

**TOWN OF OLD ORCHARD BEACH, MAINE  
ADMINISTRATIVE REVIEW BOARD HEARING  
Monday, April 29, 2019  
3:00 p.m.**

**The Administrative Review Board met at 3:00 p.m. on April 29, 2019 in the Town Council Chamber. The following Board members were in attendance:**

**Attending:** Town Manager Larry Mead  
Assistant Town Manager, Louise Reid  
Code Enforcement – Ricky Haskell  
Police Chief Dana Kelley  
Police Captain David Hemingway  
Planner Jeffrey Hinderliter  
Interim Fire Chief Sherm Lahaie  
Marc Bourassa – Town Business Community Member  
Michael Shannon – Alternate Citizen Member of the Town  
Daniel Blaney – Alternate Town Business Community Member

**Absent:** Tina Englert – Citizen Member of the Town

**MOTION:** Marc Bourassa motioned and Daniel Blaney seconded to open the Administrative Review Board at 3:00 p.m.

**VOTE:** Unanimous.

**The Board will review the following business at this Administrative Review Board meeting:**

**BERNARD ORNE/BBC LLC dba/Weekend at Bernie’s Beach Club (307-3-1-B)  
(Jane Orne), 8B West Grand Avenue, Victualers with Preparation  
with Beer, wine and or Liquor on Premise; 2 Coin-operated Amusement Devices;  
1 Vending Machine.**

**Attending and representing Weekend at Bernie’s Beach Club were the following:**

Jane Orne – Owner  
Joe Fiske – Bartender  
Joe Fiske – Security  
Robert Wright – Manager – Security

**It was also noted that the Administrative Review Board has held hearings regarding Bernie’s license in 2013, 2015, 2017 and now 2019 again. What will be considered is whether a suspension or revocation of the license is warranted. In such circumstance the Old Orchard Beach Ordinance directs that a Consent Agreement be entered into with the licensee. This could include establishing a period of time during which the licensee demonstrates that the operation of the business has been modified so as to satisfactorily**  
Administrative Review Board Meeting Minutes of 4 29 19 – Bernie’s Beach Club

reduce or eliminate the record of disturbances. It might also require specific changes in business operations for the purpose of addressing the identified problems (more staffing, more training, different pricing, modified hours, etc.) It is obvious that excessive alcohol consumption is the major factor and particularly during the hours of 11:30 p.m. to 1:30 a.m.

The Committee was provided with the previously attended Administrative Review Board Minutes involving Weekend at Bernie's Beach Club – on May 31, 2017; May 5, 2015; and May 14, 2013.

The Town Manager in his capacity as Chair of the Administrative Board asked each of the Board members to introduce themselves to those in attendance during this day's review. The authority of the Administrative Review Board comes from the Code of Ordinances: Business Section 18-38 and Section 18-39. This is a fact finding meeting with the prime goal of resolving issues. He also indicated that the ARB meeting is triggered by either one written complaint to License Administrator pertaining to Business License/Code/ Ordinance violation or three or more disturbances verified by the Police Chief. He explained that this does not imply that businesses appearing before the ARB are less than stellar and it is hoped that issues can be resolved today so that it does not have to come to the Town Council.

Police Chief Dana Kelley had provided members of the Administrative Review Board and those attending copies of the complaints. The basis for the hearing is the significant number of disturbances associated with the operation of the business as documented by the Police Department through over 40 business license notifications in 2017 and 2018. The Board will consider today whether these documented disturbances (many of them are fights and physical altercations) demonstrate that the operation of the business harms or is a threat to the health, safety and/or welfare of the public and/or business patrons.

There was an active communication between the owner and her staff and the Administrative Board with the recognition that the same issues are being brought up again that have been discussed over the last three Hearings. One of the issues was the dollar cost of jello shots to draw patrons into the bar which means that in a short period of time alcohol has taken control of the patron.

Dan Blaney indicated his great concern about the number of calls to the Police and the number of Police Officers having to visit the bar particularly over the weekends. In 2017 there were 26 calls for Police Assistance with 76 Police Officers responding during that time; and in 2018 there were 23 calls to the Police for 67 Police Officers to respond. Issues they had to address were fighting, trespassing and medical issues. The fact that this business comes back time and again for the same issues is concerning to the Board because it can't continue without major changes to the business operation. Again, the size of drinks services such as a "fish bowl" drink was discussed.

It was also noted that the location of the public bathrooms next door to the Bar leads to congregating and when alcohol is an issue it only enhances the altercations between those coming down the stairs from the upstairs patio and bar and those entering the bathroom from the street level. It should be noted that the business owner did take the Pool Tables out of the business which eliminated confrontations between those playing Pool.

**One of the other concerns was the Patio outside the top of the building and overlooking the railroad tracks. The number of patrons who have been drinking are a concern in possibly falling as well as their exit through the stairs to the lower level of the building.**

**The Security Manager spoke at length about his new policy in dealing with security issues; indicated that he specifically looking for security folk with a background in jails or training in security matters and how to handle altercations. His desire is to train the staff so that, when possible, they can be a mediator in issues and calls to the Police Department would not be necessary at the level it has previously been addressed.**

**The staff has discussed in their meeting possible increase in the price of some drinks particularly the \$1 jello shot. They also have reflected on the age of their clientele. They usually have two security people checking identifications as people enter the establishment. They indicated they felt that the second set of eyes has been helpful and people are aware of security officials being at the door.**

**The staff indicated that they have completed the training sessions that are available at the present but even the Police Department indicated that there are not a lot of training classes available. Again the Security Manager indicated that he felt he was sufficiently providing training to those who are hired for security of the business.**

**The Administrative Board reiterated several times that the issues seems to be the over-serving of alcohol to patrons. The Town Manager noted that the dangers of over-serving alcohol who is already visibly intoxicated cannot be overstated. This is not only a legal but also a risk management issues for any drinking establishment that serves liquor to its customers. With proper training and supervision of staff members in spotting the obvious, and more subtle, signs of any patron who may be visibly intoxicated, followed by staff monitoring of further alcohol consumption by the patron can minimize its legal exposure. Again, employee training will minimize or mitigate the risks associated with over-serving patrons. It is important for staff to be trained to recognize the signs of intoxication including slurred speech, stumbling when walking or falling asleep at the bar .**

**In concluding the meeting the Town Manager indicated that he would be putting together a Consent Agreement for the Owner to sign including stipulations regarding more security coverage; price increase so that the cheap drinks don't cause issues before the night has even begun; consideration of selling smaller drinks; staff meetings on a regular basis to discuss issues that come up during the operational hours of the business and suggested solutions to these issues. Once that Agreement is completed the Business Owner will be asked to sign that with significant time line for issues being addressed. There will be another meeting of the Administrative Review Board to again address issues discussed in these meetings and solutions to those issues. There was a motion to develop a Consent Agreement identifying expectations for the owner to make changes in operations.**

**MOTION: Dan Blaney motioned and Marc Bourassa motioned to develop a Consent Agreement identifying expectations for the owner to make changes in operations.**

**VOTE: Unanimous.**

**MOTION: Marc Bourassa motioned and Michael Shannon seconded to Adjourn the Administrative Review Board at 4:30 p.m.**

**VOTE: Unanimous.**

**Respectfully Submitted,**

**V. Louise Reid  
Secretary to the Administrative Board**

**I, V. Louise Reid, Secretary to the Administrative Review Board of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of four (4) pages is a true copy of the original Minutes of the Administrative Hearings held on Monday, April 29, 2019.**