

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, JANUARY 19, 2010
TOWN HALL CHAMBERS**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 19, 2010. Chair MacDonald opened the meeting at 7:00 p.m.

The following were in attendance:

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

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENTS:

ASSISTANT TOWN MANAGER: The United State Census Bureau has been conducting information and testing sessions right here in our Town Hall in connection with their hiring of 2010 Census Workers. They are presently taking applications for hiring of both part time and full time positions; preference is full time workers. They will be testing throughout this month and then in February will have training sessions for which you will also be paid and then in March through they anticipate July you will be taking census information, preferably in your own community. The pay is \$14.50 per hour and .55 cents per mile for mileage. Scheduling is flexible. You can call 1-866-861-2010 – to set up an appointment and appointments are held at different times both here, in Saco and in Biddeford so if you can't make one testing place and time you can make another. Reservations to take the test are required. Again, call 1-866-861-2010 and arrange for a test at a convenient location. They also have a web site which you can go on to get further questions answered.

www.2010censusjobs.gov

HELENE WHITTAKER: It is an honor to recognize Nancy Roderick as CWC Senior Advocate who has gone the extra mile in 2009. Nancy works closely with Town Hall and follows thru with some very difficult client situations.....some whose families have abandoned them. Because of Nancy's perseverance and determination and with the help of our CRO Peter Guay, a disastrous outcome was prevented. So it is my privilege to give you this certificate recognizing the outstanding service you give to our community. Thank you for all you do. Helene Whittaker, CWC Pres.

NANCY RODERICK: I wish to express my appreciation to the Police Department, the Community Watch Council, the Town and the Assistant Town Manager for their support in these difficult situations.

COUNCILOR DAYTON: She invited citizens and youngsters alike to the Ballpark Fund Raiser this Saturday at Jimmy the Greek's. Starting at 4:00 it will sponsor activities for children and adults. The money that is raised will be used for the Ballpark renovation. At the present time she indicated they are working on the concession stand. A Press Release has been sent out giving the times and activities at the fundraiser. Go on our web site and then participate.

ACCEPTANCE OF MINUTES: Special Town Council Meeting of January 4, 2010; Special Town Council Meeting of January 5, 2010; and Town Council Meeting Minutes of January 5, 2010.

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

VOTE: Yea: Vice Chair Tousignant, Councilors Dayton and Bolduc, and Chair MacDonald
Abstain: Councilor O'Neill

BUSINESS LICENSES: Ken Bohannon & Karolin Schraml (104-2-9-23), 42 Walnut Street, Unit 23, one year round rental; Jennifer Dervis (206-36-1), 110 Saco Avenue, two year round rentals; James Daigle (211-17-5-2), 6 Hobson Avenue, Unit 2, one year round rental; Frank S. Leahy (311-21-7-B), 21 Eleventh Street, one year round rental; Gail Murphy & Brian Krevosky (312-15-10), 52 Atlantic Avenue, one year round rental; and Ace Holdings, LLC(315-13-9), seven year round rentals.

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

VOTE: Unanimous.

INTERIM TOWN MANAGER'S REPORT:

A special thanks was given to the Public Works Department for their assistance and good work at the recent storm.

1. At the most recent Department Head meeting we had information provided to us by John Waterbury from Maine Municipal Risk Management Department.
2. **Flood Mitigation Efforts:**
 - a. Town of Old Orchard Beach has been awarded the highest ranking in the State for flood mitigation efforts through the Community Rating System.
 - b. Involved in program since 1993; one of 20 municipalities in State participating. One of 9 communities Rated 9. We are the only one now rated 8. Each lower rates means more of a insurance rate reduction to our citizens.
 - c. January 7th – Press Conference – Presentation of Award
 - d. Congratulations to Mike Nugent

3. **Ball Park News**
 - a. **Town is ready to sell name tags for seats.**
 - b. **Almost ready to sell advertisements.**
 - c. **Almost ready to sell sponsorships.**
 - d. **Ready for February 2nd Council Meeting and will present a prepared fee schedule.**
4. **Trip to Portland to meet with our Attorney on a variety of legal matters.**
5. **Met with Police Department and Public Works and discussed parking bands and procedures.**
6. **Attended the Charter Commission meeting.**
7. **My wife, Chris and I, attended a great evening with members of the OOB365 Committee.**
8. **Had one Ball Park Meeting – 1st Friday afternoon**

NEW BUSINESS:

- # 5384 Discussion with Action: Act pursuant to Section 409.1 of the Charter to appoint the Town Manager and approve the Manager's employment contract.**

COUNCILOR O'NEILL: Before I register my vote this evening I have to explain why I find it necessary to vote against the appointment of Jack Turcotte as Town Manager. This is not a personal affront to Jack Turcotte but rather my concern, and that of several citizens who have spoken to me, about the process taken by this Council in the decision to let the previous Town Manager, Steve Gunty resign; and the fact that several weeks before the Council made the decision regarding Mr. Gunty, Jack Turcotte, then Superintendent of Schools, was approached by a member of this Council and was asked that should he be asked to serve as Town Manager, would he be interested? Mr. Turcotte confirmed that discussion with Mr. Gunty at least a month before Mr. Gunty was pressured to resign. The present Assistant Town Manager was serving for the second time as Acting Town Manager in a very professional manner. Again, when she was told she would no longer be Acting Town Manager and the very same day an Emergency Meeting was held and Jack was appointed as Interim Town Manager; to this day she has not been given an explanation as to why that occurred. It appears however that this was in the thinking of some councilors from the very beginning. I cannot vote for him because I do not believe there has been an honest process in selecting a new Town Manager for our community; I believe his past experience has not included enough Town Manager experience; and the selection process was less than ethical from the beginning. We had 60 candidates for Town Manager; many of those 60 candidates had previous, and some extensive experience as Town Managers or in Town Administration and yet those skills were not part of the scenario for selection of a new Town Manager. I have publicly expressed my concern that other actions of this Council will result in us losing the services of excellent department heads who are feeling insecure because the Town Council is involving itself in too many administrative functions. The Town Council is the governing body, not the administrative body. Thank you, Madam Chair. I must vote no in the appointment of Jack Turcotte as Town Manager.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Appoint Jack Turcotte as Town Manager and approve his employment contract.

VOTE: Yea: Councilors Dayton, Bolduc, Vice Chair Tousignant, Chair MacDonald
Nea: Councilor O'Neill

CHAIR MACDONALD: She expressed her feelings that the hiring process was as it should be and that she believes Mr. Turcotte will serve the community well. She indicated that he appeared to be respected by the staff. She gave a review of the process from the advertising of the position, to the receipt of over 60 resumes, to the election interfering with the hiring process until the present decision was moved forward. She indicated that she and the majority of the Council felt comfortable in the process.

TOWN MANAGER TURCOTTE: I appreciate the comments that have been made this evening and understand the thinking of Council O'Neill as far as by previous Town Manager experience but I do believe that I have the management experience to work with staff and Council to move the community forward. I have always liked a small town atmosphere and have appreciated the support that I have received from the staff. Again, I appreciate the confidence that has been placed in me.

5385 Discussion with Action: Approve the Special Event Permit application for the Saco Bay Rotary Club to hold a Chicken Barbecue in Memorial Park on Saturday, July 24, 2010 from 11:00 a.m. to 6:00 p.m.; request for a banner to be placed in Memorial Park; and a request to waive the fee.

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

VOTE: Unanimous.

5386 Discussion with Action: Appoint J. Philip Denison, Lou Valentine and Carter Whittaker as regular members of the Comprehensive Plan Committee, terms to expire 12/31/11.

CHAIR MACDONALD: The need to update our Comprehensive Plan has been a priority for some time. These three individuals will be the beginning of the formation of a Committee.

GARY LAMB: I would like to recommend the Win Winch, Chair of the Planning Board might serve on this Committee as well whether as a member or as an ex officio member as he has had a broad experience in town government and in service on the Planning Board. It would be good once the Committee is determined to set up a Public Workshop were this well rounded group of individuals can discuss the process and procedures of the Comprehensive Plan. As soon as the Committee is established we will have the experts from Augusta come and meet with us to walk the Committee through the process.

COUNCILOR DAYTON: I question where the idea of nine members came from as I had thought it was seven.

MOTION: Councilor _____ motioned and Councilor _____ seconded to Appoint J. Philip Denison, Lou Valentine and Carter Whittaker as regular members of the Comprehensive Plan Committee, terms to expire 12/31/11.

VOTE: Unanimous.

5387 Discussion with Action: Approve the Pole Permit from Northern New England Telephone Operations LLC and Central Maine Power Company to install two poles on Portland Avenue, approximately 135 feet Northeasterly of Milliken Mills Road.

COUNCILOR DAYTON: She asked what the height of the pole.

TOWN MANAGER: He indicated he believed it was the usual pole height but that he would secure the answer for her on this question.

MOTION: Councilor O'Neill motioned and Councilor Bolduc seconded to Approve the Pole Permit from Northern New England Telephone Operations LLC and Central Maine Power Company to install two poles on Portland Avenue, approximately 135 feet Northeasterly of Milliken Mills Road.

VOTE: Unanimous.

5388 Discussion with Action: Accept the Proposals of Dow and Coulombe in the amount of \$3,500; and R. W. Gillespie in the amount of \$4,550 for a total not to exceed \$8,050 for the final engineering required for the Final Design of the new Police Station from Account Number 30141/50891 – Rescue Billing/New Police Station, with a balance of \$239,517.02; to be repaid by Bond Proceeds on May 27, 2010.

MIKE NUGENT: He explained the reason for a requested change in this agenda item was the savings of money for the Town. He apologized that after the packets were mailed last Friday, he was able to work out quite a savings for the Town in the amount of the \$4,550 for R. W. Gillespie. Gillespie actually did such a fine job in their proposal that this additional cost is not necessary. It was suggested that however we add an additional \$500 for a boundary study to the Dow and Coulombe amount totaling and not exceeding \$4,000 from Account Number 30141/50891 – Rescue Billing/Police Station, with a balance of \$239,517.02; to be repaid by Bond Proceeds on May 27, 2010.

Early in the process, the Council approved Port City Architects to do the preliminary Police Station design. At the same time, The Council approved preliminary topographic survey work and geotechnical work. During the preliminary design process, the project area expanded to incorporate the remaining land to the right of the proposed building to the corner of the Ballpark access road. This expansion occurred after the survey and geotech work was completed.

Attached is a quote from Dow and Coulombe (not to exceed \$3,500) to provide topographical survey work for the remainder of the proposed Police Station land that extends to the corner of the Ballpark access road and identify water lines and topography along E.Emerson Cumming Blvd. for sewer access. This work was not included in their original scope as it was for preliminary design only.

Also attached is a quote from R.W.Gillespie (not to exceed \$4,550) for final geotechnical evaluation that will identify specific load characteristics of the site that the project structural engineer will need to design the foundation system. This work was not included in their original scope as it was for preliminary design only.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Accept the Proposals of Dow and Coulombe in the amount not to exceed \$4,000 for the final engineering required for the Final Design of the new Police Station from Account Number 30141/50891 – Rescue Billing/New Police Station, with a balance of \$239,517.02; to be repaid by Bond Proceeds on May 27, 2010.

VOTE: Unanimous.

5389 Discussion with Action: Set the Public Hearing Date of February 2, 2010 to 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.

The following is a summary of the proposed changes with a brief explanation:

Section 2-126 Assistant Town Manager Position Created—This language was modified to remove the job description, the committee felt that it was not necessary to have the description in the Ordinance.

Sections 2-151 Definitions—Eliminate School Board and School Board Chair person definition.

Generally all referenced to the School Board were eliminated due to the formation of the RSU.

Section 2-155 Amendments—The language was modified to clarify that changes in compensation for elected officials would become effective at the beginning of the next term of office and not the start of the next fiscal year.

Section 2-232 Name , Term and number of members—subsection (c) was modified to set up a procedure to formally disband committees when their function is complete.

Section 2-234 Powers and Duties—subsection (e) was modified to eliminate the need to provide copies of minutes to the Town Manager, as he or she has access to all minutes.

Section 2-326 Responsibilities – This section was modified to clarify the advisory role of the Finance Committee.

Section 2-357 Organization and appointment Subsection (b) to clarify that the Town Council can appoint a senior from the High School to the Recreation Committee, not the School Board.

Section 2-444 Procedures and Limits—subsection (b) this section was modified to raise the limits from \$1,000 to \$2,000 before a purchase is required to go our to bid.

Section 2-445 Joint Purchases – The Committee recommended deletion of this section as the Town can always partner with other municipalities but should still have to adhere to section 2-444.

MOTION: Councilor O’Neill motioned and Councilor Dayton seconded to Set a Public Hearing Date of Tuesday, February 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, 18-38, Article III, Body Piercing, Sections 18-66, 18-68, 18-100, 18-102, 18-103, Article IV Tattooing, Sections 18-166, 18-167, 18-204, Article VII Ice Cream Trucks, Sections 18-423, 18-424, Article VIII Massage Establishments, Sections 18-451, 18-456, 18-459, 18-486, 18-487, 18-488, and to Add Article X Victualers, Section 18-167, 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.

VOTE: Unanimous

5390 Discussion with Action: Set a Public Hearing Date of Tuesday, February 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, 18-38, Article III, Body Piercing, Sections 18-66, 18-68, 18-100, 18-102, 18-103, Article IV Tattooing, Sections 18-166, 18-167, 18-204, Article VII Ice Cream Trucks, Sections 18-423, 18-424, Article VIII Massage Establishments, Sections 18-451, 18-456, 18-459, 18-486, 18-487, 18-488, and to Add Article X Victualers, Section 18-167, 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.

Re: The following is a summary of the proposed changes with a brief explanation:

18-26 Definitions—These changes were to bring definitions found in the main body of the code (Any personal property tax and applicant) into the definition section; to better define complaints and disturbances by adding relevant (further in the ordinance there is procedural clarification. The Committee also wanted to clarify seasonal and year-round rentals.

18-28 Violations and Penalties—The word “may” was inserted instead of shall to provide discretion to the police, some “or” ‘s were added to (b) and some repetitive language in (b) 5 was eliminated.

18-30 Payment of Fees—clarification that all fees must be paid prior to the issuance of the license. The specific department reference was eliminated to provide for procedural adjustments is necessary in the future.

Sec. 18-31. License required; expiration.—The Committee asked that staff survey surrounding communities to ascertain if licenses (other than liquor) were sent to their City or Town Council. In Saco, Biddeford, Scarborough and Portland, their Clerk issued these licenses without Council action. The Committee inserted language that provides for a similar procedure in Old Orchard Beach, with the Council holding Public Hearings on all liquor and special amusement licenses as required by statute and staff issuing all other business licenses. Staff currently issues all renewals without Council action. If there is a potentially contentious license, the proposal allows for staff to refer the matter to the Town Council for a public hearing.

The second change is for two year license cycles with a staggered renewal program for the convenience of the businesses. The first half on the odd year and the second half on the even year (by map, block and lot) Pro-ration is allowed to make it affordable and fair for new businesses entering mid cycle or is there is a change in ownership (see subsection C).

18-33 Application and 18-34 Notice of New Applications—This language was modified to support the concept that the Council would hear Liquor and Special Amusement Licenses and that the License Administrator would issue other licenses.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Set a Public Hearing Date of Tuesday, February 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, 18-38, Article III, Body Piercing, Sections 18-66, 18-68, 18-100, 18-102, 18-103, Article IV Tattooing, Sections 18-166, 18-167, 18-204, Article VII Ice Cream Trucks, Sections 18-423, 18-424, Article VIII Massage Establishments, Sections 18-451, 18-456, 18-459, 18-486, 18-487, 18-488, and to Add Article X Victualers, Section 18-167, 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 18-4 55, 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.

VOTE: Unanimous.

GOOD AND WELFARE:

HELENE WHITTAKER: She again urged citizens to go to the Fire Station, Police Station, Town Hall, Ocean Park Association and pick up the Vial of Life. It is free and it could save someone's life. It is suggested that it be carried with you when you are on vacation, traveling, shopping. In an emergency the information contained therein could save your life.

NANCY RHODERICK: She confirmed the value of the Vial of Life and that it has now been enacted in Florida.

ADJOURNMENT:

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to adjourn at 7:45 p.m.

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 nine (9) pages is a true copy of the original Minutes of the Town Council Meeting of January 19, 2010.

Louise Reid