



Special City Council Workshop and Meeting January 26, 2015 Agenda

5:30 P.M. Workshop

- A. Proposed amendment to the Mass Gathering Ordinance – Phil Crowell

Special City Council Meeting

Pledge of Allegiance

I. New Business

1. Ordinance 04-01262015

Amending the Code of Ordinances Chapter 14, Article IX - Mass Gatherings, section 14-275 – Alcoholic Beverages. Public hearing and first reading.

II. Executive Session – Discussion of a personnel matter pursuant to 1 M.R.S.A. Section 405(6)(A).

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

- A. Discussion of personnel issues
- B. Discussion or consideration by a school board of suspension or expulsion
- C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency
- D. Labor contracts
- E. Contemplated litigation
- F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;
- G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and
- H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.



City Council Information Sheet

City of Auburn

Council Workshop or Meeting Date: 1-26-2015

Ordinance 04-01262015

Author: Sue Clements-Dallaire

Subject: Amendment to the Mass Gathering Ordinance

Information: Under our current Mass Gathering ordinance it prohibits alcohol in the Mass Gathering area.

Sec. 14-275. Alcoholic Beverages

The sale or consumption of alcoholic beverages of any kind is prohibited within the mass gathering area during any event. The operator will exercise due diligence and exert his/her best efforts to prevent the consumption of alcoholic beverages within the mass gathering area and to prevent patrons from using, consuming, bringing in, or otherwise obtaining alcoholic beverages within the mass gathering areas. The operator shall post signs to that effect and, when possible, have this prohibition printed on any advertising or tickets to the mass gathering.

We are proposing changing the ordinance to allow the sale and consumption of alcoholic beverages under certain conditions (see attached).

Advantages:

- May help to attract other large community events.
- Alcohol is often expected at these events and if it is prohibited attendees could bring their own alcohol.
- Proper security measures would be required to ensure the safety of the community.

Disadvantages:

- Alcohol use can lead to disruptive behavior from attendees.
- Alcohol on premise can lead to minors having access.
- Prohibiting alcohol on premise can lead to unregulated consumption with attendees bringing their own alcohol to the event. By changing the ordinance, it will require the event organizers to meet the requirements in the special amusement/liquor licensing for additional security measures.

City Budgetary Impacts: N/A

Staff Recommended Action: Approve passage of the recommendation and waive the provisions of the charter which calls for the first and second readings on two separate dates (see below*) by holding the first and second readings today.

**No ordinance, order for the issue of bonds or notes, or appropriation resolve shall be passed until it has been read on two separate days, except when the requirement of a reading on two separate days has been dispensed by unanimous vote of the councilors present and voting.*

Previous Meetings and History: Presented to the previous Council in 2013

Attachments: Proposed amendment – Ordinance 04-01262015.

ALCOHOL IN PARKS – RESPONSES MAY/JUNE 2013

Mount Desert

Mount Desert does not. We recently had to deny a wine tasting event at our marina green area.

Lewiston

City of Lewiston permits alcohol consumption in one park which hosts the larger city events (Dempsey Challenge, etc.). All events require insurance coverage (regardless if they have alcohol or not). All permitting and security (on-site security must be approved by the city) is their responsibility. The no-alcohol policy for other parks may be waived by a vote of the city council but that has not occurred to date.

Winterport

I think you will find many towns and cities allow this for these types of gatherings. Bangors Folk Festival has a beer and wine tent. Here in Winterport we ran a music Festival for 7 years and had a beer and wine area also. As long as you have a caterer that has an off premise license (I know Sea Dog does as they did our Festival for 5 years) and follow all the State and Insurance protocol you should be fine. We never had any problems doing this.

Scarborough

We officially prohibit alcohol in public spaces, and have never (at least not in modern history) been asked to allow it for a special occasion. However, in other towns that I have worked, we have allowed it with restrictions.

Gardner

We allow, with Council approval of a special event permit, for one time events like our Oktoberfest. Our PD is involved in where it can be located, what safety precautions need to take place to prevent underage drinking, etc. Group who sets it up needs to insure it and take all the risk. Other than that, no alcohol allowed.

Stockton Springs

I would be interested in responses that you get to this. We do not allow it as per a former 1st Select Woman whose husband was in recovery. I'm not sure if it is state law, MMA Risk management required, or just "Sara's law". We had an event last summer in our Community Room at Town Hall. They had a "beer tent" just over the property line at the Community Library and that apparently was legal.

Wiscasset

I know in other communities I have served that alcohol could be served on town grounds as long as we licensed and catered properly.

Bridgton

We allow alcohol only at the old town hall during rentals and require the sponsor/vendor to have the necessary local license as well as provide the town with their full insurance policy that names the town as additionally insured and that it is properly checked off on that form. We have had no problems to date.

Ellsworth

Ellsworth is going through this also. We have never allowed alcohol consumption on City property but this year we are having our 250th birthday and a group of citizens are planning a week-long celebration. One aspect of this celebration is a dinner and dance under a tent in our community park.

Ellsworth does not have an ordinance that disallows drinking, we have always just followed state law and when someone asked to serve alcohol on public property, the Council refused to sign the off-site premise alcohol form. They are however, planning on allowing alcohol for this event.

St. Agatha

We allow it on a case by case basis. It usually only comes up during our SummerFest and that is a town sponsored event. We do require a BYOB permit or liquor license depending on what the set up is. We do not have an ordinance prohibiting the consumption.

Madison

The Madison BOS recently voted to allow the American Legion to have a beer tent to go along with a chili cook-off event at the Town's annual Madison / Anson Day's. anticipated it will last 1.5 to 2 hours and would be controlled by the Legion. Hope this helps.

Thomaston

Thomaston allows it through a request to the Board of selectpersons. The town requires the applicant to provide Insurance through M.M.A. TULIP program and comply with State Liquor Laws.

South Berwick

In South Berwick we do not have an ordinance prohibiting alcohol consumption on Town property. We have authorized events providing the organizers arrange for a caterer who obtains an offsite catering license for alcohol. We have not done a "beer garden" but we have hosted the Historical Society at Town Hall and their caterer has served beer and wine. The Senior Citizens Annual New

Year's Eve party uses the same model at our Community Center. Neither of these would rise to the level of a public festival, but we have not experienced any difficulties.

In a past life, I attended a concert or two with beer gardens, one at the OOB Ballpark. My only thought is they become very crowded, but the upside is no one is walking around with alcohol.

Brownville

Although we do not allow it here on Town Property, formally for events it remains open. The "Tulip Program" is available online. This allows for the sponsor of the event to take out a blanket insurance policy to cover the event.

Augusta

On occasion we allow it in parks for festivals provided there's a licensed vendor with cert. of insurance.

Kennebunk

Provided "Alcohol Policy – Municipal Facility" and "Town Streets"

Cape Elizabeth

Provided "Group Use Policy", which addressed in part – alcohol.

Tizz E. H. Crowley, Ward One
Robert Hayes, Ward Two
Mary Lafontaine, Ward Three
Adam R. Lee, Ward Four



Jonathan P. LaBonte, Mayor

Leroy Walker, Ward Five
Belinda Gerry, At Large
David Young, At Large

IN CITY COUNCIL

ORDINANCE 04-01262015

Be it ordained by the Auburn City Council, that the Code of Ordinances Chapter 14, Article IX - Mass Gatherings, section 14-275 – Alcoholic Beverages be amended as follows;

Sec. 14-75. Alcoholic Beverages

The sale or consumption of alcoholic beverages of any kind is prohibited within the mass gathering area ~~during any event~~ unless the operator obtains all necessary permits from the City. ~~The operator will exercise due diligence and exert his/her best efforts to prevent the consumption of alcoholic beverages within the mass gathering area and to prevent patrons from using, consuming, bringing in, or otherwise obtaining alcoholic beverages within the mass gathering areas.~~

If the Operator intends to sell or permit the sale of alcoholic beverages within the mass gathering area during a mass gathering, the Operator shall restrict the time and location of such sale so that alcoholic beverages are sold only during the particular event and so that public safety and order will not be impaired. The Operator shall comply fully with the laws of the State of Maine regulating the sale and consumption of alcoholic beverages, as well as with the City's Special Amusement Ordinance. Alcoholic beverages may be sold and consumed only within a restricted area of the Facility, which does not include the parking lot. The Operator shall identify, in its Permit Application, the specific restricted areas where it proposes to sell alcoholic beverages, and the means by which it anticipates to limit the consumption of alcohol to such restricted portions of the mass gathering area. Additionally, the Operator shall exercise all due diligence, work with the Auburn Police Department on strict enforcement and exert its best efforts to control, limit and prevent the unauthorized consumption of alcoholic beverages on any part of the mass gathering area outside of the restricted areas, and to prevent patrons of the mass gathering area from using, consuming, bringing in, or otherwise obtaining alcoholic beverages in any manner not authorized by this Ordinance. Nothing in this Ordinance shall preclude the Operator from implementing more restrictive rules for the sale and consumption of alcoholic beverages. No one under the age of 21 years of age will be allowed in this area.

The operator shall post signs to that effect and, when possible, have this prohibition printed on any advertising or tickets to the mass gathering.

Any person, partnership, corporation or other legal entity including the Operator, violating this Section shall be punished by a civil penalty of at least One Hundred (\$100.00) Dollars but not more than Five Hundred (\$500.00) Dollars. The failure to comply with conditions imposed upon the issuance of a mass gathering permit shall be a violation of this Section. Each violation shall be considered a separate offense, and each day a violation is allowed to exist shall be considered a separate offense. The civil penalty provided for in this Section shall be in addition to any other penalty or damages provisions provided within this Section, and shall be in addition to all other remedies to the City of Auburn at law and in equity. The provisions of this Section shall be enforced by the City Manager or such other municipal official or employee as the City Manager shall designate in writing. The City shall also be entitled to its reasonable attorney fees and costs for successfully prosecuting a violation of this Section.



City Council Information Sheet

City of Auburn

Council Meeting Date: 1-26-2015

Subject: Executive Session

Information: Discussion regarding a personnel matter, pursuant to 1 M.R.S.A. Section 405(6)(A).

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405(6). Those applicable to municipal government are:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.