

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, AUGUST 3, 2010  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, August 3, 2010. Chair MacDonald opened the meeting at 7:08p.m.**

**The following were in attendance:**

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

**Absent: Councilor Laura Bolduc**

**Pledge to the Flag  
Roll Call**

**ACKNOWLEDGEMENTS:**

**CHAIR MACDONALD:** Last week we held a Public Hearing on Amending Chapter 42 Parks and Recreation and Chapter 50 Streets. We have decided to ask the Ordinance Review Committee to review the changes that were made and to bring it back in the future to a Public Hearing. We just wanted the public to understand why it was not listed under New Business.

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of July 20, 2010.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Accept The Town Council Meeting Minutes of July 20, 2010.

**VOTE:** Unanimous.

**PUBLIC HEARING:**

**CHAIR:** I open the Public Hearing at 7:07 p.m.

**AGENDA ITEM:** Shall We Amend Chapter 2, Division 8 – Ballpark Commission – Section 2-401.

**Sec. 2-401. 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 ~~its~~ 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)

**TOWN MANAGER:** He explained why this action was necessary based on the fact that the Ballpark Commission cannot do everything and therefore there is the need to have volunteers accept responsibilities and as such be “commission’s agents for carrying out the Commission’s responsibilities. There is this slight adjustment to the prior wording. This is the recommendation of the Town Attorney. It should not be unexpected for this document to come up for adjustment as the Ballpark activities grow.

**COUNCILOR DAYTON:** The question she had is what other instances do you have where this occurs?

**TOWN MANAGER:** In one instance there was a gentleman who received a donated for the Ballpark

**COUNCILOR DAYTON:** It is precedent setting for the whole Town and what are the obligations to the Commission on this? The Commission members I believe have to sign an oath, a Code of Ethics, so what process or procedures are we using if we allow the volunteers to do this?

**TOWN MANAGER:** I believe this is the only case and the Commission would have to meet and present this to the Town Manager and I would meet with the person and write what they could and could not do. This has been the case with the person that I am suggestion. We met with the Finance Director and we discussed and outline the authority and process and this was put to writing and this became the process.

**COUNCILOR DAYTON:** Is there some reason that they could not sign the agreement or the Code of Ethics? Is there some reason why they cannot do this? I think there would be a good idea to write this into it. I think you should consider.

**JEROME BEGART:** I think she raised a good point and perhaps a copy of the Code of Ethics should be sent to all Committee and Commission members.

**COUNCILOR O’NEILL:** I want to make sure that the packet is inclusive of what you have discussed and why don’t we just increase the commission.

**TOWN MANAGER:** The Commission was designed to be a clearing house, a middle management group to field some of the day-to-day opportunities; they were not assigned to do all the volunteering opportunities.

**COUNCILOR DAYTON:** I agree with Councilor O’Neill and would agree with the increasing of the Commission.

**TOWN MANAGER:** Management is different than manning a concession stand but I don’t believe it was the consensus that the management needed to be the people running the concession stand.

**CHAIR MACDONALD:** Other Committees and Boards have volunteers doing things that are not part of the responsibilities of the original assigned members. I believe the Commission is

the oversight, just as we have done it for other committees and commissions, and the volunteers are involved in the volunteering duties. I think that what you're asking is making it more voluminous in getting the duties done.

**JOHN BIRD:** This volunteer would not be someone off the street but it is someone who is given a defined role and goes through you. It will not mean that anyone can go to a door and ask for a donation.

**CHAIR MACDONALD:** That is correct.

**CHAIR:** I close the Public Hearing at 7:21 p.m.

**CHAIR:** I open the Public Hearing at 7:23 p.m.

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

Janice Bourque (210-1-20-36), 39 Smithwheel Road, Unit 36, one year round rental; Peter Hatzis (211-1-14-1), 57 Old Salt Road, Unit 1, one year round rental; Sand Dollar Vacation Homes, LLC (303-2-7), 2 & 6 Scollard Road, two year round rentals; James Ronan (305-1-5), 8 Brown Street, one year round rental; Kristina McConnell (310-7-2-7), 64 West Grand Avenue, Unit 7, one seasonal rental; Michael Valhouli (316-2-4), 12 Odessa Avenue, one seasonal rental; and Lorraine Dufour (321-18-4), 17 Casco Avenue, two year round rentals.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to  
Approve the Business Licenses as read.

**VOTE:** Unanimous.

**CHAIR:** I close the Public Hearing at 7:24 p.m.

**CHAIR:** I open the Public Hearing at 7:24 p.m.

**PUBLIC HEARING SPECIAL AMUSEMENT PERMIT AND APPROVAL:**

Joseph's By the Sea Inc. dba/ Joseph's By the Sea (310-3-3), 55 West Grand Avenue, D.J. or Live Music inside and outside, amplified and non-amplified; 12:00 noon to 6:00 p.m.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to  
Approve the Special Amusement Permit as read.

**VOTE:** Unanimous.

**CHAIR:** I close this Public Hearing at 7:25 p.m.

**TOWN MANAGER'S REPORT:**

I have been busy in spite of two days out of the office camping with the pre-school grandchildren.

1. Continue to work on Dispatch consolidation with three or four meetings per week dedicated to this investigation. I will continue to provide Council with written progress reports.

2. Ballpark Financial Report included in packet. The account has approximately \$13,500. The profit level is approximately \$3,500.

I know of no other outstanding invoices with the exception of \$5,500 which I understand is under consideration by the company to be partially donated. So until this is resolved, the available Ballpark funds are set at approximately \$8,500.

3. It has been a very positive week at the Ballpark with a State Junior Legion Tournament and the announcement of longer regional tournaments focused on next year's season.

4. Negotiations with Public Works and Waste Water continued.

5. Met with Ed Rae, Executive Director of the Ocean Park Association, on issues of mutual interest.

6. Made several on-site visits to meet with citizens addressing their concerns.

7. Met with Ed Leonard of Wright Pierce on a number of concerns regarding the West Grand Pump Station potential change order.

Alternative 2 was the first choice plan to address the Peat Moss Unusable soil problems. The Council authorized to executive the change order if the final cost estimates did not exceed \$30,000 dollars. The actual estimated cost came in at \$45,592.

As a result, the Team has redesigned a plan that will cost \$23,435 which we are now calling Alternative 4.

Waste Water Superintendent, Chris White, and I met with Ed Leonard, and although there is a slight issue of possible minimum settling, we are comfortable with the new option. However, it isn't the Cadillac plan as drawn up originally.

The engineers agree the risk of any substantial settlement is very low. The new plan is also incorporating other minor adjustments that will adapt to any possible settlement.

For your information, after all the adjustments put adding in and subtracting, we have \$17,204 left in the Contingency account.

8. We are meeting tomorrow at 11:00 a.m. to draft a recommendation for the Council on Pay To Throw with the understanding that the Council's direction was to prepare to implement this program.

9. Continue to meet with Sheila Flathers of the Ballpark Commission in discussions centered around recommendation for next year's operating season.

Continued discussion on the Waste Water Pump Station issue and Councilor Tousignant asked the cost and what we were getting for it. Councilor O'Neill said this is not an agenda item so I wish to refrain to have an open item for the Town Manager's report and the Town Manager indicated he would bring back Ed Leonard if the Council so desire. I did not do this because I was told by the Council not to go over a certain amount of money. I certainly would be happy to bring him back. Councilor Tousignant said he is concerned that we are now back to the original plan and that is a concern to him. Councilor O'Neill said he understands the concern but this is not the time to bring this up. Councilor Tousignant said he isn't sure what the Town Manager approved. Councilor Dayton offered the suggestion that we discussion this at the Friday meeting. Maybe this is an option. The Town Manager said that when he said he approved this – he told Wright Pierce he would call them in the morning – and that if it was a desire for Ed Leonard to come down he could still do that. That is what I intended. The Chair asked for the size of the slab and other questions answered and mail that to the Council tomorrow. Councilor Dayton asked for more detail on the remaining invoice for the Ballpark and the Town Manager answered that it is the material that you dress the field between games such as turf – bags of clay – bags of dirt.

**NEW BUSINESS:**

- # 5538 Discussion with Action: Approve the Special Event Permit application for the Pine Point Vista Condominium association to hold their annual meeting with a bonfire on the beach in front of 205 East Grand Avenue on Saturday, August 21, 2010; rain date to be Monday, September 6, 2010; from 7:30 p.m. to 11:00 p.m.

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

**VOTE:** Unanimous.

- # 5539 Discussion with Action: Approve Liquor License Renewal of Joseph's By the Sea, Inc., dba/ Joseph's By the Sea (310-3-3), 55 West Grand Avenue, s-m-v in a Restaurant.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Liquor License Renewal as read.

**VOTE:** Unanimous.

- # 5540 Discussion with Action: Approve the Special Event Permit application for Deborah Miles to hold a Breakdancing event in the Square on Friday and Saturday, August 13<sup>th</sup> and 14<sup>th</sup>, 2010 from 5 p.m. to 10 p.m.; request for five

to eight dancers and a table (with a banner on the table) to sell t-shirts, pictures and miscellaneous items relating to breakdancing.

The Council had a long dialogue on this issue and made it clear that the type of music and the verbiage of the music must be acceptable family-friendly language and that they were not to do this dancing in the future without special event permit. Since they had been doing it without a permit it was made totally clear that the ordinance requires that a special event permit be secured and that ordinance will be upheld. The requirement was also mentioned that the hours of operation as indicated in the motion will be adhered to and respected.

**MOTION:** Vice Chair Tousignant motioned and Councilor O'Neill seconded to Approve the Special Event Permit application for Deborah Miles to hold a Breakdancing event in the Square on Friday and Saturday, August 13<sup>th</sup> and 14<sup>th</sup>, 2010 from 5 p.m. to 10 p.m.; request for five to eight dancers and a table (with a banner on the table) to sell t-shirts, pictures and miscellaneous items relating to breakdancing. as read, but with the stipulation noted on the Permit that the Town Council indicated that should there be anything considered detrimental to the family oriented atmosphere that our community is trying to maintain; and clearly stated and noted that the activity will be monitored and action taken if stipulations are not met.

**VOTE:** Unanimous.

# 5541 Discussion with Action: Appoint Mark Koenigs as a Regular Member of the Conservation Commission, term to expire 12/31/13.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to Appoint Mark Koenigs as a Regular Member of the Conservation Commission, term to expire 12/31/13.

**VOTE:** Unanimous.

# 5542 Discussion with Action: Award the Propane Contract for the new Police Facility to Downeast Energy including a free tank Installation and providing propane at Market cost plus \$.50 per gallon for three years from Account Number 20129-50405 New Police Building – Heating/Fuel Expense, with a balance of \$4,000.

**BACKGROUND:**

Attached are three proposals for installation of the propane tanks and associated piping. The following is a summary:

- Downeast Energy--They will provide two 1000 gallon tanks, all piping and regulators at no up front cost to the Town. For three years thereafter, the Town would purchase propane from Downeast for the next three years, billed in one of two ways either: a) \$.50 over their "rack price" starting at \$1.956 per gallon,

or b) at a fixed rate of \$1.995 per gallon through 5/31/11, reverting to pricing option "a" thereafter. The town would retain ownership of the underground piping after three years.

- **Dead River Company--**They will provide two 1000 gallon tanks, all piping and regulators at no up front cost to the Town. For five years thereafter, the Town would purchase propane from Dead River based on a predetermined volume of fuel. Dead River was asked to provide more specific pricing information and has not provided this information.
- **Beaupre Fuels--** They will provide two 1000 gallon tanks, all piping and regulators for a cost of \$5,673 and provide fuel at market rate starting at \$1.79 per gallon and following market pricing thereafter.

Discussion continued on the burying of the propane tanks and the reason why they are buried and it was indicated that the buried propane tanks are more efficient as they keep cooler and are less susceptible to heat and cold affecting expansion and construction with a better blow or propane. It was also the decision of the Old Orchard Beach Planning Board requested the tanks be underground Any change in this plan would have to go back to the Planning Board. The site is less cluttered with the tanks in the ground as above tanks need a substantial amount of tank protection – cement ballards, fencing, etc. Councilor Tousignant request more information about why these had to be buried and also what the fifty cents is equated to and are we buying the tanks once or ten times. These are questions I would like answered. Councilor O’Neill also suggested other questions regarding fixed costs per gallon and that perhaps this needs to be considered again for the cost factor.

**MOTION:** Vice Chair Tousignant motioned and Councilor O’Neill seconded to Table this Item until these concerns can be addressed..

**VOTE:** Unanimous.

# 5543 **Discussion with Action:** Accept the bid from Clarence Stewart in the amount of \$402.99 for the 2000 Ford Crown Victorian (7060); and go out to bid again for the remaining items on which there were no bids.

**BACKGROUND:** Both Public Works and the Fire Department have provided a list of surplus items to be put out for bid. Only two bids were received for the following.

**2000 Ford Crown Victoria 4D – VIN # 2FAFP71W5YX157060 -**  
100,000 + miles. Value \$500 as is.

*Runs but needs a new starter*

<b>John Glass</b>	<b>\$302.00</b>
<b>Clarence Stewart</b>	<b>402.99</b>

The recommendation is to accept the highest bid of \$402.99.

The remaining items were not bid on and it is suggested by Council that we go out to bid another time for the following items:

Small Metal Desk – Value of \$10

**To be Seen at the Public Works Department – 103 Smithwheel Road**

1998 Ford Crown Victoria – VIN # 2FAFP71W4WX167771 –  
125,045 miles – Minimum bid of \$500.

1984 Chevrolet K20, 4X4, VIN # 2GCGK24N7E1228669  
17,387 miles – Minimum bid of \$500.

1988 Oanan Generator, VIN # 65.OKB-15R - Minimum bid of  
\$5,000.

1995 Holder side walk plow – VIN 41420234 – 3,153 hours – with  
plow/blower/V-blade – one set of tires- Minimum bid - \$3,000.

1976 Caterpillar Forklift, VIN # 83K2884 - 3,149 hours;  
Minimum bid of \$500.

*Note: Minimum bid price must be met for the sale of equipment.*

**MOTION:** Councilor Dayton motioned and Councilor O’Neill seconded to  
Accept the bid from Clarence Stewart in the amount of \$402.99 for the 2000 Ford  
Crown Victorian (7060); and go out to bid again for the remaining items on which  
there were no bids.

**VOTE:** Unanimous.

# 5544 **Discussion with Action:** Authorize the Town Manager to execute Memorandum  
of Understanding with Association of Fire- Fighters in settlement of Grievance.

**MOTION:** Councilor O’Neill motioned and Councilor Dayton seconded to  
Authorize the Town Manager to execute Memorandum of Understanding with  
Association of Fire- Fighters in settlement of Grievance.

**VOTE:** Yea: Councilor O’Neill, Dayton and Chair MacDonald  
Abstain: Vice Chair Tousignant

**GOOD AND WELFARE:**

**LINDA JENKINS:** She gave a dialogue on thanking many of the business owners and  
citizens for the many events in the Ballpark including the Barbecue as well as the visitors  
who enjoyed the day as well. The baseball championship at the ballpark brought in teams



from other towns and comments made that they had not been to Old Orchard Beach in years and they saw the wonderful changes that were made in the downtown area. Countless friends and neighbors say how proud they are at what is happening here including the façade improvements and the events that are happening and that Old Orchard Beach is the place to be and we are all responsible for that.

**JEROME BEGART:** I congratulate Linda for her comments and the potential of the ballpark is a great alternative costing very little and not requiring parking at the meters, etc. The future of the ballpark is exciting and I invite you to join us there and take part in giving us some of your ideas.

**COUNCILOR O'NEILL:** I have asked for information on the cost of insurance that OOB365 is using from the Town and have yet to receive that information. It is troubling to me that there are two members of our Council who are deeply involved with OOB365. It is not hidden and although I appreciate the good things that are being done by OOB365, I believe for a conflict of interest position these two Council members should remove themselves from voting on issues relative to the OOB 365 Committee. I didn't want to bring this up but questions are being asked and it is a matter of perception. I also was disturbed that the Chair set a Special Town Council Meeting for Friday night when the issue of the ballpark and OOB365 event could easily have been put on the agenda as an emergency item this evening. We have put emergency items on before. I would remind the Council of the Code of Ethics which we all signed. By calling a special meeting to pass a special event permit for the OOB365 and Ballpark which could have been brought up when the meeting is televised this evening has raised questions of perception.

**LINDA JENKINS:** The OOB365 Committee meets regularly and at our meeting this morning the possibility of this concert was brought up. It seemed like a very good way to promote the Town, the Ballpark and to raise funds for the Ballpark. In order for us to sell tickets and advertise the urgency of the matter was brought to the attention of the Chair. I think that Councilor O'Neill's comments are not reasonable considering he has not removed himself from issues which were personal in the past.

**JEROME BEGERT:** He indicated he differed with Councilor O'Neill on these issues. He said it is, however, reasonable that information should be provided to the Council in a timely and relative manner but OOB 365 is a non-profit group which sponsors events, family oriented, which bring people to our community to share in what we have here. There is no conflict of interest when people individually are not making personal gains from it. He said he felt that Councilor Tousignant would not sell any more garage doors because of his involvement in OOB 365.

**COUNCILOR DAYTON:** She said she supported and ability of individuals to present their opinion in a calm manner. She appreciated the ability for people to freely express themselves. They did indicate that she had questions about the non-profit status of OOB 365. She also reminded the Administration that on two separate occasions she had raised the question of what was being done about the \$1.8 million dollar West Grand bond issue. She said we borrowed this money and we have to pay it back and yet there isn't even a shovel in the ground. She indicated she hoped she didn't have to raise this issue a third time. She indicated she expects an answer.

**ADJOURNMENT**

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

**VOTE:** Unanimous.

**Respectfully Submitted,**

**V. Louise Reid  
Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of ten (10) pages is a true copy of the original Minutes of the Town Council Meeting of August 3, 2010.**

**V. Louise Reid**