

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, DECEMBER 15, 2009  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, December 15, 2009 in the Town Hall Chamber. The Chair opened the Town Council Meeting at 7:07 p.m.**

**The following were in attendance:**

**Present:**  
**Chair Sharri MacDonald**  
**Vice Chair Michael Tousignant**  
**Councilor Robin Dayton**  
**Councilor Laura Bolduc**  
**Councilor Shawn O'Neill**  
**Interim Town Manager Jack Turcotte**  
**Assistant Town Manager V. Louise Reid**

**Pledge to the Flag**  
**Roll Call**

**ACKNOWLEDGEMENTS:**

**ASSISTANT TOWN MANAGER:** I want to take this opportunity to express my Personal and professional appreciation to our Public Works Director, Mary Ann Conroy, as she leaves our employ at the end of the year and assumes the position of Public Works Director of Kittery, Maine. I received several phone calls this week from former Town Council Chairs who asked if the rumor was true and when I said it was they expressed their feeling of a deep loss of a talent for Old Orchard Beach, Maine. I concur with that expression and wish you, Mary Ann, God's speed and blessing in your new position and thank you for all you have done for the citizens of Old Orchard Beach.

**PRESENTATION:** A presentation on bond issues was presented by both the Public Works Director and the Superintendent of Waste Water. Wright Pierce (John Edgerton and Ed Leonard) assisted in the presentation which included the following:

**On June 18, 2008 a referendum vote approved six major projects including West Grand Stormwater, Summit Street Sewer, Ross Road Culvert, Ocean/Seaview Sewer, Halfway Roundabout and West Grand Pump Station Upgrade. The total bond amount was \$5.3 million.**

<u>Project</u>	<u>Initial Bond</u>	<u>Current Projected</u>
West Grand Stormwater	\$1,850,000	\$ 1,848,763
Summit Street Sewer	900,000	725,566
Ross Road Culvert	350,000	316,000
Ocean/Seaview Sewer	800,000	1,361,770
Halfway Roudabout	200,000	105,000
West Grand Pump Station	1,200,000	1,266,640
<b>Total</b>	<b>\$ 5,300,000</b>	<b>\$ 5,624,408</b>

**Figures include: Construction, Engineering, Administration and Other Related Costs.**

**A map was displayed showing the various locations and the goals for each of the projects included:**

**Projects are located town wide and address a variety of community needs and were selected through a strategic planning process.**

**West Grand Storm water Project: Provide safe passage for emergency vehicles; provide a safe evacuation route; lays the groundwork for protection of private property; upgrade storm water infrastructure; and adjust tide gates for optimum flood-control benefits.**

**West Grand Project Status: Topographic survey; analysis of existing conditions, hydrology/hydraulic modeling; developed conceptual design material; conducted two public meetings; on-site meetings with residents; currently completing review of alternate approaches to achieve project goals; and planned workshop with the Council in January.**

**Summit Street Sewer Project: Address failed sewer system; address street flooding; address road condition; replace sewer system; add new storm drainage infrastructure; rebuild roadway; and install pump station.**

**Summit Street Project Status: Conducted Public Meetings; Design nearly complete; Planned Bidding in January 2010; Construction starting in April of 2010; Completion in Fall of 2010; Replace Sewer Stub off School Street; and Replace Culvert on Adelaide.**

**Ross Road Culvert Project: Needed to replace temporary culvert; raise the roadway to avoid flooding; and improve public access to the Marsh.**

**Ross Road Project Status: Work is largely complete; cleanup and paving in the Spring of 2010.**

**Ocean/Seaview Sewer Project: Replace failed sewer system; address street flooding; improve storm drain system; and Restore Roadway Surface.**

**Ocean/Seaview Project Status:** Construction is substantially complete; water mains were replaced (at no cost to the Town; street and drainage improvements; and cleanup and final paving in the Spring.

**Halfway Roundabout Project Status:** Bond Funding was intended to Leverage MeDOT funds for Right-of-Way Acquisition; project has been set aside by Council; and Dedicated MeDOT funds reallocated by PACTS to other OOB projects (approximately \$680,000.

**West Grand Pump Station Improvement Project:** Town's primary pump station @ 1.5 million gallons per day (average flow); built in 1976; most electrical equipment is over 30 years old; HVAC systems are substandard; Process and Control Improvements; Safety-Related Improvements; Replace Heating and Ventilation; and New Roof, Doors, Windows and Flood Controls.

**West Grand Pump Station Status:** Bids were Received on December 2, 2009; Prepared to Award Contract with Council approval; and Construction is planned for 2010.

Project	Bonded Amount	Total Expenditures	Remaining Balance
<b><u>Public Works Projects</u></b>			
West Grand Stormwater Project	\$ 1,850,000.00	\$ 60,682.08	\$ 1,789,317.92
Wright-Pierce		\$ 60,682.08	
		\$ 60,682.08	
<hr/>			
Summit St Sewer Project	\$ 900,000.00	\$ 27,432.57	\$ 872,567.43
Wright-Pierce		\$ 22,112.57	
Patti Brodeur (Easement)		\$ 4,380.00	
Dow & Coulombe (Easement)		\$ 500.00	
Smith Elliott Smith		\$ 440.00	
		\$ 27,432.57	
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Ross Rd Culvert Project	\$ 350,000.00	\$ 229,351.61	\$ 120,648.39
Wright-Pierce		\$ 34,702.40	
Portland Press Herald		\$ 292.32	
Peters Construction		\$ 194,356.89	
		\$ 229,351.61	
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Ocean/Seaview Sewer Project	\$ 800,000.00	\$ 916,561.86	\$ (116,561.86)
Wright-Pierce		\$ 118,071.05	
EcoClean LLC		\$ 4,451.31	
Shaw Brothers Construction		\$ 789,097.85	
Jackson's Tree Service		\$ 1,775.00	
Summit		\$ 1,346.75	
Central Maine Power		\$ 1,527.58	
Portland Press Herald		\$ 292.32	
		\$ 916,561.86	

Halfway Roundabout Project	\$ 200,000.00	\$ 635.48	\$ 199,364.52
Gorrill-Palmer Consulting		\$ 635.48	
<b><u>Public Works Totals</u></b>	<b><u>\$ 4,100,000.00</u></b>	<b><u>\$ 1,234,663.60</u></b>	<b><u>\$ 2,865,336.40</u></b>

As Custodian of the Public Funds it is the responsibility of the Council to decide on the continuing projects projections and a Workshop to do this was requested for the New Year. The Council expressed appreciation for the staff's involvement and that of the firm of Wright Pierce. Councilors discussed the possibility of changes in the numbers and it was expressed that they are fairly firm but there is also the need for flexibility of structuring some of the projects. The question was raised again whether funds that are not used being put into other bond projects and confirmation by legal that this is a possibility. Councilor Dayton explained that you cannot pay back a loan early. The Sewer project at Ocean and Seaview was a concern as it was estimated to cost \$500,000 more than originally budgeted at \$1,362,000. The Public Works Director explained that the additional costs came from roads that needed more rebuilding than expected. One project, a plan to rebuild the roundabout at the intersection of Saco Avenue and Ocean Park Road was voted down by the Council earlier this year. The project had been estimated to cost the Town about \$200,000 and the Town had paid about \$105,000 on preliminary work on the project. That would have left a balance of \$95,000. Vice Chair Touseignant said he didn't think this money could be used for other projects and the Town should get a legal opinion on this before it is used. He indicated there are many citizens who are not happy about that being rolled over into other projects. A project to revamp a pump station on West Grand Avenue came in at about \$1.2 million which is about \$67,000 more than originally scheduled. Waste Water Superintendent explained that he had the money in his department's budget to cover the overage. An updated monetary budget on the bond projects was provided by the Finance Director and the Chair raised the question of the overages which again the Town will have to fund. The Public Works Director explained that the Council had approved some updates and again there were ledge issues in several of the projects and extra drainage issues as well. She indicated you take money out of the undesignated or your use some of the funding from all the bonding issues. The Chair asked if these numbers were firm and Wright Pierce indicated that many were but obviously there are always unexpected issues that transpire. Wright Pierce also indicated that the Council's input is needed to decide on the West Grand issue. Councilor Dayton again reiterated that you can't give money back to the Bond Bank once you have gone out to bid for the bonds.

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of December 1, 2009; and Town Council Workshop of December 8, 2009.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to accept the December 1, 2009 Minutes as read.

**VOTE:** Unanimous.

**MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to accept the Workshop Minutes of December 8, 2009.**

**VOTE:           Yea: Councilors Bolduc, Dayton, Vice Chair Tousignant and Chair  
                  Abstain: Councilor O'Neill**

**CHAIR MACDONALD: I open this Public Hearing at 7:44 p.m.**

**PUBLIC HEARING NUMBER ONE: Shall We Amend Chapter 2, Administration, Article III, Officers and Employees by deleting Section 2-126 and amending 2-151 through 155, and amending Article IV, Boards, Committees and Commissions, sections 2-232, 2-234, 2-326, 2-357, 2-444 and 2-445, of the Old Orchard Beach Code of Ordinances?**

NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on December 1<sup>st</sup>, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Articles III (Officers and Employees), IV (Boards, Committees, Commissions), and V (Finance), of the Town of Old Orchard Beach Traffic Ordinance is amended by deleting the strikethrough language and adding the underscored language:

**ARTICLE III. OFFICERS AND EMPLOYEES\***

**\*Cross references:** Any ordinance establishing or setting salaries of town officers and employees saved from repeal, § 1-9(13); any ordinance regarding personnel policies or procedures saved from repeal, § 1-9(14); administrative clerk to the fire chief, § 30-1; recreation director, § 42-51 et seq.; code enforcement officer, § 78-32.

**DIVISION 1. GENERALLY**

**~~Sec. 2-126. Assistant town manager created; position eliminated.~~**

~~(a) There is hereby created the office of assistant town manager who shall be appointed and/or removed by the town manager subject to confirmation by the town council. The assistant town manager shall serve at the will of the town manager. The powers and duties of the assistant town manager shall be delegated or assigned by the town manager, who shall create and maintain a written job description for the office, subject to approval by the town council. The current job description for the office of assistant town manager is attached to the ordinance from which this section is derived as Exhibit A and is approved by the town council upon enactment of this division.~~

~~(b) Unless the town manager designates some other person by letter under section 503 of the Charter, the assistant town manager shall perform the town manager's duties during a period of temporary absence or disability of the town manager, subject to the consent of the town council, which shall be presumed unless the council takes specific action otherwise.~~

~~(c) The current employment position of administrative assistant to the town manager is hereby eliminated.~~

**EXHIBIT A  
POSITION DESCRIPTION**

~~Class Title: Assistant Town Manager  
FLSA: Exempt~~

Date: October 22, 2003

Salary: \_\_\_\_\_ Salary: \_\_\_\_\_ \$42,600 \_\_\_\_\_ to \_\_\_\_\_ \$45,000

Minimum of two weeks vacation; a third depending on experience.

TITLE: Assistant town manager

~~GENERAL PURPOSE: The assistant town manager is an essential member of the administrative staff in a position which requires extensive customer relations, problem resolution skills, computer competencies, varied knowledge of office practices and procedures, the ability to access law and practice and to interface and establish an effective working relationship with other departments and the general public. The employee must apply independent judgment based on knowledge gained through experience in performance of responsible and specialized duties. Written and verbal communication skills are a priority along with complex professional, administrative and business management skills. Confidentiality is absolutely required.~~

~~SUPERVISION RECEIVED: Direct supervision is received from the town manager although independent judgment is exercised in performing the daily functions of the position. In the absence of the town manager, the assistant town manager will report to the town council and organizational reporting will divert to the assistant town manager in the manager's absence.~~

~~ESSENTIAL DUTIES AND RESPONSIBILITIES:~~

- ~~• Provide to the town manager the administrative and secretarial support required to permit the town manager to maintain the vital hands on responsibilities of administration required by his/her office.~~
- ~~• In the absence of the town manager, function in the administrative role of town manager with the oversight of the town council.~~
- ~~• Serve as the secretary to the town council, when required, with a timely and efficient filing of those minutes for the review and approval of the council.~~
- ~~• Research and write commentaries for the town manager before presentation to the council prior to meetings and workshops.~~
- ~~• Responsible for the writing and production of the town's annual report.~~
- ~~• Serve as secretary to the town manager in the formulation of minutes in connection with staff meetings, personnel matters, bargaining negotiations, and others areas of confidentiality.~~
- ~~• Prepare press releases, notices, and proclamations for the approval of the town manager.~~
- ~~• Prepare management proposals for the negotiation process, personnel and disciplinary actions for approval of the town manager.~~
- ~~• Responsible for the preparation and updating of position descriptions; maintain records of all persons seeking employment; and conduct a program of recruitment to obtain for the town the best qualified prospective employees.~~
- ~~• Maintain current organization and functional charts as supplied by each department, and where appropriate, assist departments to devise such charts reflecting the best organization structure for maximum utilization of available staff resources within each department; and assure that job descriptions are complete, current, and accurately describe the duties which each employee is responsible for performing.~~
- ~~• Responsible as liaison between all town departments so as to keep personnel fully informed of the policies and work rules of management and to provide them with information on matters before them for consideration.~~
- ~~• Develop an intern program by interviewing and recruiting from local colleges and/or training programs, thus providing the town with assistance in the work load of departments; and, be responsible for preparation and filing of college required documentation upon completion of the intern's work.~~
- ~~• Serve on committees as designated by the town manager.~~
- ~~• Provides leadership and direction in the development of short and long range goals; gather, interpret, and prepare data for studies, reports and recommendations; and coordinates department activities with other departments and agencies as needed.~~
- ~~• Make presentations as assigned by town manager to town officials, council, boards, commissions, civic groups and the general public.~~
- ~~• Develop and maintain a human resource system that meets management's information needs including bargaining negotiations, bid documents, lawsuits and investigations, as well as other information pertaining to the town manager's office.~~
- ~~• Make studies and recommendations to the town manager concerning action to improve working conditions and employee morale.~~
- ~~• Act as custodian of departmental documents and records as well as maintaining the file systems, control records and indexes using independent judgment.~~
- ~~• Assist in the preparation of the department budget including the purchase of supplies and equipment.~~
- ~~• Establish and maintain administrative requirements so that the office of the town manager functions in a timely and efficient manner.~~
- ~~• Make and adjust appointments for the town manager and determine the priority of calls and interviews.~~
- ~~• Receive the public and answer issues relative to their questions; response to inquiries of elected officials, employees, citizens, and others; and refer, if necessary, to the proper department heads.~~
- ~~• Assume responsibilities as assigned by the discretion of the Town Manager.~~

~~WORK ENVIRONMENT: Work is performed under typical office conditions; interruptions are expected. The work consists of practical applications of a variety of concepts, practices, and specialized techniques. Operation of various pieces of office equipment is required.~~

~~EDUCATION AND EXPERIENCE: Masters Degree preferred, Bachelor's Degree or an Associates Degree in Secretarial Science or Business Administration; but extensive college courses and considerable post-secondary education to enhance the higher educational requirement; a minimum of twelve years in administrative responsibilities, a portion of them in municipality as a preference; or any equivalent combination of related education and experience.~~

~~(Ord. of 10-22-2003, § 4; Ord. of 4-20-2004)~~

Secs. 2-127 ~~6~~-2-150. Reserved.

## **DIVISION 2 ~~1~~. COMPENSATION OF ELECTED OFFICIALS\***

~~\_\_\_\_\_~~  
**\*Charter references:** Compensation, § 414.  
~~\_\_\_\_\_~~

### **Sec. 2-151. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~School board means the elected policymaking board of the department of education, as further defined in article VI of the Charter.~~

~~School board chairperson means the person selected by the school board to preside at meetings of the school committee, as further defined by section 605 of the Charter.~~

~~Town council means the elected policymaking board of the town, as further defined in article IV of the Charter.~~

~~Town council chairperson means the person selected by the town council to preside at meetings of the town council, as further defined in section 405 of the Charter.~~

~~(Ord. of 11-20-1990, art. III)~~

~~Cross references:~~ Definitions generally, § 1-2.

### **Sec. 2-152. Purpose.**

The purpose of this division shall be to establish the compensation of the elected members of the town council ~~and school board~~ in accordance with section 414 of the Charter.

~~(Ord. of 11-20-1990, art. II)~~

### **Sec. 2-153. Compensation.**

The compensation of the town council ~~and school board~~ shall be as follows:

- (1) Councilmember, \$1,000.00 annually.
- (2) Council chairperson, \$1,200.00 annually.
- ~~(3) School board member, \$800.00 annually.~~
- ~~(4) School board chairperson, \$1,000.00 annually.~~

~~(Ord. of 11-20-1990, art. IV; Ord. of 11-8-1995)~~

### **Sec. 2-154. Payment.**

Compensation of the town council ~~and school board~~ will be paid on an annual basis, from election day in November to election day in November. Payment will be made during the first pay period in December. Members will receive the entire year's stipend, except that payment will be made on a per-diem basis if more than one person serves during the term.

~~(Ord. of 11-20-1990, art. V)~~

### **Sec. 2-155. Amendments.**

This division may be amended in the customary fashion, except that any increase in compensation will not take effect until the beginning of the ~~town's next fiscal year,~~ next term of office of the elected or appointed official, as defined by Charter section 414.

~~(Ord. of 11-20-1990, art. VII)~~

Secs. 2-156--2-205. Reserved.

## **ARTICLE IV. BOARDS, COMMITTEES, COMMISSIONS\***

~~\_\_\_\_\_~~  
**\*Charter references:** ~~School board, § 601 et seq.;~~ planning board, § 901; zoning board of appeals, § 902; conservation commission, § 903; recreation board, § 904.  
~~\_\_\_\_\_~~

**Cross references:** Recycling committee, § 46-186 et seq.; zoning board of appeals, § 78-66 et seq.; design review committee, § 78-276 et seq.

## **DIVISION 1. GENERALLY**

Secs. 2-206--2-230. Reserved.

## **DIVISION 2. RULES FOR ADVISORY BOARDS AND COMMITTEES**

### **Sec. 2-231. Purpose.**

The purpose of this division is to establish rules and regulations for any advisory board or committee that is established or created from time to time by the town council.

(Ord. of 6-16-1992)

### **Sec. 2-232. Name, term and number of members.**

(a) The town council shall establish the name of the advisory board or committee, the number of members to serve as appointees to the committee, and the length of the term of each board or committee that it creates.

(b) The name of the board or committee shall be determined by the town council.

(c) The term of the committee and its members shall be determined by the town council so that when a board or committee has served its purpose it shall be ~~automatically dissolved.~~ disbanded by a majority vote of the council.

(d) Each board or committee shall consist of at least three members.

(Ord. of 6-16-1992, art. I, § 1)

### **Sec. 2-233. Appointments and qualifications.**

(a) Appointments to any advisory board or committee shall be made by the town council only after the appointee has completed an application for membership to the committee. Applications may be obtained from the office of the town clerk or from the town manager.

(b) Each appointee shall have his principal place of residence or shall be an owner of real estate property located in the town for the length of his term. A vacancy shall occur when an appointee ceases to be a resident or an owner of real estate property or if a member shall be convicted of a crime involving moral turpitude. The vacancy shall be filled by a subsequent appointment by the town council. Any appointee who consistently misses meetings without reasonable cause may be removed by the town council.

(c) The spouse of any member shall not be appointed to serve on the same committee, and no appointee shall serve on more than two committees at any one time.

(Ord. of 6-16-1992, art. I, § 2; Ord. of 10-17-1995)

### **Sec. 2-234. Powers and duties.**

(a) The members of the advisory board or committee shall perform all of the duties as requested by the town council.

(b) Each appointee shall be sworn in by the town clerk.

(c) The alternate members of each board or committee may participate in a meeting discussion and shall have the ability to vote only if a regular member is not present or there is not a quorum to convene a meeting.

(d) The board or committee shall elect a chairperson from among its regular members who shall be responsible for agendas.

(e) The committee shall appoint a secretary from its members, who shall be sworn and who shall be responsible to submit minutes of any meeting to the town clerk within 30 days of the date that the minutes have been accepted by a majority vote of the board or committee, as well as a copy to the town manager.

(f) The town manager, department heads or council members shall not be appointed as regular or alternate members, nor may they serve as secretary to any board or committee.

(g) No meeting shall be convened without a quorum consisting of at least three members.

(Ord. of 6-16-1992, art. II, § 1)

### **Sec. 2-235. Prohibited functions.**

No advisory board or committee established by the town council for any given purpose may do any of the following:

(1) Contact by phone or writing any professional, including but not limited to legal, architectural, consultant, contractors or any other individual, or company that incurs any expense without the consent of the town manager or the town council.

(2) Hold any money or establish any bank accounts in the name of the committee or board.

(3) Have any decision-making authority, but shall submit its recommendations to the town council, who shall be responsible for any decision.

(Ord. of 6-16-1992, art. III, § 1)

Secs. 2-236--2-260. Reserved.



### **DIVISION 3. RESERVED\***

**\*Editor's note:** An ordinance adopted February 7, 2006, repealed §§ 2-261--2-263, which pertained to economic development committee and derived from Ord. of 4-16-1996, §§ 2--4.

Secs. 2-261--2-290. Reserved.

### **DIVISION 4. RESERVED\***

**\*Editor's note:** An ordinance adopted June 3, 2008, repealed §§ 2-291--2-295, which pertained to Memorial Park Advisory Committee and derived from Ord. of 3-4-2003.

Secs. 2-291--2-320. Reserved.

### **DIVISION 5. FINANCE COMMITTEE**

#### **Sec. 2-321. Purpose.**

The purpose for the establishment of the finance committee is to assist the town council in matters regarding the financial stability of the community.  
(Ord. of 12-18-1990, § II)

#### **Sec. 2-322. Appointment.**

The town council shall appoint, by majority vote, members to the finance committee.  
(Ord. of 12-18-1990, § VI)

#### **Sec. 2-323. Membership.**

The membership of the finance committee shall consist of seven members, of which five will be regular members and two will be alternates. One alternate will be considered the first alternate and the other will be the second alternate.  
(Ord. of 12-18-1990, § IV)

#### **Sec. 2-324. Appointment; term of office.**

The town council shall appoint seven members to the finance committee. The members shall serve for staggered terms of two years. In case of resignation, the new appointee will fill the remainder of that term.  
(Ord. of 12-18-1990, § VII)

#### **Sec. 2-325. Voting.**

The regular members of the finance committee will have voting rights. Alternate members can vote only if regular members are absent, with the first alternate filling the first vacancy and the second alternate filling the second vacancy.  
(Ord. of 12-18-1990, § V)

#### **Sec. 2-326. Responsibilities.**

(a) *Advice.* The members of the finance committee shall serve at the pleasure of the town council and **their recommendations** shall be advisory only, except for those duties and responsibilities specified to it by the Charter or by ordinance.

(b) *Report on nonproperty tax revenue.* Annually, the finance committee shall review all sources of nonproperty tax revenue. It shall identify any potential new sources of nonproperty tax revenue. It shall report on any suggestions in order to improve current levels of collections. Finally, it shall report such findings to the council.

(c) *Capital improvement program committee.* The finance committee shall serve as the **formal advisory** capital improvement program (CIP) for the community. It shall review the capital improvement program list and develop a **recommended** priority **list** for submission to the town council.

(d) *Budget preparation role.* The committee shall participate in the budget process. ~~Its role shall be determined by the town council.~~ **Their recommendations shall be advisory only.**

(e) *Attendance at management letter presentation.* It shall be the responsibility of the finance committee to attend the annual presentation of the audit and management letter.

(f) *Temporary assignments.* The finance committee shall have any other temporary finance related assignments as directed by the town council.

(Ord. of 12-18-1990, § III)

Secs. 2-327--2-355. Reserved.

## **DIVISION 6. RECREATION BOARD\***

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\***Charter references:** Recreation board, §§ 409.3(b), 904.

**Cross references:** Parks and recreation, ch. 42.

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### **Sec. 2-356. Purpose and functions.**

(a) There is established in Charter section 904 a recreation board.

(b) The purpose and functions of the recreation board shall be to:

(1) Know and understand the desires and needs of the citizens of the community;

(2) Plan and promote new recreational facilities;

(3) Communicate plans and activities to the town manager regarding recreation in the community;

(4) Coordinate efforts with other recreational groups within the town and at times with other recreational groups outside the town;

(5) Help raise funds for the recreation program;

(6) Promote citizen participation in programs; and

(7) Distribute information regarding recreational activities offered in the community.

(Ord. of 2-21-1995, § 2)

### **Sec. 2-357. Organization and appointment.**

(a) The recreation board shall be comprised of members as provided in Charter section 904, whose terms shall be staggered and shall expire on December 31 of the appropriate year. Each member shall be appointed for a term as provided in Charter section 904.

(b) Any vacancy on the recreation board shall be filled for the remainder of the term vacated. All members of the board shall be appointed by the town council. The Town Council may ~~recommend the~~ appointment of ~~the~~ a student to serve on the committee in his junior or senior year ~~appointed by the town council~~.

(Ord. of 2-21-1995, § 3)

### **Sec. 2-358. Finances.**

(a) All expenditures for the recreation board shall be approved through the budget process by the town council. The handling of funds, expenses and revenue shall be consistent with the town rules, policies and ordinances.

(b) Any funds which are raised and accumulated by the recreation board shall not revert to the general fund, but shall be held in a segregated fund by the treasurer, to be used solely for the purpose of recreational activities.

(Ord. of 2-21-1995, § 5)

Secs. 2-359--2-380. Reserved.

## **DIVISION 7. BOARD OF ASSESSMENT REVIEW**

### **Sec. 2-381. Created; appointment, vacancies, term.**

There is hereby established a board of assessment review to consist of five members who shall be appointed by the town council for a term of three years each, except that of those first appointed, two shall be for a term of three years, two shall be for a term of two years and one shall be for a term of one year. Vacancies in the membership of such board shall be filled by appointment by the town council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the town council and spouses of members of the town council shall not serve on the board of assessment review.

(Ord. of 11-5-2003, § 1)

### **Sec. 2-382. Powers and duties.**

The board of assessment review shall:

(1) Hear appeals from the decisions of the assessor regarding applications for abatements to property taxes and make determinations with respect to assessments in accordance with the general laws of the state. Three members of the board shall constitute a quorum for the purpose of hearing and voting upon a matter presented to the Board. An appeal can be granted

only by a majority vote of those members present and voting. The taxpayer has the burden of establishing that the assessment appealed from is manifestly wrong.

(2) In carrying out its functions, have the power to administer oaths, take testimony, and hold hearings as may be required.

(3) Have the power to adopt, subject to the approval of the town council, rules and regulations for the transaction of its business.

(4) Elect annually a chair and a secretary from among its members. The secretary shall maintain a permanent record of the board's meetings.

(Ord. of 11-5-2003, § 2)

### **Sec. 2-383. Conflict of interest.**

Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a board member from voting on that issue must be decided by a majority vote of those members present and voting, excluding the member being challenged.

(Ord. of 11-5-2003, § 3)

Secs. 2-384--2-410. Reserved.

## **ARTICLE V. FINANCE\***

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**\*Charter references:** Financial matters, § 701 et seq.; tax administration, § 801 et seq.

**Cross references:** Any ordinance or resolution promising or guaranteeing the payment of money for the town, or authorizing the issue of any bonds of the town, or any evidence of the town's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the town saved from repeal, § 1-9(2); department of finance, § 2-472.

**State law references:** Municipal finances, 30-A M.R.S.A. § 5651.

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### **DIVISION 1. GENERALLY**

#### **Sec. 2-411. Fiscal year.**

The fiscal year shall begin July 1 and shall end June 30 of the following year.

(Ord. of 10-28-1976, § 3; Ord. of 7-16-1986)

**Charter references:** Fiscal year to be established by ordinance, § 701.

#### **Sec. 2-412. Procedure for approval of disbursement of funds.**

The treasurer may disburse money only on the authority of a warrant drawn for the purpose, approved and signed by a majority of the town council.

(Ord. of 6-18-1996, § 3)

**State law references:** Duties of the treasurer, 30-A M.R.S.A. § 56032.A.

Secs. 2-413--2-440. Reserved.

### **DIVISION 2. MUNICIPAL PURCHASING\***

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**\*Charter references:** Purchasing agent, § ~~302.7~~. [502.7](#)

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#### **Sec. 2-441. Purpose.**

The purpose of this division is to designate the purchasing powers and establish purchasing procedures and limits for the town.

(Ord. of 9-17-1991, § 2)

#### **Sec. 2-442. Powers.**

In accordance with Charter section 502.7 (as amended from time to time), the town manager shall serve as the purchasing agent for all town departments, except the department of education.

(Ord. of 9-17-1991, § 3)

**Charter references:** Similar provisions, § 502.7.

#### **Sec. 2-443. Purchase order system.**

The town shall have in place a working purchase order system which shall meet minimum standards of governmental accounting principles. The town auditors shall be responsible to interpret and report, during the annual audit, the administration's compliance with such standards.  
(Ord. of 9-17-1991, § 4)

**Sec. 2-444. Procedures and limits.**

- (a) The town manager shall, by administrative order, establish purchase order procedures for all departments. The limits for purchases shall be as follows:
- (1) Under \$5,000.00, administrative approval required.
  - (2) Including and over \$5,000.00, council action required.
- (b) Items costing more than ~~\$1,000.00~~ \$5000.00 shall require at least three quotations in written form.
- (c) Items requiring council action shall have the final decision made by the town council at a public meeting as defined in Charter section 404. The town manager shall have the authority to place out to bid any item approved in the budget. Items which require a formal bid procedure must have the bids opened at a designated time and in a public location.  
(Ord. of 9-17-1991, § 5; Ord. of 8-4-1992; Ord. of 2-20-1996; Ord. of 1-18-2005, § 5)

~~**Sec. 2-445. Joint purchases.**~~

~~The town manager may purchase any item which can be purchased by or through joint purchase(s) with another municipality(ies). Such purchases shall be exempted from the requirements of section 2-444.~~  
(Ord. of 9-17-1991, § 6)  
Secs. 2-446 ~~5~~--2-470. Reserved.

**ARTICLE VI. DEPARTMENTS\***

**\*Editor's note:** An ordinance adopted March 15, 2005, did not specifically amend the Code. Therefore, such ordinance was treated as amending article VI to read as herein set out. Formerly, such article pertained to similar provisions and derived from Ord. of 10-22-2003, §§ 1--3; Ord. of 8-3-2004, §

**Sec. 2-471. Department of planning and development; created.**

There is hereby created the department of planning and development, which shall be responsible for carrying out the powers and duties assigned under the Charter to the town planner and the code enforcement officer. The head of the department shall be the code enforcement officer, who shall report directly to the town manager and shall have overall responsibility for the supervision of the department, except that the town manager may at any time designate the town planner to serve as the head of the department, without amendment to this section  
(Ord. of 3-15-2005, § 1)

**Cross references:** Environment, ch. 26; streets, sidewalks and other public places, ch. 50; utilities, ch. 58; buildings and building regulations, ch. 66; floods, ch. 70; subdivisions, ch. 74; zoning, ch. 78.

**Sec. 2-472. Department of finance; created.**

There is hereby created the department of finance, which shall be responsible for carrying out the powers and duties assigned under the Charter and under state law to the town treasurer, the tax collector and the director of general assistance. The head of the department shall be the ~~town treasurer~~ **finance director**, who shall report directly to the town manager and shall have overall responsibility for the supervision of the department.  
(Ord. of 3-15-2005, § 2)

**Cross references:** Any ordinance or resolution promising or guaranteeing the payment of money for the town, or authorizing the issue of any bonds of the town, or any evidence of the town's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the town saved from repeal, § 1-9(2); finance, § 2-411 et seq.

**State law references:** Municipal finances, 30-A M.R.S.A. § 5651.

Per Order of the Municipal Officers this \_\_\_\_\_ day of November, 2009.

A True Copy

Attest:

\_\_\_\_\_  
Kim M. McLaughlin, Town Clerk

**PHIL DENISON: He encouraged the Council to make sure that there is direction to the Ordinance Review Committee so there is not a hodge podge in the workings and goals of the three**

**Committees; the Ordinance Review, the Comprehensive Plan and the Charter Review Commission. There needs to be coordination within the three working groups.**

**JOHN BIRD:** He encouraged the Council to table these items until the Charter Commission has its opportunity to meet. It was also mentioned that the removal of the Assistant Town Manager position does not constitute the removal of the position. He confirmed he agreed with the suggestion that coordination be necessary. He also recommended that there be a Workshop to coordinate these committees. I do have a couple of minor points – taking out the Assistant Town Manager position is just housekeeping – not taking out the Assistant Town Manager position or removing that position. He also questioned the “term of office” category and asked for an explanation and also said he did not see the reason for the change in ad hoc committees and boards and the resolving of those committees. He also mentioned about acceptance of minutes and a copy not being given to the Town Manager. He also encouraged contracts with other municipalities.

**GARY LAMB:** He explained the Ordinance Committee – six members charged with going through all ordinances – and they are meeting every other week. This is going to go one for months and is open to the public for comments. Mike Nugent is carrying the ball on this. There is staff input into this. I am glad John Bird made the comments he did. He explained the question about providing minutes to the town manager was a safe guard to accuracy of the minutes. The question of when minutes are due but they should not be considered permanent minutes until they have been approved by the Committee itself. He also indicated that the Saco Bay Committee is active or not and that raised the question about the life of a Committee.

**ASSISTANT TOWN MANAGER:** She explained that in many instances the minutes are done in draft but it could be another two or three weeks before they go back to the Council for approval.

**CHAIR MACDONALD:** This is a collaborative group, correct? The purpose is to clean up our ordinances, correct? Do you see any conflict with the Ordinance Review Committee and the Charter Review Committee?

**MIKE NUGENT:** Yes, the Ordinance Review Committee, it is an active and excellent working group. I do not see any conflict with the two Committees.

**VICE CHAIR TOUSIGNANT:** It is an easy thing for either Committee to come back before the Council and make changes if that is necessary and there is a conflict.

**GARY LAMB:** The Charter Commission has not met yet but this is an important Committee and its changes will affect the Town for many years ahead. He also responded to the need to make the Finance Committee, Advisory.

**MR. JEROME BEGART:** I agreed with Mr. Lamb on the appropriateness of the Minutes being correct. I have no problem with it being 30 days as long as the Planning Board has the ability to make changes to the Minutes. If the Planning Board can make final decisions and there decision happens within the 30 days then people who could not attend would not be able to know the changes. His comments were well received by the Council.

**COUNCILOR DAYTON:** She reiterated that financial controls are important, very important, and she is very concerned that we strengthen them, not limit them as we are in an economical time when fiscal responsibility is a top priority of this Council.

**COUNCILOR O'NEILL:** We don't change ordinances without legal review; has this been done. My last question is why was the Assistant Town Manager position listed as it was.

**MIKE NUGENT:** Minor changes do not but major changes go to the legal Council.

**COUNCILOR BOLDUC:** I would like to make sure there is gender consideration.

**CHAIR MACDONALD:** I close this Public Hearing at 8:16 p.m.

**CHAIR MACDONALD:** I open this Public Hearing at 8:16 p.m.

**PUBLIC HEARING NUMBER TWO: Shall We Amend Chapter 6, Alcoholic Beverages, Article II, Special Amusement, section 6-32, and deleting Article III, Bottle Clubs, of the Old Orchard Beach Code of Ordinances?**

**BACKGROUND:**

NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on December 15, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 6, Alcoholic Beverages, Article II, Special Amusement is hereby amended by deleting the strikethrough in section 6-32, and deleting Article III, Bottle Clubs, of the Town of Old Orchard Beach Code of Ordinances.

**ARTICLE II. SPECIAL AMUSEMENT\***

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\***Cross references:** Special events, § 42-231 et seq.

**State law references:** Special amusement permit authorized, 28-A M.R.S.A. § 1054.

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**DIVISION 1. GENERALLY**

**Sec. 6-26. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Entertainment* includes any amusement, performance, exhibition, or diversion, for the patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

**State law references:** Similar provisions, 28-A M.R.S.A. § 1054 10.

*Licensee* includes the holder of a license issued under the state alcoholic beverages statutes, 28-A M.R.S.A. § 1 et seq., or any other person or any agent or employee of any such licensee.

**State law references:** Definition of licensee, 28-A M.R.S.A. § 2.14  
(Ord. of 4-26-1979, § 1.3)

**Cross references:** Definitions generally, § 1-2.

**Sec. 6-27. Purpose.**

The purpose of this article is to control the issuance of special permits for music, dancing, or entertainment in facilities licensed by the state to sell liquor as required by 28-A M.R.S.A. § 1054. (Ord. of 4-26-1979, § 1.2; Ord. of 7-7-1992; Ord. of 8-4-1992)

**Sec. 6-28. Rules and regulations.**

The town council are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits; the classes of permits; the music, dancing, or entertainment permitted under each class; and other limitations on these activities required to protect the public health, safety, and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted. (Ord. of 4-26-1979, § 2.4)

**State law references:** Authority to adopt regulations, 28-A M.R.S.A. § 1054 11.

**Sec. 6-29. Inspections.**

(a) Whenever inspections of the premises used for or in connection with the operation of the licensed business which has obtained a special amusement permit are provided for or required by town ordinance, articles, bylaws, rules and regulations, or state law or are reasonably necessary to secure compliance with any of such, it shall be the duty of the licensee, his employee or the person in charge of the premises to be inspected to admit any town officer, official, or employee authorized to make the inspection at any reasonable time that admission is requested.

(b) The inspection shall be preceded by a written demand for inspection, which shall specify the date and time inspection is sought. The written demand shall be delivered to the licensee, his employee, or the person in charge of the premises to be inspected.

**Cross references:** Licenses, §18-26 et seq.

(c) In addition to any other penalty which may be provided, the municipal officers may revoke, after notice and hearing, the special amusement permit of any licensee in the town who refuses to permit any such officer, official, or employee to make an inspection or who interferes with such officer, official, or employee while in the performance of his duty.

(Ord. of 4-26-1979, § 2.2)

**Sec. 6-30. Admission charge.**

A licensed hotel, class A restaurant, class A tavern, or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the special amusement permit.

(Ord. of 4-26-1979, § 2.6)

**State law references:** Authority to charge admission, 28-A M.R.S.A. § 1054 9.

**Sec. 6-31. Live entertainment.**

(a) For purposes of this section, the terms "display" or "displaying" and "expose" or "exposing" shall mean unclothed or uncostumed or not covered by a fully opaque cloth or textile material or to employ any device or covering which is intended to give the appearance of or to simulate the genitals, pubic hair, buttocks, anus, or the portions of the female breasts at or below the areola.

(b) The purpose of this section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed and which are licensed under this article.

(c) No licensee shall permit entertainment on the licensed premises, whether provided by professional entertainers, employees of the licensed premises, or any other person, when the entertainment involves:

(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(2) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals.

(3) The actual or simulated displaying of the genitals, pubic hair, buttocks, anus, or any portion of the female breasts at or below the areola.

(4) The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of such person's genitals or anus or female breasts below the areola.

(Ord. of 4-26-1979, § 2.7; Ord. of 7-7-1992; Ord. of 8-4-1992)

**State law references:** Authority to determine entertainment, permitted, 28-A M.R.S.A. § 1054 A.(3).

**Sec. 6-32. Entertainment hours limited.**

(a) For purposes of this section only, the term "entertainment" includes music or spoken words produced or reproduced by electronic or mechanical means, including radio, ~~television, film,~~ tape recording, compact disc, laser disc, video disc, karaoke and similar devices.

(b) Under this article, no licensee shall permit any entertainment on the licensed premises between the hours of 1:00 a.m. and 8:00 a.m. daily. This section applies to all licensees, as defined in section 6-26, whether or not such licensee is otherwise required to obtain a permit under this article.

(Ord. of 8-5-1997, § 2.8)

**State law references:** Authority to establish hours, 28-A M.R.S.A. § 1054 11B.(3).  
Secs. 6-33--6-60. Reserved.

## **DIVISION 2. PERMIT**

### **Sec. 6-61. Required.**

No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on his licensed premises, any music except a radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the town a special amusement permit signed by at least a majority of the municipal officers.

(Ord. of 4-26-1979, § 2.1)

### **Sec. 6-62. Application.**

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the following:

- (1) The name of the applicant;
- (2) The applicant's residence;
- (3) The applicant's address;
- (4) The name of the business to be conducted;
- (5) The applicant's business address;
- (6) The nature of the applicant's business;
- (7) The location to be used;
- (8) Whether the applicant has ever had a license to conduct the business therein described either denied or revoked, and, if so, the applicant shall describe those circumstances specifically;
- (9) Whether the applicant, including all partners or corporate officers, has ever been convicted of a felony, and, if so, the applicant shall describe specifically those circumstances; and
- (10) Any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

(Ord. of 4-26-1979, § 2.1)

### **Sec. 6-63. Compliance of premises and building.**

No permit shall be issued under this division if the premises and building to be used for the purposes do not fully comply with all town ordinances, articles, bylaws, rules and regulations and state law.

(Ord. of 4-26-1979, § 2.1)

**Cross references:** Buildings and building regulations, ch. 66.

### **Sec. 6-64. Fee.**

The fee for a special amusement permit shall be as specified in the schedule of license, permit and application fees in appendix A of this Code.

(Ord. of 4-26-1979, § 2.1; Ord. of 4-1-2003, § 2)

### **Sec. 6-65. Public hearing.**

The municipal officers shall, prior to granting a special amusement permit and after reasonable notice to the town and the applicant, hold a public hearing within 15 days, or such other number of days as the legislature may specify, from the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

(Ord. of 4-26-1979, § 2.1)

### **Sec. 6-66. Issuance.**



The municipal officers shall grant a special amusement permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare or would violate town ordinances, articles, bylaws, rules and regulations or state law.  
(Ord. of 4-26-1979, § 2.1)

**Sec. 6-67. Term.**

A special amusement permit shall be valid only for the license year of the applicant's existing liquor license.  
(Ord. of 4-26-1979, § 2.1)

**Sec. 6-68. Notice of determination.**

Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than 15 days from the date his request was received. If a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days, or such other number of days as the legislature may specify, after an application for a permit has been denied.  
(Ord. of 4-26-1979, § 2.5(A))  
**State law references:** Similar provisions, 28-A M.R.S.A. § 1054 6.

**Sec. 6-69. Suspension or revocation.**

The municipal officers may, after notice and hearing, suspend or revoke any special amusement permit which has been issued under this division on the grounds that the music, dancing, or entertainment so permitted or activity related thereto constitutes a detriment to the public health, safety, or welfare or violates any town ordinances, articles, bylaws, rules and regulations or state laws.  
(Ord. of 4-26-1979, § 2.3)

**Sec. 6-70. Appeal procedures.**

(a) Any licensee who has requested a special amusement permit and has been denied or whose permit has been revoked or suspended may, within 30 days of the denial, suspension, or revocation, appeal the decision to the board of appeals as defined in and pursuant to 30-A M.R.S.A. § 2691.  
(b) The board of appeals may grant or reinstate the permit if it finds:  
(1) The permitted activities would not constitute a detriment to the public health, safety, or welfare;  
(2) The denial, revocation, or suspension was arbitrary or capricious; or  
(3) The denial, revocation, or suspension was not based on a violation of any town ordinance, article, bylaw, rule or regulation or state law.  
(Ord. of 4-26-1979, § 2.5(B); Ord. of 7-7-1992; Ord. of 8-4-1992)  
**State law references:** Similar provisions, 28-A M.R.S.A. § 1054 8.  
Secs. 6-71--6-95~~155~~. Reserved.

**~~ARTICLE III. BOTTLE CLUBS\*~~**

~~\*State law references: Bottle clubs, 28-A M.R.S.A. § 161-B et seq-~~

**~~DIVISION 1. GENERALLY~~**

**~~Sec. 6-96. Definitions.~~**

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:  
*Bottle club* means an establishment where no alcoholic beverages are sold, but where members, guests, or members of the public provide their own alcoholic beverages, paying a fee or other consideration for admission to the bottle club, setups, or any other reason.  
*Principal officers* means the applicant and any officer, director, stockholder, owner, manager, or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.  
(Ord. of 4-15-1981, § 3)  
**Cross references:** Definitions generally, § 1-2-~~

**~~Sec. 6-97. Membership rules.~~**

~~Membership in a bottle club shall be determined by written membership rules, which shall be promulgated by the principal officers of the bottle club.  
(Ord. of 4-15-1981, § 8)~~

**~~Sec. 6-98. Entrance.~~**

~~The entrance to every bottle club shall be plainly marked "bottle club, members and guests only."  
(Ord. of 4-15-1981, § 18)~~

**~~Sec. 6-99. Hours.~~**

~~The principal officers and employees of a bottle club shall not permit the consumption of alcohol beverages on its premises between the hours of 2:00 a.m. and 6:00 a.m. on January 1 and 1:00 a.m. and 6:00 a.m. on other days.  
(Ord. of 4-15-1981, § 17)~~

**~~Sec. 6-100. Minors prohibited.~~**

~~No person under the age of 20 years shall be permitted in or on that part of the premises subject to the control of any bottle club.  
(Ord. of 4-15-1981, § 15)~~

**~~Sec. 6-101. Illegal activities.~~**

~~The principal officers and employees of a bottle club shall not knowingly permit any illegal activities to take place on the licensed premises. Law enforcement officers of the town, the state, and the county shall have the same access to the premises of a bottle club that they would have if the bottle club were an establishment licensed by the state for on-premises consumption of alcoholic beverages.  
(Ord. of 4-15-1981, § 19)  
Secs. 6-102-6-130. Reserved.~~

**~~DIVISION 2. LICENSE~~**

**~~Sec. 6-131. Required; exemption.~~**

- ~~(a) No person shall keep, maintain, operate, lease, or otherwise furnish, either to its members and guests or to the general public, any premises, building, apartment, or place or portion thereof for use as a bottle club, without first having obtained a license and paying the fee therefor.~~
- ~~(b) Notwithstanding any other section of this article, a bona fide nonprofit, charitable, educational, political, civic, recreational, fraternal, patriotic, or religious organization, organized under 13 M.R.S.A. § 901 et seq. or recognized as such by section 501(c)(7) of the Internal Revenue Code shall not be subject to this article, provided:~~
- ~~(1) The organization only occasionally allows activities or events at which its members, guests, or members of the public provide their own alcoholic beverages, paying a fee for consideration for admission, setups, or for any other reason.~~
  - ~~(2) Any revenues derived from such activities or events are solely for the use or benefit of the organization.~~
  - ~~(3) The organization notifies the municipal officers at least 15 days in advance of the activity or event and obtains a permit from the municipal officers for each activity or event.~~
  - ~~(4) The organization otherwise complies with town ordinances and rules and regulations and state statutes and rules and regulations.~~
- ~~(Ord. of 4-15-1981, § 1)~~

**~~Sec. 6-132. Application and information.~~**

- ~~(a) Every applicant for a bottle club license shall:~~
- ~~(1) Complete and file an application on a form prescribed by the municipal officers.~~
  - ~~(2) Deposit the prescribed license fee in advance with the town clerk.~~
  - ~~(3) Submit the completed application to the town clerk, together with attested copy of the articles of incorporation and bylaws if the applicant is a corporation or articles of association and bylaws if the applicant is an association or partnership documents if the applicant is a partnership, as well as a list of all civil officers of the bottle club.~~
  - ~~(4) File an affidavit which will identify all principal officers and their places of residency at the present time and for the immediately preceding three years.~~
- ~~(b) Submission of false information in an application shall be a violation of this article, and such act shall be ground for the denial of the application. There shall be a continuing obligation to, by affidavit, inform the municipal officers of any change in the principal officers within 15 days after such change occurs.  
(Ord. of 4-15-1981, § 5)~~

**Sec. 6-133. Special amusement licensees.**

~~For the purposes of article II of this chapter pertaining to special amusement permits, the applicant for a bottle club license shall be considered a licensee.  
(Ord. of 4-15-1981, § 16)~~

**Sec. 6-134. Description of premises.**

~~Every applicant for a bottle club license shall include in the application a description of the premises for which a license is desired and shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor, as desired by the municipal officers.  
(Ord. of 4-15-1981, § 7)~~

**Sec. 6-135. Proximity to schools and churches.**

~~No bottle club license shall be granted under this division to premises situated within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time such license is applied for. The 300 foot distance shall be measured from the main entrance from the school, school dormitory, church, chapel or parish house by the ordinary course of travel.  
(Ord. of 4-15-1981, § 14)~~

**Sec. 6-136. Eligibility.**

~~No person shall be licensed to keep, maintain, operate, lease, or otherwise furnish a bottle club unless the eligibility requirements found in 28 M.R.S.A. § 201 are met by such person in its principal officers.  
(Ord. of 4-15-1981, § 6)~~

**Sec. 6-137. Fees.**

~~The annual fee for a bottle club license shall be as specified in the schedule of license, permit and application fees in appendix A of this Code.  
(Ord. of 4-15-1981, § 4; Ord. of 4-1-2003, § 2)~~

**Sec. 6-138. Investigation of applicant.**

~~The municipal officers shall fully investigate the principal officers of the bottle club for compliance with 28 M.R.S.A. § 201 and shall fully investigate the premises of the bottle club for compliance with town ordinances and rules and regulations, and with state statutes and rules and regulations, which are applicable. In doing so they may consult with the appropriate town or state officials.  
(Ord. of 4-15-1981, § 9)~~

**Sec. 6-139. Public hearing.**

~~Upon receipt of each application for a bottle club license and after the investigation provided for in section 6-138, the municipal officers shall schedule a public hearing. The public hearing shall be conducted in a method consistent with the requirements of 28 M.R.S.A. § 252.  
(Ord. of 4-15-1981, § 10)~~

**Sec. 6-140. Issuance.**

~~Bottle club licenses shall be issued by the municipal officers. The municipal officers shall grant a license only when they find that the applicant is in strict compliance with the requirements of this article and other town ordinances and rules and regulations and with state statutes and rules and regulations.  
(Ord. of 4-15-1981, § 2)~~

**Sec. 6-141. Expiration.**

~~All licenses issued pursuant to this division shall expire on April 30 of each year.  
(Ord. of 4-15-1981, § 13)~~

**Sec. 6-142. Transferability.**

~~A separate license must be obtained for each branch or separate establishment of the bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferred to another person or to any other location, except that a licensed bottle club may change its name upon approval of the municipal officers, if its location remains the same.  
(Ord. of 4-15-1981, § 11)~~

~~Sec. 6-143. Display.~~

~~Every bottle club shall exhibit its license at all times in a conspicuous place on its premises.  
(Ord. of 4-15-1981, § 12)~~

~~Sec. 6-144. Suspension or revocation.~~

~~A license to operate a bottle club, as provided for in this division, may be denied, suspended or revoked by the municipal officers for either violation of or failure to comply with any of the sections of this article or with the provisions of any other town ordinances or rules and regulations or state statutes or rules and regulations. A license may be suspended or revoked by the municipal officers only after notice and hearing.  
(Ord. of 4-15-1981, § 20)~~

~~Sec. 6-145. Appeals.~~

~~Appeals from any final decision of the municipal officers made pursuant to this division shall be taken by any party to the superior court in accordance with the provisions of rule 80B of the Maine Rules of Civil Procedure.  
(Ord. of 4-15-1981, § 21)  
Secs. 6-146-6-155. Reserved.~~

Per Order of the Municipal Officers this \_\_\_\_\_ day of December, 2009.

A True Copy  
Attest:

s/Kim M. McLaughlin  
Kim M. McLaughlin, Town Clerk

**CHAIR MACDONALD: I close this Public Hearing at 8:17 p.m.**

**CHAIR MACDONALD: I open this Public Hearing at 8:17 p.m.**

**PUBLIC HEARING NUMBER THREE: Shall We Amend Chapter 14, Animals, sections 14-2 through 14-4, 14-7 and 14-8, of the Old Orchard Beach Code of Ordinances.?**

NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on December 15, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 14, Animals, is hereby amended by deleting the strikethrough language and adding the underscored language in sections 14-2 through 14-4, 14-7 and 14-8, of the Town of Old Orchard Beach Code of Ordinances.

**Chapter 14 ANIMALS\***

**\*Cross references:** Environment, ch. 26; horses and horse-drawn vehicles, § 42-202.

**State law references:** Animal welfare act, 7 M.R.S.A. § 3401 et seq.; municipal duties, 7 M.R.S.A. § 3942 et seq.; dangerous dogs, 7 M.R.S.A. § 3951 et seq.

Sec. 14-1. Definitions.

[Sec. 14-2. Complaints and Enforcement.](#)  
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[Sec. 14-9. Use of force.](#)

### **Sec. 14-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*At large* means off the premises of the owner and not under control of the owner or a member of his immediate family or representative either by leash, cord, chain or otherwise.

*Dog* means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as define in M.R.S.A Title 7, Subsection 3907.

*Kennel* means one pack or collection of dogs kept in a single premises for breeding, hunting, show, training, field trials and exhibition purposes; or maintaining as a business for the buying and selling of dogs or for any form of boarding or care of dogs.

*Lethal* means any piece of equipment or level of force that when applied is commonly known to cause death or serious injury.

*Less than lethal* means any piece of equipment or level of force that when properly applied is commonly known not cause serious injury or death. It must however be recognized that in certain special instances an unknown factor such as a medical condition may cause adverse results in the application of this equipment or force.

*Owner* means any person owning, keeping or harboring a dog or a person having custody and control of a dog.

(Ord. of 7-20-1993, § 1; Ord. of 8-2-2005(1))

**Cross references:** Definitions generally, § 1-2.

### **Sec. 14-2. Complaints and Enforcement.**

All complaints under this chapter will be made to the police department. The police department shall be responsible for the enforcement of this article.

(Ord. of 12-21-1993, § 5)

### **Sec. 14-3. Impoundment fees.**

Any animal impounded under this chapter may be reclaimed upon payment by the owner of the following fees:

(1) Impoundment fees in the amount of \$5.00 ~~per day not to exceed \$35.00 for each dog~~ shall be charged for each impounded animal, in addition to appropriate fines and board as established by state statute. All medical expenses incurred by an impounded animal must be reimbursed to the Town. All fees and fines must be paid prior to the animal's release.

(2) A fine of ~~\$10.00~~ \$15.00 shall be paid to the town for the first offense of ~~a dog running loose an animal at large~~; a fine of ~~\$25.00~~ \$30.00 shall be paid to the town for the second offense of ~~a dog running loose an animal at large~~. ~~On the third and subsequent offenses, an owner may be taken to court for a dog running loose.~~

(Ord. of 5-4-1983, § 7)

### **Sec. 14-4. Presence on Staples Field.**

No animal shall be allowed on or adjacent to the Staples Field area, including the area known as the practice field. ~~This section will be applicable during the months of April through August, inclusive, of each year.~~

(Ord. of 7-20-1993)

#### **Sec. 14-5. Dog in heat.**

(a) The owner of any dog in heat shall keep the dog confined or on a leash at all times and shall not permit such dog to be at large within the town.

(b) It is unlawful for any owner or custodian of a dog to permit such dog to run at large in violation of this section which violation is hereby declared to be a public nuisance. Such dog running at large shall be impounded.

(Ord. of 7-20-1993, § 4)

#### **Sec. 14-6. Dogs on beach, public streets and sidewalks.**

(a) Notwithstanding any other section of this chapter, it shall be unlawful for the owner of any dog or other animal other than a horse (which is regulated under chapter 42 of this Code) to permit such dog or other animal, during the period from Memorial Day to Labor Day of each year, between the hours of 10:00 a.m. and 5:00 p.m., inclusive, to enter upon and remain within the public beach in the town, which public beach consists of all that land lying easterly of the line dividing the beach from the upland creating a public park along the beach, as defined by town officials on April 23 and May 28, 1935, and recorded in the county registry of deeds in book 863, page 159 and page 422, from Goose Fare Brook northeasterly to the Scarborough Town line.

(b) It shall be unlawful for the owner of any dog or other animal to permit such dog or other animal within the following described area: Within the public way from the top of Old Orchard Street to the beach, which includes the area known as the square, during the period from Memorial Day to Labor Day from the hours of 10:00 a.m. to 3:00 a.m.

(c) The town manager is authorized and directed to erect or cause to be erected signs at the end of each right-of-way to the beach notifying the public of this section.

(Ord. of 9-1-1977, § 21; Ord. of 12-21-1993; Ord. of 6-1-1999; Ord. of 8-2-2005(1))

**Cross references:** Streets, sidewalks and other public places, ch. 50.

#### **Sec. 14-7. Removal of dog feces.**

(a) It shall be unlawful for any person who owns, possesses or controls a dog to fail to remove and dispose of any feces left by his/her dog on the public beach, streets or sidewalks or any property owned by the town.

(b) Any person who owns, possesses or controls a dog shall have on their person some piece of equipment to include but not be limited to a plastic bag or a "pooper scooper" when utilizing the public beach, streets, or sidewalks, or any property owned by the town with their dog.

(c) For the purposes of this section, disposal shall be accomplished by transporting such feces to an appropriate waste receptacle.

(d) This section shall not apply to working police dogs while on duty or to a dog accompanying any handicapped person who, because of his handicap, is physically unable to comply with the requirements of this section.

(e) A fine of \$100.00 shall be paid to the town for the offense of failure to remove dog feces.

(Ord. of 12-21-1993; Ord. of 4-19-1994; Ord. of 7-15-1997; Ord. of 6-1-1999; Ord. of 8-2-2005(1))

#### **Sec. 14-8. Barking or howling dogs.**

No person shall own, keep or harbor any dog which, by loud, frequent or habitual barking, howling or yelping, shall disturb the peace of any person. A fine of \$25.00 shall be paid to the town for the first offense of keeping a barking dog; a fine of \$50.00 shall be paid to the town for the second and subsequent offenses of keeping a barking dog.

(Ord. of 7-20-1993, § 9)

#### **Sec. 14-9. Use of force.**

The use of any lethal or less than lethal equipment, or force to include but not be limited to chemical spray's commonly referred to as mace, a tranquilizer gun, pole injector, or bite stick, shall be approved by the chief of police or his duly authorized representative. This approval may be in the form of a written standing order, or a verbal or written order applied to a specific situation.

Any person being authorized to use such equipment shall complete a training course approved by the chief of police. This section may not be interpreted in such a way as to limit the ability of a person to use reasonable force in self defense, or the defense of another.  
(Ord. of 8-2-2005(1))

Per Order of the Municipal Officers this \_\_\_\_\_ day of December, 2009.

A True Copy

Attest:

\_\_\_\_\_  
Kim M. McLaughlin, Town Clerk

**COUNCILOR DAYTON:** She raised concern about the cost of supplying medical attention to animals when there owners may not come forward. I don't think we should be providing medical care to animals if we don't know who the owners is.

**CHAIR MACDONALD:** I close this Public Hearing at 8:21 p.m.

**BUSINESS LICENSES:** Glenn Wallace (108-1-6-28), 131 Temple Avenue, Unit #28, one year round rental; Dino Kisamitakis (206-7-8), 8 Glenwood Lane, one year round rental; Pierrette Bolduc (206-27-5-3), 5 Sunset Avenue, Unit #3, one year round rental; J&M Holdings LLC (210-2-1), 36 Smithwheel Road, three year round rentals; Raymond A. St.Cyr, (210-2-53-2), 16 Smithwheel Road, Unit #2, one year round rental; The Caris Landings By the Sea, LLC dba/The Caris Landings Inn & Guest House (206-24-40), 23 School Street, nine year round rentals; and The Caris Landings by the Sea, LLC dba/The Caris Landings Inn by the Sea (206-27-10), 29 Saco Avenue, eighteen year round rentals.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to approve the Business Licenses as read.

**VOTE:** Unanimous.

#### **INTERIM TOWN MANAGER'S REPORT:**

**Resignation of Mary Ann Conroy – Public Works Director**  
Have drafted an advertisement  
Talking to people about filling in as an interim Public  
Works Director

1. **Pepsi Contract – asking to be removed without prejudice until discussion with the Ballpark Group.**
2. **Police Station RFP Report – Jack and Mike**
3. **Processing two Public Works Union Contract Challenges**
4. **Public Works Union Negotiations**
5. **Budget Discussions – informed department heads**
6. **Met with Maine Turnpike Authority Management**
7. **Attended Call Firemen Meeting**
8. **Less Time at the Ballpark thanks to Tom and Andrea**
9. **Chris and I had a great day at the Parade and Tree Lighting**
10. **Have started talking about the Comprehensive Plan**
11. **Attended Planning Board Meeting**
12. **Thanks to the Recreation Department and the Fourth Grade Teachers and Students for the beautiful trees here in the Chamber this evening. Thanks also to Nancy and Bob Kelley for sharing their Patriotic Tree which is in the Town Hall area by the Town Clerk’s office.**

**Found a card that had some good advice for the new year. “Slow down, don’t worry, don’t hurry and Trust the process.**

**NEW BUSINESS:**

**# 5353 Discussion with Action: Amend Chapter 2, Administration, Article II, Town Council, Division 2, Rules of Procedure, of the Old Orchard Beach Code of Ordinances.**

**BACKGROUND: The Council Chair has recommended Amending a**

**Section of the Rules of Procedure of the Old Orchard Beach Code of Ordinances.**

**Sec. 2-55. Quorum; adjourned meetings: absences.**

**(c) If any member of Council is going to be absent from a scheduled meeting, the Council member must call or e-mail the chairperson of the Council no later than one hour before the meeting.**

**Sec. 2-80. Executive sessions.**

**All discussions in executive session are confidential. Members of the Council shall not disclose or communicate the contents or nature of an executive session discussion to any person not present at the executive session.**

**Sec. 2-96. ~~Reserved.~~ Cell Phone use prohibited.**

**There will be no use of cell phones either by voice or text messaging by any member of the Council during any Council meetings. This includes executive sessions, workshops and regularly scheduled Council meetings.**

**COUNCILOR O’NEILL: He indicated that he felt this was something that should have been discussed before appearing on the agenda with no discussion with the Council. I believe it obvious a lack of communication between us.**



**CHAIR MACDONALD:** I have tried to communicate and I am sorry if someone's feelings got hurt.

**MOTION:** Vice Chair Tousignant motioned and Councilor O'Neill seconded to amend a Section of the Rules of Procedures of the Old Orchard Beach Code of Ordinances.

**VOTE:** Yea: Councilors Bolduc, Dayton, Vice Chair Tousignant, Chair MacDonald  
Nea: Councilor O'Neill

**# 5354 Discussion with Action:** Amend Section 78-1 of the Town of Old Orchard Beach Zoning Ordinance to define Drug Paraphernalia and Head Shops.

**BACKGROUND:** In an effort to maintain a positive downtown environment, the Town is taking the precautions to ensure it has jurisdiction over the kinds of businesses that move in. This Public Hearing is to define drug paraphernalia and head shops and then not include them in permitted uses within the Town's code. Head shops are stores where products like glass and plastic pipes, bong, and cigarette rolling papers are sold under the guise that they are intended for tobacco use, but those products can also be used for inhaling drugs. Once you define something, it becomes real. By its omission, it's not allowed. The head-shop question came up last spring when an application to open a new store came across the Planning Board's table which vaguely described sales of products usually found at a head shop. It was then that the ordinance on the books did not have the "teeth" necessary to address the issues involved. The Police Chief indicated that it is important that the Town create an ordinance to prohibit drug paraphernalia sales because right now the only jurisdiction the Town would have to combat those sales is under the State law, which would require a search warrant in order to remove paraphernalia, other than those in plain site.

**MOTION:** Vice Chair Tousignant motioned and Councilor Bolduc Seconded to Amend Section 78-1 of the Town of Old Orchard Beach Zoning Ordinance to define Drug Paraphernalia and Head Shops.

**VOTE:** Unanimous.

**# 5355 Discussion with Action:** Amend Sections 78-1, 78-607, 78-609, 78-962, 78-964, 78-1022 through 78-1028 and Add Chapter 78, Article VIII, Division 12 of the Zoning Code to permit changes needed to allow anemometer wind test towers in the PMUD, R-5, Rural Districts.

**BACKGROUND:** With the assistance of Councilor Robin Dayton, resident Jean Leclerc, and staff of the Planning and Code Department, a grant has been secured to support this anemometer wind test tower which will enormously support the educational research and study of our students in a subject that is priority in our economic times. As a result of so many efforts Old Orchard Beach now has a chance to become a model green energy community for our State. It is another great marketing project for our community.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Amend Sections 78-1, 78-607, 78-609, 78-962, 78-964, 78-1022 through 78-1028 and Add Chapter 78, Article VIII, Division 12 of the Zoning Code to permit changes needed to allow

**anemometer wind test towers in the PMUD, R-5, Rural Districts.**

**VOTE: Unanimous.**

**# 5356 Discussion with Action: Amend the General Assistance Ordinance, Section 6.8, Overall maximum levels of assistance and maximum amounts allowed for housing.**

**BACKGROUND: Each year the State readjusts the requirements for housing and levels of assistance which must be adhered to be the General Assistance Director as she deals with clients.**

**MOTION: Councilor O'Neill motioned and Councilor Bolduc seconded to Amend the General Assistance Ordinance, Section 6.8, Overall maximum levels of assistance and maximum amounts allowed for housing.**

**VOTE: Unanimous.**

**# 5357 Discussion with Action: Waive any and all fees for the new RSU 23 – Alternative Education building at Old Orchard Beach High School. Such fees include, but are not limited to, Site Plan Review application to Planning Board (\$300), sewer connection fee (\$3,300), street opening permit (\$100 – although one year \$1,000 bond will remain in effect), and other miscellaneous building, electrical, and plumbing permits as needed.**

**BACKGROUND:**

**Per ordinance, only the Town Council can waive permit fees. If the RSU obtains Site Plan Review approval for the new Alternative Ed building, nearly \$4000.00 in permit fees are supposed to be collected for sewer connection(\$3300), Site Plan Review application(\$300), plumbing, electrical and building permits. It makes sense to waive them because the net gain to the town is zero whether they are collected or not. Since this building only serves OOB students, I am told no cost sharing with Saco or Dayton will occur and OOB taxpayers will pay 100 percent of any fees assessed. Waived fees net the town zero. Fees paid by the RSU, and then the RSU being reimbursed completely with OOB tax dollars still net out as zero, except for admin/finance processing time.**

**On December 10 2009, the OOB Planning Board tabled the Site Plan Review application and location of this building at OOB High School. This application will be discussed again at the January 14 2010 meeting. This building has been stored at the High School because the seller(Town of Dayton) had to move it immediately when the RSU purchased it in late summer. While the storage of the building prior to Planning Board approval has generated concerns and questions, all parties should know that no utilities have been hooked up to the building and no students have used the building. The RSU was well aware during the Site Plan Review process that the building would have to be removed if Planning Board approval was not obtained. The RSU came to town hall and asked staff what they had to do to get approval for the building. They have done what is required by ordinance. The Planning Board would now like more time to consider public hearing comments from the Dec 10 meeting and they will revisit the application in January.**

All parties should know that any Dirigo Drive landscaping or re-opening of the existing High School driveway were not part of the Site Plan Review application. I am told the RSU was instructed to re-open a second egress, but this is not within the responsibility or authority of Planning Board review to approve or deny that. If citizens are concerned about the driveway opening, they should discuss this with the High School principal (who has met with Birch Hill condo president Gordon Weeks in November).

The next Planning Board meeting is not till January 14, 2010.

**MOTION:** “Councilor O’Neill motioned and Vice Chair Tousignant seconded to Waive any and all fees for the new RSU 23 - Alternative Education building at Old Orchard Beach High School. Such fees include, but are not limited to, Site Plan Review application to Planning Board (\$300), sewer connection fee (\$3,300), street opening permit (\$100 although one year \$1,000 bond will remain in effect), and other miscellaneous building, electrical, and plumbing permits as needed.

Councilors discussed that this was removed without prejudice from the Planning Board agenda and it would seem reasonable to remove it from this agenda. Planner Gary Lamb indicated that the Council could approve or deny the waiving of the fees despite whatever decision made by the Planning Board but the Council indicated they preferred to remove until the Planning Board makes a decision.

**VOTE:** Unanimous.

**# 5358 Discussion with Action:** Direct Interim Town Manager to issue a Request for Proposal (RFP) for Little River dredging from Walnut Street out to the open marsh.

**BACKGROUND:** (provided by Gary Lamb)

**Recent timeline regarding Little River/Walnut Street flooding issues/solutions.**

(Created by Gary Lamb for Dec 15 2009

Town Council agenda item #5358.)

1. Nov 2004 Council meeting re: Milliken St. parking lot. New wetland delineation, new detention pond location, and additional \$32,000 funding request for parking lot construction was discussed and approved on 4-1 vote.
2. Late fall/early winter 2007 Council meetings - \$93,000 Little River/Jones Creek Milone and MacBroom report on flooding solutions was discussed and finally accepted by Council
3. January 8 2008 – special Council meeting to discuss Bayley Dam. Dept Inland Fish and Wildlife Deputy Commission Paul Jacques and several other IFW staff attended to listen to OOB concerns. IFW did follow up and produce a September 2008 report on Bayley Dam that Council and planning staff received.
4. Jan 10 2008 – Little River flooding stakeholder workshop and discussion. Attendees included Wright Pierce engineers, Friends of Scarborough Marsh, Maine Dept Inland Fish and Wildlife, Ducks Unlimited, two Pan Am Railways engineers, US Fish and

Wildlife biologist, Mary Ann Conroy and Gary Lamb. Action plan was for; (a)IFW to research Bayley Dam modification(dam was lowered one foot spring 2008)...(b)OOB to continue to explore alternatives for solutions(in process)

5. Sept 24 and 28 2008 – Wright Pierce engineers site visits to upper Little River water control structures at Paradise Park Campground and School Street pond. A report dated 10/7/08 of possible improvements was delivered to the town. These changes would result in approximately 195,000 cubic feet (1,458,600 gallons) of additional storm water storage. This work has yet to be funded.
6. Nov 10 2008 – four page letter from DPW Director to Jack Sarno re: progress of storm water alternative work to date and answers to Jacks questions.
7. April 14 2009 – meeting at DEP office for pre-permitting discussion with DEP staff, Army Corps Engineers, Stantec Engineering wetland scientist, Wright Pierce engineers, Mary Ann Conroy, Gary Lamb. Discussion of DEP approvability of options and documentation required for DEP permits for Milone and MacBroom suggested solutions. OOB will have to demonstrate we are pursuing lowest impact solutions.
8. March 3 2009 – Town Council workshop with engineer Jim MacBroom, Mary Ann Conroy, Gary Lamb to review and discuss flooding solutions
9. Wright Pierce letter/report dated May 11 2009 with possible solutions as follows:
  - Berm/dike for Davenport Condos and other Walnut Street area regularly flooded properties
  - Install tide gate culverts under Walnut Street
  - Construct storm water pump station to pump flood waters to existing ocean outfall during heavy rain events
  - Alter Paradise Pond and School Street pond water control structures to retain more water when needed.
10. July 2009 – Lamb met separately with two Maine wetland contractors to discuss Little River dredging from Walnut Street out to open area of marsh(approx 1200 linear feet)
  - One estimate was \$36,000 for project during winter months and \$60,000 during summer months and did not include \$23,000 estimate for trucking costs (which town would save if DPW hauled all the material). Unsure if DPW trucks are available during winter as they may all have sanders in their dump beds. This contractor estimated a total of 3100 cubic yards of dredge material would be removed...which would be about half the size of town hall volume.
  - The second contractor visited the site with me and via kayak...and is willing to provide a firm quote after the Town decides on scope of dredging desired.

The Planner has in his possession the following documents as well:

- 2004 Council meeting where Millikin Street parking lot detention pond was discussed
- Minutes from Jan 10 2008 Little River stakeholder meeting here. Representatives included railroad, fish and wildlife (state and federal), Ducks Unlimited, Wright Pierce engineers, Friends of Scarborough Marsh, Army Corps of Engineers, Mary Ann and moi
- Oct 7 2008 Wright Pierce field visit memo re: upper Little River drainage
- Four page letter from Mary Ann to Jack Sarno dated Nov 10 2008
- Agenda from March 3 2009 Council workshop on Little River flooding. Milone MacBroom engineer Jim MacBroom attended and presented as did Mary Ann and Lamb.

- **Summary of March 31 2009 meeting at DEP office for pre-permitting overview of issues/solutions at hand. Gunty, Conroy and Lamb from OOB, Army Corps, DEP, Wright Pierce engineers, and others attended.**
- **May 11 2009 Wright Pierce report to Steve Gunty re: possible solutions**
- **July 8 2009 letter from Northeast Wetland Restoration (Geoff Wilson) re: his thoughts and his \$35,000 to \$60,000 estimate for channel dredging behind Davenport condos.**
- **July 16 2009 letter from Swamp Inc (Mike Morrison) re: his thoughts (without any estimate) for channel dredging behind Davenport condos.**

**Contractors recommend dredging during winter months...and it is much less expensive. We have to find a large de-watering area somewhere in town to haul the dredge material to and let it drain there. Trucking costs are not included in quote above. Permit processing time needed would not allow work to be done during winter 2009/2010...so perhaps 2010/11 winter is our next target...if funding is available.**

**The Council unanimously agreed that this was a project long overdue and encouraged moving forward on passing of the agenda item.**

**JACK SARNO:** He thanked the Council for their willingness to go forward with this dredging RFP and also asked if the RFP could include the Cascade/Foote Street area where there are culvert issues as well. He said he appreciated that finally something was going to be done to address this long overdue issue for the residents of his community.

**PAULA DUPRE:** She also as President of the Association of 29 units expressed appreciation for the assistance of Jack Sarno and the Council in moving this issue quickly.

**GARY LAMB:** He indicated that the Cascade/Foote issue is something different and he would prefer to just go ahead with the project as indicated in the agenda item.

**CHAIR MACDONALD:** She encouraged the Planning Department to set up a meeting with the Railroad to see if we can have any consideration from them in addressing some of these drainage issues.

**COUNCILOR DAYTON:** Indicated that this project is long overdue and she promoted moving this forward now in a timely manner.

**MOTION:** Vice Chair Tousignant motioned and Councilor O'Neill seconded to Direct Interim Town Manager to issue a Request for Proposal (RFP) for Little River dredging from Walnut Street out to the open marsh.

**VOTE:** Unanimous.

**# 5359 Discussion with Action:** Approve the Special Event Permit application for the Salvation Army to hold their evening program in the Square, in the area near the Pier, from 7 p.m. to 11 p.m. on Saturday, July 31, 2010 to Friday, August 6, 2010. Request to place a banner in the Square; and a request to waive the fee.

**MOTION:** "Councilor Bolduc motioned and Councilor Dayton seconded to approve the

**Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5360 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold their annual parade at 3:30 p.m. on Sunday, August 1, 2010, from Saco & Biddeford Savings Bank to the Pier Parking area; a request to place a banner in the square; and a request to waive the fee.**

**MOTION: Councilor O'Neill motioned and Vice Chair Tousignant seconded to approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**\**

**# 5361 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold their annual Community Family Fun Fest from 4 p.m. to 6 p.m. on Thursday, August 5, 2010 in Memorial Park. Request to place a banner on the Gazebo, or lawn area in Memorial Park; and a request to waive the fee.**

**MOTION: "Councilor Dayton motioned and Councilor Bolduc seconded to approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5362 Discussion with Action: Appoint Kim Hatch as an Alternate Member of the Community Animal Watch Committee, term to expire 12/31/2011.**

**MOTION: "Councilor Dayton motioned and Councilor Bolduc seconded to Appoint Kim Hatch as an Alternate Member of the Community Animal Watch Committee, term to expire 12/31/2011.**

**VOTE: Unanimous.**

**# 5363 Discussion with Action: Accept with regret the resignation of Jetta Antonakos from the Recycling Committee.**

**MOTION: Councilor Bolduc motioned and Councilor O'Neill seconded to Accept with regret the resignation of Jetta Antonakos from the Recycling Committee.**

**VOTE: Unanimous**

**# 5364 Discussion with Action: Accept the bid from Pizzagalli Construction in the amount of \$992,990 from Account Number 31142-50847 – West Grand Pump Station, with a balance of \$1,093,329 for the construction of the West Grand Pump Station,**

**BACKGROUND:** The Town went out to bid for construction of the West Grand Pump Station. The following bids were received:

- **Pizzagalli Construction Company - \$992,990**
  - **Weston & Sampson - \$1,038,800**
  - **Apex Construction - \$1,097,300**
  - **Truck Construction - \$1,073,753**
  - **Penta Corporation - \$1,174,000**

**The bond amount borrowed: \$1,200,000**

**Estimated project cost prior to bid opening: \$1,407,000**

**Estimated project cost after bid opening: \$1,268,000**

- **Construction: \$993,000 w/bid alternates or \$914,000 w/o bid alternates (\$23,000 spent)**
  - **Engineering: \$203,000 (\$105,000 spent)**
  - **Legal and Administration: \$7,500 (\$0 spent)**
  - **Interest and refinance: \$23,000 (\$0 spent)**
  - **Equipment and misc.: \$2,500 (\$0 spent)**
    - **Contingency: \$49,700 (\$0 spent)**

**Explanation for bid alternates A and B**

Wright-Pierce estimated the total cost for the upgrade would be \$1,407,000. Since the actual amount borrowed was \$1,200,000, it was estimated that another \$207,000 would be needed to cover the project cost. In anticipation of this, two items were designated as alternate bid items if the project bids were substantially higher than the amount borrowed. Both items are justified for different reasons and it is my recommendation we include both in the project considering the current estimated overage is well below the original estimate. If needed, this amount can be covered in account #20204-50846 which has a current balance of \$341,000.

**Alternate A (\$22,785) – Replacement of the 1987 125 horsepower pump.**

- **All pumps will be uniform in parts and service.**
- **The pump is 23 years old.**
- **Some parts for pump this are no longer readily available and must be made as needed.**

**Alternate B (\$55,452) – Wet well modifications**

- **Increase wet well capacity**
- **The current wet well has never been modified and still retains the original design from 1976.**
- **By increasing the size of wet well it will be more easily isolated for cleaning and inspection.**

Chris White discussed the overage of \$66,000 but also indicated that he had the funding for the overage but had provided two alternatives. The timeline to be followed must be closely monitored and concern was expressed by several Councilors that there be as little disruption this summer for the citizens of the Ocean Park area. It was noted that many of the pieces of equipment although providing some distraction will be monitored as much as possible to limit any conflicting issues with the neighbors of Ocean Park.

**MOTION: “Councilor O’Neill motioned and Councilor Bolduc seconded to Accept the bid from Pizzagalli Construction in the amount of \$992,990 from Account Number 31142-50847 – West Grand Pump Station, with a balance of \$1,093,329 for the construction of the West Grand Pump Station,**

**VOTE: Unanimous.**

**# 5365 Discussion with Action: Authorize the Town Manager to close Town Hall only on Thursday, December 23, 2010 with Town Hall employees taking either ½ vacation day or ½ floating holiday.**

**Councilor Bolduc and Chair MacDonald questioned the inconvenience to citizens for conducting business in the closing of this time period. It was noted that this has been the policy for many years and that the personnel manual had been provided to the Council in the past.**

**MOTION: “Councilor Dayton motioned and Councilor O’Neill seconded to Manager to close Town Hall only on Thursday, December 23, 2010 with Town Hall employees taking either ½ vacation day or ½ floating holiday.**

**VOTE: Yea: Councilors Dayton, O’Neill and Vice Chair Tousignant.  
Nea: Councilor Bolduc and Chair MacDonald**

**# 5366 Discussion with Action: Authorize the Town Interim Manager to sign a 2009 Beverage Agreement covering a five year contract beginning November 1, 2009 through October 14, 2014.**

**MOTION: “Councilor Bolduc motioned and Councilor Dayton seconded to Authorize the Town Interim Manager to sign a 2009 Beverage Agreement covering a five year contract beginning November 1, 2009 through October 14, 2014.**

**VOTE: Unanimous.**

**# 5367 Discussion with Action: Accept the bid to purchase a Heartstart MRxCardiac Monitor from Phillips Healthcare in the amount of \$23,868.72 from Account Number 20202-50858- CIP, with a balance of \$20,000 and \$3,868.72 from Account Number 20138-50501 – Operational Supplies, with a balance of \$23,046.16.**

**BACKGROUND: Monitor**

**Included in the CIP portion of this years budget is \$20,000.00 for the purchase of a new cardiac monitor for Old Orchard Beach's emergency medical services. This equipment is a vital instrument used in the treatment of cardiac related patients by our EMS personnel. We advertised for a 12 lead monitor with biphasic and other specific capabilities to match our Lifepak primary cardiac monitor. Additionally the vendor was required to take a trade-in of an older model cardiac monitor from our inventory. This new unit would allow us to rotate our existing monitor to our 2<sup>nd</sup> ambulance providing better patient care for patients served by that**



ambulance. Three bids were submitted from three different manufacturers of cardiac monitors. (1) A "Lifepak 15" from Physio Control/Medtronic for \$34,058.01 (2) A "E Series" AED Cardiac Monitor from Zoll Medical Corp. for \$25,143.75 (3) A Heartstart MRx Cardiac Monitor from Phillips Healthcare for \$23,868.72. Upon receipt of bid #1 it was obvious we could not consider the very expensive price associated with this product. Bid #2 from Zoll Medical provided a loaner to the department for further consideration and the device was rated poorly by our staff for user friendliness, it required an additional battery charger system, it required a different paper report medium, it had a poor visual observation capability and was much heavier than other comparable monitors. Bid #3 from Phillips Healthcare was submitted at a later date for consideration along with a loaner monitor and this device rated excellent by our staff. This monitor performed equal to our expectations, is user friendly and does not require an additional battery charging system. These three manufacturers are the leaders in the industry and are considered the most dependable product providers. It is therefore our recommendation after considerable research that the Town accept the bid of Phillips Healthcare.

**MOTION:** "Councilor Bolduc motioned and Vice Chair Tousignant seconded to Accept the bid to purchase a Heartstart MRx Cardiac Monitor from Phillips Healthcare in the amount of \$23,868.72 from Account Number 20202-50858- CIP, with a balance of \$20,000 and \$3,868.72 from Account Number 20138-50501 – Operational Supplies, with a balance of \$23,046.16.

**VOTE:** Unanimous.

**# 5368 Discussion with Action:** Approve replacement of subsurface waste disposal system at 3 Apple Blossom Lane, as it is technically infeasible and an economic hardship to connect to the Municipal Sewer as required by Section 58-90 of the Municipal Code.

**BACKGROUND:** The Town has been asked to assist an elderly resident in correcting her serious septic system malfunction. She is trying very hard to get this potential health hazard abated but has limited means. She is very nervous about the cost of the project and her inability to obtain financing for any of the repair.

The citizen who owns the above home was granted fee waivers to connect to the sewer to correct her serious septic system malfunction. P.R.O.P. (People's Regional Opportunity Program) is funding the repair. During the bid process for the sewer connection, it was apparent that the original plan to install a force main along Apple Blossom and connect to Temple Ave. is technically problematic due to a large culvert that the line would be above, but subject to freezing. The sewer line in Old Salt Rd. is app. 400 feet away from the structure.

Attached is a copy of the septic design

Mrs. LaCroix is requesting that the Town waive the following requirement:

**Sec. 58-90. Toilet facilities required.**

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, or right-of-way in which there is located or may be located a public sanitary or combined

sewer of the town, is required at the owner's expense to install suitable toilet facilities therein and to connect such facilities to the public sewer in accordance with this article within 90 days after the date of written notification to do so, provided that such public sewer is within 200 feet (61 meters) of the property line.

I wanted to review the literal language of section 58-90:

**Sec. 58-90. Toilet facilities required.**

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, or right-of-way in which there is located or may be located a public sanitary or combined sewer of the town, is required at the owner's expense to install suitable toilet facilities therein and to connect such facilities to the public sewer in accordance with this article within 90 days after the date of written notification to do so, provided that such public sewer is within 200 feet (61 meters) of the property line.

We have been to the Council who has waived the fees to connect, but excavators and PROP (who is paying for the installation) feel that it is technically infeasible to connect to Temple Ave. and that the septic system option is the best option.

In looking at the literal language of the ordinance, it appears that Mrs. LaCroix may not have to connect because the land does not "abut" any street, alley or ROW that has a public sanitary sewer. The line is on Temple Ave. So the septic system could be installed without having to bother the Council again.

**MOTION:** "Councilor O'Neill motioned and Vice Chair Tousignant seconded to Approve replacement of subsurface waste disposal system at 3 Apple Blossom Lane, as it is technically infeasible and an economic hardship to connect to the Municipal Sewer as required by Section 58-90 of the Municipal Code.

**VOTE:** Unanimous.

# 5369 Discussion with Action: Accept the bid from HSE Gould in the amount of \$9,765 for the Gear washer and \$3,995 for the Gear dryer, for a total of 13,760 from Account Number 20202-50859 – Fire-Decontam Washer/Dryer, with a balance of \$15,000 for the Old Orchard Beach Fire Department.

**BACKGROUND:**

**MILNOR 30015 T5X 40lb GEAR  
WASHER-EXTRACTOR**

**(1) MILNOR M758V 75lb GEAR DRYER**

**The Town of Old Orchard Beach is an Equal Opportunity Employer**

**THE TOWN OF OLD ORCHARD BEACH**

**RESERVES THE RIGHT TO  
ACCEPT OR REJECT ALL BIDS.**

**Sealed bids marked  
GEAR WASHER & DRYER BID**

are required by  
10:00 am November 25, 2009  
Exact specifications may be acquired from  
Chief John Glass  
Old Orchard Beach Fire Department  
136 Saco Ave.  
Old Orchard Beach, ME 04064  
207-934-4911

**Gear Washer & Dryer**

In 2003 the fire department received a FEMA Fire Act Grant and purchased new firefighting turnout gear for each member of the department. The sustainability of this gear is contingent upon periodic cleaning, decontamination and maintenance. In the past gear cleaning has been done indiscriminately and commercially at a high cost. The department sought funding in this years budget under Capital Improvement Projects deliberations for a specialized gear washer and dryer and \$15,000.00 was approved. After extensive research regarding the different brands on the market, the manufacturer providing the best value for the price, dependability, funtionability as well as local service availability, is believed to be Milnor. A request for bids was posted on the Town's website, advertised in the local newspaper and provided to vendors who provide this type of equipment. One bid was received compliant to the specifications provided by the department from HSE gould Fire Division of South Portland Maine for \$9,765.00 for the washer & \$3,995.00 for the gear dryer. Having a proper washer & dryer designed for fire gear at the fire station will help to insure proper cleaning and decontamination will be done in a timely manner and in compliance with National Fire Protection Association standards.

**MOTION:** Councilor Tousignant motioned and Councilor Dayton seconded to Accept the bid from HSE Gould in the amount of \$9,765 for the Gear washer and \$3,995 for the Gear dryer, for a total of 13,760 from Account Number 20202-50859 – Fire-Decontam Washer/Dryer, with a balance of \$15,000 for the Old Orchard Beach Fire Department.

**VOTE:** Unanimous.

**# 5370 Discussion with Action:** A waiver request for the \$75.00 ZBA application fee and cost of abutter notification for the Town of Old Orchard Beach’s generator pad for the West Grand Pump Station project.

**MOTION:** “Councilor Bolduc motioned and Councilor O’Neill seconded to waive the \$75.00 ZBA application fee and cost of abutter notification for the Town of Old Orchard Beach’s generator pad for the West Grand Pump Station project.

**VOTE:** Unanimous.

**# 5371 Discussion with Action:** Approve the extension of health and dental benefits to qualified domestic partners of Old Orchard Beach Town employees under the current group plan and extend this benefit option to both union and non-union

employees, effective January 1, 2010.

**BACKGROUND:** The Town Manager explained that he had received a request from an employee requesting consideration for domestic partner coverage for the Town. He called the Maine Municipal Employees Health Trust and asked for some specifics on the position of the Trust as far as coverage for insurance purposes.

There are some towns that do have the coverage and Councilor Dayton asked if we could provide more information on the coverage that is offered other places and the expense involved. Councilor Dayton indicated that she felt the short time to read and study the material that was provide did not give the time necessary to make a concentrated decision and she needed to have input from her constituency as to their direction in this regard. She also indicated that the failure of the marriage initiative at the last election brings other issues into play as well. The Town Manager again indicated that he felt obligated to at least bring forward the request of the employee to the Council for their consideration. The Town Manager provided to the Council the following information below on the subject of domestic partner coverage.

**COUNCILOR DAYTON:** Councilor Dayton made a motion to remove this item without prejudice and stated several reasons why. Council is being asked to vote to change the health insurance coverage of our employees to include domestic partners, same sex partners and opposite sex partners. I received this policy change four days ago. I was very surprised to be asked to vote on such a significant policy change without any heads up, no prior phone calls, no discussion at all with any of the members of Council. As a body we have had no discussion about this. We have not had any public discussion about this, no workshop, no public hearing, no public process whatsoever. I do not believe it is appropriate to ask Council to vote on this without having been afforded any opportunity to discuss it with the public; the tax payers that will be paying for this policy change. I read the commentary provided to Council several times and I think it is important for the public to have access to this information. I want to read a couple things here – not all of it but some highlighted topics. This commentary provided to Council came from the Insurance Company. It is basically questions and answers about Domestic Partnership health insurance.

**COUNCILOR DAYTON:** The first question is: Why is Maine Municipal Employees Health Trust offering coverage to domestic partners? The answer in part reads: “The number of municipalities enacting local equal rights ordinances continues to grow. Over the past two years, the Trust has received a number of requests from employer groups for domestic partner coverage. More and More Maine employers, such as Unum, the City of Portland, Hannaford Bros., and the University of Maine, provide domestic partner coverage, following a national trend. “ First of all, the very first line mentions the enactment of a “local equal rights ordinance.” Councilor Dayton asked if Old Orchard has such an ordinance. We do not. Councilor Dayton stated that if we are going to change policy, we need to start here. We need to do this the right way and create such an ordinance. Secondly, all the examples here are large employers, hundreds and hundred of employees work at these companies. Only 1 municipality is mentioned and it is a big municipality. Councilor Dayton requested examples of small Maine communities that have made this kind of insurance policy change. What small towns like ours have done this? Third, this commentary claims we are following a national trend. I do not consider 2 years

a trend. Two years of anything new is an initiative. In my understanding of trends, you need at least 5 years to consider anything a “trend.”

**Councilor Dayton** continued discussing her concerns. I am very concerned as well that this policy change includes not just same sex partners but also opposite sex partners. I want to be clear that this means, a non-married couple, boy friend and girlfriend, would be eligible to be treated as if they are married by signing a piece of paper. I have a problem with that. I still believe in the sanctity of marriage. I can not understand why the Town would promote a policy that allows an opposite sex couple, boyfriend and girlfriend to be treated as if they are married when they are not. But my job here as a Councilor is to represent the people. I have no idea what our citizens think of this policy – paying for a boyfriends health insurance. I am not going to vote until I have the opportunity to hear from our citizens paying the bill for this increase in health insurance costs to the town.

Which brings me to my third area of concern. The commentary provided to Council about costs is too general and I believe faulty. The question reads: Will the addition of domestic partner coverage affect health Trust costs and claims experience? The answer provided in part reads: “Plan sponsors have found that very few domestic partners – usually 1% or less – are enrolling in benefit programs. Data shows that, on average, domestic partners seem to cost less than covered spouses and the average age of domestic partners enrolled in plans seems to be lower than the average age of dependents in general.”

Now, I have read that comment several times and I still do not think it makes any sense. “...the average age of domestic partners enrolled in plans seems to be lower than the average age of dependents in general.” The question was about cost not age and I do not believe domestic partners are younger than dependents. Something is wrong with this information. In fact, Council has no information at all on the cost of this significant policy change. Without any cost data Council, it is irresponsible for Council to vote on this item.

So I am making an impassioned plea, please remove this item. It is premature, lacks supporting documentation and has had no public input.

**TOWN MANAGER:** The Town Manager explained that it was being brought forward at this time because of the open insurance sign up period which is through the end of this year for changes.

**COUNCILOR DAYTON:** Councilor Dayton pointed out that specifically the commentary provided to us by the insurance company states that once we vote to approve the policy change it will take effect. Open enrollment has nothing to do with it. The Council may adopt it at any time and it would become available.

**COUNCILOR BOLDUC:** Councilor Bolduc reminded everyone that several agencies, small and large already provide this insurance coverage such as the RSU, Insurance Companies and other businesses, large and small. The issue is that the insurance company provides and offers this and if we do not allow our employees to participate we could potentially have a discrimination claim.

**VICE CHAIR TOUSIGNANT:** We need to have some idea of the cost and we need to move on with the motion. We don't have a lot of money and we need to look at the cost factor here.

**TOWN MANAGER:** I want to assure the Council that we are not being pressured by Legal Counsel. We need to have further discussion on the issue as it is before us and needs to be addressed.

**From the Maine Municipal Employees Health Trust Health  
and Dental Plan Documents:**

**Domestic Partner - The Domestic Partner of an Employee shall be:**

- a. a "life partner" of either the same sex as or opposite sex from the Employee;
- b. not married, either to the Employee or to anyone else; and
- c. at least 18 years of age and mentally competent to consent to contract.

**In order for the Domestic Partner to obtain coverage under the Trust's Health and/or Dental Plans, the Employee and his/her Domestic Partner must both sign an Affidavit of Domestic Partnership asserting that they:**

- a. are each other's Domestic Partners and intend to remain so indefinitely;
- b. have been each other's Domestic Partners for at least 12 months prior to the date of the Affidavit;
- c. are jointly responsible for each other's common welfare;
- d. share financial obligations; and
- e. share their primary residence.

**They must also be able to provide evidence of joint responsibility as may be requested by the Plan to verify such Domestic Partnership.**

**Maine Municipal Employees Health Trust  
Domestic Partner Coverage  
Questions and Answers**

**1. Why is the Maine Municipal Employees Health Trust offering coverage to domestic partners?**

**The number of Maine municipalities enacting local equal rights ordinances continues to grow. Over the past two years, the Trust has received a number of requests from employer groups for domestic partner coverage. More and more Maine employers, such as UNUM, the City of Portland, Hannaford Bros. and the University of Maine, provide domestic partner coverage, following a national trend.**

**The Health Trust Board of Trustees believes that it should respond positively to the requests of its member employer groups and that the Trust should follow other socially responsible employers and groups in Maine and elsewhere in offering domestic partner coverage. Offering domestic partner coverage will also be**

**important for the Trust to remain competitive so it can retain current members and enroll prospective members as well as to provide service to its participants.**

- 2. Will domestic partner coverage be offered Trust-wide or on an employer by employer choice basis?**

**Domestic partner coverage may impose some administrative and tax reporting impositions on employers, not to mention the policy decision employers must consider. Employers must be willing to accept these possible administrative requirements.**

**For these reasons, the Trust will be implementing domestic partner coverage on an employer by employer choice basis. The Trust will require a formal vote of the municipal officers (council or board of selectmen) or governing board (board of directors or trustees) and written notification in order to add domestic partner coverage. The Trust will not impose domestic partner coverage on its employer groups.**

- 3. Will the Trust offer domestic partner coverage to same sex partners and/or opposite sex partners?**

**The majority of employers that offer domestic partner coverage do so for both same sex and opposite sex partners. Public and private sector Maine employers offering domestic partner coverage provide coverage for both same sex and opposite sex partners. The Trust will follow this common practice.**

**The Trust will offer domestic partner coverage to both same sex and opposite sex partners in order to adhere to a policy of equity and fairness. Individual employer groups will not be allowed to alter this policy, if they elect domestic partner coverage.**

- 4. Will domestic partner coverage be available to partners of active employees only? Or, will the Trust make such coverage available to partners of retirees (under and over age 65) as well as continue coverage for surviving domestic partners?**

**Domestic partner coverage will be made available to eligible partners of active employees only. It will not be made available to retirees or surviving spouses.**

- 5. Will the addition of domestic partner coverage affect Health Trust costs and claims experience?**

**Claims experience and cost data show that plans that have included domestic partners in benefit programs for several years have seen only incremental increases in costs. Plan sponsors have found that very few domestic partners – usually 1% or less – are enrolling in benefit programs. Data shows that, on average, domestic partners seem to cost less than covered spouses and the average age of domestic partners enrolled in plans seems to be lower than the average age of dependents in general. The Trust expects similar experience. The Trust's reinsurer, The Hartford, has indicated that the Trust can expect no change in the premium the Trust pays for reinsurance by adding domestic partner coverage. The cost to the**

**Health Trust to provide the required communication and administrative materials for domestic partner coverage is minimal.**

**6. Will the Trust extend coverage to dependent children of an eligible domestic partner?**

**Most employers that offer domestic partner coverage extend coverage to a domestic partner's dependent children only if the children are the legal tax dependents of the employee. The employee would have to be the biological parent or have a court appointed legal relationship with the children, such as adoption. Under this approach, dependent children of domestic partners are treated the same as "dependents" by the plan. Few plans extend coverage to the dependent children of a domestic partner absent the child's legal tax dependent relationship with an employee.**

**The Health Trust will follow the example set by other plans, and will extend coverage to the dependent children of domestic partners only if they are the legal tax dependents of an employee.**

**7. How will the Trust certify eligible domestic partners and what certification criteria will be used?**

**All employers providing domestic partner coverage require an employee and his/her domestic partner seeking coverage to certify by affidavit or declaration that they meet the employer's requirements for a valid domestic partnership. Most employers use similar requirements for validating domestic partner relationships. One of the most common variables is the acceptable length of a domestic partnership.**

**The Health Trust will use a domestic partner certification or affidavit form substantially similar to the form used by Blue Cross Blue Shield of Maine. The Trust will require that a domestic partnership be in existence for at least twelve months prior to the effective date of the signed affidavit form. In order to continue domestic partner coverage, an employee and his/her domestic partner must complete a new affidavit form annually.**

**8. When will the Health Trust allow employees to enroll eligible domestic partners?**

**Eligible domestic partners will be allowed to enroll for coverage at the following dates: 1) upon the employee's initial employment date (assuming valid affidavit), 2) upon the employer group electing to offer domestic partner coverage (assuming valid affidavit), 3) at annual enrollment when first able to certify valid domestic partnership, or 4) if a portability situation occurs (assuming valid affidavit). Portability would occur when an eligible domestic partner of a Trust employee loses his/her group health coverage from another employer.**

**9. In which benefit plans will the Trust allow enrollment of eligible domestic partners?**

**The Health Trust will allow eligible domestic partners to enroll in the health and/or dental plans only.**



**10. Will the Trust provide COBRA continuation of coverage benefits to domestic partners of active employees when a domestic partner loses coverage due to an active employee termination, death, retirement or dissolving a relationship?**

**The Health Trust will not provide federal COBRA coverage, but will provide COBRA-like coverage for up to eighteen months under the following situations: 1) when the employee's coverage is terminated, 2) when the employee retires, 3) when the employee dies and 4) when the employee dissolves the domestic partner relationship. If a domestic partner becomes eligible for Medicare during the 18 months extended coverage period, his or her coverage will end on the date Medicare coverage begins.**

**11. How can I get more information on the Trust's policies for domestic partner coverage and employer group administrative considerations? Who can I call for more information about the Trust's domestic partner coverage?**

**Call Terry LaChance, Health Trust Enrollment and Data Services Manager, at 1-800-452-8786.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Remove Without Prejudice the extension of health and dental benefits to qualified domestic partners of Old Orchard Beach Town employees under the current group plan and extend this benefit option to both union and non-union employees, effective January 1, 2010.**

**VOTE: Unanimous.**

**# 5372 Discussion with Action: Cancel Town Council Meeting of November 2, 2010, due to Election.**

**MOTION: Councilor Dayton motioned and Councilor O'Neill second to cancel Town Council Meeting of November 2, 2010, due to Election.**

**VOTE: Unanimous.**

**GOOD AND WELFARE:**

**JAMES WALKER: He asked why the Saco Bay Working group was not part of the Biddeford, Saco, Scarborough group that is studying water levels, contamination, other environmental issues and encouraged the Council to make this group active participants.**

**GARY LAMB: He explained that the Council had requested that the Committee, which is still active, not get involved until such a time as the boundary document is signed and that can't be done till a Town Manager is actively hired.**

**JAMES WALKER: What is the time table on this?**

**CHAIR MACDONALD:** We should have a Town Manager in the beginning of the year and the letter can be signed at that time.

**CURT KOEHLER:** He strongly suggested that the Charter Commission consider making the Town Clerk's position an appointed position rather than an elected position when they are revising the Charter. He asked when the Commission would be meeting? He also asked if we would be participating in the FEMA study and indicated that Biddeford Council had voted not to participate.

**COUNCILOR BOLDUC:** She indicated that their first meeting would be on the 22<sup>nd</sup> of December and it is open to the public.

**COUNCILOR DAYTON:** We are moving forward on the Comprehensive Plan so for those of you who are interested or remain interested and want to participate as a member please see the Town Clerk and fill out the necessary paperwork.

**COUNCILOR ONEILL:** I would like to see some consistency in the Chair recognizing the rules of order and procedure. He reflected on what he considered a less than professional respect by this Council to the Public Works Director who is now leaving to take a position in Kittery and indicated that the treatment of staff is something the Council needs to focus on and felt that the statement by the Chair in the Journal Tribune was inappropriate and that perhaps the Council should "look within."

**CHAIR MACDONALD:** She expressed her belief that this Council has shown consideration to staff and referred to the hiring of outside personnel efforts in connection with the Public Works Department. She then expressed holiday best wishes to all citizens.

**JEROME BEGART:** He expressed his appreciation for the work of the Council over the past few months and said it was a fundamental improvement.

**COUNCILOR DAYTON:** Expressed to all citizens holiday best wishes as well as a Happy New Year.

**CHAIR MACDONALD:** Announced the First Night Celebration and invited all citizens and visitors to participate.

**MOTION:** Councilor Bolduc motioned and Councilor Dayton second to adjourn the meeting.

**VOTE:** Unanimous.

**Respectfully Submitted,**

**V. Louise Reid**  
**Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of forty-two (42) pages is a true copy of the original Minutes of the Town Council Meeting of December 15, 2009.**

**V. Louise Reid**