

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, OCTOBER 20, 2009
TOWN HALL CHAMBERS**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, October 20, 2009 following the Town Council Meeting. Chair MacDonald opened the meeting at 7:05 p.m.

The following were in attendance:

**Chair Sharri MacDonald
Vice Chair Robin Dayton
Councilor Laura Bolduc
Councilor Shawn O'Neill
Councilor Mike Tousignant
Interim Town Manager Jack Turcotte
Assistant Town Manager Louise Reid**

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENTS:

VICE CHAIR DAYTON: She stated she was honored to make this announcement and congratulated again the many hours of volunteer service in the Ballpark and announced that the USCAA 2010 National Basement Spring Games will be held in our Ballpark with ten small college teams coming from all over the country. She expressed a hug congratulations to Tom LeChance and Linda Jenkins for the hours of work and planning and that of the volunteers. She also mentioned Woofstock which will be held in the Ballpark and also the publicity given has been amazing. Vice Chair Dayton that for many years the Ballpark was number five on the list of Ballpark Digest endangered list and now has been taken off that list.

CHAIR MACDONALD: Thanked the Saco Bay Rotary for the second kiosk they were donating to the Memorial Park and for the work of the Rotary in the past. She also mentioned the phenomenal talent of the Old Orchard Beach Marching Band and also the game being played at the school by the Harlem Wizard Globtrotters and residents of Old Orchard and Saco as we meet. They are the best in the State and received the gold medal for the past four years. The Chair also acknowledged the presence of Senator Barry Hobbins and Representative George Hogan.

PRESENTATION: Presentation of Citation to Officer Christopher St. Pierre and Gunther by Senator Barry Hobbins.

Senator Barry Hobbins is presenting to Patrolman Christopher St. Pierre and his partner, Gunther, a State of Maine Proclamation stating: "Be it known to all that We, the Members of the

Senate and House of Representatives, join in recognizing Officer Christopher St. Pierre of the Old Orchard Beach Police Department, on his receiving five placement trophies with his police dog, Gunther, the Department's Police Canine Association Police Department 1 Trials. (Of the five placement trophies, four of them were for specific canine team achievements and the fifth one was for working in partnership with another K-9 team. We extend our congratulations to Officer St. Pierre for his achievement in training and handling Gunther and their special partnership; and be it ordered that this official expression of sentiment be sent forthwith on behalf of the 124th Legislature and the people of the State of Maine. Signed by the President of the Senate, Speaker of the House, Secretary of the Senate and Clerk of the House. Sponsored by Senator Hobbins of York county and Representative Hogan of Old Orchard Beach.

Presentation of a ballistic vest by Wayne Robichaud of Maine Canine Ballistic Vest Fund to Chief Dana Kelley and the Old Orchard Beach Police Department for the protection of "Gunther."

Mr. Robichaud and his daughter, Jennifer, explained the purpose of this presentation and the safeguarding of K-9's such as "Gunther." Chief Kelley expressed his appreciation for the donation and "Gunther" although speechless appreciated the concern and the donation. Gunther is the third police dog to get one of these vests which go for around \$700. The family has made this a dedicated effort on behalf of police K-9's.

Presentation to Code Enforcement Officer, Michael Nugent – International Code Council-Certified Building Official by Planner, Gary Lamb.

Planner, Gary Lamb, is presenting to Mike Nugent, Code Enforcement Officer Certification as Certified Building Official. This award by the International Code Council is recognized as a great honor; Mike is the only Code Enforcement Officer in Maine with this certification.

**PRESENTATION of Certified Building Official designation to Mike Nugent
October 20 2009**

- The Int'l Code Council is the dominant organization in the building code world and the author of the 2003 building codes that OOB uses
- ICC recognizes code officers who have demonstrated superior knowledge in their trade. I am pleased to announce Mike Nugent has earned the designation of Certified Building Official from the ICC agency and is the only CEO with this honor so far in Maine.
- Tested for half a day...much studying and expense in ref. books
- Had to pass two test modules; the first was Legal and Management Module that dealt with Human Resources and Personnel issues, budgeting, office systems and legal issues. The second module consisted of Commercial and Residential Building, Plumbing, Electrical, Energy Conservation, ADA standards, Fire Codes and Fuel Gas Codes.
- Mike's been a CEO since 1981 and active in Maine Bldg Officials Assn, husband, father, grandfather, coach for many years in Biddeford
- Works very hard and goes the extra mile to provide great customer service while working with owners who have difficult situations that do not comply with building codes or our ordinances.

- We are very fortunate to have him as a member of our town team and congratulate him for this accomplishment.

ACCEPTANCE OF MINUTES: Town Council Minutes of September 15, 2009; Town Council Workshop Minutes of September 15, 2009; Town Council Workshops of September 22, 2009 and September 23, 2009; Special Town Council Meeting of September 23, 2009; Executive Session of September 29, 2009; Town Council Minutes of October 6, 2009; Executive Session of October 12, 2009; and Special Town Council Meeting of October 13, 2009.

MOTION: Vice Chair Dayton motioned and Councilor Bolduc seconded to accept the Minutes as read.

VOTE: Unanimous.

BUSINESS LICENSES: Jeffrey B. Carruthers & Patricia A. Driscoll (314-12-2)
8 Somerset Avenue, one year round rental.

MOTION: Vice Chair Dayton motioned and Councilor O'Neill seconded to approve the Business License as read.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue,
Inside/Outside Live Music – 11:00 a.m. to 1:00 a.m.

MOTION: Vice Chair Dayton motioned and Councilor Bolduc seconded to approve the Special Amusement Permit License as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT:

The new Intern Town Manager, Jack Turcotte, expressed thanks to citizens, employees and the Council for their welcome to the community. He also mentioned he appreciation of members of the School community welcoming him back. He indicated his associations with all in the past have been good and he looked forward to this opportunity to work with everyone. He mentioned that he had visited several of the departments, met with department heads, and basically getting a feel on the many issues facing the Council and the community. Mr. Turcotte mentioned that he had met with BBI and a member of the Department of Environmental Protection as well as an Engineer on the subject of the possible transfer of the Transfer Station operations to BBI which will be discussed later in the meeting. He also indicated he had been updated on the Temple Avenue parking issues and also the Boardwalk issues.

NEW BUSINESS:

5325 Discussion with Action: Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, by adding Marina Performance Standards.

GARY LAMB: Town Planner thanked Rep George Hogan and Senator Barry Hobbins for their work on this tough issue over these last two years and introduced the topic with a brief history of events to date. In September of 2007, Saco City Council voted to approve a 310 acre lease of state owned Saco Bay waters for a marina just 1000 feet seaward of the OOB Pier. This lease idea was not well received in OOB. Spring 2008 legislation introduced by Rep George Hogan produced an 18 month moratorium on submerged lands permits. This moratorium expires in December 2009. A later legislative session produced LD 1119, a bill that will extend the OOB town boundary out three miles from low water as long as OOB meets the bill's conditions. Lamb then read section A-2 from LD 1119 text as follows: “This part does not take effect unless the Town of Old Orchard Beach adopts a municipal zoning ordinance relating to marinas that includes standards that are at least as strict as those adopted in the City of Saco at the time of passage of this Act. Upon adoption of the ordinance and determination by the town manager of Old Orchard Beach that it is at least as strict as the City of Saco ordinance, the town manager of Old Orchard Beach shall notify the City of Saco and the Revisor of Statutes of this adoption.”

- The question before Council is two fold and Lamb prepared two versions of text changes for discussion tonight. Both versions have been thoroughly discussed before the Saco Bay working group as well as OOB Planning Board and Council public hearings
1. First...do we want to create definitions and consider marinas to be a permitted or prohibited use? This is the white handout with revisions dated Sept 4 2009 as recommended by the Planning Board. The Planning Board also recommends hiring a harbormaster prior to installation of any new moorings in the future. This Planning Board recommendation is advisory only to the Council.
 2. Or secondly...should we decide marinas should not be a permitted use at least for the time being, while we take more time to get the boundary changed, then explore our offshore zoning options, hiring a harbormaster, etc. This version on blue paper with revisions dated Oct 14 2009 does not contain any new definitions or permitted or prohibited use language.
 3. Council and public should know that either version contains marina performance standards that are at least as strict as Saco's and consequently a vote to approve either version will allow our boundary to be changed.

JEROME BEGERT: He indicated that Scarborough has a Harbor Master and that perhaps there might be a sharing of responsibility with Old Orchard should that need ever be relevant. This resident stated he also wants pollution prevention to be a very high priority.

REPRESENTATIVE HOGAN: He stated he is mostly concerned there be a vote tonight to settle this issue using either prohibited or permitted use approaches. Representative Hogan is fine with either approach passing tonight.

COUNCILOR BOLDOC: She stated she supports the marina prohibition approach or blue version.

VICE CHAIR DAYTON: She indicated she concurred yet she finds the deletion of uses and definitions in the blue version to be confusing. Discussion ensued regarding proposed new text as well as amendments to existing DD1 and DD2 zoning district text and whether these zoning districts extend out to the 1000 foot mark from low water today.

GARY LAMB: He stated our primary goal is to get the boundary changed.

VICE CHAIR DAYTON: She agreed with this goal, yet she is also very concerned with protection of the bay. Discussion ensued as to how this version without any permitted marina use language inherently prohibits them by default. Lamb stated an application to the Planning Board for a marina cannot be accepted because it will be a prohibited use.

RICKI LETOWT: She asked how marinas will be handled in zoning districts other than DD1 and DD2? Mr. Lamb answered there will not be a zoning district in the entire town where a marina is listed as a permitted or conditional use...thereby making marinas prohibited.

JAMES HARMON: Executive Director of the Chamber and Saco Bay Working Group member stated he wants to spend more time determining uses in our new jurisdiction...but only after the boundary is changed. He supports the prohibited use approach or blue version.

PAULA POURAVELIS: She spoke about the three new definitions in the white version. She also stated the proposed changes to our present ordinance text (as attached to both blue and white versions) are so marina use ordinance language in our ordinance today agrees with proposed new language. She supports the blue version.

VICE CHAIR DAYTON: She stated it appears the DD1 and DD2 boundary could be easily challenged...and she is concerned the lack of definitions and use language in the blue version still does not mean an outright prohibition of marinas. Code Enforcement Officer Mike Nugent passed zoning ordinance section 78-148 to Lamb which states in part, "Any use not specifically allowed as a permitted or conditional use is specifically prohibited." This answered Councilor Dayton's concerns.

MIKE NUGENT: During the Marina discussion, there was a question from Vice Chair Dayton as to why we were not amending all of the oceanfront districts to make marinas a prohibited use. The answer was that because marinas etc are listed as a permitted use in DD1 and DD2. We needed to change that and the proposal does that by placing them as prohibited uses. We don't need to address it specifically in the other districts because it is omitted and this is the section that Gary read:

Sec. 78-148. Omitted uses.

Any use permitted in one zoning district of the town and not specifically prohibited in any other district shall be considered prohibited in such other districts. Any use not specifically allowed as either a permitted use or a conditional use is specifically prohibited. As new uses occur over time or existing uses are found to have been omitted, action allowing such shall be by amendment to this chapter.
(Ord. of 9-18-2001, § 4.4)

COUNCILOR O'NEILL: He asked once this boundary is changed, will this new ordinance text be in place for this new jurisdiction? Gary Lamb answered "yes" and stated future ordinance discussions may be necessary for a comprehensive community decision on marinas, moorings, etc in our new jurisdiction. Councilor O'Neill asked if the Saco Bay Working

Group has discussed both versions of text? Again Gary Lamb answered “yes.” In addition, long and detailed discussions at both Planning Board and Council levels have taken place.

PHIL DENISON: A member of the Saco Bay Working Group stated he prefers the blue or prohibition approach but he deferred to the Planning Board recommendation if it helps get the boundary changed.

VICE CHAIR DAYTON: She stated emphatically that she supports the prohibition approach and her intention is to not have marinas in Saco Bay at all.

MOTION: Councilor Tousignant motioned and Councilor O’Neill seconded to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, by adding Marina Performance Standards with prohibitive use (blue version.)

VOTE: Unanimous.

Marina Performance Standard text for OOB Zoning Ordinance
(Revised 10/14/2009 – no use provision language and no marina related definitions)

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 Code of Ordinances of the Town of Old Orchard Beach is amended as follows:

(Underlined text is new, strikethrough text is to be removed)

Existing Article VIII – Performance Standards
New Division 12 - Marinas
New Section 78-2122 and beyond

Purpose. The purpose of this section is to establish minimum requirements for the siting, design, construction and operation of marinas to serve the needs of boaters, to protect the natural resources affected by marinas, and to protect the health, safety and welfare of the citizens of Old Orchard Beach. In order to meet these purposes, a marina proposal shall be subject to this section and to all applicable standards within this Zoning Ordinance. This section does not address the question of whether marinas are an allowed use. Whether or not a proposed marina is an allowed use must be determined by the zoning district regulations applicable to the location of the proposed marina.

Applicability. This section shall apply to:

- a. Any commercial, public, or private marina that is proposed as a new use.
- b. Any vessel maintenance or repair yard that is on or adjacent to the water.
- c. All public or commercial boat ramps.

Submission Requirements. A Marina shall be subject to Site Plan Review, and as such is subject to submission requirements found in Article 78. In addition, any additional evidence or exhibits requested by town staff or the Planning Board shall be submitted in order to adequately respond to required submission items. To the extent that an application is subject to shoreland zoning review, all relevant

shoreland zoning provisions and requirements set forth in Article 78 shall also be applicable.

Planning and Design Requirements.

Marinas shall only be located in areas which offer safe and convenient access to waters of navigable depth. Safe and convenient access shall be determined by the following Standards of Performance:

a. Factors such as existing water depths, the size and draft of vessels for which the marina is proposed, and tidal and wave action shall be considered.

b. Marinas shall be designed to minimize adverse impacts on the existing use and enjoyment of immediate and nearby waters.

c. Marinas shall be sited and designed to afford adequate protection against wakes caused by vessel traffic to the maximum extent practicable.

d. Adequate restroom facilities for the use of marina patrons shall be provided so as to encourage the use of shoreside facilities, to prohibit the overboard discharge of untreated or inadequately treated sewage from vessels, and to protect water quality.

e. Shore based vessel maintenance areas shall be sited as far from the water as is practicable, and shall be designed so that all maintenance activities that are potential sources of air or waterborne contaminants shall be accomplished over dry land or indoors. A management plan for the control and disposal of hazardous materials, by-products, debris, residues, spills and stormwater runoff from maintenance areas shall be submitted. All drains from maintenance areas shall lead to a sump, holding tank, or pump-out facility from which the wastes can be removed for treatment and/or disposal.

f. Life safety equipment – flotation devices shall be provided at regular intervals throughout the marina to ensure the safety of marina users.

g. Lighting shall be in accordance with U.S. Coast Guard and/or U.S. Army Corps of Engineers requirements, and is subject to Article 78 Lighting Standards. In general, lighting shall be designed with maximum usage of full cutoff fixtures to ensure public safety and minimize visual impacts.

h. The owner or operator of a proposed marina shall maintain, at a minimum, insurance policies for comprehensive general liability, marina operators legal liability, pollution coverage/endorsement/riders, and any other policies as may be mandated by any Municipal, State or Federal agency as part of any permitting, approvals, license conditions or otherwise. Verification of said policies shall be submitted to the Town prior to the issuance of a Certificate of Occupancy by the Code Enforcement Office.

i. Marina structures in, on or over submerged lands shall be designed to comply with applicable federal or state requirements, and with the following:

1. They shall be designed to minimize adverse impacts on navigation, use of waters, and natural resources impacts.
2. They shall not significantly restrict water flows.

3. The width and length of all facilities shall be limited to what is reasonable for the intended use, and shall minimize the shading of marine vegetation, if any. This section is not to be interpreted to allow for the construction of any superstructure above and beyond the approved decking of a marina.
4. Barrier-free access for the handicapped that complies with the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines shall be provided for all marina structures when required.
5. They shall have sufficient strength to resist all anticipated loading required of buildings in the Town of Old Orchard Beach, including but not limited to dead, live, wind, earthquake, snow, and impact loading.
6. They shall not be constructed using creosote treated timber.
7. No floating structure (other than a boat) shall exceed twenty (20) feet in height as measured from the surface of the water.

Standards. In addition to site plan review criteria found in Article 78, the Planning Board shall consider the following factors in reaching a decision:

a. Potential impacts to water quality and to visual and aesthetic enjoyment of the waters of Saco Bay will be minimized to the maximum extent practicable.

b. Unavoidable impacts to aquatic and terrestrial resources have been or can be compensated to a practicable and appropriate extent.

c. The potential effects on the public with respect to commerce, navigation, recreation, aesthetic enjoyment and natural resources have been minimized to the greatest practicable extent.

d. The extent to which structures are dependent upon water access for their primary purpose shall be considered. Restaurants, decks, dwellings, and other non-water dependent structures that extend seaward beyond the Normal High Water Mark of Coastal or Tidal Waters shall not be authorized by this section.

e. The proposed location does not unreasonably interfere with access to existing marine structures or points of public access, or with existing developed or natural beach areas.

(The following existing sections of ordinance contain additions in underlined text and deletions in ~~strikethrough~~ text)

Subdivision III. Downtown District 1 (DD-1)

Sec. 78-716. Purpose.

The purpose of the downtown district 1 (DD-1) is to maintain the historical downtown area as the town's principal commercial, service, and entertainment center for year round residents and seasonal visitors, by promoting increased commercial diversity, vertical stratification of mixed uses, improved infrastructure, and implementation of design standards targeted at creating a visually exciting and harmonious environment attractive to the changing market demands.

(Ord. of 9-18-2001, § 7.1)

Sec. 78-717. Permitted uses.

Permitted uses in the downtown district 1 (DD-1) shall be classified as follows:

(1) *Primary uses.* Primary uses are as follows:

- a. Single-family detached and two-family dwellings.
- b. Multifamily dwellings, provided that all units are located on any floor except sidewalk level.
- c. Accessory buildings, structures, or uses.
- d. Retail uses.
- e. Business/commercial services and professional offices.
- f. Restaurants, sidewalk cafes, and cafes.
- g. Food stands (located between First Street/Milliken Street and the beach) with a minimum ten-foot setback from the front property line.
- h. Movie theaters, playhouses, performing arts centers.
- i. Lodging establishments and convention centers.
- j. Recreational rentals, sales, supplies.
- k. Health clubs, recreational facilities, and bathhouses.
- l. Parking garages, providing the level abutting any public sidewalk or street shall contain retail uses to maintain the commercial continuity of the street.
- m. Service clubs, lodge or fraternal organizations.
- n. Municipal uses.
- o. Community living arrangements.

(2) **Complementary uses.** Complementary uses are as follows:

- a. Personal services, including laundromats, dry cleaning, tanning salons, and beauty parlors.
- b. Drinking establishments.
- c. Dancehalls and chem-free clubs that serve only nonalcoholic beverages.
- d. Amusement arcades.
- e. Artist and craftsman shops and any manufacturing operations where goods are produced and primarily sold in an on-site retail storefront.
- f. Tattoo parlors.
- g. Rental car parking lots provided that the number of on-site stored automobiles shall not exceed ten vehicles.
- ~~h. Marinas, docking facilities and water-related uses.~~

(3) **Conditional uses.** Conditional uses are as follows:

- a. Public/private utility facility.
- b. Wireless telecommunication facilities: architectural siting only.

(Ord. of 9-18-2001, § 7.1.1)

Sec. 78-718. Prohibited uses.

Prohibited uses in the downtown district 1 (DD-1) are as follows:

- (1) Automobile filling stations, automobile sales, service, or repair.
- (2) Fuel storage except that incidental for cooking and heating/cooling of buildings.
- (3) Adult entertainment.
- (4) Truck terminals/motor freight business.
- (5) Storage of contractor's equipment or supplies.
- (6) Trailer and mobile home, commercial boat sales and service.
- (7) Marinas, docking facilities and water related uses

(Ord. of 9-18-2001, § 7.1.2)

Subdivision IV. Downtown District 2 (DD-2)

Sec. 78-746. Purpose.

The downtown district 2 (DD-2) represents a natural expansion of the DD-1 district into adjacent underutilized parcels for the purpose of increasing the critical

mass of commercial space and diversity of goods and services essential to provide for a strong local economy. Since the DD-2 district is both visually and functionally related to the traditional downtown, many of the same uses and design standards of the DD-1 district apply.

(Ord. of 9-18-2001, § 7.2)

Sec. 78-747. Permitted uses.

Permitted uses in the downtown district 2 (DD-2) shall be classified as follows:

(1) *Primary uses.* Primary uses are as follows:

- a. Single-family detached and two-family dwellings.
- b. Multifamily dwellings.
- c. Accessory buildings, structures, or uses.
- d. Retail uses.
- e. Personal services, including laundromats, dry cleaning, tanning salons, and beauty parlors.
- f. Business/commercial services and professional offices.
- g. Restaurants, sidewalk cafes, and cafes.
- h. Movie theaters, playhouses, performing arts centers.
- i. Hotels, motels, and convention centers.
- j. Recreational rentals, sales, supplies.
- k. Health clubs, recreational facilities, and bathhouses.
- l. Transportation facilities.
- m. Parking garages, providing the level abutting any public sidewalk or street shall contain retail uses to maintain the commercial continuity of the street.
- n. Service clubs, lodge or fraternal organizations.
- o. Municipal uses.
- p. Boat sales.
- q. ~~Marinas, docking facilities and water-related uses.~~
- r. Community living arrangements.

(2) *Complementary uses.* Complementary uses are as follows:

- a. Artist and craftsman shops, and any manufacturing operations where goods are produced and primarily sold in an on-site retail storefront.
- b. Commercial parking lots not associated with a principal permitted use.
- c. Valet parking lots.
- d. Rental car parking lots provided that the number of on-site stored automobiles shall not exceed ten vehicles.
- e. Miniature golf course.
- f. Chem-free clubs and nonalcoholic dance facilities.

(3) *Conditional uses.* Conditional uses are as follows:

- a. Public/private utility facility.
- b. Wireless telecommunication facilities: architectural siting only.

(Ord. of 9-18-2001, § 7.2.1)

Sec. 78-748. Prohibited uses.

Prohibited uses in the downtown district 2 (DD-2) are as follows:

- (1) Automobile filling stations, automobile sales, service, or repair.
- (2) Fuel storage except that incidental for cooking and heating/cooling of buildings.
- (3) Adult entertainment.
- (4) Truck terminals/motor freight business.
- (5) Food stands, drinking establishments, and game arcades.

- (6) Tattoo parlors.**
- (7) Storage of contractor's equipment or supplies.**
- (8) Recreational trailer and mobile home, commercial boat sales and service.**
- (9) Marinas, docking facilities and water related uses.**
(Ord. of 9-18-2001, § 7.2.2)

5326 Discussion with Action: Amend the Code of Ordinances, Chapter 14 (Animals) and Chapter 42 (Parks and Recreation) concerning horses on the beach.

KIM MCLAUGHLIN: The Town currently has a very strict horse ordinance and no one legally takes advantage of it. Only about two individuals get horse permits (\$10 and \$40 a year.) Scarborough has a horse ordinance as well and they make a few thousand dollars. Scarborough approached us last year about doing a joint horse permit that would benefit both communities. The wearing of identification tags, a rule designed to discourage owners from leaving waste on the shore, is a strong reminder of regulations that need to be followed in connection with this ordinance. Should the ordinance pass an annual horse riding permit would cost \$20 and be valid from October 15 to May 1st. The Scarborough ordinance allowing the joint partnership was passed last month. Anyone who violates the ordinance will see penalties from \$50 to \$100 for a first violation.

YOLANDE JUSTICE (Tody) – The City Clerk of Scarborough thanked the Old Orchard Town Clerk for the willingness to coordinate and collaborate working together and believed that this would serve both communities well.

VICE CHAIR DAYTON: She thanked both Town Clerk's for their work but did ask if this meant the containment device would be used.

KIM MCLAUGHLIN: No the contained device will not be used but each horse will have a permit number which will make it easy for reporting of those who do not follow the rules regarding picking up after their animal.

MOTION: Councilor O'Neill motioned and Councilor Bolduc seconded to Amend the Code of Ordinances, Chapter 14 (Animals) and Chapter 42 (Parks and Recreation) concerning horses on the beach.

VOTE: Unanimous.

5327 Discussion with Action: Approve the Special Event Permit application of the OOB 365/OOB Recreation to hold the Taste of OOB on May 2, 2010, from noon to 5 p.m., with a request to close Old Orchard Street, and a request for banners in the Square, Saco Avenue and Cascade Road. Request to waive the fee.

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

VOTE: Unanimous.

5328 Discussion with Action: Approve the Special Event Permit application of the OOB 365/OOB Recreation to hold the Old Orchard Beach Autumn Celebration on Saturday, September 25, 2010 in Memorial Park, from 8 a.m. to 9 p.m., with a rain date of Sunday, September 26, 2010. Request to close First, Staples and Heath Street, and a request for banners in the Square, Saco Avenue and Cascade Road. Request to waive the fee.

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

VOTE: Unanimous.

5329 Discussion with Action: Approve the Liquor License Renewals for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), s-m-v in a Restaurant/Lounge.

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

VOTE: Unanimous.

5330 Discussion with Action: Approve the repairs to Loader #1 by Nortrax, in the amount of \$6,356.14 from Account Number 20151-50452 – Equipment Repairs with a balance of \$42,000.

BACKGROUND: The former Acting Town Manager approved this required repair as the delay in the use of the loader as we get into the winter season would have hampered the Public Works' staff to do their work. Loader 1 is again in need of major repairs. The following lists include the work that needs to be done as soon as possible to prepare for winter operations: correction of vibration problem, hydraulic pump replacement, and disconnect fitting repair/replacement. The former Acting Town Manager recommended repairing from the only local John Deere dealer, Nortrax to be paid from Account Number 20151-50452 – Equipment Repairs with a balance of \$42,000.

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to Approve the repairs to Loader #1 by Nortrax, in the amount of \$6,356.14 from Account Number 20151-50452 – Equipment Repairs with a balance of \$42,000.

VOTE: Unanimous.

5331 Discussion with Action: Award a Contract to Superior Crushing, Inc., in the amount of \$6.25/yard with the total not to exceed \$30,000 from Account Number 20203-50506 – Capital Road Maintenance, with a balance of \$316,958.

BACKGROUND: As part of our recycling efforts, DPW saves the used asphalt and concrete throughout the year. At the end of each construction season, we hire a private contractor to crush this material to create a 1" crushed gravel material (reclaim) that is used to shim roadway shoulders and fine-grade areas for finish paving. The cost of this material to be crushed is approximately 40% less than purchasing the material from an outside source. The amount of

material is approximately 5,000 cubic yards, and the bids are contracted at a cost per CY. Four contractors were contacted for bids; only two could provide this service to the Town.

Superior Crushing	\$6.25 per CY
Shaw Bros	\$9.25 per CY
Marcotte	sold equipment to Superior
Gorham Sand	could not provide all 1" material

COUNCILOR TOUSIGNANT: He expressed a concern that the limit of \$30,000 be maintained as approved in the resolution and the lack of loam in the bids.

MOTION: Vice Chair Dayton motioned and Councilor Bolduc seconded to Award a Contract to Superior Crushing, Inc., in the amount of \$6.25/yard with the total not to exceed \$30,000 from Account Number 20203-50506 – Capital Road Maintenance, with a balance of \$316,958.

VOTE: Unanimous.

5332 Discussion with Action: Request to waive the sewer connection and street opening permit fees for Teresa Lacroix, owner of 3 Apple Blossom Lane (211-4-2).

MIKE NUGENT: Due to financial constraints we are asking consideration for the waiving of the sewer connection and street opening permit fee for this citizen. The existing septic system on the property is malfunctioning and the Sewer Ordinance requires that the house be connected to the sewer because it is within 200 feet. Review of request of Teresa Lacroix, 3 Apple Blossom Lane, to waive the Sewer Permit fee and any associated street opening fees to allow her to connect to the Sewer to correct her malfunctioning septic system. She is 83 years old, impaired, with financial hardship who is very close to being approved by PROP for a forgivable loan to cover the entire installation. If she lives in her home for five more years and doesn't sell, the debt will be forgiven. This is the same individual who applied to the Department of Environmental Protection to pay for 1/2 of the installation, but the DEP ran out of funds. Her son will be attending that night.

CHAIR MACDONALD: She asked if the Council is the only one that can waive the fee?

MIKE NUGENT: That is correct.

MOTION: Councilor O'Neill motioned and Councilor Bolduc seconded to Request to waive the sewer connection and street opening permit fees for Teresa Lacroix, owner of 3 Apple Blossom Lane (211-4-2).

VOTE: Unanimous.

5333 Discussion with Action: Selection or rejection of bids for interior plumbing and a new subsurface waste disposal system for the Town of Old Orchard Beach's Canine Facility, 192 Portland Ave.

MIKE NUGENT: Requests for bids were sent to seven businesses including the following:

**SBB Excavators - OOB
MacDonald Excavation - OOB
Poinier Excavation - Biddeford
Welch Excavation - Arundel
Pleasant Hill Excavation - Hollis
Swenson Excavation - Saco
Apple Ridge Excavation - OOB**

Bids were submitted from the three businesses as follows:

SBB Excavators – OOB – Pump not included	\$ 6,500
MacDonald Excavation – OOB – Pump not included	\$ 7,500
Poinier Excavation – Biddeford	\$ 5,400 *

*** If a Pump Tank is needed it would be an extra \$1,500.**

Three local plumbers were solicited for the installation of a toilet in the facility and the relocation of the plumbing to connect to the new septic system.

**Girard Plumbing
Ocean Park Plumbing
Lasher Plumbing**

Ocean Park Plumbing and Lasher Plumbing responded, both with binds of \$1,500. A bid was not received from the third plumber solicited. Girard Plumbing provided their estimate and it was for \$5,425.

The Council approved \$5,000 for repairs to the facility in the current budget – Account Number 20135-50450 – Animal Control Building Repairs with a balance of \$5,250. The Council decides to direct staff whether to proceed further.

The total amount would be the cost of the accepted proposal for the septic system installation plus an additional \$1,500 for the interior plumbing work. A \$1,500 contingency should also be carried in the event that a pump needs to be installed in the septic tank to carry the effluent to the distribution field. Topographically it appears that the pump may be necessary.

CHAIR MACDONALD: She requested that a possible Incinerator Toilet with either propane or natural gas be investigated to see if it would be less costly.

MOTION: Chair MacDonald motioned and Vice Chair Dayton seconded to remove without prejudice until the funding can be discussed as it regards budget limitation on this project.

VOTE: Unanimous.

5334 Discussion with Action: Authorize the Interim Town Manager to enter into an Agreement with BBI, Inc., to assume current services being provided at the Old Orchard Beach Transfer Station at BBI's facility at 1 Vallee Lane, pending the outcome of a permit revision by the Department of Environmental Protection.

INTERIM TOWN MANAGER: The Town Manager, Assistant Town Manager, Archie St. Helaire and Kenny Blow of Blow Brothers, along with Mark S. St. Germain, President of St. Germain & Associates, Inc., met this week with Randy McMullin, of the Department of Environmental Protection, Division of Solid Waste, to discuss the issue of the Town Council request to study the closing of the Transfer Station and moving all services to BBI except composting which was discussed at the August 19, 2009 Workshop. In the meeting it was noted that a permit revision would be necessary for BBI to conduct this operation. With the desire to move this process along so that possible operations in April or May of 2010 is viable, the Council is being asked to authorize the Town Manager to Authorize the Interim Town Manager to enter into an Agreement with BBI, Inc., to assume current services being provided at the Old Orchard Beach Transfer Station at BBI's facility at 1 Valle Lane, pending the outcome of a permit revision by the Department of Environmental Protection. Some of the discussion at the works included a possible \$50,000 savings; better hours, cost savings, not closed during plowing, scales more accurate, etc. A further Workshop will be needed as more information becomes available. It should be noted that our license to operate will remain in effect.

Discussion continued with the indication of some of the positives that could be experienced by this change in operation:

BENEFITS OF BBI OPERATION OF TRANSFER STATION

Tentative Cost Savings **\$50,000**

**Future savings – No maintenance cost
on transfer station itself.**

Better Hours of Operation for Citizens

Transfer Station Open:

Monday, Wednesday, Friday – 7:15 a.m. to 2:45 p.m.

Tuesday and Thursday – Closed

Saturday – 7:15 a.m. to 12:45 p.m.

BBI Open: Monday through Friday – 7:30 a.m. to 4:00 p.m.

Saturday – 8:00 a.m. to 12:00 noon

Not closed during Plowing

Scales more accurate

Better record keeping

Alleviate commercial traffic concerns on Dirigo Drive

COUNCILOR O'NEILL: He questioned the cost savings of \$50,000 and believe that needed to be substantiated in further discussions and also the need for more information on permitting itself.

COUNCILOR BOLDUC: Indicated that amount was provided at a Workshop at which only three councilors were present but that there was general feeling that there would be cost savings.

COUNCILOR TOUSIGNANT: He expressed the need for a further workshop so there is not information provided not only to the Council but to the citizens who have questioned the

possibility of moving Transfer Station operations to BBI, Inc. He indicated not only cost savings but other areas of concern such as leaves, trees, debris, etc. were a concern as well. He pressed for a Workshop as soon as possible so all the facts are presented.

VICE CHAIR DAYTON: She questioned the word “Agreement.” She felt that it was too definitive since this was more of an understanding of interest.

COUNCILOR O’NEILL: I need to have more information on the real cost of this possible transfer of responsibility from the Public Works Department to BBI. Where is that going to come from.

CHAIR MACDONALD: It is my understanding that this is just a green light, a tentative understanding to study the possibility of cost savings in this endeavor.

MOTION: Councilor Bolduc motioned and Vice Chair Dayton seconded to Authorize the Interim Town Manager to enter into discussions with BBI, Inc., to assume current services being provided at the Old Orchard Beach Transfer Station at BBI’s facility at 1 Vallee Lane, pending the outcome of a permit revision by the Department of Environmental Protection.

VOTE: Unanimous.

GOOD AND WELFARE:

CHAIR MACDONALD: She expressed appreciation to Helene, Chet and Judy (in the audience) for the work on the video for the presentation of the police department building project and recommended that all citizens take the opportunity to view it. She thanked the Assessor, George Greene, for the video that he also did for the explanation of the tax structure.

TOM LECHANCE: Expressed appreciation to all the volunteers and those who have contributed to the upgrades of the Ballpark and for the commitment and time and effort.

HELENE WHITTAKER: Expressed support of the Ballpark. Thanked all those participating in the video of the new police station including funding measure to support that building itself. She expressed appreciation to all concerned in the making of the video and indicated it would give the citizens a great overview of the project itself and the payment structure for the building.

JACK SARNO: He expressed his concern for the future of the skate park and asked the Council to consider the choosing of another sight and the fact that these young people need to be assured that there will be a skate park. He again talked about the Milliken Street engineering study; stormwater issues; the West Grand project. The subject of the dredging of the Little Jones River was another issued raise and he again asked for closure of the issue. He asked again if he was going to get any answers to the questions that he has raised in workshops and Town Council meetings. He was concerned that the public Works Director says there is no solution to the flooding issue on West Grand and wants that statement investigated for accuracy. He mentioned the many studies that have been provided and the recommendations for the Little River area are there so another study is not necessary.

TOWN CLERK: She gave information on Woofstock that is coming up this coming weekend including Event exhibitions, Agility Show, Search and Rescue, Rabies Clinic,

Animal Rescue Groups, Pet Supply Vendors, OOB Resident Dog Registration, Dog Contest, Bottle Drive, Shred your files and many other events. She talked about absentee balloting availability and election day.

JEROME BEGERT: He questioned the width of the E. Emmons Cummings Boulevard work as not being 9 feet but rather 7 feet. He asked that it be reviewed.

VICE CHAIR DAYTON: Expressed appreciation for serving on the Council with Mike Tousignant, Laura Bolduc, Shawn O'Neill and especially the Chair, Sharri MacDonald, and encouraged citizens to get out and vote.

COUNCILOR TOUSIGNANT: Indicated that several citizens had raised the issue about Roundabout Funds being used for some other project; being shirred from one bond project to another. He spoke of disgruntled citizens wanting to know if the Council endorsed this.

CHAIR MACDONALD: She requested that the Roundabout project be on the next agenda.

JACK SARNO: Expressed appreciation for the dunes restoration on Walnut Street.

ADJOURNMENT

MOTION: Councilor Bolduc motioned and Vice Chair 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 seventeen (17) pages is a true copy of the original Minutes of the Town Council Meeting of October 20, 2009.

Louise Reid