

**TOWN OF OLD ORCHARD BEACH
REGULAR TOWN COUNCIL MEETING
TUESDAY, JULY 7, 2009 – 7:00 P.M.
TOWN HALL CHAMBERS
AGENDA**

**Pledge to the Flag
Roll Call**

Present: Chair Sharri MacDonald
Vice Chair Robin Dayton
Councilor Mike Tousignant
Councilor Laura Bolduc
Town Manager Steve Gunty
Assistant Town Manager V. Louise Reid

Absent: Councilor Shawn O'Neill

ACKNOWLEDGEMENTS:

COUNCILOR DAYTON: We wish to express our appreciation to the Police, Fire and Rescue Units for their excellent work in handling the Fourth of July weekend when our town was packed with citizens and tourists.

EMERGENCY ITEM:

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to add an Emergency Agenda Item Pursuant to the Code of Ordinance, Section 18-34. Authorize the relocation of Lisa Huntress, Mark DeFrancesco, & Terry Loeser dba/ Paint Your Own Pottery, from their 38 Old Orchard Street location to 44 Old Orchard Street , pending advertising and final Council approval.

VOTE: Unanimous.

ACCEPTANCE OF MINUTES: Special Town Council Meeting Minutes of June 30, 2009.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to approve the following Minutes as read.

VOTE: Unanimous.

BUSINESS LICENSES: Janice Tabone dba/Mim's Catering & Event Planning (206-4-5), 100 Saco Avenue, Victualers; Kimberly Regoulinsky dba/The Precious Present (206-4-5), 100 Saco Avenue, Novelty Shop; Dan Marston (205-10-4), 7 Carll Avenue, one year round rental; Monica Vallee (206-24-35), 28 Saco Avenue, one year round rental; David Cochrane dba/Star Struck Video (207-2-12-2A), 155 Saco Avenue, Suite A-1, Rental of Merchandise, Grocery Store, Victualers; John & Leontin S. Dunn (209-13-7), 10 West Casco Avenue, one seasonal rental; John & Marta Lacasse (302-7-5), 166-168 East Grand Avenue, one seasonal rental; Executive Motel Corp (305-6-2), 38 East Grand Avenue, Vending Machine & twenty-

four seasonal rentals; Melissa Meyreles (306-1-2-A), RE Salon & Spa, 1 East Grand Avenue, Massage Therapist; Linda Gantz dba/Caribbean Hair (306-6-1-A), 2 Old Orchard Street, Beauty Parlor; Linda Gantz dba/Toe Rings and Things (306-6-1-T), 2 Old Orchard Street, Jewelry Store; Joseph L. Mannisto (313-2-10), 8 Pearl Avenue, three year round rentals; Seth & Carla Dube (314-11-12), 90 ½ Seaview Avenue, one year round rental; Peter & Elaine Eliopoulos (319-4-10), 4 Hampton Avenue, one seasonal rental; Caroline Fohlin & John Latting (321-6-2), 19 Winona Avenue, one seasonal rental; and Lisa Huntress, Mark DeFrancesco, & Terry Loeser dba/ Paint Your Own Pottery (205-3-7A) and block) from their 38 Old Orchard Street location to 44 Old Orchard Street.

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

VOTE: Unanimous.

NEW BUSINESS:

5239 Discussion with Action: Provide Direction to the Town Manager and staff regarding suggestion of a study formation of a regional planning entity for Saco Bay.

CHAIR MACDONALD: We want to continue to be supportive and collaborative with our surrounding communities. We appreciate the work of Representative George Hogan and Gary Lamb and the work they have done has given us claims to jurisdiction over a large portion of the bay. This initiative should not come from Saco whose jurisdiction it now appears ends at the water's edge. The Council feels it is premature to discuss the possible commission idea. We believe the bay rezoning is our next issue to be addressed.

PHIL DENISON: While there may be some merit in the proposals that have been submitted, those considerations should be some time in the future. I do not want to see the effects of LD1119 watered down. As a member of the Saco Bay Committee, I and others, have worked hard to see that this became law. Let's not lose our momentum now by entering into the proposed discussion.

TOWN MANAGER: The Regional challenge Grant programs provides non-competitive grants to promote regional land use initiatives in coastal communities. The invitation by Saco to join in discussions under the auspices of the Southern Maine Regional Planning Commission. Should the communities of Saco Bay desire to create a regional entity to review certain types of projects, planning for this activity could be funded by the regional challenge grant. We appreciate the direction of the Council in this item.

Discussion continued with Councilor Dayton indicating that she didn't believe this was the time to enter into any type of collaboration.

MOTION: Councilor Bolduc motioned and Chair MacDonald seconded to direct Staff to not enter into discussions at this time in the formation of a regional planning entity for Saco Bay.

VOTE: Yea: Councilors Bolduc, Tousignant and Chair MacDonald.
Nea: Councilor Dayton

5240 Discussion with Action: Amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187 Restrictions and Prohibitions, Town Hall.

TOWN MANAGER: Opening up the Town Parking Lots on the weekends will continue to permit The American Legion to use it for Saturday night Bingo; St. Margaret's Church for Sunday services; and also for Associations and Groups using the Town Hall for meetings on the weekend. We also need to arrange for use by the Harmon Museum on Tuesdays; and the American Legion on Monday nights.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187 Restrictions and Prohibitions, Town Hall.

VOTE: Unanimous.

5241 Discussion with Action: Approve the Town Manager authorizing a loan in the amount of \$10,000 for the Ballpark Committee from Saco & Biddeford Savings Institution.

TOWN MANAGER: The Ballpark Committee is requesting approval for a possible loan of \$10,000 from Saco Biddeford Savings Bank. This would be an unsecured loan and the Town's obligation will be for interest only payable quarterly. Our understanding is that our Charter only requires the Town to go to Referendum when Gen Oblig bonding exceeds \$500,000 for Capital Improvements or Equipment. We therefore presume that smaller indebtedness is doable without public referendum, but merely by Council Action. Legal opinion confirms that no referendum is required for loans under \$500k and that this is a simple process: Council decides if it wants this loan arrangement and authorizes the Town Manager to execute loan papers. This is a low-cost safe opportunity for the Town and is an excellent way to provide some seed capital for the Ballpark with a matching grant "of sorts" from a key community financial institution which has been a source of community support for so many citizens and businesses alike.

KATHY SMITH: I am a resident of Old Orchard Beach and an employee of the Town. I have some concerns about the Ballpark and the Loan Authorization. (Quote from her presentation☺)

- Concerned about this loan and how it will be paid back
- First what great efforts have been put in by all the volunteers / to get people to donate their time and efforts in such a way is wonderful. But here are some questions.
 - I want to know if the Ballpark committee is solely responsible for this loan
 - What is the time frame to pay it back
 - What happens if the committee defaults on the loan or the committee dissolves, who responsible then.

I say this because in a list called Goals and Objectives of the Ballpark Committee it says this under Expenditures: This has been strictly an all volunteer effort. We are adhering to a strict code to use no tax dollars except for security purposes. I am very concerned about where this is all going.

- More and more money is being put into this piece of property the townspeople haven't even decided what to do with yet.

- 25,000 was authorized by the Council to be available for security purposes, less than a 1,000 went into some fencing material, 12,000 went to repairing the roof which Steve Guntz agreed was in some sense construed as security related.
- What has happened to the other 12,000 is it still in an account or has that been spent?

Let me tell you how I feel about the Ballpark

Ballpark work / study groups in 2006 to come up with ideas on what to do with the park

- My husband & I part of one of the first meetings at the **American legion** and then the final meeting at the **High School (in Robins group)** to discuss and present ideas about what we as OOB citizens would like to see happen with the Ballpark property.
- Studies were done and our ideas were all put together. I know there was some difficulty with this process, sifting through all the ideas we came up with. But then...one minute the voters were told we were going to vote on it as a referendum question I believe that November? And then.....it was gone..nothing.
- In all the ideas that came forth in those work groups, not one, as far as I can remember mentioned baseball coming back to OOB or using the stadium at all for concerts, shows, or utilized in any way.
- We talked about community centers, performing arts centers, housing, green space, and walking trails etc.
- And then it all can to an abrupt end.

In the last year or so a group of people have gotten together, I believe headed up by Tom Lachance. There was talk of HS baseball happening at the ballpark.

- I had some concerns about that since the turn out for our HS baseball games certainly didn't call for the use of that stadium. Baseball isn't the draw that even football is in OOB.
- **In an e-mail from a committee member to Steve Guntz it said - "While we realize that it is unrealistic at this time to ask the taxpayers to incur any costs of renovating any part of the ballpark, we also believe that it is detrimental to the community to allow the property to continue to sit in disrepair and allow to deteriorate. Our short term goal for this property is to bring the playing field back to a usable condition so this it can be utilized by the OOB high School baseball team. We believe that this small accomplishment will lead to greater things , but we realize that great projects need to move one step at a time..(E-mail dated April 14th 2008)**
- In December of 2008 I was told that 3 separate baseball league owners from 3 different areas of the United States had approached the Town with serious interest in partnering toward a ballpark use, all of whom were willing to invest **some** of their own money in the process. A word that jumped out to me was **some** of their money.....doesn't this sound terribly familiar?

Let me share some history. In 1983 the Town decided to sell about 50 acres to Jordan Kobritz so he could build a ball park for his professional baseball team. We came to know them as the Maine Guides. In order to secure financing for the project the town agreed to co-sign the loan with Mr. Kobritz. After 3 seasons of baseball, Mr. Kobritz sold the team, left town and left OOB with 2.2 million dollars to pay back. The town would require the land after paying off the debt.

To help pay the money back we leased the ballpark to the Seashore Performing Arts Center. From 1989 to 1991 concerts were hosted there. There was an onslaught of complaints regarding traffic, and noise by those who neighbored the ballpark. There were complaints of what people were doing as they walked out of the park after a night of drinking and having no

public bathroom facilities nearby, after leaving the stadium, you can use your imagination here.

In 2003 OOB finally made the last payment on this loan, just 6 years ago. Seems like it was forever ago baseball and concerts were here, and yet we just paid it off 6 years ago. Sixteen years it took us to pay off this loan. I was 29 when we inherited that loan and 45 when it was paid off. That's a long time. And now we are talking about baseball again, and putting more and more money and funds into the ballpark stadium.

These are some of my concerns with the Ballpark.

One other concern.....had other people known, that they too could form a group and present ideas of what to do with the ballpark, I'm sure they would have done so....

Working here in the Planning office in town hall I have heard some people talking as they came to our office about ideas of how they would like to utilize this land.....did anyone hear them out? I feel this has just slipped right under the radar and no one has been noticing, on how this has been building and progressing.... Why has this group been able to go forth without others being able to express their ideas or having their ideas entertained? What about all the suggestions of the study group? What about the voice of the OOB residents on what THEY want to see happen here. I'm afraid we or the committee are going to sink so much money into this that the town will eventually become trapped. It will be stated that so much time and money has already gone into it we have to keep it going.....when do you take into consideration what OOB wants as a whole. Again I applaud the work, the efforts, the time, and the visions this committee has had, but at what cost to me as a taxpayer? What a risk they run if we decide we want to do something else with the ballpark, or has that option now left us. What if a great offer or idea comes to us about the land the Ballpark sits on before the loan is paid off? What again happens if the committee dissolves? I'm sorry I for one cannot come to bat for this ...If the town as a whole is behind it, and wants to travel down this road again, remembering where we have come from, then I will support it. But I cannot support it like this.

- And for the record what if someone gets hurt....as a volunteer or as a spectator at a concert, a game, a show.....who is responsible? These questions need to be addressed.

Lastly if one of my family members were involved with a project that was placed before me as a Council member and I was responsible to cast a vote for whether we as a Town Council were for it or against I would have to abstain from voting. I would ask in the kindest way I know possible that that happen here with this project. I would ask you Laura to please abstain from any voting regarding the Ballpark committee since Tom Lachance, your brother is involved. I think that might appear to many as a conflict of interest. I know I would find it very difficult to vote against something a brother or sister of mine was so passionate about. I would also like to know how we as residents can acquire a list of who is on this committee. I only know of 3 Linda Jenkins for one, whom I have had the pleasure of working with on the OOB 125th Anniversary Committee, Tom Lachance who I love as he coached my daughter Stephanie in HS basketball and Dave Goyette who I have personally had some wonderful experiences with as have done business for years at Saco & Biddeford Savings. I hope I and others can find out who they are and what the intentions are for this committee and this Council for the future of our Ballpark and the land it is sitting.”

Council members addressed issues raised by Kathy Smith. Councilor Dayton questioned why she had not gone on the website and read the Minutes regarding the establishment of the Committee and their focus and objectives. Councilor Bolduc expressed her willingness to reclude herself in voting although she has not involved herself ever in the activities promoted by her brother as she has attempted to remain free from any conflict of interest. The Town Manager expressed appreciation for the questions that have been asked. The Chair presented a history of why the loan was being considered and the enormous amount of volunteer work that has been done. The Council spent a great deal of time defining the work of the volunteers and justifying the funding that has been provided. The Assistant Town Manager indicated that she knew the Council would not be critical but rather support the right of a citizen or an employee to raise questions on any issue before the Council. John Bird spoke about the relationship of the Ballpark Committee to the Conservation Commission. Councilor Tousignant expressed appreciation to Kathy Smith for the questions that she asked because he indicated he has had several individuals asking him the same questions.

LINDA JENKINS: As Chair of the Ballpark Committee was asked to speak on some of the issues and, as usual, provided a clear focus on the objectives and work of the Committee who is a sub-committee working under the auspices of the Conservation Commission. She stressed that the whole project is not only about baseball, but rather that the field itself can be used for many various venues and that our major commitment has always been to restart the community planning process in the Fall. She indicated also that she was dismayed as everyone else that attended the Alan Holt workshops that none of our plans was ever looked at seriously. The Ballpark Group has always tried to be very transparent with what we are doing and I was somewhat dismayed to hear someone say they had no idea what was going on. The 50 Acre Wood subcommittee gives updates to the Conservation Commission at the monthly meetings and these updates should be part of the public record. Also the Conservation Commission meetings are open to the public and we have advertised that anyone is welcome (and needed) to show up on any Saturday morning between 8:00 a.m. and noon. Even if there is no work that can be done due to weather, I am still there at 8:00 a.m. every Saturday just in case anyone shows up with questions. We have several volunteers from the Cider Hill community who are excited to work on the Club House building. We have people from condos in town who just want to come up and help us work outside because they had no yards of their own. There have been many wonderful ideas brought forward to the table, and we hope to explore them all in the fall. We are looking at grants for walking paths and other recreational ideas, as well as meeting places for seniors and for teens. There are clubs that are looking for meeting rooms and lots of people just looking for a place to socialize. We hope to do our best to meet everyone's needs. It may appear that our focus has been too much on the field but that is because that is what we gained permission to do. Once the volunteers started coming, the ideas started flowing, and that's when our focus started moving to the rest of the property.

DAVID GOYET: I am a member of the Ballpark Committee and I work at Saco Biddeford Savings Institution. The \$10,000, half of which will be paid back over a ten year period, with interest paid on the quarterly basis. There will be a principal payment of \$1,000 a year, of which the bank will pay half.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Approve the Town Manager authorizing a loan in the amount of \$10,000 for the Ballpark Committee from Saco & Biddeford Savings Institution.

**VOTE: Yea: Councilors Dayton, Tousignant, Chair MacDonald
Abstain: Councilor Bolduc**

5242 Discussion with Action: Approve the Application by the Old Orchard Beach Police Department for FY2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$11,939, with no matching funds required from the Town of Old Orchard Beach.

TOWN MANAGER: On June 16, 2009 the Old Orchard Beach Town Council accepted the bid from Radio communications Management, Inc. for repairs to the Police Radio System in the amount of \$16,816.79 from Account Number 20118-50350 – Contingency. The Police Department is applying for an Edward Byrne Memorial Justice Grant from the Department of Justice in the amount of \$11,939. Due to the time constraints of applying for the grant and the need for the radio repairs, the Council has approved the money for the radio repairs. If this grant is awarded, the funds would be returned to Account Number 20118-50350 – Contingency.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Approve the Application by the Old Orchard Beach Police Department for FY2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$11,939, with no matching funds required from the Town of Old Orchard Beach.

VOTE: Unanimous.

5243 Discussion with Action: Approve the Special Event Permit Application for Cheryl Ramsey to hold a 50th Birthday Party Celebration on the beach at the end of Union Avenue on July 18th, 2009 from 2 p.m. to 10 p.m., to include a New England Style Clambake, and no alcohol.

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to Approve the Special Event Permit Application as read.

VOTE: Unanimous.

5244 Discussion with Action: Approve the Special Event Permit Application for the Surfrider Foundation to hold their Barefoot Beach Clean-up on the beach at the end of Walnut Street on August 15, 2009 from 10 a.m. to 12 p.m. Request to waive the fee.

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

VOTE: Unanimous.

5245 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their 26th Annual Beach Olympics in the Square and on the beach by Palace Playland on August 21st through the 23rd, 2009; a request for a banner in the Square; and a request to waive the fee.

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

VOTE: Unanimous.

5246 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their 16th Annual Car Show in Memorial Park, Old Orchard Street, First Street, September 18th and 19th, 2009, to include a parade; a request for a banner in the Square; and a request to waive the fee.

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

VOTE: Unanimous.

5247 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their annual Celebrate the Season by the Sea in the Square and on the beach by Palace Playland on December 6, 2009; a request for a banner in the Square; and a request to waive the fee.

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

VOTE: Unanimous.

5248 Discussion with Action: Approve the Special Event Permit application for the Old Orchard Beach Recreation Department and OOB 365 to hold an Old Orchard Autumn Celebration in Memorial Park, and include Old Orchard St, First, Staples and Heath Streets, on September 26th and 27th, 2009; a request for a banner in the Square; a request to waive the fee; and Insurance to be provided prior to the event.

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

VOTE: Unanimous.

5249 Discussion with Action: Approve the Special Event Permit application for the Old Orchard Beach Town Clerk's Office and OOB 365 to hold Woolstock 2009 at the Ballpark on October 25th, 2009, with a rain date of November 1st, to include a rabies clinic; and a request to waive the fee.

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

VOTE: Unanimous.

5250 Discussion with Action: Approve the Special Event Permit Application from the Spina Bifida Association of Massachusetts for their event, "Let's Jump In for Spina Bifida," on October 12, 2009, at 1:00 p.m. on the beach by the Pier; and a request to waive the fee.

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

VOTE: Unanimous.

5251 AGENDA ITEM: Discussion with Action: Award the bid for the installation of a new roof for the Roger Hansen Facility (Department of Public Works) to D.M. Furtado & Daughter in the amount of \$43,756 from Account Number 20203-50826 – FY09 Capital Facility Improvements, with a balance of \$50,000.

MARY ANN CONROY: Since 2007, the existing roof at DPW has caused substantial interior damage to the sign fabrication area, employee washroom and bathroom area. We cannot perform the needed repairs to these interior areas until the roof is fixed. Attempts to repair existing roof have been unsuccessful leaving multiple leaks scattered throughout the building. Six bids were submitted to install approximately 9500 square feet of Flintlastic roofing system. Essentially installing a new roof over the existing roof adds insulation value thus conserving future heating expenses.

D.G. Vachon Construction	\$66,000.00
Chuck St. Hilaire Masonry Restoration, Inc.	\$55,980.00
A.W. Construction	\$53,132.00
Young Bros., Inc.	\$49,189.00
D.M. Furtado & Daughter	\$43,756.00

SCOPE OF WORK: Fill all troughs with Avilite Styrofoam Insulation. Mechanically fasten 5/8" Avantec sheathing to the old roof. Apply Certanteed Flintlastic 3 ply roofing system to new decking. Install white C-6 aluminum flashing along fascia perimeter of roof. 15 Year Warranty min.

RECOMMENDATION: Public Works recommends awarding the contract to D.M. Furtado & Daughter for the amount of \$43,756.00 to be paid from the FY10 Capital Facility Improvements #20203-50826, with a balance of \$50,000.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Award the bid for the installation of a new roof for the Roger Hansen Facility (Department of Public Works) to D.M. Furtado & Daughter in the amount of \$43,756 from Account Number 20203-50826 – FY09 Capital Facility Improvements, with a balance of \$50,000.

VOTE: Unanimous.

5252 Discussion with Action: Award a Contract to Shaw Brothers Construction in the amount of \$968,850 from Account Number 31141-50870 – Ocean & Seaview Sewer Project, with a remaining balance of \$755,154.10 (the remaining balance to be paid with bond funds originally allocated for the Roundabout Project and Interest Earned on Bond Proceeds, as requested by Town Council.)

MARY ANN CONROY: Project Overview: Replacement of approximately 5,000 linear feet of sanitary sewer along Ocean Avenue and Seaview Avenue between First Street and Forest Avenue.

The project will consist of the following components:

- replacement of sewer main and manholes,
- roadway realignment and repaving (full width or partial width),
- sewer service replacement from main to ROW,
- option for sewer service replacement from ROW to house (cost to resident),
- potential for water main replacement through Biddeford-Saco Water,
- potential for water service replacement from main to ROW,
- potential option for water service replacement from ROW to house (cost to resident),
- drainage improvements.

As discussed in the recent budget meetings, this project is over budget from the original bond estimate of \$800,000 due to poor base material and increased edge quantities. Per the council's request, the scope will remain as was planned with leftover bond funds used to cover the overage.

RECOMMENDATION: Public Works recommends awarding a contract to Shaw Brothers Construction for a total of \$968,850.00 to be paid with Bond Funds from Account #31141-50870, Ocean and Seaview Sewer Project, with a remaining balance of \$755,154.10. (The remaining balance to be paid with bond funds originally allocated for the Roundabout Project and Interest Earned on Bond Proceeds)

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to Award a Contract to Shaw Brothers Construction in the amount of \$968,850 from Account Number 31141-50870 – Ocean & Seaview Sewer Project, with a remaining balance of \$755,154.10 (the remaining balance to be paid with bond funds originally allocated for the Roundabout Project and Interest Earned on Bond Proceeds, as requested by Town Council.)

VOTE: Unanimous.

5253 Discussion with Action: Approve the Hours of the Voter Registration Office to be open in connection with all Regional School Unit Budget Validation Referendum that are not in conjunction with any other election, to have Office hours during Town Hall Office hours.

TOWN MANAGER: The above item allows the Registrar's Office to be open during regular Town Hall office hours for all of our RSU Budget Validation Referendums as long as there isn't another election occurring on the same date. We wanted to leave this open ended so the Registrar doesn't have to keep coming before Council every time we must hold a Budget Validation Referendum. To break this down, it only changes the open hours required by one

hour. On Tuesday, the Registrar's Office would be open until 6 p.m. instead of 7 p.m. Also, since this only affects the RSU Elections, the Registrar would still come before the Council if she requests to change her office hours for any other election.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Approve the Hours of the Voter Registration Office to be open in connection with all Regional School Unit Budget Validation Referendum that are not in conjunction with any other election, to have Office hours during Town Hall Office hours.

VOTE: Unanimous.

#5254 Discussion with Action: Set a Public Hearing of July 21, 2009 to Repeal Chapter 62 of the Town of Old Orchard Beach Code of Ordinances- Vehicles for Hire and replace with the Revised Chapter 62 of the Town of Old Orchard Beach Code of Ordinances – Vehicles for Hire.

MIKE NUGENT: Taxi Cabs - Chief Kelley, Mike Nugent and Gary Lamb met recently to discuss our taxi ordinance and enforcement thereof. We would like the Council to consider the following as they debate the temporary suspension and future form of our taxi ordinance Chapter 62.

- Code enforcement and planning staff have recently been working with a new taxi operator to get him properly licensed. During that process, we have discovered that no taxi companies presently “operating in town” have business licenses at all.
- Digging deeper, we discovered this situation has existed for years. This is probably because there have not been problems or major complaints with taxis operating in town. Simply put, in years past, if taxi business license applications were not submitted, no one followed up when taxis were seen operating in town to tell them they needed a license.
- We need a better definition of what the ordinance means by “operating in town”
- Current ordinance limits the number of taxi licenses that can be issued to four...why?
- Current ordinance requires taxi meters whereas most companies now operate by zone fares. Do we care how the fare is determined?
- Current ordinance requires the taxi be inspected by an independent third party inspector. Who should this be?
- License Administrator (Lamb) is supposed to issue a taxi ID card with drivers name, photo and business license number. We have no provision for doing this now although we could do this without major expense. Is this necessary?
- We have no formal taxi stands in town. With the late night crowds we have, perhaps public safety would be enhanced by creating some.

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

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on July 21, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 62 of the Town of Old Orchard Beach Code of Ordinances-Vehicles for Hire is hereby repealed, and replaced with the following:

Taxi Cabs

DIVISION 1. GENERALLY

Sec. 62-26. Definitions.

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

Driver means the person who drives the vehicle, whether the person is an employee, owner, operator, or utilizes the vehicle in some other contractual fashion.

Owner means the person who is the legal owner of the taxicab that is licensed.

Operation within the Town of Old Orchard Beach

The act or business of picking up persons in a taxicab within the Town of Old Orchard Beach for transportation to locations within or outside the city, except that the provisions of this chapter shall not apply to a motor vehicle licensed by another municipality to operate as a taxicab which is operated within the Town of Old Orchard Beach in response to:

- A. A request to transport passengers from a point of destination within the Town to another municipality but not to a point of destination within the Town, provided that such drivers shall not cruise, park or stand for the purpose of soliciting passengers within this Town; or
- B. A request to convey a passenger from such other municipality to the Town.

Taxicab means a motor vehicle used for the conveyance of passengers for hire without fixed routes or termini, the destination and route of which are under the control of the passenger being carried therein, and the fares for which are at rates per mile or wait time or both. "Taxicab" does not include a limousine or a vehicle which operates solely on a fixed schedule and route such as, but not limited to, a bus.

Taximeter means a mechanical instrument or device by which the fare for hire of a taxicab is mechanically calculated and on which the fare is plainly and accurately indicated.

Sec. 62-27. Purpose.

The purpose of this article is to:

- (1) Protect the public health, safety, and welfare;
- (2) Ensure the safe care, custody and transportation of the passengers; and
- (3) Establish minimum standards for clean and neat operations within the community.

Sec. 62-28. Enforcement.

The police department shall be responsible for the enforcement of this article.

Sec. 62-29. Designation of taxistands.

The town council may designate any taxistand area that it deems appropriate.

Taxicabs deemed licensed pursuant to section 62.56 (c) shall be required to have a Taxistand parking pass obtained from the Town Office that will be displayed in the lower corner on the driver's side of the windshield. The fee for said pass shall be in appendix A of this Code.

Sec. 62-30. Other parking and standing regulations.

Beyond the designated taxistands, all taxis shall abide by all parking and standing rules, regulations, ordinances and other policies of the town and the state. Further, there shall not be any special rights, privileges, or other benefits extended to any taxi.

Secs. 62-31--62-55. Reserved.

DIVISION 2. LICENSES

Sec. 62-56. Required.

(a) *Operation of taxicabs.* Every taxicab operating in the town shall be required to obtain a license from the town prior to operation. The license shall expire on May 1 of each year.

(b) *Drivers.* All drivers of taxicabs operating in the town shall be required to obtain a license from the town prior to operation. The license shall expire on May 1 of each year.

(c) Taxicabs and operators whose fixed base business locations are in the Town of Scarborough, City of Saco or the City of Biddeford and that are licensed and operate in compliance with the regulations governing taxicabs in those communities shall be deemed licensed in the Town of Old Orchard Beach and shall not need to obtain a separate license to operate in Old Orchard Beach.

Sec. 62-57. Applications.

Applications for all licenses required under this division shall be available in the office of the license administrator.

Sec. 62-58. Issuance.

An initial license to own or operate a taxicab within the Town of Old Orchard Beach must be approved by the Town Council. The license administrator is authorized to renew, without further action by the town council, the license of any person holding a license pursuant to this article, referred to as the "licensee," on April 30 of each year upon receipt of the required fee and of a written statement from the licensee that there has been no material change in the information provided in the licensee's previous application.

Sec. 62-59. Fees.

(a) Each taxicab company must pay an application fee as specified in the schedule of license, permit and application fees in appendix A of this Code for the processing of the license.

(b) There shall be an application fee as specified in the schedule of license, permit and application fees in appendix A of this Code for each taxi for the processing of the license.

(c) Each driver must pay an application fee as specified in the schedule of license, permit and application fees in appendix A of this Code for the processing of the license.

Sec. 62-60. Display on taxi.

All taxis licensed shall display the license issued by the license administrator in the lower lefthand corner of the windshield.

Secs. 62-61--62-85. Reserved.

DIVISION 3. VEHICLE REQUIREMENTS

Sec. 62-86. Insurance required.

At the time of filing the application for the license required under this article with the office of the license administrator, proof of insurance for each taxicab must be submitted with the application. The state law minimum requirements for liability, personal injury, property damage and any other state-required insurance shall be met.

Sec. 62-87. Identification.

All taxicabs shall be conspicuously marked, in letters not less than ~~2~~¹/₂-1 ¹/₂ inches in height, with the word "taxi" or "taxicab" and the owner's name, trade name, or with a design or monogram containing the owner's name or trade name. The design or monogram must be at least eight inches in diameter. Every taxi must be equipped with a conventional taxicab light on the roof of the taxi.

Sec. 62-88.

Taximeters.

Taxicabs that compute fare through the use of a taximeter shall have those meters installed so as to give an accurate reading of all the car's movements and so as not to be subject to tampering. Such meter shall be tested to demonstrate accuracy within the 30 days prior to the submission of the application for the license required by this article. The town sealer of weights and measures may perform the test for the applicant at an additional fee, or the applicant can provide documentation to demonstrate that the taximeter has been certified by an independent person capable of making such determination. The taximeters shall be calibrated to calculate the fare as multiplied by ninth's of a mile (i.e., one-ninth, two-ninths, three-ninths, etc).

Sec. 62-89. Posting of rates.

All taxicabs shall have the rates to be charged clearly displayed on the exterior of the vehicle, as well as on the interior of the vehicle, and be clearly marked either "metered taxi" or "zone taxi" on the exterior of the vehicle at all times so that it can be easily seen by the consumer day or night

Sec. 62-90. Inspections.

All taxicabs shall be deemed safe for the intended operation. A State of Maine Motor Vehicle Safety inspection shall be done to demonstrate such safety of the vehicle within the 30 days prior to the submission of the application for the license required by this article. The inspection shall, at minimum, meet all the applicable state motor vehicle laws.

Sec. 62-91. Appearance.

All taxicabs must be clean and neat in appearance, both externally and internally. They shall not be run down in such a way to give the consumer a lack of confidence in the ability of the vehicle to safely provide the service intended.

Sec. 62-92. Smoking.

There shall be no smoking in any taxicab licensed in the town.

Secs. 62-93--62-120. Reserved.

DIVISION 4. DRIVERS

Sec. 62-121. State driver's license required.

A valid state driver's license shall be required for every taxicab driver. The license must not be suspended nor have been suspended for more than ten days, for any reason, during the last year. The person shall demonstrate that he has not been convicted of the one of the following:

(a) Operating under the influence of either drugs or alcohol within the previous six-year period;

(b) A class A, B, or C crime and any sexual offense of any class as set forth in Chapter 11 of Title 17-A of M.R.S.A., within the previous six-year period; conviction of any crime of any class that involves threatening or violent behavior within a three-year period;

Sec. 62-122. Age limit.

The person shall be at least 18 years old at the time of the application for a taxicab driver's license.

Sec. 62-123. Photograph required.

With the application for a taxicab driver's license, the applicant must furnish two recent photographs of himself. The photographs shall be passport-type.

Sec. 62-124. Display of identification card.

The identification card issued to the driver of the taxicab by the license administrator shall be displayed inside the taxi in plain view of the passenger at all times. Such identification shall include the name of the driver, license number, and photograph of the driver.

Sec. 62-125. Additional passengers.

It shall be unlawful for any driver of a taxicab to carry another passenger other than the original passenger without that passenger's consent.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing of July 21, 2009 to Repeal Chapter 62 of the Town of Old Orchard Beach Code of Ordinances- Vehicles for Hire and replace with the Revised Chapter 62 of the

Town of Old Orchard Beach Code of Ordinances – Vehicles for Hire.

VOTE: Unanimous.

5255 Discussion with Action: Set a Public Hearing of July 21, 2009 on whether to accept Community Development Block Grant Funding in the amount of \$150,000 for Downtown Façade Improvements.

GARY LAMB: This is an important grant for the business owners in our community which will permit them to upgrade their facades by matching funds from the business owners.

MOTION: Councilor Bolduc motioned and Councilor Dayton Set a Public Hearing of July 21, 2009 on whether to accept Community Development Block Grant Funding in the amount of \$150,000 for Downtown Façade Improvements.

VOTE: Unanimous.

GOOD AND WELFARE:

KATHY SMITH: I would like to recommend that in the future workshops be televised as it would be a good way to make sure that citizens know what is taking place in our town.

ADJOURNMENT:

MOTION: Councilor Bolduc motioned and Councilor Dayton seconded to adjourn.

VOTE: Unanimous.

Respectfully Submitted,

V. Louise Reid
Town Council Secretary

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of sixteen (16) pages is a true copy of the original Minutes of the Town Council Meeting of July 7, 2009.

V. Louise Reid