

**CLARK COUNTY
PLANNING COMMISSION MINUTES
Thursday, June 19, 2014**

**Public Services Center
1300 Franklin Street
BOCC Hearing Room, 6th Floor
Vancouver, WA**

6:30 p.m.

I. CALL TO ORDER 6:30 P.M.

MORASCH: Good evening. And welcome to the June 19th - I almost forgot the date. It's my birthday, how did I forget that date - June 19th, Clark County Planning Commission meeting.
Can we have the roll call, please.

II. ROLL CALL & INTRODUCTION OF GUESTS

BARCA: ABSENT

BLOM: HERE

JOHNSON: ABSENT

MORASCH: HERE

QUIRING: HERE

USKOSKI: HERE

III. GENERAL & NEW BUSINESS

A. APPROVAL OF AGENDA FOR JUNE 19, 2014

MORASCH: Okay. Can I get a motion to approve the agenda.

USKOSKI: Motion to approve.

QUIRING: Second.

MORASCH: All in favor.

EVERYBODY: AYE

MORASCH: Opposed? Passed.

B. APPROVAL OF MINUTES FOR MAY 15, 2014

MORASCH: Motion to approve the minutes.

BLOM: Move to approve the minutes.

USKOSKI: Second.

MORASCH: All in favor.

EVERYBODY: AYE

MORASCH: Opposed? Motion passed. Okay. Now, that brings us to the communications from the public.

C. COMMUNICATIONS FROM THE PUBLIC

MORASCH: Is there anyone in the audience today who would like to speak on a matter that is not on our agenda? Seeing no one, we will move on to the public hearing.

IV. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. MESSAGE PARLOR ORDINANCE

MORASCH: Mr. Niten, can you give us a staff report, please. This is for the public hearing on the only hearing item on our agenda tonight which is the massage parlor ordinance.

NITEN: Good evening, Commissioners. Jeff Niten with Community Planning. And this issue is - a little bit of background - came to light in the beginning of this year as far as illegal massage establishments, or illegitimate massage establishments potentially, being located in the county. And before it became a bigger issue, we wanted to implement regulations that applied to these establishments as well as applied to legitimate massage establishments throughout the county.

As part of the process, we spoke with three separate legitimate massage establishments in Hazel Dell and Salmon Creek, and we spoke with a licensed school, licensed through the State Department of Health within the city of Vancouver, but it's the only one, only school located in Clark County that we were able to speak with.

What the ordinance is intended to do is to require any establishment that's offering massage services to produce, prior to the issuance of a certificate of occupancy, the establishment needs to produce licenses issued by the State Department of Health as part of their application process for a new, any new type of business within the county. And basically what we have in the ordinance is the definitions and the applicability of the establishments we wanted to regulate here.

After speaking with the legitimate places and showing them a copy of the ordinance and asking for comments, we didn't receive any negative comments about the ordinance. There's no additional fee that's going to be assessed as part of this regulation proposal. And the only comment we did receive was that the legitimate places are pleased that we're attempting something because they don't want their businesses to be associated in any way with anything illegitimate.

One of the -- we've received two comments since the publication of this ordinance, suggestions, and wanted to present those to you now to see if you would like to forward those recommendations on to the Board of County Commissioners.

One of those suggestions is for making this chapter, Chapter 7 -- or I'm sorry -- Chapter 5 applicable to new and existing businesses. So it would apply to places that already exist. They would need to come in and produce licenses for each of the practitioners that work on their -- on the premises.

And the other one is for requiring that the license from the Department of Health be visibly displayed along with the photo of the person that's licensed, something like a passport photo I'm sure would satisfy the requirement, and it would be visible when you walk in the door so you would know that the person that you've hired is the person that's been licensed by the Department of Health.

The reason we started this, again, is it came to light there were several issues in the city of Vancouver and it was brought to the County's attention and we attempted to address it through this ordinance. And that's basically the presentation I have. I'd be happy to answer any questions.

MORASCH: I have one. Who made those suggestions?

NITEN: There were several citizens that came forward after the issue came to light in the newspaper and made the suggestions both to the County and I know to the City of Vancouver, perhaps other cities. I'm not aware of presentations to the other cities in the county though.

MORASCH: I noticed the original ordinance did require the licenses to be displayed conspicuously. Were there any discussions with these existing massage places that you talked to, the legitimate places, about putting a photo up or whether they would be opposed to that or supportive of that?

NITEN: There was no discussion with those folks, that suggestion came in after --

MORASCH: Afterwards. Okay.

NITEN: -- yeah, after we had done this. You know, I'm not -- I wouldn't have a problem going back and asking that question again to the same places I spoke to before.

MORASCH: I don't know if it's a big deal. I was just curious whether they had any comment on it. Is there any other questions from members of the Planning Commission?

USKOSKI: Yeah, I actually have -- is this mic on?

MORASCH: I think mine's on. Do you want to use mine?

USKOSKI: Okay. So I just had a question regarding retroactively asking the existing owners to come in and supply that information. Is that a problem? And maybe that's more of a question for Chris, ask an established business to come in and provide --

HORNE: The Washington courts have, in looking at these kinds of issues, to the extent you treat this as a lawful nonconforming use to the extent of this regulation, what the courts have said is that police-power regulations imposed by local government can be enforced even against nonconforming uses, especially in this case where you're not trying to amortize or limit or terminate the use. And the actual cost on the business is almost de minimis because they have to have the licenses in any event. You're only saying to make them visible so that the patrons and the public can see those. So, no, I do not believe there would be any kind of a legal impact that would be able to be challenged at any event.

MORASCH: That gives me a question. You said they have to have the licenses in any event.

HORNE: Well, licenses are --

MORASCH: Are people --

HORNE: I'm sorry.

MORASCH: Are people that give just general massages, are they required to have licenses under the Washington State system?

HORNE: They're regulated, yes. I'm not sure if they call it a license or what the extent of their review is, but they are required, they are regulated.

NITEN: Yeah. There are three types of licenses issued by the Department of Health for the State, licensed massage therapist, licensed massage practitioner and reflexologist.

MORASCH: Okay. So if I go out and just start massaging people, I've never gotten a license, then I'm going to be in violation of the --

QUIRING: The State law.

MORASCH: -- the State's regulatory program?

NITEN: Yes.

HORNE: Presumably if you do it -- I don't know if they distinguish between whether you're doing it for a fee or not.

MORASCH: Right. Well, I'm assuming that I'm doing it for a fee, yeah.

NITEN: Yeah. Yeah. Yes, you would be. And -- yeah.

MORASCH: All right. Thank you. Any other questions? No? Do I have a sign-in sheet? Or I don't see a sign in --

O'CONNELL: There is. No one signed up.

MORASCH: No one signed up. Is there any member of the public in the audience who wishes to testify on this matter? Seeing no one, I will return it back to the Planning Commission for deliberation. Eileen, do you want to start? Do you have any ideas or comments?

QUIRING: Oh, we're deliberating. No. I mean, we went over this in the work session and I think it's a good idea. And some of the issues that were brought up about the wording, to clarify the wording are changed, and so I think it's good.

MORASCH: John.

BLOM: I agree. I would probably not support or not be in favor of either of the proposed changes, but I don't feel strongly. So I could be -- if someone didn't feel strongly, I could be convinced to make it retroactive or make photos conspicuously posted. I'm not sure if either of those are going to accomplish.

I mean, the goal of this is to limit the illegitimate massage parlors. I think adding these extra regulations, they're just going to ignore them if they're going to continue to try and operate. So it's just creating extra hurdles for business that isn't going to weed out anyone.

QUIRING: Oh, yeah. May I just comment on that?

MORASCH: Yeah.

QUIRING: Actually, I don't think it is an extra hurdle because these therapists are required to have a license by the State. And I would appreciate knowing, even when I go to a nail salon, if I see somebody's license, I'd like to see their picture to know is everybody in here licensed or is the person giving me a pedicure really licensed or are they just in here because they're a family member and learning on me.

So, you know, I think it's just fine personally. It's just another identifying factor. And if they're in business to, as we have been, the term we've been using, "legitimately," then I think that there would be no problem for them to do that. I don't think it --

BLOM: I was --

QUIRING: I don't think it's a burden.

BLOM: I was speaking more about them making it retroactive, I suppose, than the photos being an extra hurdle.

QUIRING: Yeah. Well, it could be.

USKOSKI: I guess my only thought would be is if you're just having somebody stamp a photo and stick it up with their license, there's nothing from stopping an individual, like three individuals just swapping out pictures all on the same license. So that part for me is a little bit of a moot point, that it's really easy to fake all of that.

Even as far as the license go, print one off, make your own, stick it on the wall and pretend you're legitimate. However, I have no problem with requiring them to display them. Most businesses do have to display their business license in some fashion. So to display their massage license whether they have the picture or not I think is completely fine.

If you ask me retroactively to do it, I think I have no problem with that either. They've already got the license, stick a thumbtack in the wall with it.

MORASCH: Well, I guess I don't have strong feelings either way about the two proposed changes, so I kind of could go either way on those. I do have one proposed additional change, though, in following up after the work session and in reading through the definitions, my understanding is we're going after massage and we wouldn't want to, be with this regulation, we wouldn't want to regulate somebody who might have a spa that doesn't offer massage services, or somebody who might have a hot tub on their premises, maybe a bed and breakfast that has a couple of rooms and a hot tub out back.

So to get at that issue, I would recommend in the paragraph under 5.70.040, Review/Approval Criteria, after the word "bathhouse" before the word "unless the establishment," I would add "that provides massages" right there to clarify that we're regulating those things listed above only if they provide massages. And if they don't provide massages, then we're not regulating them. So that would be my only suggestion.

Other than that, I would support the ordinance either as written or with the two proposed changes. So is there any further discussion? Well, does somebody want to make a motion?

MOTION

QUIRING: I move we accept the staff report in this ordinance that's set before us with the changes that you just suggested at 5.70.040, first paragraph after the word "bathhouse that provide massages" and then "unless."

MORASCH: And what about the other two proposed changes that came from the public?

QUIRING: Oh, and the changes also that came from the public regarding the posting of a license and a photo.

MORASCH: And retroactivity.

QUIRING: And retroactivity, yes.

USKOSKI: I'll second that.

MORASCH: All right. The motion has been made and seconded. Is there any discussion on the motion?

BLOM: So to clarify on the retroactive, it means that they would have to come down to the County with their licenses and be issued a new certificate of occupancy or just that they have to portray the license? I mean, I have no problem making them portray it. I guess if they're having to come down and go through the occupancy part again, that's the part that I have an issue with.

NITEN: No, we wouldn't require that they come down and pay an additional fee for a new certificate of occupancy.

BLOM: It would just make them for the license?

NITEN: Yeah.

MORASCH: Any further discussion? I hear mumbling. Chris, did you want to say something?

HORNE: Well, just to clarify for your purposes. First of all, we don't issue the licenses, counties don't have the authority, it would all be done by the State. And, second of all, they would only be required to display them. So it would not affect the occupancy, the building under the building code, and so they would not have to come back down. It would be, that's what I said before, I think it's a pretty minimal impact.

BLOM: Okay. So the occupancy, that would only go to a new business coming in to get their occupancy?

HORNE: Change of use or change in the building.

BLOM: Okay, thank you.

MORASCH: And I think John's comment is probably directed to the Section 1 under 5.70.040 where it says, "Applicant is required to provide proof of employee licenses issued by the state at the time of application." I assume that's the application for the certificate of occupancy?

NITEN: Right.

MORASCH: So I guess we would -- I mean, we haven't -- we don't have language in front of us for how we would incorporate this retroactivity.

NITEN: My suggestion was in Section 5.70.020, Number 1, "This chapter shall apply to all," and then insert "new and existing."

MORASCH: So then Number 1 and 2 would then become 2 and 3? Did you say 040 or did you say something different?

QUIRING: No. 020.

NITEN: No. 020 --

QUIRING: It would just be "all," then --

NITEN: -- under Applicability.

QUIRING: -- "new and existing."

MORASCH: Then I might also suggest in 040.1 after "Applicant" put "Applicant for new uses" to make it clear that if you're an existing use, you know, 1 isn't going to apply to you, and 2 would be the one that would apply. So I guess we need to make a friendly amendment to your motion.

QUIRING: Yes. So made.

USKOSKI: Still seconded.

NITEN: So "new uses" after "applicant"?

MORASCH: After the word "applicant" in 040.1., "Applicant for new uses."

QUIRING: "For new uses."

MORASCH: All right. Is there any more discussion? I think we're ready for the roll call.

QUIRING: Actually, I'm sorry, I did have one more question about how are existing spas or massage parlors going to get their notification that they need to display their licenses?

NITEN: We'll send letters.

QUIRING: You'll send letters to every existing. Okay, thank you.

MORASCH: Okay. Can we have the roll call then.

ROLL CALL VOTE

BLOM: YES

MORASCH: YES

QUIRING: AYE. YES

USKOSKI: YES

MORASCH: All right. The motion carries 4 to 0.

V. OLD BUSINESS

MORASCH: Is there any old business? Hearing none.

VI. NEW BUSINESS

MORASCH: Is there any new business?

VII. COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

MORASCH: Are there any comments from members of the Planning Commission? Well, thank you all this evening.

VIII. ADJOURNMENT

MORASCH: It looks like we are officially adjourned.

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at: <http://www.clark.wa.gov/planning/PCmeetings.html>.

Proceedings can be viewed on CVTV on the following web page link:

<http://old.cityofvancouver.us/cvtv/cvtvindex.ask?section=25437&catID=13>.

*Minutes Transcribed by: Cindy Holley, Court Reporter/Rider & Associates, Inc.
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