The Ordinance Review Committee will meet in the
Water Plant Conference Room located at 1401
County Road 1, Dunedin, FL 34698

MONDAY, APRIL 22, 2019
6:00 P.M.

ORDINANCE REVIEW COMMITTEE
AGENDA

1. Call To Order
2. Roll Call
3. Approve the Minutes – Will be provided at the next meeting.
4. Public Input
5. Topics
   A. Chapter 6, Alcoholic Beverages
   B. Chapter 10, Animals
   C. Chapter 34 Environment
   D. Chapter 62, Sales
   E. Chapter 70, Taxation
   F. Chapter 82, Vehicles for Hire
   F. Miscellaneous
6. Next Meeting: May 6, 2019
7. Adjournment

*** THIS MEETING IS OPEN TO THE PUBLIC ***

ORC Meeting Dates: 10/04, 11/05/18, RESCH 11/07/18, 12/03/18, 01/07/19, 02/04/19, 03/04/19, 04/22, 05/06, 06/03
1. Call to Order. Mike called the ORC meeting to order at 6:00 p.m.

2. Roll Call

   Present:       Mike Bowman, Chair       Absent:       Kathy Carlson
                 Grant Painter, Vice-Chair       Eric Peterson
                 Manny Koutsourais
                 Patricia Morea
                 Jen Welch

   Staff:         Thomas J. Trask, City Attorney
                 Lanie Sheets, Parks & Recreation Superintendent
                 Greg Rice, Planning and Development Director

Chair Bowman advised there were no minutes for a March Ordinance Review Committee Meeting and an agenda was not prepared. Tom advised the meeting was posted/advertised; however, Denise is absent, her dog just passed away.

3. Topics

   Tom suggested taking Lanie’s items first, because she has only a few short things.

3.A. Chapter 54, Parks & Recreation

   Tom advised in March we left off on Section 54-5 and if you have your paperwork from that meeting, he’s going to read that code section. Under Section 54-6 this is the section dealing with activities in City Parks. There was discussion noted where the March meeting left off with Lanie and one of the topics that came up for discussion was Section 54-5 Parks & Recreation, which he read a portion “54-5. The section in question is dealing with activities within City parks and there was discussion about subparagraph (a) Protection of Property, Facilities, Flora and Fauna it was titled Buildings and Facilities then it read:

   No person shall engage in any of the following activities in any park without prior written authorization from the Department.

   There was a suggestion by Lanie to add 54-5 (a) 6, a new sentence:

   Create, build, install or leave any items in the park including but not limited to umbrellas, canopies, chairs, picnic tables, memorials, or other personal mementos.

   Lanie explained there have been a couple of incidents where people have constructed their own picnic tables and put in memorials, just deciding to create a memorial to a loved one in the park and things like that with no permission or discussion with the City. They wanted to have something that says you can’t just come into the park and erect and install things and leave things in the parks.

   Pat asked about the umbrellas or canopies and Tom explained it would be acceptable to bring them in, but unacceptable to leave it.
Tom noted there was discussion a couple of months ago that Lanie brought up about people leaving things in the park when talking about mementos. Lanie explained people were creating entire rock gardens. It is understandable for someone to paint a small rock and leave it hidden, but they were creating in entire gardens toward their long lost pet or loved one. The City tries to find out who the person is and leave it there for a period of time and then let the person know they will have to remove their belongings.

Grant expressed concern regarding the wording which at his first reading he questioned if umbrella was not allowed like over his chair while at the park; he thinks there needs to be a nod as to what can be done for the day and what is considered permanent after you leave.

Mike suggested changing "or" to "and", so you can take the umbrella in for a day, but you can't leave it there.

Jen suggested also adding a sentence about an item may be used, while the park is being utilized or some language to indicate only while you are there.

Tom suggested they could wordsmith that somewhat and bring it back with the recommendation. He added umbrellas and canopies, because that was one of the things he saw as the City Attorney for Madeira Beach, they had their park and people would come with their canopies, the canopy would break and they would just leave it instead of packing it up and taking it with them or an umbrella that got folded backwards and they just leave it instead of taking it to a garbage can.

Manny asked if it could be cut down to saying no detached items should be left overnight in the park without going into too much detail.

Lanie noted Eric had brought up the suggestion of prohibiting eBikes or at least specifically say where they are allowed. From the City's perspective, they prefer to come from the other direction by putting up signs saying no bikes allowed in this particular area, because that would be a lot less signage than putting signs where they are allowed.

Mike asked why the concern about an eBike as opposed to a regular bike in that area; they are allowed on the Trail. Lanie explained that Eric's concern was the speed and intermixing and she noted they would be fine on the Pinellas Trail or any of the other trails, basically the only place where they would be prohibited would be natural areas, like the Hammock or where regular bikes are not allowed, such as on piers and docks.

Tom advised language about eBikes is in a different section, Chapter 74.

Lanie advised Eric was suggesting for 54-4 (f).

Tom noted that was discussed at a previous meeting and he was told to revise it to include eBikes so (f) Miscellaneous Motorized Vehicles instead of it saying motorized scooter, motorized skateboard, go-kart, all terrain vehicle, golf carts, electric carts it would add e-bikes so, it is all those types of things that move quickly, motorized things.

Pat/Jen asked if eBikes is added into that section does that say eBikes are not allowed in parks except for where we designate, because that would become cumbersome.

Tom stated it prohibits them everywhere except where you say that they are allowed.
Lanie stated Eric’s suggestion would not be her recommendation from a staffing perspective; though understanding his concern; otherwise she would have to designate them on every trail the city has everywhere. She noted in the parks she is not okay with all the things listed, motorized scooter, motorized skateboard, go-kart, all terrain vehicle, golf carts, electric carts, but she is okay with eBikes.

Lanie explained if the Committee agrees with staff recommendation then it would not be a change to that section, because if eBikes were added then there would have to be signs in all the places where eBikes were allowed in order to allow them.

The Committee agreed with the staff recommendation.

Tom made note the prior minutes had approved the change and these minutes will take it away.

Grant noted not to take away from Eric’s concern; however, an unintended consequence of all the signage was just pointed out.

3.B. Chapter 6, Alcoholic Beverages

Greg advised:

Division 1 – Generally Sec. 6-31. – Distance from schools and churches (2nd paragraph)

Furthermore, bar establishment shall not locate any closer than 300 feet to another bar establishment. The method of measuring such distances shall be a straight line from the nearest point of the property of the first establishment to the nearest point of the property of the other establishment, or of the church or school. Distance shall be measured in a straight line from the entrance, or exit of the school or church nearest to the entrance of the bar or restaurant, dealing in the serving alcoholic beverages.

Tom explained what was before the Committee was the Code, as it currently exists. Greg has suggested striking the language as shown and adding the language underlined; the colored language is something he (Tom) had suggested, instead of “dealing” in alcoholic beverages “serving” alcoholic beverages. He thinks the language should make it really more consistent by saying that “offer for sale or serving” alcoholic beverages.

Tom referred to his notes from the December 3, 2018, that “Grant wants to separate out distance requirements between from church/school distance requirement to other bars”. He advised no action was taken other than to discuss that suggestion.

Grant expressed his understanding of what Greg was presenting to be basically streamlining and making it more consistent throughout the ordinance in order to be more easily understood.

Grant explained his suggestion is an actual change in the ordinance so that, for him it was primarily to remove a church from this, school he has more flexibility on. Within the conversation there was a little bit within private school and public school differentiated in here. That was also part of his thought, streamlining because for whatever reason it was not just school, it was private school and public school which he thought odd. The other that he does somewhat strongly believe that the church should be removed from this as that should not be a factor, in his opinion.
Pat recalled there was some discussion about exempting breweries because there are other municipalities that have done that in looking at the minutes. She did not think any decision was made about that.

Mike asked Greg what he thought about taking churches out of the mix. Greg stated he was fine with it; however, it is common to have the schools and churches together. Tom agreed. Manny suggested that is a decision for the City Commission. Mike noted if the Committee is not making a recommendation. Manny commented it he was leading up to asking more information of the concern when it comes to the church.

Grant explained he understood the school as far as the alcoholic beverages and children in terms of distances; however, for him a church is an establishment. How are we crossing the line of the church and state separation in his mind, because if it is okay to have a place that serves alcohol next to a community center and any number of social or club gathering places, but yet not in a place of worship. Is whatever is being worshiped suddenly influences what is allowed to be around it within our regulation. For him that crosses the line of separation of church and state that by putting a church somewhere changes what businesses are legally allowed to exist around it, to him that is not right.

In response to a question, Tom stated he had no thoughts one way or the other except that he can say that every city has these regulations relative to distance separation between schools and churches. Manny asked if there is any case law. Tom explained he did not see it as talking about separation of church and state and he understands what Grant is saying in terms of churches versus schools, but we are not talking about that.

Manny thought that was what Grant was leading up to and Grant stated he really was and to him the way a lot of church property operates is as a community center within the church property. He used Our Lady of Lourdes as an example, although it is residential all around it, that entire property is not a place of worship; the place of worship is within a segment of that property; however, the way this is written it goes from the door of wherever the entire building is and that sprawls for acres and acres. If you are talking about a chapel that is limiting the damage done so to speak, but in some cases there are sprawling pieces of property where it really can effect a lot of area. He also does have this problem of the separation of church and state within that.

Mike asked don't they serve beer at that Fall Festival.

Grant stated to him is just seems a really odd regulation.

Jen commented she was trying to envision the Downtown East End Plan (DEEP) and Gateway and what if all of a sudden a church went there it could present unintended consequences and change the landscape of an area that was designed for economic development and it could certainly impact that. She thinks there is something fundamentally that is making the committee members uncomfortable. There is precedent; it has always been that way and it almost feels creepy. She cited certain things that happened in Clearwater though this is a different situation. She does see a difference in the church and school, but she is not saying she is ready to say the church needed to be treated differently, but schools are public, it is mandatory, children are there and that does feel different. To the point about private or public schools; a private school can choose to be where they are and choose not to set up in a night life area. She is not afraid to do something different.
Mike commented times change so it is not looked at in the same way as years and years ago.

Pat asked if the Baptist Church is the only one downtown and Grant noted there is the Methodist Church and the Episcopal Church.

Grant noted the example he used when this was discussed before is the property currently occupied by Coastal Real Estate, that property owner, the value of their property is limited in what has become a downtown entertainment district, the value of their property has been limited by neighboring the church because that landlord cannot rent to a place that serves alcohol. That is the building directly east of the Methodist Church on Main Street. A church has unintentionally devalued a property next door, that is the result. As a property rights person that concerns him.

Mike asked the Committee should “church” be taken out of the mix.

Pat stated that she does not and that she understands the points, but thinks it is good to have distances between where you are serving alcoholic beverages.

Manny commented he thought this would be creating a long night for the City Commission going along with Grant’s proposal. He understands the concerns; however, he thinks it is an issue that would be debated heavily and create controversy maybe amongst the City Commission, he does not know. It can be left there and at some point when the time is right the Commission might discuss it, but he is not sure that any one of the committee really has a firm handle on the concern with nothing to go back on; it is something that has been there since the 40’ and 50’s and maybe even the 20’s.

Pat commented she was not sure that was a good argument and noted they used to have blue laws too about Sunday and Prohibition. She does not have a problem with having distance.

Grant stated he does not either and there is another major component of this that talks about distances between establishments and he is fine with keeping that; he just has an issue with the church.

Pat stated she is not ready to do move forward on it.

Mike stated he did not have a problem with putting it forward and trying it with the Commission. He thinks it depends on the area and downtown is predominantly business and there are going to be bars and restaurants with alcohol, so if a church happens to be located in that section he does not think we can do it; he thinks it depends where it is in the city. He does not see for example the church on San Christopher buying the property next door and opening a bar that is a little much, but when in an area like the downtown district he thinks it is fine, but not so much in the other parts of the city.

Grant commented if you remove the churches from this then you are allowing zoning to deal with it, because the distance between the establishments and the different areas of town and not allowing to have a bar in a residential area; zoning handles all these things except in this one instance where churches is dropped into it which is kind of the anomaly in the entire ordinance.

Mike noted there were 3, he thought were saying no.

Jen stated now that she was thinking about if it could be made different in the Downtown Core, then again she is not trying to suggest that people who live downtown don’t have a
right to have a church. She questioned what the concern is, yes about people being outside drunk and people trying to go to church, first of all that tends to be on Sunday, but not always, lots of people go on Wednesday night and she does believe people have the right to quiet, contemplative worship, but it does seem there could be a church come up in an area we would like to see revitalized. She stated she was okay to put it forward for them to discuss, she does not want to have to decide right now.

Grant stated the committee does not decide, they just propose.

Pat stated she did think it was just for the Downtown Core.

Grant stated his recommendation is to take out “church” entirely because Zoning takes care of the rest of it in his mind. As Greg can say there are already all these distance requirements that keep us from being Ybor City anyway.

Mike determined then it was three members in favor of moving it forward, the majority of the quorum.

Pat then the recommendation from Greg with the exception of “church” being removed.

Grant stated he could even see taking it further like Tom was saying so that it reads exactly like the other lines in this ordinance.

3.C. Chapter 10, Animals

Greg referred to the following recommended change which he thought was the worst run-on sentence ever; however, Tom did not see a reason to change it.

Sec. 10-4 (a) (4)

The assembly of animals and fowl in an entirely enclosed area constructed to prohibit the escape of such animals and fowl, and owned by the person who so enclosed the animals and fowl and complying with applicable city codes and regulations and not otherwise constituting a nuisance, disturbance or annoyance or abutting property owners or the immediate neighborhood.

Pat thought in the minutes from January 7, 2019 that Greg was going to check on the doggie dining, but she was not at that meeting.

Greg recalled the question on doggie dining was whether it is being enforced and it is.

Tom was okay with the change recommended by Greg.

Mike determined there were no comments or recommendations on this section.

3.D. Chapter 34, Environment

Greg explained when the City did the Code overhaul they inadvertently left out the responsibility of each person to basically maintain any grass areas or vegetation areas in the right-of-way in front of their house. This provides a Code Enforcement Inspector to cite a person with a Code violation if they are not willing to mow the grass; the City does not have time to mow the right-of-way.

Sec. 34-1 the addition of the following:

(e) It shall be the responsibility of each parcel owner to maintain any vegetative vegetation in the City right-of-way between their property line and the pavement
portion of the street. This includes trimming any grass, plants, shrubs, or trees that create a traffic visibility hazard.

Tom stated this is common city to city to make sure if you are a private property owner; it wouldn’t apply to the County for example, but a private property owner is responsible for that section between the sidewalk and the street. It is not unusual and it really needs to be in the Code to be able to enforce it.

The Committee was in unanimous agreement with the changes.

3.E. Chapter 62, Sales

Greg advised for Sec. 62-3:

He did not like the way this was done in that all of the requirements made it very difficult. He looked at St. Petersburg where they broke this issue down differently. He basically did the strike through of everything and then switched over to St. Petersburg’s, because he thought it was much more thorough and clean. The items in the fuchsia color are the corrections Tom gave him over the weekend.

Greg summarized the intentions of the changes:

Sec. 62-31 - The registration certificates required and the registration fees and things required and then appeals; it never really starts with telling what these people are doing. The St. Pete ordinance goes into that.

Sec. 62-32 – Gives some good exceptions, farmers or truck gardeners, vendors of milk and so forth to even including Girl Scouts in the exemptions where Dunedin’s existing does not get into that kind of detail.

Sec. 62-33 – Prohibited Acts, Greg thought that was a good addition as Dunedin’s existing does not even mention what is prohibited.

Sec. 62-34 – Permits required section finishes the section out well and then the Sec. 62-35 with the permit fee and procedures for revoking the permit and appeal process and Sec. 62-36 for Permit renewal.

Tom acknowledged he read the chapter and made a few suggestions.

Grant noted it reads more logically.

The Committee was in unanimous agreement with the changes.

Article IV. – Handbills – The existing is deleted.

Greg explained he liked from the St. Petersburg code was that on the last page prohibits handbills period; he does not want to register someone to do handbills. His recommendation is to just do away with it as there is no need for it.

The Committee was in unanimous agreement with the change.

3.F. Chapter 70, Taxation

Greg advised that Manny met with Building Official DiPasqua and himself and Mr. DiPasqua completely rewrote this and deleted many pages of this chapter. He thinks it is well done in that instead of having table after table of what the different groups are.
Tom noted in the Listing of Licensing Division and Groupings they are grouped differently and for some occupations there is a flat fee, some are based on the square footage of the building, some are based on the inventory in stock and so forth. This change is basically making it all based upon square footage.

Greg explained staff can easily get the square footage from the Property Appraiser’s website, but staff cannot track inventory, vehicles, employees and so forth. This simplifies it and with the City going with the new software it will make it easier for the Permit Technicians. Planning and Development is scheduled for the new software in December.

Greg referenced Sec. 70-91 – Schedule of Local Business Taxes advised a more simplified fee schedule is added based on square footage. The existing has fees all over the map so it was combined into new classifications and it goes by square footage. The only thing is by State Statute the City is required to do some things.

Tom explained there is a process the City will have to go through to make these changes. His recollection is there needs to be a committee or commission established, an analysis done and a report prepared. He advised this Committee could make the recommendation knowing the process to adopt this ordinance is a little different than the others.

Manny asked what would be the time schedule and Tom advised it would be another 6 to 9 months to the process that would not be with any other ordinance adoption.

Greg noted also with these changes it can be done completely online where previously with the initial Business Tax Receipt the person always had to sit with the Technician.

Manny asked if there will be any difficulty in convincing the State to allow the changes. Tom explained it is just a process and if the steps are followed it will be okay, the first step is for this Committee to make the recommendation, then for the City Commission to approve staff moving forward to prepare the ordinance and then that process.

The Committee was in unanimous agreement with the changes.

3.G. Chapter 82, Vehicles for Hire

Greg commented regarding how modes of transportation are quickly changing. The only thing the existing ordinance covers is taxi cabs. Lyft and Uber are covered by State Statute, but there are others trying to come in such as peddle pubs, tiki rides, scooter sharing programs. He explained there were some things CRA Director Ironsmith was concerned with having in the downtown and there was no code for regulations. He advised:

Section 82 will require a certificate for each one of the vendors to obtain to be able to operate within the city. It goes through the Definitions and what is required on each vehicle for safety. It does cover taxi cabs which have different issue with meters and so forth. It also covers the operator. The chapter also provides for exemptions.

Grant noted in the previous discussions his biggest concern was proper insurance regardless of the vendor.

Greg advised regarding insurance that St. Petersburg was requiring something like $5 Million in aggregate and he agreed that was too high so, he took it to $2 Million, but if the committee wants it can go lower.
Greg noted also St. Pete allowed the peddle buses to go on roads of 35mph and below; however, he thought 25mph would be more appropriate.

Greg referenced Sec. 82-33 is where it goes into the certificate requirement and that is the piece that will give the City Commission or City staff the ability to push back if necessary.

Greg advised for the certificate and payment he put in $100.00 per year and also that it would be taken in through Planning and Development since they do all the permits and most fees.

Grant commented at face value it all makes sense; however, he will want to read and digest it for the next meeting.

Greg noted the section ends with the requirements for the driver of these vehicles.

Mike noted the Committee would give a final answer at the next meeting.

Grant commented he is assuming the vehicles for hire are ones that he would ride with a professional driver and asked if this addressed rental vehicles such as golf carts, eBikes and so forth. Tom advised driver is defined as an individual who operates or is in actual physical control of a public vehicle and then looking at the definition of public vehicle it says:

Non-public sector buses, taxi cabs, vans, limousines, car services and any other motorized and non-motorized vehicles including vessels for transportation for hire, passengers where new fares begin within the city and includes low speed vehicles which operate in the same manner as transportation for hire but may or may not change the fee to new fares.

Greg asked if adjustments need to be made for these free ride services such as Tiki Rides and Nickel Ride that will be free but work on tips. Tom noted this section covers getting a fare, so if there is no fare it is not covered by this.

Grant noted that is what he was thinking about and noted before the city had any of the free rides the brewery owners looked into it and with the help of good people in the insurance business they worked on how they could do this and insurance killed it. They came to the realization that it works for someone who really has nothing to lose because they would not have the insurance that he would make sure he had; therefore, those being covered with insurance with these requirements would be a real sticking point for him.

Greg advised over the summer City staff would be working with the City Manager on a Parking and Transportation Task Force and he thinks there needs to be a solid looper system to move people around, so they will try again on that.

3.H. Miscellaneous

Tom explained for the report they would just show the code section and how it is going to read, the sections that are changing shown so the Commission can see how it is changed. Ultimately the ordinances will be changed and that will be taken out and he will take the strike outs and deleted pages out.

Tom explained he and Greg would make the change and e-mail it to everyone to have in advance of the next meeting.
Mike reminded everyone not to make comments to anyone when that email is received, no replies. He noted there are a few assignments for next month including review of this Chapter 82 and Code Enforcement.

Tom also has Code Enforcement, Parks & Recreation, Solid Waste, Utilities and Waterways and most of those had been covered.

4. Next Meeting: Monday, May 6, 2019 at 6:00 P.M.

5. Adjournment

The meeting adjourned at 7:26 p.m.

NOTE: An audio copy of this meeting was completely recorded and is in the official file.

Mike Bdwnar
ORC Chair

Attest:

Denise M. Kirkpatrick
City Clerk