

**MINUTES OF PUBLIC HEARING ON AN ORDINANCE
AMENDING THE REGULATION OF MASSAGE THERAPY
ESTABLISHMENTS**

OCTOBER 11, 2005 COUNCIL CHAMBERS 1293

President Scott Slifka called the hearing to order at 7:05 p.m.

Present were Councilors Shari Cantor, Barbara Carpenter, Chuck Coursey, David Lemkuil, Maureen Kelly McClay, Scott Slifka, Art Spada, Carolyn Thornberry and Joseph Verrengia.

President Slifka: Mr. Spada could you please read the topic.

Vice President Spada: I can Mr. Mayor, ordinance amending the regulation of massage therapy establishments.

President Slifka: Thank you Mr. Spada. Is there a presentation from the administration or from an applicant?

Mr. Feldman: Actually Steve Huleatt will make the presentation.

President Slifka: Welcome Steve.

Mr. Huleatt: Good evening Mr. Mayor, members of the Council, I am Steve Huleatt the Director of Health for the West Hartford/Bloomfield Health District and I'm here to give the staff presentation of an amendment to Chapter 117 regulating massage establishments.

Just a quick one minute summary of why we are amending this ordinance. This ordinance has been on the books since 1973. It initially came into creation because there were no standards for massage therapists in the community or on the state level. Since then massage therapy has become a well recognized healing art, certainly recognized by the medical profession as well as many people who reside here in town. We have made an amendment back in the early '90's when the massage therapists became licensed health professionals by the State of Connecticut, Department of Public Health. At that point in time we sort of edited out the requirements for the massage therapist as the practitioner and left in some pieces about the establishment. Those pieces still contained a lot of archaic language that

was unnecessary and we ended up having the opportunity this spring to come together with the massage therapist community, specifically led by Deb Van Ohlen who I believe will speak after me or will speak at some point in time to present this amendment to you today.

Basically, it is the same ordinance from the standpoint of its intent. It is just that the original ordinance didn't have an intent statement in there so the first thing that we did with the massage therapist community is we came together with what should the intent of this ordinance be and that is the first item that I would suggest that is new and somewhat refreshing. This is truly a public health ordinance. It is truly an ordinance to try to make sure to try to protect and promote the public health safety and to prevent the spread of disease not only amongst the massage therapists per se but also amongst the patrons and the things that they might actually expose massage therapists to.

The only other major changes I will just touch on really quickly for you inside of this document because a lot of it is the same, maybe just reconfigured a little bit, is that we will be putting in a change in how this licensing structure works. Presently the ordinance requires us to annually license and annually inspect. To be quite honest it is something that we are not capable of doing at this point in time so in working with the massage therapists we have come up with a way and that this would be a five year license and that we would license them based upon inspections at the time that they initially apply and then inspections should we get complaints but then inspections only as we deem necessary from there on out. It becomes a little bit more of a relaxed inspection schedule for the massage therapists.

We have written into the ordinance that those massage therapy establishments that have been in place at this point in time would be basically allowed a six month period to come up to this new standard. For any establishment that opened up say after passage if the Council chooses to do that, then this ordinance would automatically apply to them immediately so for those that have been in town basically there is a six month window for us to catch up and we plan to use that time to be honest with the Council to train them, educate them, work to better understand this ordinance jointly with them and actually to have hopefully the massage therapists provide some of that training to us as well.

One of the big sticking points that has been in this ordinance for a long time is one regarding sinkage and hand washing inside every examination room.

There are so many different types of massage that are now acceptable from chair massage to other very intricate types of massage that are out there that we have now recognized that there is also better ways that you can sanitize one's hands. So this ordinance, one of the changes that is being made here is that we are not requiring a sink be in every exam room anymore. We are requiring that there be proper sinkage and proper toilet facilities for the patrons as well as the employees but we are also saying that that can be also satisfied by a proper biostatic sanitizing solution that would have to be submitted and we would approve that. Clearly there are products out there in the market that can do this and not necessarily have to incur the expense of having to try to put plumbing into a building that perhaps doesn't have a wet wall.

Another interesting aspect of the ordinance that we have written in to is we are going to be looking towards the therapist community for their establishment to provide the written procedures keeping in mind that we are licensing this establishment and establishments may not necessarily be massage therapists. This establishment owner or in this case defined as the applicant would need to actually have written procedures as to how to actually clean, sanitize, maintain and perform a safe, sanitary and healthy massage business inside that premise whichever that premise might be.

This also establishes that that premise has to be a fixed location. Certainly perhaps "Celebrate! West Hartford" some of you may run in the road race and there is always a good massage opportunity at the end of that, we are not trying to say you can't do that anymore in the town. Our current ordinance would make that awkward as we would have to try to license that type of activity. We think that is a great community event so we wouldn't be looking at that because that is not a fixed place of business but we would be looking for any place that is a fixed place in business, that is what this ordinance would be applied to, that's what would fit into the massage establishment ordinance. It would be applying this ordinance just to that environment in which that work is being conducted. These therapists themselves are licensed by the State Department of Public Health. They are governed by the State Department of Public Health and we would simply be an agent if there was something wrong. As the local agent of the Commissioner of Public Health it would be my task perhaps to investigate if there was a complaint about the practice by the individual but this ordinance is not geared towards that. That is actually State regulation if that were to occur.

The final thing that I would add is the archaic language. The archaic language in the current ordinance has a whole section on unlawful acts. That is just simply going to be deleted. In reviewing that with Assistant Police Chief McCue, if any of that type of activity was to occur it is covered under different types of statutes and ordinances. We do not have to have that here in this, and make some sort of implication that this practice would behave in that sort of way any longer. That is clearly being deleted in this ordinance as well. With that, that is probably short presentation about as quick as I can do it for you. Are there any questions from the Council?

President Slifka: Thank you Mr. Huleatt. Are there any questions from the Council? Mr. Spada.

Vice President Spada: Thank you Mr. Mayor. Can you give us a sense, Steve, of how many licensed massage therapists we have in town presently?

Mr. Huleatt: If I was to say based upon our records I would not be able to know that. I can tell you that just because of our friendship with the community there is a lot.

President Slifka: Are they all here right now?

Mr. Huleatt: No they are not. I would guess there are three times this many we've heard as a rumor so it has become very popular. It has been popular inside spas, day spas. It is popular inside of various types of fitness clubs and things like that so it has changed its composition. It is still practiced in private offices as well but we need to just make sure we can apply the standards appropriately to all those types of locations, any of those fixed locations.

Vice President Spada: Just a follow up.

President Slifka: Sure.

Vice President Spada: And so if somebody makes an application for a license, can you just give us a thumbnail sketch on the procedure? Would somebody from your staff go out, visit, or is it simply by paper when you look at an application or do you do an on-site?

Public Hearing
October 11, 2005

Mr. Huleatt: We would do the on-site for that initial application to make sure that in fact everything is in, there are some physical things that need to be met like for example hand washing still needs to be on the premises so we are not saying it has to be in every examination room at this point in time but we still need to make sure the place is properly plumbed, it is properly lit, properly ventilated, just basically environmental standards would be met and we would be checking for things like if they are using linen we need to make sure how that linen is being washed, what is their issue as far as that is going to be handled. It is all based on our working with the owner of that establishment not necessarily the individual practitioner. Equally, if practitioner was having difficulty because the owner of the establishment wasn't supplying these sorts of issues then to be quite honest the ordinance could actually be used that way as well where the massage therapist could come forward and say I'm working at a, b, c location and my owner isn't necessarily providing me with what you guys are expecting so it is a protection, as I said in the opening comments of the therapist as well as the public.

Vice President Spada: Last question.

President Slifka: Mr. Spada.

Vice President Spada: On the same subject of licensing, how long a period does the license run through and then at renewal do you do the same due diligence and go out and visit them at renewal or is the renewal just kind of process paper?

Mr. Huleatt: We have the right to go back and look at an establishment any time we wish. I think it would really take a good hard look at have we had any input from that facility? Is there a reason for us to go? Have they made any changes? I think that is really the driver in our inspection process. We have developed an inspection process. Karen Reid is here from our staff and also has been reviewed by the massage therapist community so we have developed that and it would really be more on that kind of basis where they would self report to us if changes were made. The establishment needs to keep track of who their employees are. They need to keep all those records so if there was a question about somebody's license we could go right to that establishment and find that out. There will be opportunities where we probably would go out and need to make inspections off licensing cycle but

the answer to your question is we actually have written this in where we have the right to not have to do that.

Vice President Spada: Thank you.

President Slifka: Thank you Mr. Spada. Are there any other questions for Mr. Huleatt? Mrs. Cantor.

Councilor Cantor: Thank you Mr. Mayor. I was wondering the definition of the fixed business, if you have someone that is repeatedly going to a spot and giving those chair massages or whatever, and the same particular hours over an extended period of time, would you define that as a fixed...

Mr. Huleatt: If they are setting up appointments and they are expecting clients to come then I would suggest that that establishment or whatever that premise is that is having that massage therapist come would probably fall into that category or we would certainly want to know why they think that they don't.

Councilor Cantor: Or like walk-ins, if you have a chair set up and people are walking by for particular hours that wouldn't qualify necessarily?

Mr. Huleatt: If that chair is there, if somehow they are presenting themselves out for business and saying we are here 10 o'clock to 2 o'clock, Tuesdays and Thursdays of every month, then I'm going to say that is a fixed location and I would yield to counsel to explain why that wouldn't be so.

President Slifka: Thank you Mrs. Cantor. Mrs. McClay.

Councilor McClay: Thank you Mr. Mayor. I would just like to say we had this presentation in a little bit more detail at our Community Planning meeting and I would just like to thank Mr. Huleatt and all the members that were on the committee. They really worked extremely hard on this and I think have come up with an extremely good ordinance for us so I would just like to thank you for all your work.

Mr. Huleatt: On behalf of my staff I accept your thanks.

President Slifka: Thank you Mrs. McClay. Mrs. Carpenter.

Councilor Carpenter: You made a statement Mr. Huleatt about some of this ordinance being more relaxed. Could you explain what part of the ordinance is more relaxed?

Mr. Huleatt: If you were to look at the unlawful acts, for example, in the massage, even though we took the massage therapist out of the existing ordinance as it exists in the town now, we still left in for the massage establishment owner, if you will, that he needed to be fingerprinted and provide photograph to the Chief of Police and that the Chief of Police would do a background check on that individual, all of that is really quite time consuming. It is costly to the applicant. It is time consuming to the Police Department. The ordinance also gave the Chief of Police and the Director of Health a lot of equal latitude and the Police Department really doesn't have any case history that would dictate that this is criminal in nature so from that standpoint that is the part that is being relaxed. We are moving away from that sort of criminal notion that has been hanging in this ordinance since 1973 and moving it strictly towards a public health ordinance to protect the workers as well as to protect the public. That is why I say it is relaxed. It is relaxed from the tenor of the enforcement actions themselves.

Councilor Carpenter: Thank you.

President Slika: Thank you Mrs. Carpenter. Dr. Thornberry.

Councilor Thornberry: Thank you. I think the most important thing as you read the ordinance before and then read the new ordinance and we have been dealing with this in Human Services for well over two years, was the fact that at last the ordinance catches up to the practice of massage therapy and sees it as a true profession, medical profession that it is and deals with it as such. The orientation prior to this as you have stated Mr. Huleatt is one of needing police and criminal oversight not one that is a working relationship with the Bloomfield/West Hartford Health District and again I would echo what Mrs. McClay said, too, is thank you for all of your hard work on that and especially for the massage therapists organizations as well.

It was clear to me when this was before us originally that the group of massage therapists and the Health District were going to be able to work together and come up with the ordinances that both parties desired and you have and you have worked so well together and this was for me as the

Chairwoman of a committee, this is kind of our dream come true when we are able to tell people can you go back and work on this together and come up with what you want and you have. I thank you both for doing this. Thank you.

Mr. Huleatt: Thank you. It was a wonderful experience working with the massage therapist community and now I can't walk through the Center without somebody saying hello.

President Slifka: Thank you Dr. Thornberry. Anything further from the Council at this time? Thank you Mr. Huleatt. Mr. O'Brien is there a sign up sheet?

Mr. O'Brien: There is.

President Slifka: We have only one name. I am guessing Deby was appointed to speak on behalf, Deby Van Ohlen please come up.

Ms. Van Ohlen: We are all going to come up but only I was going to just read this.

President Slifka: Okay. I think we know you are here if that makes it easier. Deby if you could please read your name and address for the record.

Ms. Van Ohlen: Sure. My name is Deby Van Ohlen at 83 Cherryfield Drive, also I am the co-owner of Nurturing Hands, LLC at 88 Park Road. I have copies of the statement that I will be reading. To address Mr. Spada's question a little bit, I'm reading this statement on behalf of thirty five massage therapists who have signed the statement and there are more people.

We the following massage therapists residing and/or working in West Hartford support the changes to the West Hartford Town ordinance Chapter 117 Massage Therapy Establishments. We support these changes because it regulates from a health perspective rather than from a criminal law perspective. Also, since Connecticut has licensing from for massage therapy it is appropriate that the changed ordinance addresses the business rather than the individual. It is our feeling that this ordinance now accurately reflects our profession as the health care field that it is.

We would like to thank Corporate Counsel Kimberly Boneham, Assistant Police Chief Robert McCue and particularly the West Hartford/Bloomfield Health District: Steve Huleatt, Angela Savanelli and Karen Reid for such great collaborative work in drafting these changes.

President Slifka: Thank you Deby.

Ms. Van Ohlen: You are welcome. Do I ask if there are questions?

President Slifka: Generally we don't do questions.

Ms. Van Ohlen: That's fine with me.

President Slifka: It is up to you. That concludes the sign up sheet. I'm guessing that from everybody that signed up here that Deby was speaking on behalf of you but if anybody else wishes to speak at this time you are welcome to. Thank you. Seeing none, I will go back to the Council. Anything further from the Council? Anything further from the administration? With that we will close the public hearing.

The hearing adjourned at 7:25 p.m.

Norma W. Cronin
Town Clerk/Council Clerk