

**MINUTES OF TOWN COUNCIL MEETING  
TUESDAY, FEBRUARY 16, 2010  
TOWN HALL CHAMBERS**

A Meeting of the Old Orchard Beach Town Council was held on Tuesday, February 16, 2010. Chair MacDonald opened the meeting at 7 p.m.

**Pledge to the Flag  
Roll Call**

**The following were in attendance:**

**Chair Sharri MacDonald  
Vice Chair Michael Tousignant  
Councilor Laura Bolduc  
Councilor Shawn O'Neill  
Councilor Robin Dayton  
Assistant Town Manager Louise Reid  
Temporary Scribe Gary Lamb  
Approximately 20 citizens and staff**

**Absent: Town Manager Jack Turcotte**

**MOTION: Vice Chair Tousignant motioned and Councilor Bolduc seconded to appoint Assistant Town Manager, V. Louise Reid as Acting Town Manager (in the absence of the Town Manager) for this meeting of February 16, 2010.**

**VOTE: Motion passed 5-0**

**MOTION: Vice Chair Tousignant motioned and Councilor Bolduc seconded to appoint Gary Lamb as Acting Town Council Secretary for the meeting of February 16, 2010 (in the absence of the Assistant Town Manager.)**

**VOTE: Motion passed 5-0**

**PRESENTATION: Chair MacDonald stated unfortunately Chief Kelley cannot be with us this evening and we are hoping to have this presentation at our March 2<sup>nd</sup> meeting.**

**ACKNOWLEDGEMENTS: Councilor O'Neill extended congratulations to the OOB high school basketball team with their recent tournament win. Councilor Tousignant encouraged citizens to attend our Winter Carnival activities this weekend.**

**ACCEPTANCE OF MINUTES: Special Town Council Meeting of February 1, 2010; Town Council Meeting of February 2, 2010; Town Council Workshop of February 2, 2010; Town Council Workshop of February 8, 2010; and Town Council Workshop of February 9, 2010.**

**MOTION: Motion by Councilor Bolduc and seconded by Councilor Dayton to approve all minutes as presented.**

**VOTE: Motion passed 5-0**

**BUSINESS LICENSES:** Timothy A. Hanson, Trustee & Janet S. Hanson Trustee (202-1-8-4), 193 East Grand Avenue, Unit #4, one year round rental; Jeannine Petrucci dba/Al's Famous Roast Beef Sandwich Shop (206-31-9), 41 Old Orchard Street, Victualers; Gina Palmitessa dba/Gina's New Moon Hair Salon (211-3-2), 5 Spring Street, Hair Salon; and Roger Nielsen (321-25-5), 6 Tioga Avenue, two seasonal rentals.

**MOTION:** Motion by Councilor Dayton and seconded by Councilor O'Neill to approve all business licenses as presented.

**VOTE:** Motion passed 5-0

**SPECIAL AMUSEMENT PERMIT:** Dimitri Inc. dba/Jimmy the Greek's Brick Oven Restaurant (211-9-1), 215 Saco Avenue, Bands, DJ's, Comedy, Dinner Shows, etc; Inside – 12:00 p.m. to 1:00 a.m.; and Outside – 12:00 p.m. to 9:30 p.m.

**MOTION:** Motion by Councilor Dayton and seconded by Councilor O'Neill to approve the special amusement permit.

**VOTE:** Motion passed 5-0

#### **TOWN MANAGER'S REPORT:**

Louise stated the Town Manager is on vacation this week but before he left he spent time on a variety of Town issues including the Ballpark Organization; attending Council meetings and workshops; following up with upcoming labor negotiations; meeting on the construction of the Police building; Public Works issues; meeting with individual department heads on budget reviews; attended a PACTS meeting; attended Chamber of Commerce Board Meeting; and handled some personnel issues.

# 5397 Discussion with Action: Amend Chapter 2, Administration, Officers and Employees by Amending 2-126 and deleting Section 2-126 Exhibit A only) and amending 2-151 through 155, and Amending Article IV, Boards, Committees and Commissions, Sections 2-232, 2-234, 2-326, 2-357, 2-444 and 2-445, of the Old Orchard Beach Code of Ordinances.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to remove this agenda item without prejudice

**VOTE:** Motion passed 5-0 to remove without prejudice

# 5398 Discussion with Action: Town Council Order to Amend Appendix "A", the Schedule of License, Permit and Application Fees for Business Licenses.

**MOTION:** Vice Chair Tousignant motioned and Councilor Bolduc seconded to Approve Schedule A changes as presented.

Code Enforcement Officer Mike Nugent spoke briefly as to why Schedule A changes are being made.

**VOTE:** Motion passed 5-0

# 5399 Discussion with Action: Set a Public Hearing Date of Tuesday, March 2, 2010, to Amend Chapter 18, Businesses, by Amending Article II Licenses, Sections 18-26, 18-28, 18-30, 18-31, 18-33 through and including 18-35, 18-36, 18-38, Article III, Body Piercing, Sections 18-66, 18-68, 18-96, 18-100, 18-102, 18-103, Article IV Tattooing, Sections 18-166, 18-167, 18-204, 18-205, Article VII, Ice

Cream Trucks, Sections 18-423, 18-424, Article VIII, Massage Establishments, Sections 18-486, 18-487, 18-488, 18-491, Article IX Campgrounds, Section 18-526, and to Add Article X Victualers, Section 18-581 and 18-582, and to \ Delete Article III, Body Piercing, Sections 18-69, 18-103, 18-131 through and including 18-138, Article IV Tattooing, Sections 18-168 through and including 18-173, Article VI Performing Arts Facilities Sections 18-286 through and including 18-360, Article VIII, Massage Establishments, Section 18-455, 18-457, 18-458, 18-460, and Article X Auctions, Sections 18-581 through and including 18-585 of the Old Orchard Beach Code of Ordinances.

**MOTION:** Vice Chair Bolduc motioned and Councilor O'Neill seconded to Set a Public Hearing Date of Tuesday, March 2, 2010, for Chapter 18 amendments

**VOTE:** Motion passed 5-0 to set public hearing for March 2.

**# 5400 Discussion with Action:** Approve the Liquor License Renewal for Dimitri Inc., dba/Jimmy the Greek's Brick Oven Restaurant (211-9-1), 215 Saco Avenue, s-m-v in a Restaurant/Lounge.

**MOTION:** Councilor O'Neill motioned and Councilor Bolduc seconded to Approve the Liquor License Renewal for Dimitri Inc., dba/Jimmy the Greek's Brick Oven Restaurant (211-9-1), 215 Saco Avenue, s-m-v in a Restaurant/Lounge.

**VOTE:** Motion passed on 5-0 vote

**# 5401 Discussion with Action:** Authorize the placement of a street light on Pole #J88, on East Grand Avenue, in front of 231 East Grand Avenue.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Authorize the placement of a street light on Pole #J88, on East Grand Avenue, in front of 231 East Grand Avenue.

**VOTE:** Motion passed on 5-0 vote

**# 5402 Discussion with Action:** Approve the Special Event Permit Application for the 7<sup>th</sup> Annual Captain Christopher S. Cash 5K on Saturday, June 25, 2011, from 6 a.m. to noon; a request for a banner in the Square and Saco Avenue, if permitted at the time; and a request to waive the fee.

**MOTON:** Vice Chair Tousignant motioned and Councilor Bolduc seconded to Approve the Special Event Permit Application for the 7<sup>th</sup> Annual Captain Christopher S. Cash 5K on Saturday, June 25, 2011, from 6 a.m. to noon; a request for a banner in the Square and Saco Avenue, if permitted at the time; and a request to waive the fee.

**VOTE:** Motion passed on 5-0 vote

**# 5403 Discussion with Action:** Accept, with regret, the resignation of Marie Holt-St. Michel from the Community Animal Watch Committee; and Move Kim Hatch from an Alternate position on the Community Animal Watch Committee to a Regular position, term to expire 12/31/11.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to accept, with regret, the resignation of Marie Holt-St. Michel from the Community Animal Watch Committee; and Move Kim Hatch from an Alternate position on the

Community Animal Watch Committee to a Regular position, term to expire 12/31/11.

**VOTE:** Motion passed on 5-0 vote

**# 5404 Discussion with Action: Appoint Jerome Begert to the Charter Commission.**

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Appoint Jerome Begert to the Charter Commission.

John Bird stated Mr. Begert has been attending Charter Commission meetings and thought he would be a knowledgeable asset to this committee

**VOTE:** Motion passed on 5-0 vote

**# 5405 Discussion with Action: Appoint Megan McLaughlin as a Member of the Recycling Committee, term to expire 6/30/2011.**

**MOTION:** Vice Chair Tousignant motioned and Councilor Bolduc seconded to Appoint Megan McLaughlin as a Member of the Recycling Committee, term to expire 6/30/2011.

**VOTE:** Motion passed on 5-0 vote

**# 5406 Discussion: Make-up and participation of Town Council appointed Committees.**

Chair MacDonald spoke about challenges in getting the Charter Commission meetings televised, in that Council chambers is the only place at present where this can be done. Charter Commission meetings will soon all be televised on the second and fourth Tuesdays of every month.

Councilor Tousignant stated the town has 15 Council appointed committees now and that the new police station community meeting room could have TV capabilities similar to Council chambers.

Councilor Dayton asked why numerous applications to various boards have not been acted on as our charter allows individuals to be on two council appointed committees?

Chair MacDonald stated that some people are on too many committees and meeting times are starting to conflict.

Kim McLaughlin stated being elected to the Charter Commission does not count as a Council appointment.

Discussion ensued about difficulties being on multiple committees, lack of formal selection criteria for applicants, ambiguous appointment process and lack of notification to candidates who are not selected to serve on a board.

**# 5407 Discussion with Action: Define the Role of the Conservation Commission with regard to the Ballpark.**

Councilor Dayton asked for a definition of Ballpark property? A discussion ensued around the definition included in supporting information for agenda item 5408, that no Council workshops with Conservation Commission had been held yet, and that the 2006 public planning process needs to be completed for Ballpark property.

Jack Sarno stated he volunteered to help renovate the Ballpark, support the Conservation Commission, community gardens and skateboard park.

Councilor Tousignant stated a change of command for Ballpark oversight does not remove the Conservation Commission from their long term planning interests in Ballpark property.

Councilor O'Neill stated the 30 or more acres above the 49 acre Ballpark parcel still need the public planning process and he thanked Ballpark volunteers for their work.

Councilor Bolduc stated the Ballpark parcel is managed town property and it is nobody's to take away or protect.

Gary Curtis stated the RSU did not initiate the community gardens idea...and that Conservation Commission or Ballpark folks approached the RSU for school involvement in this matter. Mr. Curtis also described the general parameters of land the RSU needs for school purposes vs. acreage that can remain under municipal control.

Councilor Tousignant stated he just recently heard of this community gardens idea...and why doesn't the Conservation Commission ask for this to be on the March 2 Council agenda?

Andrea Berlin stated that Community Gardens grant applications are due soon and she would like this idea to be on a March 2 Council agenda. The garden area would be 200' x 50' and could use the loam from the DPW EE Cummings sidewalk project. She reiterated that the Conservation Commission does not want to be responsible for stadium renovation or management.

Chair MacDonald stated the Council is in charge of all public property no matter what type of Ballpark commission is created.

Pierre Bouthiller stated the Conservation Commission wanted Ballpark renovations completed using additional town funds, while others wanted no additional town funds used for renovations.

**MOTION:** Councilor Tousignant made a motion to disband Conservation Commission duties of Ballpark oversight and that Town Council should take these back. Motion was seconded by Councilor O'Neill. Discussion ensued for several minutes and then both second and motion were rescinded.

**MOTION:** Councilor O'Neill then made a motion that the Conservation Commission role with regard to oversight of the 49.6 acre Ballpark parcel should cease. Motion was seconded by Councilor Tousignant.

**VOTE:** Motion passed on 4-1 vote with Councilor Dayton voting against the motion.

# 5408 Discussion with Action: Set the Public Hearing Date of March 2, 2010 to Amend Chapter 2, Article IV, of the Old Orchard Beach Code of Ordinances, by Adding Division 8 – “An Ordinance Creating a Ballpark Commission.” (See draft ordinance language below).

## **ORDINANCE CREATING BALLPARK COMMISSION**

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

### **Sec. 1. Ballpark defined.**

For purposes of this Ordinance, the term “the Ballpark” means the municipal facility located on E. Emerson Cummings Boulevard, commonly known as the Ballpark, consisting of approximately 49 acres of land improved with a stadium, playing fields and parking areas, the exact boundaries of which may be established and modified by the Town Council from time to time.

**Sec. 2. Ballpark commission formed.**

Pursuant to Sec. 409.4 of the Charter, there is hereby created an agency of the Town by the name of the “Ballpark Commission.”

**Sec. 3. Appointment, vacancies, term.**

The Ballpark Commission (“Commission”) shall consist of five members appointed by the Town Council for a term of three years each commencing on the date of appointment, except that of those first appointed, two shall be for a term of three years, two shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the Commission shall be filled by the Town Council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the Commission serve at the will of the Town Council and may be removed by vote of the Council at any time for any reason.

**Sec. 4. Powers and duties.**

Subject to Town Council oversight, the Commission shall be responsible for the improvement, maintenance and operation of the Ballpark. In order to carry out that responsibility, the Commission shall have the following powers and duties:

Undertaking maintenance of and improvements to the physical facilities, subject to appropriation of funds therefore by the Town Council and subject to the Town’s established purchasing and procurement procedures.

Scheduling events, subject to issuance by the Town Council of special events permits under Chapter 42, Article IV, Division 5 of the Town Code.

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

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

With the approval of the Town Manager, obtaining the assistance of Town employees in connection with the improvement, maintenance and operation of the Ballpark.

Performing such other duties and responsibilities and exercising such other powers as the Town Council may, from time to time, by order, assign to the Commission.

**Sec. 5. Meetings.**

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

**Sec. 6. Quorum, procedure, officers.**

Three members of the Commission shall constitute a quorum for the purpose of conducting a meeting. Any action by the Commission requires a majority vote of those members present

and voting. The Commission may adopt additional rules, not inconsistent with this Ordinance, for the conduct of its activities.

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

**Sec. 7. Authority to appoint agents.**

The Commission may, with the consent of the Town Manager and the Town Council, designate one or more of its members 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.

**Sec. 8. Report to the Council.**

At least twice annually, once during the month of \_\_\_\_\_ and once during the month of \_\_\_\_\_, the Commission shall submit to the Town Council a written report on the status of improvements, maintenance and operations at the Ballpark, including a summary of the Commission's activities during the immediately preceding six months.

**Sec. 9. Ballpark not a public park.**

The Ballpark, as defined in this Ordinance, is intended to be operated as a sports/entertainment/ events facility and not as a public park subject to the care and superintendence of the Conservation Commission, nor shall its operation be considered a recreation program subject to oversight by the Recreation Board.

**MOTION:** Councilor O'Neill motioned and Councilor Bolduc seconded to set the Date of March 2, 2010 for Public Hearing for Chapter 2 changes re: Ballpark Commission.

**VOTE:** Motion passed on 5-0 vote

**GOOD AND WELFARE**

- Bill Gombar spoke of the upcoming Republican Party Caucus
- Recycling Committee member Fred Dolgon spoke of the higher purpose of Conservation Commission involvement outside the commercial development portion of the Ballpark parcel.
- Dana Furtado spoke of \$4000 of recent donations of labor and materials to the Ballpark, including doors, lights, plumbing fixtures and the labor to install them. He also stated the Ballpark needs volunteers for HVAC, plumbing and electrical work along with cash donations.
- Jerome Begert stated it is an honor to be appointed to the Charter Commission tonight: good listeners make good leaders; and Charter Commission meetings will be held on the second and fourth Tuesdays of every month in Council chambers and will be televised.
- Chair MacDonald stated her usual monthly forum will be cancelled this month due to the Miss Winter Carnival competition.

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

**VOTE:** Motion passed and meeting adjourned at 8:48 pm.

Respectfully Submitted,

**Gary Lamb, Acting Town Council Secretary**

**I, Gary Lamb, Acting Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of seven (7) pages is a true copy of the original Minutes of the Town Council Meeting of February 16, 2010.**