

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, DECEMBER 2, 2008 – 7:00 P.M.  
TOWN HALL CHAMBERS**

**A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, December 2, 2008 in the Town Hall Chamber. The Chairman opened the meeting at 7:02 p.m.**

**Pledge to the Flag and Roll Call:**

**Present:**

**Chair Sharri MacDonald  
Vice Chair Robin Dayton  
Councilor Mike Tousignant  
Councilor Laura Bolduc  
Councilor Shawn O'Neill  
Town Manager Steve Gunty  
Assistant Town Manager V. Louise Reid**

**ACKNOWLEDGEMENTS:**

**COUNCILOR SHAWN O'NEILL:** I would encourage all Old Orchard Beach residents to join us at the Celebration of the Sea on Sunday, December 7<sup>th</sup> with the festivities beginning at 1:00 and the tree lighting at 4:00 p.m. In addition for those who are around Portland Avenue and the Saco Avenue area on Monday, December 1<sup>st</sup> at about 9:30 to 10:00 a.m. in the morning our Christmas tree will be transported from Saco into the Square. Join us for this important event.

**COUNCILOR ROBIN DAYTON:** Congratulations to the Fire Department in obtaining a Sam's Club Neighborhood Heroes Grant for \$1,500 worth of fire equipment from Sam's Club in Scarborough. A huge thank you goes to Sam's Club employee, Kathy Pelletier (wife of OOB Callman Don Pelletier) for her diligence in keeping us "in the loop" on availability of these grants. Chief Glass believes we have obtained at least eight or more of these valuable grants from Sam's Club and their sister Company, Wal-Mart over the past ten years.

**COUNCILOR MIKE TOUSIGNANT:** We want to express our thanks to some employees who have donated their time in volunteering with The Salvation Army during this holiday season. Thanks to Fire Department staff members John Gilboy, Erin Stone, Bill Young, Normand Gendron, Keith Willett, Chris Lancey and Chief Glass. In addition thanks to Sharon Wodraska, Jill Eastman, Kathy Smith, Russ Kinney and Assistant Town Manager, Louise Reid. Turkeys were purchased by employees as well including George Green, Jill Eastman, Chief Dana Kelley, Deputy Chief Keith Babin, Kathy and Tim Smith, Superintendent Jack Turcotte, and Louise Reid.

**COUNCILOR LAURA BOLDUC;** The Administration received a note from Alice T. Langdon, President of the Board of Trustees of the Libby Library expressing appreciation to the Town Manager for the exceptional assistance given to the Library during the recent flooding problems at the Library. She praised the work of Mary Ann Conroy and her Public Works staff for their attempts to correct the flooding and for their being there early morning until the work was completed. The Fire Department was there as well with a pump to divert the water out of the

library and she expressed thanks to Chief Glass and his staff. She praised the Assistant Town Manager for her immediately addressing of the closing of the library by issuing a press release to the papers and to the large Town mailing list. Alice indicated that "it is comforting to know that we have the support of the Town to help us through this crisis."

**ACCEPTANCE OF MINUTES:** Town Council Minutes of October 21, 2008;  
Town Council Inauguration Meeting Minutes of  
November 17, 2008; Town Council Meeting of  
November 18, 2008; and Town Council Workshop of  
November 18, 2008.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to approve the  
Town Council Minutes of October 21, 2008.

**VOTE:** Yea: Councilors O'Neill and Dayton and Chair MacDonald.  
Abstain: Councilors Tousignant and Bolduc.

**MOTION:** Councilor Dayton motioned and Councilor Tousignant seconded to approve the  
town Council Inauguration Meeting Minutes of November 17, 2008; The Town Council  
Meeting of November 18, 2008; and the Town Council Workshop of November 18, 2008.

**VOTE:** Unanimous.

#### **UNFINISHED TABLED ITEMS:**

**11/17/08** Canvass and Certification Meeting:

**Item Number 6 - Reaffirm Rules and Procedures of the Town Council**

#### **DIVISION 2. RULES OF PROCEDURE\***

**\*Charter references: Rules of procedure, § 406.**

##### **Sec. 2-51. Regular meetings.**

The regular meetings of the town council shall be held at a location, time and on a day as determined by the council at its inaugural meeting. When any such day falls on a holiday or on election day, the regular meeting shall be held on the following day at the same time and place. The date, time and place of any regular meeting may be changed by an order or resolve passed the previous meeting upon the vote of a majority of the members of the council; provided, however, that such change is published in a newspaper having general circulation in the town at least 24 hours before the meeting.

(Ord. of 1-6-1977, § 1; Ord. of 1-15-1985)

Charter references: Meetings, § 404.

##### **Sec. 2-52. Special meetings.**

The ~~chairman~~ chairperson of the town council shall call special meetings of the council whenever, in his or her opinion, the public business may require it or, in the absence, disability or refusal, by a majority of the council. Whenever a special meeting shall be called, a 24-hour actual personal notice in writing, signed by the ~~chairman~~ chairperson of the council or by a majority of the council, as the case may be, shall be served upon each member of the council, either in person or by notice left at the place of

residence, stating the date and the purposes for which such meeting is called. No business shall be transacted at the special meeting except as is stated in the notice. In an emergency that requires immediate action, the 24-hour notice is waived, provided the same requirements for postponement of meetings in section 2-53 are met. An emergency agenda item may be added and acted upon at a special meeting pursuant to Charter section 1004.

(Ord. of 1-6-1977, § 2; Ord. of 12-5-1989; Ord. of 1-2-1996)

**Sec. 2-53. Postponement of meetings.**

The ~~chairman~~ chairperson may postpone any scheduled meeting of the town council and in an emergency may change the hour, day or date of a scheduled meeting, provided all available members of the council are polled by telephone or otherwise and a majority is in agreement. At a subsequent meeting, an entry shall be made in the minutes indicating reasons for the postponement, those members contacted and the preference of each member, and if an effort was made to contact local news media.

(Ord. of 1-6-1977, § 3; Ord. of 1-15-1985; Ord. of 1-2-1996)

**Sec. 2-54. Filing of items for meetings.**

No ordinance, order, or resolve shall be in order for action at any meeting of the town council unless such ordinance, order or resolve shall be filed in the office of the town manager on or before 12:00 noon on the fourth working day prior to a regular meeting and before 12:00 noon of the secular day next prior to the day of any special meeting. Agenda items must state clearly the scope and intent of the action to be taken. All requests for the consideration of a subject other than from council members shall be in writing, stating the purpose for the discussion, the parties to be present, and as much information as possible to permit council review in advance of the meeting. All such requests must be approved by the ~~chairman~~ chairperson of the town council for inclusion on the agenda of a council meeting.

(Ord. of 1-6-1977, § 4; Ord. of 1-15-1985; Ord. of 12-5-1989)

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

(a) A majority of the members of the town council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

(b) Any session of the council may be continued or adjourned from day to day or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting. At least 24 hours' notice of the date, time and place of holding such adjourned meeting shall be provided to all members who were not present at the meeting at which the adjournment occurred.

(Ord. of 1-6-1977, § 5)

Charter references: Quorum, § 406.

**Sec. 2-56. Order of business.**

All regular and special meetings of the town council shall proceed in the following order:

- (1) Pledge to flag.
- (2) Roll call.
- (3) Acknowledgements.
- (4) Approval of minutes of previous meeting.
- (5) Hearings.
- (6) Reserved.
- (7) Unfinished business.
- (8) Consent agenda.
- (9) New business.
- (10) Good and welfare.
- (11) Executive sessions.
- (12) Adjournment.

(Ord. of 1-6-1977, § 6; Ord. of 12-5-1989; Ord. of 1-5-1999; Ord. of 8-3-1999; Ord. of 1-15-2002; Ord. of 11-20-2006)

**Sec. 2-57. Priority of business.**

All questions relating to the priority of business to be acted upon by the town council shall be decided without debate.

(Ord. of 1-6-1977, § 7)

**Sec. 2-58. ~~Chairman~~ Chairperson and vice-~~chairman~~ chairperson; minutes of meetings.**

(a) The town council shall elect from among its members a ~~chairman~~ chairperson and a vice-~~chairman~~ chairperson, pursuant to Charter section 402, each of whom shall serve at the pleasure of the council.

(b) The ~~chairman~~ chairperson shall preside at meetings of the council, shall be entitled to vote on all questions, and shall be recognized as head of the town government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties. The vice-~~chairman~~ chairperson shall act as ~~chairman~~ chairperson during the absence or disability of the ~~chairman~~ chairperson.

(c) The ~~chairman~~ chairperson shall take the chair at the time appointed for the council meeting, call the members to order, cause the roll to be called, and, a quorum being present, proceed to business.

(d) At each meeting, the minutes of the preceding meeting shall be read unless the reading is dispensed with by consent of majority of the members of the council present. If no objection is made to the minutes, a majority vote of the council shall declare them approved. Otherwise any amendments to the minutes as well as the amended minutes as a whole must be approved by a majority of the members present at the meeting to which the minutes pertain. The minutes of all meetings (regular, special, budget hearings, workshops) shall require approval of the council.

(Ord. of 1-6-1977, § 8; Ord. of 12-5-1989)

**Sec. 2-59. Duty of ~~chairman~~ chairperson to preserve order, decide all questions of order.**

The ~~chairman~~ chairperson of the town council shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the council by motion regularly seconded. No other business shall be in order until the question on appeal is decided.

(Ord. of 1-6-1977, § 9)

**Sec. 2-60. Right of appeal from rulings of ~~chairman~~ chairperson.**

Any member of the town council may appeal to the council from a ruling of the ~~chairman~~ chairperson. If the appeal is seconded, the member making the appeal may briefly state his reason for it, and the ~~chairman~~ chairperson may briefly explain his or her ruling. There shall be no debate on the appeal, and no other shall participate in the discussion. The ~~chairman~~ chairperson shall then submit the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote "yea," the ruling of the chair is sustained; otherwise, it is overruled.

(Ord. of 1-6-1977, § 10)

**Sec. 2-61. Declaration of votes; return of votes.**

The ~~chairman~~ chairperson of the town council shall declare all votes. However, if any member doubts a vote, he or she shall cause a return of the members voting in the affirmative and in the negative without debate.

(Ord. of 1-6-1977, § 11)

**Sec. 2-62. Emergency authority.**

Often, timely action is required on relatively routine matters which do not warrant convening the entire town council. Authority to take certain limited actions on behalf of the town may be delegated to the ~~chairman~~ chairperson, by order of the town council adopted at a meeting duly called and held.  
(Ord. of 1-6-1977, § 12)

**Sec. 2-63. Secretary.**

(a) The town council shall appoint a secretary to the council, who shall give notice of council meetings to its members and the public, keep accurate minutes of council meetings, and perform such other duties as are assigned to the secretary by the Charter or the council. The secretary shall furnish each council member with a copy of the minutes of the preceding meeting no less than two business days prior to a regular meeting.

(b) The town manager shall not serve as secretary to the town council.  
(Ord. of 1-6-1977, § 13; Ord. of 1-15-1985; Ord. of 12-5-1989)

**Sec. 2-64. Temporary ~~chairman~~ chairperson.**

In the absence of the ~~chairman~~ chairperson and vice-~~chairman~~ chairperson of the town council, the secretary shall call the council to order and call the roll of the members. If a quorum is found to be present, the council shall proceed to elect, by a majority vote of those present, a ~~chairman~~ chairperson pro tem of the meeting to act until the ~~chairman~~ chairperson or vice-~~chairman~~ chairperson appears.  
(Ord. of 1-6-1977, § 14; Ord. of 1-15-1985)

**Sec. 2-65. Seating arrangement.**

Members of the town council shall occupy the respective seats at the council table assigned to them by the ~~chairman~~ chairperson, but any two or more members may exchange seats by joining in a written notice to the ~~chairman~~ chairperson to that effect.  
(Ord. of 1-6-1977, § 15)

**Sec. 2-66. Rule of debate.**

(a) When a question is under debate by the town council, the ~~chairman~~ chairperson shall receive no motion except as follows:

- (1) To adjourn;
- (2) For the previous question;
- (3) To lay on the table;
- (4) To postpone to a day certain;
- (5) To refer to a committee or some administrative official;
- (6) To amend; or
- (7) To table indefinitely.

(b) The several motions in subsection (a) of this section shall have precedence in the order in which they are cited.  
(Ord. of 1-6-1977, § 16)

**Sec. 2-67. Motions.**

When a motion is made and seconded at a meeting of the town council, it shall be read by the secretary before debate. A motion may not be withdrawn by the mover without the consent of the member seconding it.  
(Ord. of 1-6-1977, § 17)

**Sec. 2-68. Motion to adjourn; lay on table.**

The ~~chairman~~ chairperson of the town council shall consider a motion to adjourn as always in order except on immediate repetition, and that motion and the motion to lay on the table or to take them from the table shall be decided without debate.

(Ord. of 1-6-1977, § 18)

**Sec. 2-69. Motion for previous question.**

Upon the motion for the previous question being made and seconded, the ~~chairman~~ chairperson of the town council shall submit the question in the following form: "Shall the main question be put?" And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of the motion for the previous question by a majority vote, the ~~sence~~ sense of the council shall be forthwith taken upon all pending amendments, and then upon the main question.

(Ord. of 1-6-1977, § 19)

**Sec. 2-70. Debate or amendment of motion for previous question.**

No debate by the town council shall be allowed on a motion for the previous question; neither is it susceptible to amendment. All questions of order arising incidentally thereon must be decided without discussion, whether appeal is had from the chair or not.

(Ord. of 1-6-1977, § 20)

**Sec. 2-71. Motion for referral.**

At a meeting of the town council, a motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

(Ord. of 1-6-1977, § 21)

**Sec. 2-72. Motion to table.**

At a meeting of the town council, all motions to table, except a motion to table indefinitely, may be amended as to time. If a motion to table indefinitely is carried, the principal question shall be declared lost.

(Ord. of 1-6-1977, § 22)

**Sec. 2-73. Reconsideration of vote.**

When a vote is passed by the town council, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same meeting or the next stated meeting, but not afterwards; when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next meeting unless an item to that effect is contained on the agenda for such next meeting. A petition once presented to and finally acted upon by the town council shall not again be presented to the council in the same or substantially the same form for a period of one year next succeeding the council's final action on the original petition. A member of the town council, voting with the majority on the original petition, shall be privileged to reintroduce such a petition as an item on the agenda for a subsequent council meeting.

(Ord. of 1-6-1977, § 23)

**Sec. 2-74. Manner of speaking.**

When a council member desires to speak, he or she shall respectfully address the ~~chairman~~ chairperson and confine him or herself to the question under debate.

(Ord. of 1-6-1977, § 24)

**Sec. 2-75. Interruption of members.**

**No council member speaking shall be interrupted by another but by a call to order.**

**(Ord. of 1-6-1977, § 25)**

**Sec. 2-76. Question of order.**

**If a council member is called to order while he or she is speaking, he or she shall cease speaking immediately until the question of order is determined. If ruled to be in order, he or she shall be permitted to proceed. If ruled to be not in order, he or she shall remain silent or shall alter his or her remarks so as to comply with the action by the council.**

**(Ord. of 1-6-1977, § 26)**

**Sec. 2-77. Procedure for addressing council.**

**Any person wishing to address the town council will be given an opportunity to do so in accordance with the following procedures:**

**(1) Persons wishing to address the council on an item which appears on the agenda shall wait until the ~~chairman~~ chairperson announces the consideration of such item, at which time they may address the council on that particular item. All remarks and questions shall be addressed to the council as a whole and not to any individual member thereof. No person other than members of the council and the person having the floor shall enter into a discussion either directly or through a member of the council without the permission of the ~~chairman~~ chairperson. However, once the council has begun its deliberations on an item, no person shall be permitted to address the council on such item, and any person desiring to further address the council on such item must wait to do so until all items on the agenda have been completed.**

**(2) Persons wishing to address the council on an item not appearing on the agenda shall do so only under the item appearing on the agenda entitled "good and welfare."**

**(3) Any person wishing to address the council shall signify his desire by raising his or her hand. When recognized by the ~~chairman~~ chairperson, such person shall thereupon request permission to address the council, giving his or her name and address and designating the subject matter on which he or she desires to address the council.**

**(4) Persons present at council meetings are requested not to applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.**

**(5) A person addressing the council on an item prior to the start of deliberation on such item by the council shall be permitted to speak only once on an item and shall limit his or her remarks on each item to five minutes, unless permission to speak for a longer period is requested and granted by a majority vote of the council.**

**(6) Persons attending council meetings shall observe the same rules of propriety, decorum, and good conduct applicable to members of the council. Any person making personal, impertinent, and slanderous remarks or who becomes boisterous while attending the council meeting shall be removed from the room if a police officer is so directed by the ~~chairman~~ chairperson.**

**(Ord. of 1-6-1977, § 27)**

**Sec. 2-78. Determination in absence of rule.**

**In the absence of a rule to govern a point or procedure at a meeting of the town council, it shall be determined by a majority of the members of the council present.**

**(Ord. of 1-6-1977, § 28)**

**Sec. 2-79. Suspension, amendment or repeal.**

**The rules of the town council shall not be dispensed with or suspended unless a majority of the members of the council present consent thereto. No rule or order shall be amended or repealed unless in conformance with the rules and regulations pertaining to such revisions.**

(Ord. of 1-6-1977, § 29)

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

The town council may recess into a closed or executive session, provided that such session may be called only by a majority vote of the members present and voting and that a motion to go into executive session shall indicate the nature of the business of the executive session and that no other matter may be considered in that particular executive session. Executive sessions shall be conducted on those conditions specified in 1 M.R.S.A. § 404, as may be amended from time to time, and no others. No ordinances, rules, resolutions, regulations, contracts, appointments or other official action shall be finally approved at such executive session.

(Ord. of 1-6-1977, § 30; Ord. of 1-15-1985)

**Sec. 2-81. Hearings.**

Hearings of the town council shall be conducted in accordance with the procedures adopted by the town council governing hearings.

(Ord. of 1-6-1977, § 31)

**Sec. 2-82. Voting.**

Voting of the town council shall be by roll call according to the seating arrangement at the council table as provided in section 2-65, and the yeas and nays shall be recorded in the official minutes of the meeting. The roll call vote may be alternated from the left to right and right to left, providing the ~~chairman~~ chairperson votes last.

(Ord. of 1-6-1977, § 32; Ord. of 1-15-1985)

**Sec. 2-83. Tie votes.**

If a tie in votes occurs on any proposal of the town council, the proposal shall be declared lost.

(Ord. of 1-6-1977, § 33)

**Sec. 2-84. Manner of voting.**

In all meetings of the town council, the vote on all matters passed upon shall be taken by "yeas" and "nays," and such individual "yea" and "nay" votes shall be entered upon the records of the meeting of the council, which records shall be open to the public.

(Ord. of 1-6-1977, § 34)

**Sec. 2-85. Form of enactments.**

The town council shall act only by ordinance, order, or resolve. All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title of the item cited on the agenda. An order or resolve involving an appropriation shall be confined to the subject of appropriations only.

(Ord. of 1-6-1977, § 35)

**Sec. 2-86. Division of question.**

Any member of the town council may require the division of a question when the sense will admit it.

(Ord. of 1-6-1977, § 36)

**Sec. 2-87. Ordinance style.**

In all votes of the town council on ordinances, the enacting form shall be: "Be it ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled that . . . ."

(Ord. of 1-6-1977, § 37)



**Sec. 2-88. Style of orders and resolves.**

- (a) In all votes of command of the town council, the enacting form shall be: "Be it ordered that . . . ."  
(b) In all votes of opinions, principles, facts, or purposes, the enacting form shall be: "Be it resolved that . . . ."

(Ord. of 1-6-1977, § 38)

**Sec. 2-89. First reading of ordinance, order or resolve.**

Every ordinance, order, or resolve of the town council shall have a first reading, unless the reading is dispensed with by the unanimous vote of those members of the council present, in which case the reading shall be by title only.

(Ord. of 1-6-1977, § 39)

**Sec. 2-90. Second reading of order or resolve.**

Any order or resolve of the town council may be passed after a first reading, which may be by title only if no member of the council present objects, unless on motion a majority of those members present vote in favor of a second reading at a subsequent meeting.

(Ord. of 1-6-1977, § 40)

**Sec. 2-91. Effective date of orders or resolves.**

All orders or resolves of the town council shall take effect immediately after passage.

(Ord. of 1-6-1977, § 41)

**Sec. 2-92. Effective date of ordinances.**

Ordinances of the town council shall take effect immediately and shall be in full force until amended or repealed, subject to their suspension upon petition pursuant to section 301 of the Charter.

(Ord. of 1-6-1977, § 42; Ord. of 12-5-1989)

**Sec. 2-93. Town manager's attendance at meetings.**

The town manager shall attend all regular and special meetings of the town council, except when his or her removal is being considered, having the right to take part in discussions but not to vote.

(Ord. of 1-6-1977, § 43)

Charter references: Town manager to attend meetings, § 502.5.

**Sec. 2-94. Town attorney's attendance at meetings.**

The town attorney shall, at the request of the ~~chairman~~ chairperson or the town manager, attend specific regular and special meetings of the town council. The ~~chairman~~ chairperson, other members of the council, or the town manager may at any time call upon the town attorney for an oral or written opinion to decide any question of law. He or she may be asked to state his or her opinion upon any rule or parliamentary procedure, which opinion shall not be binding on the council.

(Ord. of 1-6-1977, § 44; Ord. of 3-15-2005, § 3)

**Sec. 2-95. Reserved.**

Editor's note: An ordinance adopted November 19, 2007, repealed § 2-95, which pertained to contact with employees prohibited and derived from Ord. of 7-17-07.

**Sec. 2-96. Reserved.**

Editor's note: An ordinance adopted November 19, 2007, repealed § 2-96, which pertained to censure and derived from Ord. of 7-17-07.

**Secs. 2-97--2-125. Reserved.**

## 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.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded that the Rules and Procedures of the Council be adopted as shown with the changes reflecting gender.

**VOTE:** Unanimous.

### Item Number 7 - Sign Code of Ethics

#### CODE OF ETHICS Standard of Conduct for Town of Old Orchard Beach Officials and Employees

1. It is the obligation of every public official and employee to support the Constitution of the United States and the Constitution of the State of Maine.
2. Every citizen, where entitled to a hearing, shall receive a fair and impartial hearing on any matter coming before the Town Council, it's appointed agencies or any employee of the Town. No public official or employee shall make any promise or pledge to any person concerning any matter to be heard before a public official or employee except upon fair, impartial and final hearing thereof.
3. The conduct of public business shall be free of any hidden personal or financial interest of any public official or employee. No public official or employee shall advocate in any public meeting or private discussion any matter in which he has a personal or financial interest except upon full and timely disclosure of the interest.
4. It is the obligation of every public official to faithfully discharge the duties of his/her office. In the conduct of public business, no public official shall be excused from voting except on matters involving consideration of his/her own official conduct, or where his/her financial interests are involved. Every public official shall make full and timely disclosure of any personal or financial interest, or where other interests of the official impair the official's ability to act fairly and impartially which he has in any matter of public business to be transacted before him.
5. The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. It is the obligation of every public official and employee to refuse personal gifts, favors or special privileges in every instance where such public official or employee reasonably believes such gift, favor or special privilege would not have been extended but for the position of such public official or employee, or where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the public official or employee, or where the gift is or may reasonably be considered to be designed to influence the actions of the public official or employee. No public official or employee shall seek personal or financial advantage by means of his/her public office, appointment or employment.

6. The use of public trust for private gain is in conflict with good government. No public official or employee shall violate the provisions of Maine State Statutes. No public official or employee shall use confidential or advance information obtained by virtue of public office, appointment or employment for personal or financial advantage.
7. It is the obligation of every public official and employee to carry out the lawful orders and policies of the Town Council. No public official or employee shall knowingly take any action inconsistent with the lawful orders or policies established by the Town Council. No public official or employee shall knowingly take any action which would be detrimental to the best interests of the Town.

\_\_\_\_\_  
Sharri MacDonald, Chair

\_\_\_\_\_  
Robin Dayton, Vice-Chairman

\_\_\_\_\_  
Shawn O'Neill, Councilor

\_\_\_\_\_  
Laura Bolduc, Councilor

\_\_\_\_\_  
Michael Tousignant, Councilor

\_\_\_\_\_  
DATE

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to call for the signing of the Code of Ethics.

**VOTE:** Unanimous.

11/18/08 Town Council Meeting

# 5075 Discussion with Action: Affirm the appropriations \$706,058.00 in account 10013/30101, Designated Fund Balance as of June 30, 2008 as follows: Account 21003/50800 - CDBG Grant Town Share \$25,000; 21003/50810 Stormwater West Grand \$10,638.00; 21003/50833 Temple/Manor Improvements Expense \$56,900.00; 21003/50886 Little River/Jones Creek Flood Mitigation \$12,520.00; 21003/50862 Smithwheel Outlet Project \$47,180.00; 21003/50885 PWD Catch Basin/Vac All \$100,100.00; 21004/50871 WWTP Capital \$425,000.00; and 21005/50838 Memorial Park \$28,720.00.

**TOWN MANAGER:** Here is the explanation of each of the Accounts presented at the last Council Meeting 11/18 and "Removed without Prejudice" until more detail could be given to the Council. Finance Director Jill Eastman has provided the following information. If this sufficiently explains these items, we propose to re-introduce these requests at the December 2 Council Meeting, otherwise it will go to a Workshop for more discussion.

**Item #5075**

Discussion with Action: Affirm the appropriations totaling \$706,058.00 in account 10013/30101, Designated Fund Balance as of June 30, 2008 as follows:

**21003/50800 CDBG Grant Town Share \$25,000;**

- The CDBG Grant Town Share is for the match money for Staples St sidewalk.

**21003/50810 Stormwater West Grand \$10,638.00;**

- The Stormwater West Grand is the balance of the original \$25,000 appropriated to study the stormwater problem on West Grand Ave. This account ties into the new Bond Issue Project for West Grand.

**21003/50833 Temple/Manor Improvements Expense \$56,900.00;**

- The Temple/Manor Improvements is for the project that was completed this summer on Temple Ave. The project had begun at year end, but was not complete.

**21003/50886 Little River/Jones Creek Flood Mitigation \$12,520.00;**

- The Little River/Jones Creek Flood Mitigation was originally designated in FY08 for \$93,000. The \$12,520 is the balance in this account that will be spent on small mitigation projects in the upstream watershed.

**21003/50862 Smithwheel Outlet Project \$47,180.00;**

- The Smithwheel Outlet Project is funds set aside for intersection work on Smithwheel Rd and the Spur.

**21003/50885 PWD Catch Basin/Vac All \$100,100.00;**

- The PWD Catch Basin/Vac All was budgeted in FY 06 to purchase a Truck to clean the catch basins. It was decided to lease/purchase this vehicle, which we did in FY07. The lease/purchase payments are \$34,234.78 per year. We have carried forward the amount in this account each year to pay these payments. When this money is gone, this will be budgeted under Debt Service.

**21004/50871 WWTP Capital \$425,000.00;**

- The WWTP Capital is money that has been carried forward for about 4 years. During the budget process last year, approval was given to proceed with 2 projects, the SCADA System and the Comprehensive Facilities Study. Any balance left in this account would be used for future projects as they arise.

**21005/50838 Memorial Park \$28,720.00.**

- The Memorial Park money is money that was set aside for the Conservation Commission to use to get the park back in shape during the spring and summer of '08. This work was done throughout the summer.

**EXPLANATION of Item #5075:**

*These are previously Designated Funds from FY08 (past Budget Year) for Capital Improvement / Equipment projects that are in process and anticipated to be done in FY09 (current Budget Year). These are balances at the FY08 year end 6/30/08 that need to be re-designated now for accounting/audit purposes to move them into FY09 consistent with the Budgetary intent. These are not new projects nor do they represent additional money over the current Budget. Once these re-designations are approved by the Town Council, any \$ left in these accounts at year end will lapse into the General Fund unless they are re-designated again in FY10 next year.*

# 5076 Discussion with Action: Transfer \$349,900.00 from account 10013/30300, Undesignated Fund Balance to account 10013/30301, Designated Fund Balance as of June 30, 2008 for the following accounts and purposes: 21001/50802 Comprehensive Plan \$10,000.00; 21001/50856 Computer System-Assessing 21001/50856 \$5,900.00; 21003/50507 PW Road Maint/Improvement Non-Cap \$115,000.00; 21003/50508 Sewer Maint/Improve Non-Cap \$33,000.00;

21003/50826 PW Building Improvements \$35,000; 21004/50871 WWTP Capital \$160,000.00.

**MOTION:** Councilor Bolduc motioned that Items Number 5075 and 5076 be removed without prejudice to permit the Council to have discussions on financial issues and Chair MacDonald seconded.

**COUNCILOR O'NEILL:** He indicated no need to remove these two items because they have been explained completely on two separate occasions and shows misunderstanding of fiscal responsibility in passing these items.

**CHAIR MACDONALD:** She expressed appreciation that the Council has another opportunity to meet with the Finance Director to discuss these issues.

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

# 5076 Discussion with Action: Transfer \$349,900.00 from account 10013/30300, Undesignated Fund Balance to account 10013/30301, Designated Fund Balance as of June 30, 2008 for the following accounts and purposes: 21001/50802 Comprehensive Plan \$10,000.00; 21001/50856 Computer System-Assessing 21001/50856 \$5,900.00; 21003/50507 PW Road Maint/Improvement Non-Cap \$115,000.00; 21003/50508 Sewer Maint/Improve Non-Cap \$33,000.00; 21003/50826 PW Building Improvements \$35,000; 21004/50871 WWTP Capital \$160,000.00.

**Item #5076**

Discussion with Action: Transfer \$349,900.00 from account 10013/30300, Undesignated Fund Balance to account 10013/30301, Designated Fund Balance as of June 30, 2008 for the following accounts and purposes:

**21001/50802 Comprehensive Plan \$10,000.00;**

- The Comprehensive Plan money will be used along with the FY 09 budgeted money to begin the process of updating the Town's Comprehensive Plan.

**21001/50856 Computer System-Assessing \$5,900.00;**

- The \$5,900 for the Assessing Department will be used to finish the work that has been started to transfer all Personal Property Tax records from MUNIS to VISION (which is the same program that is used for Real Estate).

**21003/50507 PW Road Maint/Improvement Non-Cap \$115,000.00;**

- The PW Road Maint/Improvement money was for Temple Ave and other small projects around town that were done this past summer.

**21003/50508 Sewer Maint/Improve Non-Cap \$33,000.00;**

- The Sewer Maint/ Improvements were for the completion of the Foote St and Imperial St sewer projects.

**21003/50826 PW Building Improvements \$35,000;**

- The PW Building Improvements was for work done at the Sand/Salt Facility and DPW Building.

**21004/50871 WWTP Capital \$160,000.00.**

- The WWTP Capital is to be used for the same type of projects as listed above.

**EXPLANATION of Item #5076:**

*These are Undesignated Funds from FY08 (past Budget Year) in the Operating Budget which were Budgeted for special projects, some of which are not completed but anticipated to be done in FY09 (current Budget Year). These are balances at the FY08 year end 6/30/08 that need to be earmarked (i.e. designated) now for accounting/audit purposes to move them into FY09 consistent with the budgetary intent. These are not new projects nor do they represent additional money over the current Budget. Once these designations are approved by the Town Council, any \$ left in these accounts at year end will lapse into the General Fund unless they are re-designated again in FY10 next year.*

**Why are dollars needed for projects already done?**

Paid invoices toward completed projects were already coded to the correct account, but it results in a negative balance until the designation or re-designation of that account occurs, which will replenish the particular account from the General Fund Balance (i.e. the Surplus will look artificially higher if this procedure is not done). The authorization to designate or re-designate the appropriate funds is not a request for project approval nor for additional money, as these are already budgeted projects at a specific amount. It merely affects the accounting status of each fund bringing it into alignment with the budget intention. Any projects that might require Council approval will still come before the Council separately as needed for the appropriate approval for any necessary bid awards or expenditure of funds over the \$5,000 threshold (as our purchasing policy stands now).

**If a project has leftover money in its balance, what will that be used for?**

Dollars will be lapsed (i.e. expired for the designated use) and automatically revert to the General Fund Balance, with the source account closed.

*Note to the Minutes: Item 5076 was removed without prejudice along with Item Number 5075.*

**BUSINESS LICENSES:**     Joseph & Sheila Schabhetl (206-35-4), 126 Saco Avenue, Units A&B, two year round rentals; Beach Garden Motel LLC dba/Beach Garden Motel II (305-6-6), 46 East Grand Avenue; nine year round rentals; Ronald & Vanessa Darling (311-15-1), 30 Prospect Avenue, one year round rental; Ronald & Vanessa Darling (311-15-3), 24 Prospect Avenue, one year round rental; Robert Magazu (314-8-8), 82 Park Avenue, one year round Rental; Paula Hebert (315-21-3), 29 Highland Avenue, one year round rental; Lauretta D’Orazio (316-13-2-2), 3 Pearl Avenue, Unit 2, one year round rental; and Tobie Nathanson (318-8-6-41), 146 West Grand Avenue, Unit 41, one year round rental.

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

**VOTE:** Unanimous.

**TOWN MANAGER'S REPORT:** On November 4<sup>th</sup>, the voters approved the consolidation of the Dayton, Old Orchard Beach and Saco School systems. The municipalities will now be holding an election to elect the Board. The Town of Old Orchard Beach will have two positions on the board. Nomination papers will be available soon. Nomination papers for this particular election will only be available during a **ten** day window. The date for the election has not been set as of this time. Please contact the Town Clerk's Office for more information. I would like also to thank our Public Works Department, Fire and Police Department staff for the excellent job they did in cutting down and bringing into the Square the beautiful Christmas Tree which will adorn our downtown during the holiday season. A reminder again of the Celebration by the Sea sponsored by the Chamber of Commerce on the 7<sup>th</sup> of December which begins at 1:00 with the parade at 1:30 and the tree lighting at 4:00.

**NEW BUSINESS:**

**# 5082 Discussion with Action:** Authorize the Town Manager to close Town Hall only on Thursday, December 24, 2009 with Town Hall employees taking either ½ vacation day or ½ floating holiday.

**BACKGROUND:** This is an annual housekeeping item in reviewing the calendar for the coming year.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Authorize the Town Manager to close Town Hall only on Thursday, December 24, 2009 with Town Hall employees taking either ½ vacation day or ½ floating holiday.

**VOTE:** Unanimous.

**# 5083 Discussion with Action:** Cancel the Town Council Meeting of Tuesday, November 3, 2009, as it occurs on Election Day.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Cancel the Town Council Meeting of Tuesday, November 3, 2009, as it occurs on Election Day.

**VOTE:** Unanimous.

**# 5084 Discussion with Action:** Appoint Michelle Parkinson as a Regular Member of the Board of Assessment Review, term to expire 12/31/2011.

**MOTION:** Councilor Tousignant motioned and Councilor O'Neill seconded to Appoint Michelle Parkinson as a Regular Member of the Board of Assessment Review, term to expire 12/31/2011.

**VOTE:** Unanimous.

**# 5085 Discussion with Action: Appoint 2009 annual appointment as follows: General Assistance Director – Patricia Saunders; Tax Collector – Deborah Mulherin; Finance Director/Treasurer - Jill Eastman; Code Enforcement Officer – Michael Nugent; Deputy Code Enforcement Officer – Alan Borg; Plumbing Inspector - Michael Nugent; Electrical Inspector – Michael Nugent; Alternate Electrical Inspector – William Southwick; Animal Control Officer – William Watson; and Lifeguard Captain – Keith Willett.**

**MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to approve the 2009 Appointments as read.**

**VOTE: Unanimous.**

**# 5086 Discussion with Action: Appoint Beth Gilman as Registrar of Voters, term to expire 12/31/2010.**

**MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to appoint Beth Gilman as Registrar of Voters, term to expire 12/31/2010.**

**VOTE: Unanimous.**

**# 5087 Discussion with Action: Set a Public Hearing date of December 16, 2008 to amend the General Assistance Ordinance.**

**BACKGROUND: These are difficult days for our community. The needs of many citizens who have never felt the need to ask for assistance have come to the General Assistance office already and no doubt the need will continue as a result of our economic situation. There is a combined effort by many organizations within our community such as The Salvation Army, the Methodist Church, St. Margaret's, Veteran's organizations, efforts by school groups and individual citizens are making a difference. Our own Council Chair has suggested combined community efforts ensuring that all citizens in need will be assisted in these difficult times. The Administration itself has made a continual effort to make citizens aware of programs for heating and other assistance is available and the means to apply. The State sets standards for assistance but our General Assistance office also provides information and assistance in making sure that all citizens are assisted when in need.**

**EXHIBIT:**

**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 2, 2008 at 7:00 p.m. to consider the following:**



Shall the Town Council of the Town of Old Orchard Beach amend the General Assistance Ordinance by changing the dollar amounts allowed for Basic Necessities; Maximum levels of assistance, adopting the underscored amounts, as follows:

**Amend Section 6.8 Basic necessities; Overall maximum levels of assistance**

No. in Household	CURRENT WEEKLY	<u>PROPOSED WEEKLY</u>	CURRENT MONTHLY	<u>PROPOSED MONTHLY</u>
1	\$185.00	<u>\$189.75</u>	\$740.00	<u>\$759.00</u>
2	\$220.00	<u>\$225.75</u>	\$880.00	<u>\$903.00</u>
3	\$285.00	<u>\$292.50</u>	\$1140.00	<u>\$1170.00</u>
4	\$359.00	<u>\$368.25</u>	\$1436.00	<u>\$1473.00</u>
5	\$385.00	<u>\$394.75</u>	\$1539.00	<u>\$1579.00</u>

**Amend Section 6.8 a) Food**

No. of Household	CURRENT WEEKLY	<u>PROPOSED WEEKLY</u>	CURRENT MONTHLY	<u>PROPOSED MONTHLY</u>
1	\$37.67	<u>\$40.93</u>	\$162.00	<u>\$176.00</u>
2	\$69.30	<u>\$75.12</u>	\$298.00	<u>\$323.00</u>
3	\$99.07	<u>\$107.67</u>	\$426.00	<u>\$463.00</u>
4	\$126.05	<u>\$136.74</u>	\$542.00	<u>\$588.00</u>
5	\$149.53	<u>\$162.33</u>	\$643.00	<u>\$698.00</u>
6	\$179.53	<u>\$194.88</u>	\$772.00	<u>\$838.00</u>
7	\$198.37	<u>\$215.35</u>	\$853.00	<u>\$926.00</u>
8	\$226.74	<u>\$246.05</u>	\$975.00	<u>\$1,059.00</u>

Increase Additional persons from \$122.00 to \$132.00 per month.

**MOTION:** Councilor Bolduc motioned and Councilor Dayton seconded to Set a Public Hearing date of December 16, 2008 to amend the General Assistance Ordinance.

**VOTE:** Unanimous.

**# 5088 Discussion with Action:** Approve the Special Event Permit application for the Annual Lobster Dip to Benefit Special Olympics of Maine on January 1, 2009 at noon on the beach in front of the Brunswick Hotel; updated insurance to be provided prior to the event; request to have an enclosed fire pit; and request to waive the fee.

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

**VOTE:** Unanimous.

**# 5089 Discussion with Action: Accept the bid from Dancause Construction in the amount of \$17,525 from Account Number 20203-50826 – Public Works Building Improvements, with a balance of \$50,000 for the expansion of the Department of Public Works Building.**

**PUBLIC WORKS DIRECTOR:** As part of our FY08 Capital Budget, we had a total of \$70,000 for Facility Improvements. Work has been completed for the Transfer Station (electrical, building, and sitework), but not the DPW facility. The work completed to date for DPW was to install outdoor heat boxes to store some winter plow equipment outside, replaced the used oil furnace, and other small upgrades. The final project for DPW is to expand the existing office building with a 20 foot by 35 foot addition for storage, offices and training room. This quote is for the structural framing and roofing; our crews will do the work for the foundation and interior finish work. We will reuse windows/doors and expand our existing electrical system at minimal costs.

The additional office space will be utilized for the Foreman's office, GIS work station, map storage, and a training/meeting room. DPW has taken a leadership role in the GIS work. We house the contract employee/GIS Technician, as well as training two DPW employees to use the ARCVIEW software for public works mapping needs. The current map storage is obsolete; there are maps scattered throughout the town that are very important records to maintain. DPW is coordinating this effort with our GIS program to index, scan, and store maps, as needed, in an organized, systematic fashion at DPW.

For your information, the FY09 Capital Budget for Facilities Improvements, \$50,000, is for replacing the roof at DPW. We are currently researching any possibilities for warrantee coverage from the manufacturer. The company who installed the existing roof is no longer in business. The roofing project is expected to come back to Council for approval in spring 2009.

Public Works recommends accepting the low bid from Dancause Construction for a total of \$17,425.00.

**COUNCILOR BOLDUC:** She asked if there is a real additional need for staff.

**PUBLIC WORKS DIRECTOR:** Define and reiterated the reasoning included above which pertained to GIS and storage space and the much of the work being done by the staff themselves. She reiterated that this was a funded project and that nothing had been spent so far in 2008 budget year.

**CHAIR MACDONALD:** She asked if this could be held off temporarily due to the economic situation and minimizes the cost of money spent on projects during this difficult time.

**COUNCILOR O'NEILL:** Reminded the Council that this was a budgeted and approved item by the former Council and that he questioned jeopardizing projects that were seen by the previous elected Council as meeting the needs of the community.

**COUNCILOR TOUSIGNANT:** Reemphasized the need to discuss such concerns at the upcoming financial discussions by the Council.

**MOTION:** Councilor Bolduc motioned and Councilor Dayton seconded to Remove Without Prejudice Agenda Item Number 5090 for Dancause Construction in the amount of \$17,525 from Account Number 20203-50826 – Public Works Building Improvements, with a balance of \$50,000 for the expansion of the Department of Public Works Building.

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

**# 5090 Discussion with Action:** Accept the bid from R. C. Hazelton in the amount of \$200,000 for a 2008 Loader/Blade and Excavator from the FY09 Capital Equipment Account Number 20203-50835 with a balance of \$225,000.

**PUBLIC WORKS DIRECTOR:** Public Works would like to purchase the slightly used, Kamatsu Loader/Plow blade and Excavator, as detailed below, from the FY09 Capital Equipment Program. Utilizing the extensive knowledge of our new Assistant Public Works Director, Ray Lavoie, we put a hold on purchasing a new Caterpillar Loader/Wing/Blade for quote listed below. This expertise teamed with the changes in economic and market concerns, we have solicited for more aggressive pricing of comparable, slightly used or repossessed equipment from several other dealers. Two additional companies responded with the quotes below with RC Hazelton proving a live demonstration and inspection of their equipment.

We would like the Council to include the purchase of the slightly used, 2008 Kamatsu Excavator, which is a new piece of equipment for DPW. We have rented this equipment several times throughout the construction season for culvert and open ditch work. We have considerable open ditch work planned for Cascade Road, Ross Road and Homeward Park in the upcoming year(s); with the equipment in hand and training provided by the Assistant Director, we can do more of this capital work in house...getting more work done for less money! This equipment has greater flexibility with all mechanical movements over a backhoe, allowing for a neater, more efficient, completed project. (We recently used a rented excavator for the drainage work at Town Hall and the culverts on Portland Avenue).

During the budget process this past spring, DPW presented a budget of \$300,000 for equipment purchases per our 20yr Capital Equipment Plan. We had a total of \$225,000 approved through council to replace our 1994 Loader/Wing/Blade, deferring the request for a back up loader for the Transfer Station and a used dozer for the next fiscal year. Our original quote for a loader/wing/blade from Southworth-Milton was estimated at \$225,000 in December 2008 when we were first gathering quotes for the FY09 budget process.

Before the next budget process, the DPW team will be rethinking and updating the 20yr Capital Equipment Plan to meet our current goals balanced with the economic challenges. Our entire plan will be presented to the Council along with detailed equipment specs/quotes for new and estimated amounts for used equipment. We appreciate the strong Council support with keeping our fleet of equipment/vehicles current and in good working condition. With this support, DPW can continue to maintain and upgrade the infrastructure throughout the town with continued attention to the quality and quantity of projects completed each year.

	Loader/Blade	Excavator	Total Bid Price
1. Southworth-Milton	\$148,488.00	no pricing	Loader only
2. Chadwick-Baross	\$106,238.00/\$26,488	\$76,500.00	\$209,238.00



Cab with AC, Heat, and AM/FM radio  
17" Roadliner Street Pads  
7'5" Arm ( Long Dipper Stick )  
7'8" Front Dozer Blade  
24" Trench Digging Bucket  
48" Full Tilting Grading Bucket  
Manual Quick Coupler  
Full Hydraulic Thumb  
Zero Clearance Swivel Cab Feature  
3 Year / 3000 Hour Komatsu warranty ( 2+ year balance )  
Separate item price: \$ 83,000.00

**SPECIAL:**

**COMBINED PACKAGE PRICE IF BOTH PIECES ARE PURCHASED TOGETHER:**

**TOTAL \$ 200,000.00**

**AND: ALL WARRANTEE WORK WILL BE PICKED UP AT THE SHOP AND RETURNED TO THE SHOP AT NO COST FOR TRUCKING FOR EITHER PIECES OF EQUIPMENT**

**NOTE:** Komatsu had more standard features than the other bid machines.  
Komatsu is rated second highest in Reliability and Resale Values.  
Komatsu is EPA rated Tier 3 (excellent), Low exterior noise, Low Fuel Use  
Komatsu comes standard with Equipment Management Monitoring System (EMMS) with great accessibility for service.

**PERSONAL NOTE FROM: Ray Lavoie, Assistant Public Works Director  
22 yrs experience owning his own construction company**

I have had the opportunity to have owned many types of construction equipment in the twenty plus years that I have been in the construction industry. I have had many test rides from the countless equipment dealers that have tried to sell me their products. I also have rented many more units from rental shops. Some have been good and some others have left a lot to be desired.

Speaking from personal experience, I have found that the Komatsu brand construction equipment line and R.C. Hazelton has been a pleasant experience. Their product has always performed better than expected with excellent fuel miser performance, very low exterior noise, and EPA GREEN Ratings of tier 3 (excellent). I have found unusual ease of maintenance with the use of over the counter regular service items such as filters, fluids, and user replacement parts. You do not have to wait long periods of time for parts or products to be "shipped in".

I have found that their design with emphasis on ease of servicing has made it a dream for daily servicing. I have spent a multitude of hours comparing comparable equipment in comparable weight categories. Feature for feature I believe that Komatsu has out performed the competition. They also were the only company to deliver the proposed purchased items to our facility for a complete on site, hands on, demonstration and inspection!

I would propose that with essential services that the Department of Public Services provides to the constituents of Old Orchard Beach on a daily basis and with the upcoming Capital Improvement Projects scheduled for the next five years, that Council would embrace the purchase of this great package deal from R.C. Hazelton.

**RECOMMENDATION:**

Public Works recommends purchasing the 2008 Loader/Blade and Excavator from RC Hazelton from FY09 Capital Equipment Account # 20203-50835 for a total of \$200,000.00 leaving a balance of \$25,000.00.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Remove Without Prejudice the bid from R. C. Hazelton in the amount of \$200,000 for a 2008 Loader/Blade and Excavator from the FY09 Capital Equipment Account Number 20203-50835 with a balance of \$225,000.

**COUNCILOR O'NEILL:** Again he reminded the Council that this was in place and that to stifle passed approved items appears to be moving us backwards and not forward and that the Council should exercise better judgment in these matters.

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

# 5091      **Discussion with Action: Acceptance of Private Ways and Conveyance Thereof to the Town by Quit Claim Deed without Covenants, as Public Ways– Aspen Street and Fiero Drive, located in the Homewood Park Subdivision, in the R-5 District.**

**BACKGROUND:** In May 2008, Residents who live on Aspen Street and Fiero Drive approached Public Works asking about the process for getting a private way accepted as a town roadway. Reviewing the road construction, design are the first steps. The Director of Public Works inspected the road conditions and did not find any signs of a failed road base. As for design, the road width was widened from the existing 17' to the minimum 20' width; the residents on both roadways have completed and paid for the widening work to be completed. The residents also paid for the one inch overlay that was recently completed as part of the neighborhood paving project. We are now submitting the documentation to the Town Council for your consideration. Attached is a copy of the signed quick claim deed from the residents involved and an overview map. The residents are aware that the acceptance of their roadway is the Town Council's final decision. For your information, the estimated value of the six homes on these two short sections is over 1.5 M combined; also, this area does not have public sewer or closed drainage systems to be maintained by the town. In the past, DPW has plowed Aspen Street (due to the lack of turnaround capabilities), but not Fiero Drive. These are both two very short streets at the end of Homeward Boulevard, which is a town maintained roadway. All other roadways in Homeward Park Subdivision are accepted city streets. DPW plow trucks need to back into these roads to get out of this dead end street. It would not pose a significant hardship on our crews to maintain these two short sections. Public Works recommends accepting both Aspen Street and Fiero Drive as new public roadways.

**COUNCILOR DAYTON:** She asked for proof in twenty-four hours that a certification from the Road Commissioner be presented to the Council as this is a matter of law.

**PUBLIC WORKS DIRECTOR:** Affirmed that she would produce the certificate as requested.

**MOTION:** Councilor O'Neill motioned and Councilor Tousignant seconded to Accept the Private Ways and Conveyance Thereof to the Town by Quit Claim Deed Without Covenants, as Public Ways– Aspen Street and Fiero Drive, located in the Homewood Park Subdivision, in the R-5 District.

**VOTE:** Unanimous.

**# 5092 Discussion with Action:** Approve \$12,000 from Account Number 20201-50804 – Ballpark Improvements - to repair roofs on buildings at the Ballpark.

**TOWN MANAGER:** The Ballpark working group is attempting to make the abandoned Ballpark property into a field of dreams. Since May they have been putting in more than 600 hours of volunteer service in updating the ballpark. The volunteers have including children, adults, contractors and professionals. The group has also received over \$60,000 in donated services. A local roofer, Dana M. Furtado, of Old Orchard Beach has offered to re-roof the buildings on the property. The Ballpark working Group is requesting approval for \$12,000 from Account Number 20201-50804 – Ballpark Improvements – to repair roofs on buildings at the Ballpark. The offer of donated labor worth \$30,000 to install \$12,000 of roofing material (yet to be purchased) on the three buildings in front of the Ballpark has the potential future use as storage, offices and/or concessions. In order to take advantage of the roofing installation donation, the material would have to be purchased quickly in order to allow this contractor to install it before inclement weather prevails and before the contractor's busy Spring season. The Ballpark Working Group is asking that the Manager or Council authorize the approximate \$12,000 of roofing material required out of the remaining \$24,000 security improvement authorization remaining (the original security improvement authorization was \$25,000). Congratulations to all those who have supported by hours of labor and commitment to this project.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Remove Without Prejudice to Approve \$12,000 from Account Number 20201-50804 – Ballpark Improvements, with a balance of \$24,275, to repair roofs on buildings at the Ballpark.

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

**ADJOURNMENT:**

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to adjourn.

**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 twenty-four (24) pages is a true copy of the original Minutes of the Town Council Meeting of December 2, 2008.**

**V. Louise Reid**