorian complain about noise, etc. it doesn't make sense to me.

Mr. Kerr explained that past councilors have not wanted large scale things in town in the past.

Mr. Lamb referred to 18-288, section (b) change to "by the police department".

Mr. Kerr felt that was a good idea.

Mr. Lamb asked if the committee wished to change 18-320, Transferability. The committee wished to keep that.

Mr. Nugent referenced Section 18-351 and how this pertained specifically to the Seashore Performing Arts Center which is not in business any longer. This needs to be taken out. It states that since the owner also the owner of Blow Brothers, they used Blow Brothers for overflow parking.

Mr. Kerr suggested to just eliminate subsection (1).

Mr. Nugent stated there are some limitations regarding DEP. It is a fact of law.

Mr. Kerr felt that local home rules should prevail and not DEP.

Mr. Lamb pointed out there is a parking formula on the next page. They will need 1428 parking spaces.

Mr. Kerr suggested that they could rent the spaces from the RSU if possible. We can accommodate that somehow.

Mr. Nugent suggested we keep subsection (2).

Mr. Kerr agreed. He felt it should be very broad.

Mr. Lamb took out the words "lined" and "striped" in Section 18-352.

Mr. Lamb stated the committee is under direction to make all wording gender neutral so to change his to his/her in Section 18-353. Mr. Lamb continued on to discuss 18-357, noise ordinance. Criteria were set several years ago to have this set up in the police cars. The problem is that the thresholds were so low that simple things like lawnmowers would violate the ordinance. He suggested to leave it in as now.

Mr. Kerr suggested to remove it and bring it back when it is finished. He stated it is not enforceable.

Mr. Lamb and Nugent felt to keep this. The committee agreed.

Mr. Lamb suggested adding his/her to 18-358. He then went on to 18-360, and there should be a change from Section 38-203 (4) to Section 38-204 (4). He then asked if the same prohibited areas in the ice cream truck section were to be left in.

Mr. Kerr felt that this was pertaining to the DD-1, and that this is still needed.

Mr. Lamb felt the prohibited areas made sense and should stay. We only allow two in the town.

Mr. Kerr explained that it was put in for a town person who wanted to do this.

Mr. Nugent went forward to talk about massage establishments. In the past,

this was a cover for prostitution, and now it is a very reputable profession.
Mr. Kerr felt that this is a licensed profession now and there is no need for the ordinance.
Mr. Daley asked if a massage therapist would need a license to operate or not.
Mr. Nugent stated that was up to the committee.
Mr. Kerr asked how many people need a license.
Mr. Nugent stated she only needs to be a licensed establishment. Each massage therapist needs a separate license.
Mr. Kerr asked if we eliminate this, they will still be able to apply and get a license fee and inspection. He asked if everyone is comfortable with that.
Mr. Lamb clarified it is 100.00 for an establishment, and for a person it is 70. If you are a combined license it is only 100.00.
Mr. Nugent stated to keep the license as is, but take out the wording. There will be sections we will keep that we need to keep, but other things we can take out that are not necessary in accordance with state law.
Mr. Lamb stated we need to keep Section 18-452, 18-453, 18-454, 18-456, 18-457, 18-459.
Mr. Scoville felt the closing hours may pose a problem for the police.
Mr. Nugent felt this should be run by Chief Kelley.
Mr. Daley felt that the list of employees fell under the old massage parlor issues.
Mr. Nugent stated we will run this by Chief Kelley as well.
Mr. Nugent pointed out to add license administrator to Section 18-486. He then pointed out on Section 18-487 to take out a front-face photograph. We will check with state and Chief Kelley.
In reference to campground, Mr. Nugent stated this was a new ordinance and that will not change.
Mr. Scoville asked if there are any auctions in the town.
Mr. Daley stated there were real estate auctions.
Mr. Lamb stated the most important part of an ordinance is the definition section, and there are none.
Mr. Kerr asked why we need a license for an auction.
Mr. Nugent asked what we are protecting.
Mr. Kerr asked if we could just eliminate this.
The committee agreed.
Mr. Kerr brought up Article XI, Head Shops. This was just recently passed.
Mr. Nugent explained the history of why this was enacted. He stated that the town does not care what you sell as long as it is legal.
Mr. Scoville asked if there was a place that had been selling this downtown.
Mr. Daley explained how they sell these things piece by piece.
Mr. Nugent explained the town has defined this in the zoning ordinance, but it is not a permitted use in any zone in town.
Mr. Bryant suggested we change Section 18-604 from code enforcement officer to police department for who enforces this ordinance.
Mr. Nugent and Mr. Lamb complimented him for finding that. That was a definite oversight and should be changed.
Mr. Lamb pointed out that this entire Article was a temporary article and has since expired. This will be in the zoning ordinance.
Mr. Kerr suggested that in the zoning ordinance it is enforced by the police department.

<p>Mr. Nugent went over that staff is going to work with the licensing clerk to go over all the licensing and make sure they are categorized properly. Also if any of the businesses have substantial increases in their fees to address that.</p> <p>Mr. Kerr addressed the issue with the concern with council regarding the increase in bids back in Section 2-444. He would like to discuss that further with the council and explain the committees point of view.</p> <p>Mr. Nugent also addressed the fact that we need to have a workshop with the charter committee to go over ordinances that are intertwined with the charter. He explained also how staff works in the town, and how staff is willing to go above and beyond to do a good job and help the town.</p> <p>Mr. Lamb expressed that if the committee felt that staff was going over their boundaries or brow-beating the committee in any way at all to call us on it.</p> <p>Mr. Bryant asked if someone on the committee could do a dry run so to speak concerning obtaining a business license.</p> <p>Mr. Nugent stated that definitely could be done.</p> <p>Mr. Lamb felt it was a very important thing and was something that can be done any time.</p>	
<p>MEETING ADJOURNED AT 8:14 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 six (6) pages is a true copy of the original minutes of the Ordinance Revision Committee Meeting on December 23, 2009