

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, DECEMBER 21, 2010
TOWN HALL CHAMBERS**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, December 21, 2010. Chair Quinn opened the meeting at 7:01 p.m.

The following were in attendance:

**Chair Robert Quinn
Vice Chair Michael Tousignant
Councilor Sharri MacDonald
Councilor Robin Dayton
Town Manager Jack Turcotte
Assistant Town Manager Louise Reid**

Absent: Councilor Shawn O'Neill

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENTS:

COUNCILOR TOUSIGNANT: We would like to acknowledge Loranger's fourth grade class including Ms. Allen, Ms. Gamache, Ms. Paige and Mr. Poirier and their wonderful students for decorating the four beautiful trees in our Town Council chamber in the theme of North, South, East and West. We appreciate their efforts and wish each of them as we do all our citizens a very joyous holiday season. Our thanks also to Tori Geaumont of our Planning and Code Department for the other beautiful decorations in our Council chamber.

COUNCILOR DAYTON: I would like to thank the Fire Department and Police Department for all the extra work they have done to see that families are assisted during this difficult economic time. I know that there are many in our community who has stepped forward in these hard times to see that families have been taken care of and no one goes without.

COUNCILOR MACDONALD: Our sincere appreciation to Michelle Guigere who opened up the Dolce Cream Café for a free give-away to families and children this past Saturday. This was a personal commitment and at a personal expense and it was enjoyed by so many who took the opportunity to be part of the event.

CHAIR QUINN: We had an excellent workshop with the members of the Finance Committee. There is a need for Finance Committee members and if you have an interest we would ask that you contact the Town Clerk or go on line to submit an application.

ACCEPTANCE OF MINUTES: Town Council Minutes of December 7, 2010;
and Town Council Workshop of December 14, 2010.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to accept the Town Council Minutes of December 7, 2010; and Town Council Workshop Minutes of December 14, 2010.

VOTE: Unanimous.

PRESENTATION:

The Assessor, George Greene, gave a report on assessments. He indicated that residential real estate assessments uses the cost approach as a basis for valuation and sales ratio studies to equalize the assessments. Each year the assessing department conducts these sales ratio studies to maintain a ratio (assessment divided by sales price) that is within acceptable state guidelines. Over the past two years, the real estate market has been severely tested. As a result, the news has been that real estate values have been dropping 20% to 120% of their market high from just a short time ago. In some areas of the country, this has been true. In other areas, this tempering or correcting effect of the market has not been quite so severe. There will always be particular properties where market speculation caused the values of properties to skyrocket and suddenly come back to reality. For the most part, that has not happened in Old Orchard Beach based on the qualified sales over the last two years. Each year, Maine Revenue Services conducts a sales analysis to determine what the valuation of Old Orchard Beach is. The chart below provides some introspection into what has or has not happened to overall property assessments.

State Valuations for OOB

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Sales Dates	7/06-6/07	7/07-6/08	7/08-6/09
State Ratio	93%	94%	97%
Town Ratio	91%	95%	97%
Quality Rating	9	8	8
State Valuation	\$1,575,350,000	\$1,533,750,000	\$1,531,150,000
\$ Diff	\$10,100,000	(\$41,600,000)	(\$2,600,000)
% Diff	+ .65%	- 2.64%	-.17%

Recently, a statement was made at a Council meeting that OOB real estate values had dropped 20% and that the Town's valuation was going down and the Town would have to increase taxes to make up for this valuation drop. I've attached a few documents to show that my sales studies do not support such a % drop. Also, just because the value of a town drops does not directly relate to an increase in everyone's taxes. An increase in taxes, all things remaining equitable and constant, reflects budgetary increases. We've only had 7 months of sales since April 1st of this year to look at to see what trends, if any, are occurring. We will continue to look at the sales through March of 2011, as well as trend any known sales in April, May, and possibly June up to the commitment date which is usually at the end of July. Understand the fact, that assessments were not at 100% of FMV during the boom cycle which is indicated by the chart showing the range of 93 to 97% sales ratios and that all properties to not appreciate or depreciate at the same rate. To date, with very limited qualified sales, the

assessment ratio is around 100% to 101%. If the market value of OOB properties continues to modestly decline based on those qualified sales' studies, then appropriate modifications can be made. There is a formula for what is known as the Coefficient of Dispersion (COD) which measures how closely the individual sales ratios are arranged around the median ratio. The smaller the measure of dispersion is the greater the uniformity of the ratio. As market activity decreases or as the complexity of properties increases, the coefficient of dispersion often rises, even though appraisal procedures may be valid. According to the International Association of Assessing Officers, 'a coefficient of dispersion of 10% or less indicates a good distribution of assessments for residential properties'. I've indicated the State's COD as a quality rating above in the chart. I would welcome any information or documentation to support an overall 20% drop in the OOB real estate market. Values of properties, as used for assessing purposes should be 'fairly constant and not subject to the excessive ups and downs of booms or depressions' (Sweet v. City of Auburn, Me., 1935).

Questions were asked by the Council including

Vice Chair Tousignant and Councilor Dayton asked about the drop in the Town's State valuation of approximately \$44 million dollars. The Assessor indicated that with all things being equitable, the Town of Old Orchard Beach did not specifically or physically lose \$44 million dollars of value, but rather the values in general across the spectrum of the Town of Old Orchard Beach over a two year period went down on average about 2.8% not 20%. If there wasn't any new, net, positive taxable growth and the budget remained the same as the year before, then the mill rate would rise approximately 2.8% which is about 38 cents. A taxpayer would still be paying about the same in taxes, all things being equal. For example, if a subject property was previously assessed for \$100,000 dollars and the mill rate was \$13.40; then the taxes would have been \$1,340 dollars a year. If in general property values decreased 2.8% then, the subject property's assessment would be about \$97,200 dollars. The mill rate would increase the 38 cents to \$13.78 and the taxes would be \$1,339.42 dollars which is almost the same as the previous year. The Assessor explained that the key to understanding the differences in valuation is the fact that nothing has been lost where there is a direct reduction in taxable property. He stated that just values change resulting in a swing up or down in the mill rate. He mentioned that the mill rate was \$20.10 when the Town of Old Orchard Beach's valuation was \$850 million dollars. When we did the in-house adjustments in 2005 the total valuation jumped to about \$1.3 billion dollars and the mill rate went down to about \$13.50. Correspondingly, if the Town's total value goes down then the mill rate will go up if the budget remains relatively flat.

TOWN MANAGER'S REPORT:

The Old Orchard Beach Recreation Department is \$5,000 closer to their plans for the Skateboard Park thanks to a grant awarded by the Tony Hawk Foundation. According to an e-mail from the foundation, the Tony Hawk Foundation Board of Directors met this week to review applications for its Fall 2010 Skatepark Grants. We were one of the fifteen skatepark projects that were selected for grant awards totaling \$135,000. Although we were not in the higher bracket for the award, we are grateful for the \$5,000 award that was given to our community. Congratulations to the Skateboard Park Committee and Jason Webber for the work that was done to secure this grant. The recreation director reported that the skate park has an estimated project cost of \$70,000 to \$100,000. The Town Of Old Orchard Beach Council has allocated \$30,000 for the park. I have been working with local and State agencies

in an attempt to gather data on any mold or building concerns at the Fire Department. We are in the process of actively dismantling some walls in preparation for testing. I have also been working with an Air Quality Testing Company in preparation of taking air test samples. Although this area of concern is more focused in Chief Glass's office and other office on the north side of the building, we have discussed that water has also infiltrated the building on the Police side of the station. I have been working with the Public Works, Bill Robertson and Holly Paulson on review and rewriting job descriptions at the Public Works Department. Attended the decorating of the Christmas trees here in the Town Hall by the Loranger fourth grade classes. I continue to work on a number of personnel changes requiring more than average Town Manager attention; partially related to long-term absences. Attended the graduation of Officer Joshua Robbins from the Police Academy. It should be noted that Officer Robbins was the Valedictorian of his class. I had a great time at the Town Hall Christmas Yankee Swamp and would like to thank the person who took my gift and left me with a butterscotch candle and a bottle of body wash – which I will surely use at my hunting camp. I continue to work with Wright Pierce, the DEP, and Public Works on the Tide Gate protocol. We have submitted to the DEP a draft procedure and we continue to collect data on various sites through Town in support of our recommended protocol. I continue to work with the Ball Park Commission and attend Ballpark Committee meetings. Currently we are preparing for the Spring College National Tournament. Attended regular weekly Police Station construction meetings. Attended the Charter Commission Meeting last week and assisted them with a question and contributed my opinion. Also attended the Workshop with the Finance Committee. We have scheduled a workshop on Dispatch consolidation for Wednesday, January 12, 2010, here in the Town Hall Chamber.

Councilor Dayton questioned the Town Manager on how we are paying for the work that is being done at the Fire station to which the Town Manager explained that much of it at this point is being done by firemen's assistance. Councilor Dayton reminded the Town Manager that anything over the \$2,500 amount would have to come to the Council. The Town Manager explained that often these types of testing come in increments and not one total for it isn't necessary to do all kinds of testing when only one or two procedures would be required.

NEW BUSINESS:

5617 Amend the General Assistance Ordinance, Section 6.8 – Overall Maximum Levels of Assistance.

Amend Section 6.8 - Basic necessities; overall maximum levels of assistance

<u>No. in Household</u>	<u>CURRENT</u>	<u>PROPOSED</u>	<u>DELETE WEEKLY</u>
<u>MAXIMUMS</u>	<u>MONTHLY</u>	<u>MONTHLY</u>	
1	\$793.00	<u>\$802.00</u>	
2	\$942.00	<u>\$952.00</u>	
3	\$1220.00	<u>\$1233.00</u>	
4	\$1537.00	<u>\$1553.00</u>	
5	\$1647.00	<u>\$1664.00</u>	
<u>6</u>		<u>\$1739.00</u>	

For each additional person add \$75 per month.

Per Order of the Municipal Officers this 16th day of November, 2010.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Amend the General Assistance Ordinance, Section 6.8 – Overall Maximum Levels of Assistance.

VOTE: Unanimous.

MRS. MARCI BOYLE: She addressed the Council and indicated she was happy to see the increase in the maximum levels of assistance that would be provided. She gave a history of her inability to receive assistance and spoke about the difficulties she and her daughter have experienced over the past year. She spoke of her need for rent assistance; her desire to obtain further education; and the need for employment.

5618 Discussion with Action: Approve the Special Event Permit application of the OOB Recreation Dept. to hold the Jimmy the Greek's Frozen 4-Miler on Sunday, January 16th, 2011, with a snow date of Sunday, January 23rd, 2011, from 12:15 p.m. to 2:30 p.m.; and a request to waive the fee.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve the Special Event Permit application as read.

VOTE: Unanimous.

5619 Discussion with Action: Approve the Special Event Permit application from Susan Morrison to hold a wedding on the beach at the end of Colby Avenue on August 13th, 2011 from 5 p.m. to 7 p.m.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to Approve the Special Event Permit application as read.

VOTE: Unanimous.

5620 Discussion with Action: Approve funding in the amount of \$3,125 for the Sea Level Adaptation Working Group (SLAWG) from Account Number 20118-50350 with a balance of \$22,830.51 to support the activities of the Biddeford, Saco, Old Orchard Beach, Scarborough and Southern Maine Regional Planning Commission (SMRPC) Interlocal Agreement.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve funding in the amount of \$3,125 for the Sea Level Adaptation Working Group (SLAWG) from Account Number 20118-50350 with a balance of \$22,830.51 to support the activities of the Biddeford, Saco, Old Orchard Beach, Scarborough and Southern Maine Regional Planning Commission (SMRPC) Interlocal Agreement.

VOTE: Unanimous.

5621 Discussion with Action: Accept, with regret, the resignation of Richard Larochelle from the Finance Committee.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Accept, with regret, the resignation of Richard Larochelle from the Finance Committee.

VOTE: Unanimous.

5622 Discussion with Action: Re-appoint Ray Deleo a regular member of the Design Review Committee, term to expire 12/31/12; re-appoint Ginger McMullin as a regular member and appoint Pat Holland as an alternate member of the Conservation Commission, terms to expire 12/31/13; re-appoint Jerome Plante as a regular member of the Finance Committee, term to expire 12/31/12, and move Dr. Reza Namin from an alternate to a regular of the Finance Committee, term to expire 12/31/12; re-appoint Donald Cote and Winthrop Winch as regular members of the Planning Board, terms to expire 12/31/12; appoint Patricia Saunders as the regular Democrat member, Geraldine Valliere as the alternate Democrat member, Nancy Kelley as the regular Republican member, and Bethany Anderson as the alternate Republican member of the Registration Appeals Board, terms to expire 12/31/13; Re-appoint Tianna Higgins and J. Philip Denison as regular members of the Zoning Board of Appeals, terms to expire 12/31/13, appoint Owen Stoddard as a regular member of the Zoning Board of Appeals, term to expire 12/31/12, and appoint Ronald Regis as first associate to the Zoning Board of Appeals, term to expire 12/31/12; re-appoint Tina Morrison as the regular citizen member and Marc Bourassa as the regular business member to the Business License Administrative Board, terms to expire 12/31/12; re-appoint Kerri-Lynn Hodgkins as a regular member of the Board of Assessment Review, term to expire 12/31/13; re-appoint Mark Gustin as a regular member of the Ballpark Commission, term to expire 12/31/13.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to approve the appointments as read.

VOTE: Unanimous.

5622 Discussion with Action: Set a Public Hearing for January 4, 2011 to Amend Chapter 78 – Zoning, Section 78-1, 78-2 through and including 78-5, 78-34, 78-93 through and including 78-95, 78-456 through and including 78-457, Division 17, Section 78-1176 through and including 78-1185, 78-1201 through and including 78-1218. These amendments deal with mandated Shoreland Zoning.

MIKE NUGENT: On May 1, 2006, the State Department of Environmental Protection adopted new Shoreland Zoning Standards that must be adopted by communities. The Town of Old Orchard Beach hires SMRPC to create the initial draft. The Town's Attorney, Conservation Commission and Planning Board have reviewed the language. The Planning Board and Town Council had a joint meeting with the town's attorney in attendance on November 4, 2010. After a couple of adjustments that were identified at the November 4th meeting, The Planning Board voted to hand the document onto Town Council at their meeting on November 18th. The Ordinance committee reviewed this at their December 1st meeting and did not request any modifications.

Attached is a copy of the final draft.

**AMENDMENT TO OLD ORCHARD BEACH ZONING ORDINANCE
CONCERNING SHORELAND ZONING**

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 78, ZONING, of the Old Orchard Beach Code is amended as follows.

Section 78-1, **Definitions**, is amended by adding the underscored text and deleting the text in strikeover type, as shown below. Terms not listed below are unchanged.

If there is any difference of meaning or implication between the text of this chapter and any map or illustration other than the official Shoreland Zoning Map, the text shall control. Terms not defined in this section shall have their commonly accepted meanings. Certain terms specific to the Shoreland Zone are defined in Section 78-1218. 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:

Aquaculture means ~~land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use~~ the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Canopy means the more or less continuous cover formed by tree crowns in a wooded area.

Cross-sectional area of a stream or tributary stream channel means an area which is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH means the diameter of a standing tree measured 4.5 feet from ground level.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing for January 4, 2011 to Amend Chapter 78 – Zoning, Section 78-1, 78-2 through and including 78-5, 78-34, 78-93 through and including 78-95, 78-456 through and including 78-457, Division 17, Section 78-1176 through and including 78-1185, 78-1201 through and including 78-1218. These amendments deal with mandated Shoreland Zoning.

VOTE: Unanimous.

5624 Discussion with Action: Set a Public Hearing date for January 4, 2011 to Revise Chapter 66, Article II, Building Code Section 66-26, 66-27 and 66-112, and Delete 66-28 and Article VIII and IX, of the Code of Ordinances of the Town of Old Orchard Beach.

MIKE NUGENT: In 2007, the State Legislature passed a law creating the first ever “State Wide Building Code”.

MAINE UNIFORM BUILDING AND ENERGY CODE

§9724. Application

2. Prior statewide codes and standards. Effective December 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466. [2009, c. 261, Pt. A, §8 (AMD) .]

3. Ordinances. Effective December 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void. [2009, c. 261, Pt. A, §9 (AMD) .]

4. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. The requirements of the Maine Uniform Building and Energy Code do not apply to:

A. Log homes or manufactured housing as defined in chapter 951; or [2007, c. 699, §6 (NEW).]

B. Post and beam or timber frame construction. [2007, c. 699, §6 (NEW).]
[2007, c. 699, §6 (NEW).]

1. Limitations on home rule authority. This chapter provides express limitations on municipal home rule authority. Beginning December 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008.

Pursuant to MRSA Title 10 ss 9724 , all towns in Maine population of 2000 or more, must use the new standard which will be the 2009 International Building Code, International Residential Code and International Energy Conservation instead of any local building code. The building Code for the Town of Old Orchard Beach is the 2003 International Building Code and International Residential Code with some local amendments.

The good news for a Town like Old Orchard Beach, is that there will be no major impact on how we do business today. The 2009 Code is substantially the same as the 2003 Code.

The new laws also change the Code Enforcement Certification program. While many Code Officers will be “grandfathered” due to their tenure or because they hold National Certifications and experience enforcing similar standards, some Code Officers will have to attend hours of training and testing.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to seconded to Set a Public Hearing date for January 4, 2011 to Revise Chapter 66, Article II, Building Code Section 66-26, 66-27 and 66-112, and Delete 66-28 and Article VIII and IX, of the Code of Ordinances of the Town of Old Orchard Beach.

VOTE: Unanimous.

5625 Discussion with Action: Set 2011 usage fees and terms for use of the Ballpark field
The Old Orchard Ballpark Committee has requested a change in the fees for the 2011 season.

Fees for 2011:	Day Games	\$150
	Night Games	\$275

The 2010 fees that were adopted on March 2, 2010 were:

Day Games	\$125
Night Games	\$250

A number of issues were raised by Councilor Dayton and Vice Chair Tousignant as to the lack of financial information provided for the Council and previously asked for on many occasions including the request by Vice Chair Tousignant for a business plan which has yet to be developed. The Town Manager and Paul Crossman, Chair of the Ballpark Commission, indicated that the discussion and recommendation coming from the Commission is based on information they have secured through inquiries of other municipal charges for use of their fields and wanting to remain competitive, it was felt that the \$25 increase in day and night games would provide more income but also not take the Ballpark out of the competitive arena. The request from Council included a request to know how many games were paid; the amount raised for those games; and analysis to document the suggested \$25 increase. Councilor MacDonald congratulated the Ballpark Commission for the work they have done and pointed out, as did the Town Manager, that this is still a work in process by a group of dedicated volunteers. The Town Manager stated that the Finance Director has a listing of income and expenses and it should be remembered that again, this is a group of volunteers giving dedicated time and efforts to the cause of the Ballpark. The Town Manager indicated that a report would be forthcoming by the next meeting.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Table indefinitely to Set 2011 usage fees and terms for use of the Ballpark field including day games at \$150 and night games at \$275

VOTE: Unanimous.

5626 Discussion with Action: Authorize the Town Manager to negotiate an Agreement to consolidate the Old Orchard Beach Dispatch Services to Sanford, Maine, effective April 1, 2011 with an approximate cost of \$125,000 from Account Number 10013-30100 – Undesignated Fund, with a balance of \$4,628,066.

The Town Manager explained that some questions and inquiries have been made where more information is necessary and as a result a Workshop is scheduled for Wednesday, January 12, 2011 in the Town Council Chamber. At that time representatives of the Sanford Dispatch operation will be present to answer questions and participate in discussion.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to Table indefinitely to Authorize the Town Manager to negotiate an Agreement to consolidate the Old Orchard Beach Dispatch Services to Sanford, Maine, effective April 1, 2011 with an approximate cost of \$125,000 from Account Number 10013-30100 – Undesignated Fund, with a balance of \$4,628,066.

**VOTE: Yea: Councilor MacDonald, Vice Chair Tousignant, Chair Quinn
Nea: Councilor Dayton**

5627 Discussion with Action: Set a Public Hearing date of January 4th, 2011 to amend the Code of Ordinances, Article IV, Division 8, Ballpark Commission, Sections 2-398 and 2-401 to add alternates and change the quorum requirements.

TOWN MANAGER: The Old Orchard Beach Ballpark Commission has agreed that there should be several changes to be considered to keep the continuity and momentum flowing. The Committee voted unanimously for the following:

- 1. Add two alternate commissioners for the purpose of filling in should regular members not be available for scheduled meetings. These alternates would be voting members only when filling in for absent commissars and at such time they would be considered a Commissioner and held in the same regard and with the same responsibilities as sitting Commissioners.**
- 2. The Commissioners hope that the Council would consider changing the number of Commissioners that constitute a quorum from the current number of five (5) to four (4) members, in the hope that given certain unforeseen circumstances that the Commission would always be able to vote on any item in a timely fashion.**

DIVISION 8. BALLPARK COMMISSION

Sec. 2-396. Ballpark defined.

For purposes of this division, the term "the ballpark" means the municipal facility located on E. Emerson Cummings Boulevard, commonly known as the Ballpark, consisting of approximately 49 acres of land improved with a stadium, playing fields and parking areas.

(Ord. of 3-16-2010, § 1)

Sec. 2-397. Ballpark commission formed.

Pursuant to section 409.4 of the Charter, there is hereby created an agency of the town by the name of the "ballpark commission."

(Ord. of 3-16-2010, § 2)

Sec. 2-398. Appointment, vacancies, term.

The ballpark commission ("commission") shall consist of seven regular members and two alternate members appointed by the town council for a term of three years each commencing on the date of appointment, except that of those first appointed, three shall be for a term of three years, three shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the commission shall be filled 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 commission serve at the will of the town council and may be removed by vote of the council at any time for any reason.

(Ord. of 3-16-2010, § 3)

Sec. 2-399. Powers and duties.

Subject to town council oversight, the commission shall be responsible for the improvement, maintenance and operation of the ballpark. In order to carry out that responsibility, the commission shall have the following powers and duties:

Undertaking maintenance of and improvements to the physical facilities, subject to appropriation of funds therefore by the town council and subject to the town's established purchasing and procurement procedures.

Scheduling events, subject to issuance by the town council of special events permits under chapter 42, article IV, division 5 of the Town Code.

Raising funds to be used exclusively for the improvement, maintenance and operation of the ballpark through the sale of advertising or other promotional activities and through soliciting and accepting donations on behalf of the town, all in accordance with the town's established finance and accounting procedures.

All such funds received by the commission shall be remitted to the town treasurer for deposit in a dedicated revenue account denominated "the ballpark fund."

Soliciting, supporting and organizing the efforts of volunteers to assist in the improvement, maintenance and operation of the ballpark as a community facility.

With the approval of the town manager, obtaining the assistance of town employees in connection with the improvement, maintenance and operation of the ballpark.

Performing such other duties and responsibilities and exercising such other powers as the town council may, from time to time, by order, assign to the commission.

(Ord. of 3-16-2010, § 4)

Sec. 2-400. Meetings.

The commission shall establish a schedule of regular meetings, which shall provide for at least 12 meetings per calendar year. The commission shall meet at least monthly during June, July, August and September. The commission chairperson may call special meetings as he or she deems necessary.

(Ord. of 3-16-2010, § 5)

Sec. 2-401. Quorum, procedure, officers.

~~Five~~ **Four** members of the commission shall constitute a quorum for the purpose of conducting a meeting. Any action by the commission requires a majority vote of those members present and voting. The commission may adopt additional rules, not inconsistent with this division, for the conduct of its activities.

The commission shall choose annually a chairperson and a secretary from among its members. The secretary shall maintain a permanent record of the commission's meetings.

(Ord. of 3-16-2010, § 6)

Sec. 2-402. Authority to appoint agents.

The commission may, with the consent of the town manager and the vote of the town council, designate one or more of the members or other volunteers to serve as the commission's agents for carrying out the commission's responsibilities. Such agents may not, however, bind the town to any contractual or financial commitments unless expressly authorized to do so by the town council.

(Ord. of 3-16-2010, § 7; Ord. of 8-25-2010)

Sec. 2-403. Report to the council.

On a quarterly basis, starting on the 16th of June, 2010, the Commission shall submit to the town council a written report on the status of improvements, maintenance and operations at the ballpark, including a summary of the commission's activities during the immediately preceding three months.

(Ord. of 3-16-2010, § 8)

Sec. 2-404. Ballpark is land owned by the public but not considered a park.

The ballpark, as defined in this division, is intended to be operated as a sports/entertainment/events and recreation area and not as a public park subject to the care and superintendence of the conservation commission nor shall its operation be considered a recreation program subject to oversight by the recreation board.

(Ord. of 3-16-2010, § 9)

Secs. 2-405--2-410. Reserved.

The Council was provided with a draft.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing date of January 4th, 2011 to amend the Code of Ordinances, Article IV, Division 8, Ballpark Commission, Sections 2-398 and 2-401 to add alternates and change the quorum requirements.

VOTE: Unanimous.

5628 Discussion with Action: Per the Code of Ordinances, Division 8, Section 2-402, approve the appointment of Linda Jenkins as the Concession Stand Manager for the Ballpark.

TOWN MANAGER: The Old Orchard Beach Ballpark Commission is asking that Linda Jenkins be appointed as the Concession Stand Manager for the Ballpark. She has been serving in this position for the past several months. He presented the draft position description for the Concession Stand Volunteer Manager – Agent of the Commissioners.

**Concession Stand Volunteer Manager
Agent of the Commissioners**

General Responsibilities:

The Concession Stand Manager reports directly to the Ballpark Commissioners, and answers to the Town Manager, and ultimately to the Town Council.

The Concession Stand Manager will be responsible for scheduling all volunteers to assist in the operation of the Concession Stand.

The Concession Stand Manager will be responsible for all financial matters related to the operation of the Concession Stand.

Purchasing:

The Concession Stand Manager will have use of the Town's Sam's Club card to purchase food supplies not to exceed \$1,000 per order. Orders exceeding \$1,000 must be pre-approved by a purchase order.

All purchase of food and supplies not purchased at Sam's Club must be approved through the Town's purchase order system.

All facilities maintenance items, equipment purchases, or capital improvements related to the Concession Stand must be presented to the Ballpark Commissioners and approved by the Town Manager by way of the Town's purchase order system.

Financial Management

The Concession Manager will deposit the night cash-up receipts and cash after each night's closing at the night deposit depository at Saco Biddeford Savings Bank across the street from the Town Hall. The money will be deposited in the Old orchard Beach Ballpark account under the Concession line item. All copies of daily cash activities will be provided on the following day to the Town's Finance Director.

The Concession Manager will be permitted to maintain in their possession an identified cash-draw operational amount, as agreed on by the Finance Director and the Town Manager. At no time should the cash-draw operational funds be left overnight in the concession stand.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to Approve, Per the Code of Ordinances, Division 8, Section 2-402, approve the appointment of Linda Jenkins as the Concession Stand Manager for the Ballpark.

VOTE: Unanimous.

5629 Discussion with Action: Rescind the Town of Old Orchard Beach Municipal Employee Internet and Electronic Mail Policy, adopted February 23, 1999, and replace with Policy #10-02, Information Systems Usage Policy.

TOWN MANAGER: With the technological needs evident, it became apparent that a new Employee Internet and Electronic policy be made and this has already been presented to the Council for their approval.

DRAFT
Information Systems Usage Policy

Purpose

This policy is intended to ensure the proper use of the Town of Old Orchard Beach's Information Systems. The conditions of use presented in this policy apply to all users, regardless of location, when accessing the Town's computing and network systems.

Definitions

The term "Systems" means all computers, including personal computers (PCs), laptops, Personal Data Assistants (PDAs) and servers, all printers, all networked copy-machines, all storage devices, all storage mediums including, but not limited to, floppy diskettes, CD-ROM's and Zip Disks, and all components of the network infrastructure including the physical cabling that interconnects all of the aforementioned devices to the network, regardless of the manner in which these items attach to the network, either directly or indirectly, locally or remotely.

The term "Data" means all software, all computer files, all electronic communications including E-mail and Internet, and all other information made upon, created by or upon, received or transmitted by, or stored upon, any part of the System. "Data" includes any of the above regardless of the medium on which it is stored and regardless of the current location. Any file that exists on any form of media, including backup tape, qualifies as "Data" regardless of whether it has been deleted, erased or purged from any other part of the System.

Ownership

All parts of the System and all Data are the property of the Town of Old Orchard Beach, Maine. All Data are subject to examination, deletion and/or modification at any time. Provision of a password to an employee to enable access to the System or to protect and/or

compartmentalize Data shall not in any way mean that the Town is giving up its ownership of or its right to review any Data.

Employees may neither attach devices to the System that have not been approved and purchased by the Town's Information Systems person, nor install software or any other form of Data into the System that has not been approved and/or purchased by the Town's Information Systems Department. Employees may be held responsible for any damages caused by using/installing any unauthorized hardware and/or software.

Monitoring

The Town has the right and the ability to monitor all parts of the System, all electronic communications and all Data on any storage medium or on screen, either locally or remotely, including, but not limited to, E-mail and Internet activity. Monitoring occurs on an ongoing basis and may occur at any time. The Town may review any of the above at any time and for any purpose whatsoever.

The Information Systems Department shall submit a regularly scheduled report to department heads and the Town Administration, detailing the Internet activity of the employees in their department.

Employee Termination, Leave of Absence, Vacation and Other

Employees who leave employment with the Town have no right to any part of the System or any Data. Any employee who leaves the employ of the Town shall not delete, modify, take or retain any Data.

Supervisors or management may access an employee's Data at any time if employees are on leave of absence, vacation or are transferred from one department to another department and it is necessary for the Town's business purpose. Access will not involve the disclosure and/or use of the absent employee's account password. Requests for access in the event of employee absence must be processed by the Information Systems Department.

Compensation

Employees shall compensate the Town for any losses, costs or damages incurred by the Town relating to or arising out of that employee's violation of the Information System Usage Policy. This payment does not preclude the Town from taking additional disciplinary action.

Acceptable Use

Users understand that personal use of the System is a privilege. Limited personal use is permissible within reasonable content and time limits and if consistent with the restrictions defined in this and other Town policies. An example of what could be considered limited personal use includes:

- Scheduling of personal appointments;
- Communicating regarding work-related social events including birthdays, births, etc.;

- Use of Internet sites for personal use such as news, weather, etc;
- Other limited uses that do not interfere with the employee's responsibilities.

Unacceptable Use

Employees are responsible for their actions and activities involving the System and Data. Examples of prohibited conduct include, but are not limited to, the following:

- Accessing, transmitting or posting data that contain messages or images that are:
 - Libelous or defamatory;
 - Abusive;
 - Disparaging of others based on race, national origin, gender, sexual orientation, age, disability, religious or political belief, or any other basis prohibited by law;
 - Pornographic, sexually-explicit or obscene;
 - Threatening;
 - Contrary to the Town's policy on harassment, or;
 - Illegal, including:
 - o Violation of copyright or other contracts;
 - o Violation of any U.S. or State laws or regulations; or
 - o Any other use that may compromise the integrity of the Town of Old Orchard Beach, Maine and its business in any way.
- Unauthorized use of copyrighted material without the owner's permission, except when the copying is a "Fair Use" under the copyright laws;
- Using the System or any Data to solicit any group or individual for any commercial, political, charitable, or religious cause, or any other non-Town matter;
- Using any software which has the purpose of damaging the Town's System or other organizations' Systems;
- Gaining unauthorized access to resources or entities;
- Using another user's account or password (this use is acceptable for members of the Information Systems department when performing necessary job functions);
- Posting material created by others without their consent;
- Posting or sending anonymous messages;
- Forging of electronic mail messages;
- Attempting to read, delete, copy or modify the electronic mail or other users and deliberately interfering with the ability of other users to send/receive electronic mail; and

- **Using any web-based, third party e-mail systems, such as Hotmail, Yahoo, Facebook, Hulu or any other social networking, etc., unless such use is required for business reasons and has been authorized by the Department Head and/or the Town Manager.**

Notes on E-mail Usage

The Town of Old Orchard Beach's Electronic Mail System (E-mail) is designed to facilitate Town business communication among employees and other business associates. Since no computer system is completely secure, the e-mail system is not intended to transmit sensitive materials such as personnel decisions and other similar information, which may be more appropriately communicated by written memorandum or personal conversations.

E-mail messages reflect the Town's image. They should be composed in a professional manner that is similar to messages and correspondence sent on Town stationery. Employees should keep in mind that electronic files may be subject to public disclosure under the Right to Know Law or other laws. Employee statements in electronic messages and files will reflect favorably on the Town and on the employee.

E-mail messages are capable of being forwarded without the express permission of the original author. E-mail messages often pass through many computers before they reach their final destination. A message is "touched" many times before it gets to its recipient and the author of the message should be aware of this. Therefore, users must use caution in the transmission and dissemination of messages outside of the Town, and must comply with all State and Federal laws.

Employees should be aware that when they have deleted messages from their workstation mailbox it might not have been deleted from the central E-mail system. Messages may be residing in the mailbox of recipients or even forwarded by recipients to additional recipients. Furthermore, the message may be stored on the system, either on servers or back-up media, for an indefinite period, subject to record retention schedule provided by the Maine State Archives.

Notice of Violation

Employees who observe violations of this policy shall notify their immediate supervisor to report the violation to the Department of Information Systems.

Discipline

Misuse of the System may be considered sufficient cause for discipline in accordance with the Town of Old Orchard Beach's Personnel Policies and/or other applicable rules or laws. In addition, violations of this policy may be referred for criminal prosecution.

Policy Changes

The Town reserves the right to modify, change or eliminate the policies set forth herein to comply with applicable law, to meet changing circumstances or for any reason.

**INFORMATION SYSTEMS USAGE POLICY
ACKNOWLEDGEMENT/REQUEST FORM**

SIGNED BY EMPLOYEE:

I acknowledge that I have received and read the Old Orchard Beach Town's Personnel Policy, Information Systems Usage Policy, and I agree to abide by the terms of the Policy. I also acknowledge that the Town has reserved the right to change this Policy and I agree that my continued use of the Town's e-mail, Internet connection or computer systems constitutes my acceptance of any changes in these Policies.

SIGNED BY TOWN MANAGER:

I agree that the above employee is allowed access to the Town's computer systems as stated in the Information Systems Usage Policy.

GOOD AND WELFARE:

LAURA BOLDUC: She reminded the Council that at the September 21, 2010 Council meeting they were provided with a complete financial update by the Ballpark Commissioners and signed off by the Town's Finance Director and the motion to accept the Financial Statements were approved unanimously that evening. She also returned a video that was to be returned to the Harmon Museum.

VICE CHAIR TOUSIGNANT: He acknowledged the report that was given but again requested that a business plan is needed for the successful operation of a business and the Ballpark operations is a business.

ASSISTANT TOWN MANAGER: I would like to take this opportunity before the end of the year to thank the members and Chair of the Community Animal Watch Committee and also our Animal Control Officer, Will Watson, for the marvelous job they have done this past year in the keeping of the animals of our community. For those who are not animal lovers, you cannot understand the feelings of urgency when one sees an animal that needs attention or caring but the 1,069 dog owners in Old Orchard Beach and the hundreds of cat owners understand where I am coming from. Our thanks to the previous Council, and our trust that the present Council will in the budget process again consider our new contract with Animal Welfare in Kennebunk which is working out so well. As of the 14th of December we have returned 24 dogs to their owners and two dogs were surrendered by their Old Orchard Beach owners for placement by Animal Welfare. We were able to take many cats to Animal Welfare when we were unable to locate their owners. Since cats are not registered animals we rely on the Committee to place posters around town to try to identify owners and we have been very successful in doing this. This also does not take into account the many feral cats that members and non-members of the Committee have caught and taken to be fixed and returned to their colonies. The cat issue has always been a very difficult one in Old Orchard and the over 900 signatures that were secured by our citizens and presented to the last Council significantly states how much this agreement with Animal Welfare means to the citizens of our community. The Committee has asked me to thank the Council members for

their support in the past and appreciate their continued support in the future. I personally would like to express my best wishes for this holiday season to the Town Council and my thanks for their personal support over the past year and to our Town Manager for the hours of work and dedication he has brought to his position since coming to Old Orchard as the Town Manager. I believe the Council has and does experience the words of Mohandas Gandhi when he said “The best way to find yourself is to lose yourself in the service of others.” May the New Year provide many opportunities for continued exemplary service.

TOWN COUNCIL MEMBERS: Each expressed their best wishes for the holiday season and for the support and encouragement offered during the past year and the commitment to continue to address important issues regarding our municipality.

ADJOURNMENT

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to adjourn.

VOTE: Unanimous.

The meeting ended at 8:25 p.m.

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 nineteen (19) pages is a true copy of the original Minutes of the Town Council Meeting of December 21, 2010.

V. Louise Reid