

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, MARCH 2, 2010  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, March 2, 2010. Chair MacDonald opened the meeting at 7:04 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**

**PRESENTATION: Acknowledgement of Presentation of the "2009 Chief's Award" by the Maine Association of Police to Chief Dana Kelley by Representative George Hogan; Assistant Town Manager V. Louise Reid; and Sergeant Kevin Riordan.**

**ASSISTANT TOWN MANAGER: On Saturday, January 30, 2010, Chief Dana Kelley was honored at the Maine Association of Police Annual Banquet and was awarded the 2009 Chief's Award. This award is presented to a Chief that has demonstrated outstanding commitment and support to Law Enforcement as well as contributions to the Maine Association of Police. I will ask the Chief to come to the microphone along with Sergeant Kevin Riordan who submitted the nomination of the Chief who will represent the plaque. We also are thrilled to have with us this evening, Representative George Hogan who will also make a presentation to Chief Kelley. We also acknowledge members of the Police Department in attendance this evening.**

**SERGEANT KEVIN RIORDAN: Chief Kelley has spent over 35 years in law enforcement, all at one agency. As Chief of the largest reserve force in the State he has worked hard in trying to provide the best training available for the reserve officers. With an average reserve class of 30 officers over the past 18 years it comes out to 540 officers that have started their law enforcement career in Old Orchard Beach. Many have gone on to other local departments as well as State and Federal agencies. There are Old Orchard Beach Alumni from Presque Isle down to Kittery to Revere to San Diego's County Sheriff's office and beyond. During the last few years the Chief has been able to secure funding to upgrade radios as well as purchase some equipment for the reserve officers to help defray the cost as they start out. The Chief has a reputation of doing what is right not necessarily what is popular. This was again demonstrated last year when one of his supervisors was diagnosed with cancer. As the officer underwent chemo therapy and radiation treatment the Chief made sure that the office was**



**Merit Service Award                      Firefighter/Paramedic Erin Stone**  
**For outstanding achievements and dedication to the department**

**Career Fire Officer of the Year                      Captain John Gilboy**

**Callforce Officer of the Year                      Crew Leader Bill Farley**

**Career Firefighter of the Year                      FF/P Erin Stone**

**Callforce Firefighter of the Year                      Firefighter Pierre Bouthiller**

**Emergency Medical Technician of the year      EMT-Intermediate Emily Downs**

**Outstanding Attendance Plaques                  Pierre Bouthiller**  
**Bud Tullis**

**For most responses to calls for service by Callforce members.**

**Chief's Special Service Award                      Bud Tullis**  
**For outstanding work, dedication, volunteerism, to the Town, Department and residents.**

**ACCEPTANCE OF MINUTES:    Town Council Meeting Minutes of February 16, 2010; and**  
**Town Council Workshop Minutes of February 23, 2010.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to approve the**  
**Town Council Meeting Minutes of February 16, 2010.**

**VOTE: Unanimous.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to approve the**  
**Town Council Workshop Minutes of February 23, 2010.**

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

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

**PUBLIC HEARING NUMBER ONE:**

**Shall we 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, and Article X Auctions, Sections 18-581 through and including 18-585 of the Old Orchard Beach Code of Ordinances.

**GEORGE KERR:** Chairman of the Ordinance Review Committee noted the following information for the Council.

---

**18-26 Definitions—**During the Public Hearing, the Term “relevant” with regard to complaints was brought up with the request for legal review. The Town’s Attorney recommended the following language be added to the definition: and which the Chief of Police, in consultation with the License Administrator and any other appropriate municipal staff, determines was caused by or causally related to the manner in which business was conducted at the licensed location.

**Note:** The Town Attorney agrees the Performing Arts Facility Section should be deleted as it is no longer applicable because it was specifically tailored for the SeaPac agreement in the 1990’s and also violated the DEP Site Location Permit.

**Note:** It should be noted that the licensed location has had three or more documented and relevant disturbances as verified by the police Chief within the previous licensing ~~period~~ cycle as outlined in Section 18-31 of this ordinance, which documentation shall be presented to the license administrator in writing by the police department.

**18-28 Violations and Penalties—**The change to substitute the word “may” instead of “shall” was eliminated as the Town’s attorney felt that the desired Police discretion was built into 18-29.

**Sec. 18-31. License required; expiration.—**The language was inserted to start the two year cycle in 2011.

**18-33 Application sub-section 5—Clarifying Language to require the application administrative fee for licenses renewals that were not applied for before May 1 (lapsed licenses)**

18-34. Notice of ~~new~~ special amusement and victualers with beer, wine and/or liquor applications; public hearing.

(a) The license administrator shall give notice of all ~~new~~ special amusement and victualers with beer, wine and/ or liquor

This language was added to clarify that the local licenses for businesses that serve alcohol require Council approval, enabling the Council to place conditions on the local license.

**18-205—**Added the requirement for liability insurance for Tattooists similar to Body Piercers, Also added that to Massage therapists (18-487).

**18-488—**The State of Maine has similar standards for Massage therapists, so, like the Tattoo Parlors and Body Piercers , language was added to require compliance

with the State Statutes and Rules by reference. A State License is required prior to the Local License issuance.

**Re: Outline of Chapter 18 proposed revisions**

---

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.

**18-30 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.

**18-35 Denial**— This language was modified to support the concept that the Council would issue or deny Liquor and Special Amusement Licenses and that the License Administrator would issue or deny other licenses; to give the Police chief and License administrator discretion when reviewing complaints; plus the definitions were eliminated and moved to the definition section.

**18-38 Renewals**—This language was modified to support the new license cycle (2 years) and to give the Police chief and License administrator discretion when

reviewing complaints. Also the same definitions in 18-35 were moved to the definition section.

**18-66 Body Piercing**—This language was modified to recognize that the State Department of Health and Human Services is the primary regulatory authority with similar standards. Because they monitor these establishments, the duplicate performance standards were removed by the committee. The town inspects new establishments for zoning, building and life safety code compliance and would respond to complaints.

**18-166 Tattooing**--This language was modified to recognize that the State Department of Health and Human Services is the primary regulatory authority with similar standards. Because they monitor these establishments, the duplicate performance standards were removed by the committee. The town inspects new establishments for zoning, building and life safety code compliance and would respond to complaints.

**Article VI Performing Arts Facilities**—At the advice of the Town's Attorney, the committee proposed deleting this section entirely. This section was created for the agreement between the Town and the Seashore Performing Arts facility, which does not exist.

**Article VII Ice Cream Trucks** This language was modified to support the concept that the License Administrator would issue these licenses and the limitation on numbers of vehicles was removed.

**Article VIII Massage Establishments**—After meeting with the Chief of Police, the committee modified the language to remove much of the limitations within this section citing that the nature of the businesses had changes since 1991, eliminating the need for much of the language.

**Article X Auctions**—The Committee recommends the deletion of this section entirely. The new Article X-Victualers references the State Food Code, the standard that all victualers are required to comply with. Currently the State Department of Health and Human Services provides the enforcement of these standards.

**Article XI. Headshops** has been stricken as it was a temporary ordinance that expired in November. The Planning Board and Council adopted zoning amendments to make them prohibited.

Discussion by Council included Councilor Dayton's concern that Administrative Board reviews could happen on a regular basis despite the licenses being renewed every two years and Mr. Kerr acknowledged that is correct. Chief Kelley also indicated that Administrative Review meetings can be called at any time. Vice Chair Tousignant raised a concern about the times of operation of the massage parlors and it was expressed the definition of a massage parlor is different from years ago and strict regulations of the State are involved as well and expressed the opinion that he did not want massage parlors open 24 hours a day. Mr. Kerr explained that the Ordinance Review Committee has tried to be flexible in revising and renewing current language which they have brought before

the Council. King Weinstein acknowledged that for the business community, flexibility in the rules and ordinances is a good start to making a friendly business community. Discussion continued on allowing town staff to grant new businesses licenses, but Council members have expressed concern that they want to be part of the procedure. The proposed ordinance would allow the Planning Department to issue all business licenses with the Town Council holding public hearings on all liquor and special amusement permits. If there were to be a potentially contested license, the proposed allows staff to refer the matter the Town council for a public hearing according to Council commentary. Currently new business licenses must come before the Town Council. Councilor Dayton indicated that the Council has done everything it can to oblige businesses who need to get a license approved to begin the summer season, and has held special meetings so that licenses can get approved. She said that she thought it was important for the Town Council to be involved with new business licenses. She said she thought it extremely prudent in the environment in which we find ourselves, for Council to have that review and reserve that right for themselves and not make it an administrative function. Vice Chair Tousignant said he thought that the Council should grant new business licenses. After licenses are originally issued by the Council, he said they could go to the Town administration for future renewal.

**CHAIR MACDONALD:** I close this Public Hearing at 7:46 p.m.

**CHAIR MACDONALD:** I open this Public Hearing at 7:47 p.m.

#### **PUBLIC HEARING NUMBER TWO:**

**AGENDA ITEM: 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.”**

#### **BACKGROUND:**

##### **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 therefor 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 June and once during the month of December, 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.

**COUNCIL COMMENTS:** Citizens were reminded that it has been agreed by the Council that it is time to take over and run the Ballpark. Renovations of the ballpark began over two years ago by a group of dedicated volunteers. The group was put under the auspices of the conservation Commission because the Commission is a body that can receive donations. Andrea Berlin, Chairperson of the Conservation Committee indicated that it was always the desire of the Committee to help the Ballpark group get the stadium in order. Now that things are in place, the Commission wants to bow out and let the stadium and parking lot be overseen by a new ballpark group. Facilities management is not what we do. Chairperson Berlin indicated that the Commission had hoped that land near the stadium could be used for other projects such as a garden and the Commission could continue the workshop sessions that were held to discuss the remaining land. Again Councilor Dayton indicated concern that taking away the current organization structure would put a halt to the vision of change on the property by volunteers who had expressed possibilities of a community garden or a community center. She reminded everyone that this is citizen's land. She also questioned a ballpark structure having control over the rest of the acreage. The Council encouraged individuals to still come forth with their ideas and suggestions. It is just a change of command. Further discussion continued.

**PHILIP DENISON:** He indicated that he was out of town when this was first discussed. The question he asked was the involved of Town funding in this project. Where is the money going to come from? Both Vice Chair Tousignant and Councilor O'Neill both made it clear that this was not being funded by the Town. He acknowledged that the volunteers have done a wonderful job and continue to but a question of further financing so there is no question of the ability to fund events is a priority to many citizens. He also indicated that he is concerned about the inclusiveness of all the property in this issue. He indicated that the trails and gardens have nothing to do with the Ballpark Stadium and should be separate. Since we don't have money in the budget, he questioned where the money would come from. He said he didn't feel the funding was there to support this endeavor. He felt it was not fiscally responsible at this time. If the ordinance goes forward then the area of the stadium should be separated and the remaining land be under the direction of the Conservation Commission.

**PIERRE BOUTHILLER:** He expressed concern about Sections 1 and 9. Section 1 – Property – 49 acres. He indicated 20 acres of undeveloped land. The question of the oversight of the stadium and the oversight of the other areas of the land is something which needs to be given more discussion and understanding. Focus and intent of different parties needs to be outline and understood. He indicated that if we accept this ordinance it will definitely restrict the public land. Access to other areas to funding and grants will be limited or restricted as well. This is a prime piece of property and considerations need to be addressed in the whole discussion. He reminded Council that the Conservation Committee's role is in charge in watching over parks and open spaces and should not be usurped when it comes to the land outside the facility. He again reminded everyone that this is public land. He also suggested that a Board of 7 or 9 would be better and alleviate difficulties that would be present by a small Board. He spoke of the restriction to access a wide range of both open space grants and DOT grants for walking trails, gardens, etc. as well as recreational activities development grants in over 20 acres of prime open space which have been consistently the intent of the vast majority of the volunteers and donors to the Ball Park efforts. Again he pointed out that Section 9 will limit the opportunities for grants. He asked for a rewrite Section 9 or a refinement of Section 1 where it would be very specific for the fenced in stadium area and for the non exclusive parking area. This would accommodate all the operation of the ballpark per se.

**JOHN BIRD:** He raised the issue of the technicality of the Commission of 5 and the quorum of 3. The question of sections being unnecessarily specific was also raised. He felt that specifics are not required. Three is a majority. In Section 1 it is unnecessarily specific and the end of the paragraph leaves the boundaries and issues to the Town Council as it should be but says 49 acres; if you change that it would be another ordinance change and I don't think you need to have the acres indicated.

**COUNCILOR DAYTON:** She reminded everyone that it is extremely important to remember that this is public land and she mentioned that the definition of the Ballpark land is 49 acres but the Town records show that is the amount of land owned by the Town referred to as the original ballpark site. It should be stated in the ordinance that others can come before the Council if there are questions and issues on this subject.

**JEROME BEGERT:** He raised the issue of the parking lot perimeter and discussed the domain of the Conservation Commission. The Parking Lot and much of the parameter of the property should be used by the Ballpark Enterprise and used by the courtesy of the

**public. Can you clarify that the Town Council has the authority to overrule the Enterprise.**

**FRED DOLGON:** He reinforced Pierre's comments about communal space being taken away from the community gardens. He indicated he supports the organic movements. This is what makes a community. Taking land away from the community is not what we want see happen. I have the feeling that some of the communal space is being taken away from the community. I would love to see a community garden arise; something like Saco is doing. Community supported agriculture has become a very common name for a movement which I support together with the organic movement. This is what makes a community. We feed after each other. Any tendency to take that land away from the community, I don't like it. I do agree to move the commission to 7. You need to move more than twice a year. You should have at least 5 for a quorum.

**RHONDA THOMAS:** She spoke about the community garden and there would be many citizens who do not have a chance to have a garden. It is incredibly appealing to be able to share this outgoing opportunity with new friends. It also would be important to teaching students at the school and feeding them as well. I share this vision of meeting new people, reducing our trash, sharing in the food, and also have a vision that I would love to see school involvement as well. As a school in Wells is doing, they have a garden that contributes to their school luncheons. It is full of possibilities.

**VICE CHAIR TOUSIGNANT:** He expressed that the only thing that is happening is a change in command. The Conservation Commission knew it was coming. It's time for the second phase of this to take place. The door isn't shut on any plans for the open lands. The Council would have to approve any plans anyway. We are the controlling body for this land. He also recommended that meetings of the Board be four times a year. It should be noted that the Board is going to come to the Council. If this is going to get convoluted, then it could be handled by the Council. The use of the web site in putting on minutes of meetings is very important as well. I think the written reports should be done quarterly.

**PIERRE BOUTHILLER:** Section 9 is very specific and it makes very clear that the Conservation Commission has nothing to do with this, it should be noted that one of the requirements must be open spaced property to be eligible for grants. It is not about custody over this but it is about funding and open land. What are we gaining by making this property exclusive? The parking lot should be inclusive. What do we gain by including that open space – over 20 acres – to develop for walking trails and gardens. We will be restricted from the vast majority of funds. You do a double cut when you say 'not responsible to the Recreation Board.' Not only have you restricted from open grants but from recreational development as well. It can be reconciled in Section. If you keep both you eliminate all State and Federal funds.

**VICE CHAIR TOUSIGNANT:** If for some reason the Boy Scouts came and said they want to build a walking trail, the Board could create any time that status. If you have the money to do the project, any Council could make the decision to make that public land.

**CHAIR MACDONALD:** Can we get grants?

**COUNCILOR BOLDOC:** The schools have received grants from many sources.

**ANDREA BERLIN:** She indicated that the Commission has no desire to run the Ballpark itself but does have plans it wants to move on including a garden cleared last year for school children to take part in a program in the coming weeks when seeds would be planted. What will hinder us in getting grants is if this facility is locked. It must be open to the public at all times. We didn't pursue because we didn't want the stadium unlocked. If people can't walk down there, we will have a problem and not be able to get grants.

**CHAIR MACDONALD:** We haven't locked it.

**COUNCILOR BOLDOC:** She reminded everyone that State parks are locked.

**COUNCILOR DAYTON:** Five years ago it has been locked. It has been locked; you can't drive down there and as we know administrations and Council's change. Putting the 49 acres in here to limit that is a disservice to the community and we are not keeping our promised.

**PIERRE BOUTHILLER:** We will be outside the grant process; or it will be a time-sensitive document and sometimes just a few days. If we have to go and get it redesign Ted as open space in order for us to make an application not fraudulent, we could not get the paperwork done in a timely manner. Why is it not designated as a public park. It is removed from the open space criteria. I don't care who makes the final decisions. It is what is best for the community going forward. Tell me where this is in the best interest in the community. Or is it in the best interest of just a few.

**COUNCILOR O'NEILL:** I think the ordinance is very clear and there has been no doubt that it is 49 acres as a ballpark. This ordinance clearly defines what we want and it does not limit anyone coming before the Council for walking trails. No other grants have been applied for and it has been two years. If we are going to use the grant process to protect the ballpark, then why have we not applied for them. Volunteers has worked hard on this project and they have my support. It should be stated, however, that this board is advisory to the Council.

**PIERRE BOUTHILLER:** We made a conscious decision not to apply for grants but we wanted to develop what we had before we planned for grants.

**CHAIR MACDONALD:** I close this Public Hearing at 9:00 p.m.

**BUSINESS LICENSES:** Dottie Rogers dba/Dottie's Daycare (103-1-15), 174 Portland Avenue, Child Care; GBG, LLC dba/Grand Beach Grille (202-3-5), 198 East Grand Avenue, Victualers; David J. Bailer Inc. dba/Coast Country Store (205-15-1), 2 Cascade Plaza, Retail Store, Outside Display; Michelle Loranger (310-6-1-580), 39 West Grand Avenue, Unit 580, one year round rental; and Anthony J. Sineni III & Victor Bogart (312-7-3), 54 Fern Avenue, three year round rentals.

**Harold C. Pachios: Attorney - PretiFlaherty and representative of the Grand Beach Residential Association. After interaction last year, the Grand Beach Association (the "association") has previously focused on the fact that there is a commercial establishment in the residential zone where members of the association reside. The commercial use is the Grand Beach Inn and the restaurant which does business at the Grand Beach Grille. These operations are unlawful in the residential zone but are grandfathered to the extent (and only to the extent) such operations existed at the time the Town Council enacted the residential zone covering the neighborhood. There was considerable discussion last about the extent of operations which existed at the time the residential zone requirements were enacted by the Council. The specific area of controversy has centered on outdoor service and consumption of alcoholic beverages, that is, service outside the walls of the restaurant and bar as it existed at the time it became a residential zone. The association retained me for the purpose of bringing suit against the town asking the Superior Court to order the town to enforce state and municipal law relating to restrictions on non-conforming uses. At the same time, I have had discussions with my client, the association, to see whether there was some middle ground which would allow the GBG to operate its outside bar under certain circumstances.**

**Section 18-35 c of the town's ordinance relating to the issuance of business licenses states "the town council may also impose conditions on the operation of any licensed business or activity, such as restrictions on the hours of operation....or implementation of particular forms of crowd control, where public interest so requires." Because we are dealing with a residential zone where people are entitled to some degree of peace and enjoyment of their residential property, it seems reasonable to regulate this non-conforming use in a way the minimizes noise, rowdiness, outdoor music and other sounds which invade the rights of the residential community to peaceful enjoyment. We propose the following restriction as a compromise arrangement which allows the non-conforming use to co-exist and function within the residential zone. "Liquor and food can be served and consumed in the specific outdoor area which was utilized for such purpose in 2009 only between the beginning of Memorial Day weekend and the end of Labor Day weekend and only prior to sunset. No music is allowed outdoors." I want to make it clear, however, that by proposing this compromise which I believe waives some of the association's rights, and the association is not waiving its legal right to prohibit any other expansion of this non-conforming commercial use. He then indicated that he and King Weinstein, owner of the Grand Beach Inn, had come to an understanding and were going to proceed and work together to make this a workable opportunity.**

**MOTION: Councilor Bolduc motioned and Councilor O'Neill seconded to GBG, LLC dba/Grand Beach Grille (202-3-5), 198 East Grand Avenue, Victualers**

**VOTE: Unanimous.**

**SPECIAL AMUSEMENT PERMIT: JJ's Eatery LLC dba/JJ's Eatery Too (306-5-1-F), 12 B Old Orchard Street, Singer (Solo), Outside and Inside, 6 p.m. to 9 p.m.**

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

**VOTE: Unanimous.**

**TOWN MANAGER'S REPORT:** Met with Barry Tibbets, Town Manager of Kennebunk, regarding MERC Management Training. Rural Development Grant – Waste Water Department. Pre Construction meeting – Waste Water West Grand Pump Station with Pizzageli including a construction time schedule. Roof Damage – Town Hall - \$1,000 to \$1,500. Generator – 500 kw – available in May from Waste Water York County Advocacy Group. Many Budget Discussions with Department Heads. West Grand Parking Problem – Manor Street Met with MMA Health Insurance Trust. Have a couple of personnel issues that I have been working one. One is complicated which is requiring many individuals to be involved. Attended an OOB 365 Meeting. Police Pre-Construction Meeting each Thursday afternoon. Continue to work with Tom LaChance on Ballpark Restoration issues. Scheduled insurance review for Monday, March 8<sup>th</sup> with both the local agent and the underwriter representative. “The Storm” – met with Fire Department, Police and Public Works often. I would like to thank many folks who attended to the needs of our Town citizens. I actually finished returning calls that I received last night from home. In some cases CMP would not return power to properties due to damage at the private home site that needed repairs prior to CMP reconnect. Some of those cases were rental properties where the landlord was not aware of their responsibility. The Fire Department helped with this challenge by making individual visits. Now we will focus on roadside clean up and the Beach. U.S. Army will be doing a mid-day training Exercise at the Ballpark on March 17<sup>th</sup>. The site will be off limits for a day during daylight hours. Reviewing applications for the Public Works Director. I spent six hours last night and not half way through them. West Grand meeting with Public Works and Wright Pierce and would like to schedule two Workshops; one on West Grand Avenue and one continuing Workshop on E. Emmons Cummings intersection on Saco Avenue. PACTS is waiting for an agreement and budget considerations. Budget – Pre Presentation Discussion with Council regarding Council recommendations and concerns.

# 5409            Discussion: Presentation by Mark Burns of Foreside Architecture on the Status of the Police Building Project Including Participation by Public Works.

The following individuals spoke including Mark Burns and David Shanks of Foreside Architecture and Dave O’Connell, Richard Eagan, Rick Licht and Kevin Reilley of Benchmark. Mr. Burns complimented the groups working on the new Police Station indicating that the engineers, architects, site workers, the Town Manager, the Police Chief and Mike Nugent our Code Officer have all been so positive and optimistic about this project that has been an enjoyable experience. It was noted that although there was a reduction in size, some areas were increased in the functional areas; storage areas for bikes and ATV’s. They indicated that the architecture is reminiscent of the Town Hall with columns, etc. At this point they are in the design and development stages and the presentation this evening they will provide a rendering of the new look of the building which did not change a lot but made it more conducive to work. The newly received survey for the Police Station lot brought forth some new information. Because the Ballpark lot was separated and deeded to the Finance Authority of Maine in 1983, the Police Station lot was not included and thus is a stand-alone parcel. It has been determined by the DEP that we don’t need site location review which could save the Town about \$5,000 in permit fee expense. They continue to work on hydrant elevations and pressure and it may be that money can be saved on this as well. The Interim Public Works Director will be explaining the plan to extend the sewer line from Saco Ave. up E. Emerson Cumming

Blvd., to the entrance to the Ballpark. This will provide sewer service for the New Police facility and also a stub for future concessions at the Football Field. The original potential price was thought to be app. \$50,000.00. By using Public Works for the installation it is likely to less than \$20,000. The process continues with having the bid packages for sub contractors around the middle of March and bid results back around the first of April. In those two weeks they will be developing construction documents (from March 16<sup>th</sup> to April 1<sup>st</sup>). Construction drawings will be available around the first of April and then the budget will be reevaluated and then we can have a guaranteed price in April so the contract could be finalized and we could be in the ground before May. They discussion future projects to be completed including Electricity (CMP), Time Warner (CTV), Telephone, Data Lines, Water Service, Propane, Sanitary Sewer Extension. As it regards the Sanitary Server Extension, it is apparent that the closest municipal sewer is approximately 350+ feet east of the site with two potential connection manholes; one at the intersection of Saco Avenue and E. Emerson Cummings Blvd., are the existing Public Safety building sewer service. Once the survey is done it will determine the least expensive option. The survey will include a topographic survey and a boundary survey.

Council congratulated them on their work thus far. Vice Chair Tousignant again affirmed his desire that in the building process that there be an opportunity for videotaping so that this facility can be used in the future for meetings that need to be videotaped for playing for the public.

# 5410 Discussion with Action: Approve Public Works Projects in the amount of \$372,379 from Account Numbers as noted: Grove Avenue & Cottage Avenue, \$53,994 from Account Number 20203-50508- PW Capital-Sewer Maintenance/Improvements with a balance of \$75,000; Fourth Street, \$40,000; Ross Road, \$65,424; and Ted Berry Company/including divers for Mullen Avenue and Brown Street outfalls, \$20,000 from Account Number 20203-50831- PW Capital-Storm-water Maintenance/Improvements with a balance of \$127,995; Arbutus Avenue, \$20,394; Foote Street, \$13,085; Imperial Street, \$17,934; Smithwheel Road, \$68,808; and Cottage Avenue & Grove Avenue, \$57,740 from Account Number 20203-50506 – PW Capital-Road Maintenance/Improvements with a balance of \$253,509 and Cottage Avenue & Grove Avenue sidewalks, \$15,000 from Account Number 20203-50507, Public Works Capital-Sidewalk Maintenance/Improvements with a balance of \$75,291.

**BILL RICHARDSON:**

Paving – Arbutus Avenue – Shorewood Drive to Fern Park Avenue; Reclaim and keyways by DPW; paving, binder, course and top course (2 inches by 1 ½ inches) by Dayton; width 20 feet; length 410 feet. Binder Course - \$12,600 + Top Course - \$7,700 = \$20,300.

Paving – Foote Street – Portland Avenue to Francis Street; reclaim/grinding, keyways and adjusting structures by DPW; paving, shimming, patching and top course (1 ½ inches) by Dayton; width 20 feet; length 1,150 feet; Shimming and top course - \$13,085.

Paving – Imperial Street – Portland Avenue to Milliken Street; reclaim/grinding; keyways and adjusting structures by DPW; paving, shimming, patching and top course (1 ½ inch) by Dayton; width 33 feet; length 955 feet; Shimming and Top Course - \$17,934.

**Paving – Smithwheel Road – Dirigo Drive to Ocean Park Road; Reclaim/grinding, keyways and adjusting structures by DPW; Paving, shimming, patching and top course (1 ½ inches) by Dayton; Width 24 feet; Length, 5,036 feet; Shimming, patching and top course - \$68,808.**

**Paving – Cottage Avenue and Grove Avenue; Saco Avenue and Ivy Avenue; grinding, structures and keyways by DPW; paving, patching and top course (1 ½ inches) by Dayton; width 22 feet; length 1,045 feet; Shimming, patching and top course - \$57,740.**

**Sewer – Cottage Avenue and Grove Avenue; Saco Avenue to Ivy Avenue by DPW; Rock excavation - \$44,995 plus 20% contingency (\$8,999) - \$53,995.**

**Stormwater/Drainage – Fourth Street Vault Repairs; Includes removing and replacing a concrete top slab on a large stormwater vault within the Street at the Beach end of Fourth Street. It is now covered with a steel plate to keep vehicles from crashing through it. \$40,000; to be bid – Wright Pierce putting documents together.**

**Stormwater/Drainage – Mullen Avenue & Brown Street Outfalls – pressure clean – Ted Berry Company including diving = \$20,000.**

**Stormwater/Drainage – Ross Road – Phase I – Saco Town Line to House 118; Phase II – House 118 to Cascade Road; Phase 1 & Phase II – by DPW - \$54,522 plus 20% Contingent - \$10,904 = \$65,426.**

**Sidewalks – Cottage Avenue & Grove Avenue – Saco Avenue to Ivy Avenue; Preparation Excavation/gravel sub base by DPW; Paving, base and top by Dayton - \$15,000.**

**VICE CHAIR TOUSIGNANT:** He commented on the timelines and perhaps the need of hiring some less technical individuals during the summer to compensate for the eight man staff assigned to the larger projects which need to get done.

**COUNCILOR DAYTON:** Thanked the Interim Public Works Director for this work which she pointed out she has brought forward many multiple times. She is pleased that finally these situations are being addressed.

**MOTION:** Councilor O'Neill motioned and Vice Chair Tousignant seconded to Approve the Public Works Projects in the amount of \$372,379 as indicated in the Agenda Item.

**VOTE:** Unanimous.

**# 5411 Discussion with Action:** Approve a Community Garden (as indicated on the site map) as part of the "Every Child Grows" National Program with the assistance from the Planning Dept., RSU 23 and the Conservation Commission of Old Orchard Beach.

**Discussion regarding this item is a result of the wake of a proposed Ballpark ordinance. The proposed Ordinance defines the Ballpark as 49 acres of land with a stadium, playing fields and parking areas and states that it should be operated as sports, entertainment and events facility and not a public park. Subject to Town Council oversight the Commission would be responsible for the improvement, maintenance and operation of the entire**



**Ballpark property.** Several speakers felt that the proposed ordinance should define open space abutting the playing fields differently. Volunteer efforts have brought the Ballpark to the cusp of readiness for a college baseball tournament in May and now appears the time for the Town to take a more active role in managing the facility. Suspension of the Conservation Committee's role was controversial.

**JACKIE TSELIKIS:** She described the "Every Child Grows – An America Grows Program." The proposal includes planting and cultivate vegetable gardens in e very school in the United States and it's territories and to plan and nurture fruit and nut bearing trees and bushes wherever regional conditions support them. The purpose is to create a permanent state-of-the-art living natural science teaching platform relevant and appropriate to all levels of learning for every student and citizen in the country. She reminded that historically the family farm was the central learning hub for the understanding of natural science learning in our country. She historically said that the school had a small starter grant for a garden project. Ordinarily the project was going to be a school garden but there were a lot of people in community who were interested in being involved and it was decided that a community garden was more appropriate. After review, it was felt that there were insurance and liability issues as well as security concerns of having a community garden on school property. The area proposed seems to be the most accessible seems to make the most sense.

**CHAIR MACDONALD:** She questioned how many plots you would have and how do you decide who gets to use the plot? She said she worried that there would be dissatisfaction on one person getting a plot and someone else. Are there concerns about supervision of the children.

**JACKIE TSELIKIS:** She said that would be worked out once the Council gave permission to move forward with this opportunity. Children will be supervised with parents or recreational help during the summer months.

**COUNCILOR BOLDOC:** It is my understanding from what you said during the break that you have not approached the school.

**JACKIE TSELIKIS:** I cannot speak for the RSU and for property on the school grounds. I think using school property would have some issues.

**COUNCILOR BOLDOC:** Whose project is this? First it is unclear who is in charge and where it will be and seems to be questions that have not been answered. I do support the concept of a community garden but I have environmental concerns about the detention pond and also about the donated loom. This whole thing has been one error upon error and I am uncertain of the need for it to be there. It could be on school property and also Memorial Park. She indicated the school does own a lot of land. I don't support it being where you have suggested it to be. I would suggest the school. First year make it a school garden and then next year build on that.

**JACKIE TSELIKIS:** If we are going to call it a community garden it will not just be for the school. It is land that is near for access to the children. If it is going to be on the school grounds it is going to be a school garden and not a community garden.

**PHIL DENISON:** He indicated that if the Ordinance moves forward, the Council should limit the authority of a Council-appointed Ballpark Commission to the stadium, playing

fields and parking areas and give the authority of the rest of the acreage to the Conservation Commission so there could be walking trails.

**PIERRE BOUTHILLER:** He objected to the development of a Commission to oversee the Ballpark stadium, playing fields and parking areas, expressing his concerns that the ordinance as written would restrict access to open space grants for walking trails and other uses for undeveloped land because it was not public land or recreation area and would be off the table. The intent of the acreage surrounding the stadium, parking area and ball field was walking trails and similar recreational use.

**VICE CHAIR TOUSIGNANT:** He said that although the proposed ordinance would allow the Ballpark Commission to oversee the 49 acres, interested parties could still ask for walking trails and similar items. All requests would have to go before the Council. This proposal is in no way restricting anybody from coming to the Council or the Ballpark commission and asking them to have flower gardens, walking trails or anything else that they propose to do on the property. He insisted that this cannot be a permanent structure.

**ANDREA BERLIN:** We were told that it was donated loam. None of us knew that we were paying for the loam. I had a conversation with Chair MacDonald and Councilor Dayton about the loam. We also talked about the possibility of putting the garden up at Portland Ave. The Old Orchard Beach Conservation Commission and Regional School Board #23 are asking for Town Council approval of an integrated school/community garden to be located on town property, adjacent to the parking lot at the stadium. Please reference the site plan included for it's proposed location. Jackie Tselikis, school health coordinator, has already received a 5210 mini grant of \$1,200.00 to establish a garden. The school has limited open space available for such a project. Jackie has elicited support of teachers at all three schools to become involved, as well as the Natural Helpers (a high school group of mentors to younger students). The greenhouse at the high school off the science class will be utilized, as well as classroom window sills at the other schools to get the seedlings started. Conservation is interested in partnering with the school to make this not just a school project but one for the entire community. By offering 8 x10 plots of land, families can get involved in growing food for themselves. Additional funding for this project will be granted through the "Every Child Grows" program coordinated through "America Grows". The Conservation Commission will sponsor workshops on cooking and canning with the vegetables that are harvested furthering the educational opportunity for all. The undeveloped parcel at the northern end of the parking lot is approximately two acres. The garden property to be proposed at 50 feet by 200 foot; that is only 10,000 square feet, under a quarter acre. She stated several times that the open space near the ball field needs to be left unlocked or it wouldn't be eligible for State land and water conservation grants.

**VICE CHAIR TOUSIGNANT:** There is no intent to lock the gates. He also reminded again that he didn't know where all the emotion was coming from. We had no desire to shut the door on any plans for the open land.

**COUNCILOR DAYTON:** You can't drive down there now. She also reminded everyone that the Conservation Commission is charged to watch over parks and open space and should not be usurped when it comes to the land outside the facility itself. She stressed the need to evaluate any decisions made and that fact that this is public land.

**COUNCILOR O'NEILL:** In the past two years no one had applied for such grants and the proposed ordinance was not jeopardizing any funding opportunities. Such grants could be pursued for an additional 30 acres abutting the 49 acres, as well as a 50-acre parcel donated to the Town for recreational purposes. He also said there are 30 acres of open space abutting the schools with plenty of space for a garden. The entire Ballpark property is protected by the Department of Environmental Protection. With all the construction and activity going on in the Ballpark as preparations are made for future events, he was concerned it might not be a safe place for children. My main concern is for the safety of the children.

**CHAIR MACDONALD:** She suggested a trial garden on school property for a year and then if it is successful do a bigger garden somewhere else next year. She also reminded everyone that it is not about "them or us."

**COUNCILOR DAYTON:** This community garden has been one of the goals of the property for the past four years. Are you aware that we have been talking about a community garden on this property since 2006?

**COUNCILOR BOLDOC:** She said she supported a garden but viewed the school property as a more appropriate place and she had environmental concerns regarding the proposed space at the Ballpark property.

**DANA FURTADO:** He spoke about State law – local Shoreland Zoning and Coastal Zone Management (which are two sets of regulations) and the fact that he felt the ballpark retention pond which is a manmade structure is not in our local shoreland zone (which would require a 75 foot undisturbed buffer from each side of the stream.

**GINGER MULLEN:** She disagreed with Mr. Furtado's assumptions that the drainage swale at edge of the ballpark parking lot as a stream. Ballpark gardens would not be an issue where proposed because neither the Ballpark retention pond nor drainage swale at edge of parking lot are in our shoreland zone or a protected natural resource. They are man-made drainage features. She indicated the EDP jurisdiction was a "non-issue" since nothing was taking place within 75 feet of a resource that would apply. I could virtually assure the Council that there was no relevant activity taking place within 75 feet of any protected natural resource.

**ROGER BENARD:** In response to the comments that the Ballpark area is not good for security for the children. Teachers always stay in close proximity to the children. He said there is concern about retention pond and also the oil from the cars.

**VICE CHAIR TOUSIGNANT:** Will you accept the one year limitation and they can come back next year. Do you have a problem with that?

**COUNCILOR DAYTON:** I believe the retention pond has been addressed already. I agree to the one year time frame. The Conservation Commission is present and they understand our intent. I would remind everyone that this is public land and no one is trying to take over anything. It is an incredible asset, smack in the middle of our town. Every passionate person has been intent on bringing life back to this. I agree we should try it for a year.

**CHAIR MACDONALD:** How would handicapped individuals get up there? Did you look any place other than the ballpark?

**COUNCILOR O'NEILL:** If it could happen in another area I would agree for public works to assist in making the area useable. I have a concern about the safety issue and if it is to be a school function there is so much activity getting the ballpark ready for the baseball games, I am concerned about the safety issue. I would prefer that it be moved to another area. We have had several issues up there with the DEP and my main concern is the safety of the kids. I can't believe that we can't find another plot with public access. The whole field is irrigated. I can't believe that we can't find a plot of land and with the help of Public Works get a community garden. I have a problem two fold – it is changing the use of property and I am concerned about the safety of the children.

**COUNCILOR DAYTON:** There is no heavy equipment coming in. The heavy equipment finished months ago. I don't know why this is being made so difficult.

**PAT HOLLAND:** As a teacher I can tell you that this is an important opportunity for our children and I think you are losing your focus on who this is going to help. To be able to grow things is a great opportunity for a child. Please reconsider. Give us a limited time and a chance to try. What about people that don't have a yard. You are taking that opportunity away from them. Here is a chance for them to learn a lot of things.

**COUNCILOR BOLDOC:** The school is handicapped accessible.

**GINGER MULLEN:** I think the issues are getting very complex and it is a simple thing really. I do not believe there are DEP issues. She reiterated several times that this is a simple request for a community garden and that the issue was being confused.

**TOM LECHANCE:** I do think that there are some concerns – approximately 125 plots. It is a great idea but you need to find the right place.

**COUNCILOR DAYTON:** Why do you want to make it harder for these people. Could I please have an answer? You are suggesting we clear more land. I want to know why. Are you aware that we are talking about a community garden on this property since 2004? There were hundreds of people at the planning process talking about a community garden. The request by Vice Chair Tousignant to make this for a year is acceptable. The group never thought of it as a long term commitment not knowing what the future holds.

**CHAIR MACDONALD:** I feel that if it is about the kids, then put it on school property with a ton of green grass and there are little spickets in the field for water. Maybe that is where we start and if it gets large, then we try it bigger next year. What happens if every person at the Pines wants to grow something and you have to choose who can and who cannot participate?

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded with discussion to Approve a Community Garden (as indicated on the site map) as part of the "Every Child Grows" National Program with the assistance from the Planning Dept., RSU 23 and the Conservation Commission of Old Orchard Beach.

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

# 5412 Discussion with Action: Request to waive Building, Plumbing and Electrical

permit fees for the West Grand Pump Station Upgrade Project.

**GARY LAMB:** Because this is a Municipal project, it would appear sensible to waive all permit fees. The contractor who would pay the fees would only bill the Town with a possible mark-up, so a waiver makes sense.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to waive Building, Plumbing and Electrical permit fees for the West Grand Pump Station Upgrade Project.

**VOTE:** Unanimous.

*(Inaudible comment by Pierre Bouthiller from the back of the room as group was leaving.)*

**COUNCILOR O'NEILL:** Madam Chair? Is that a threat from Mr. Bouthiller?

**COUNCILOR DAYTON:** No.

**# 5413 Discussion with Action:** Approve the Liquor License Renewal for JJ's Eatery LLC dba/JJ's Eatery Too (306-5-1-F), s-m-v in a Restaurant/Lounge.

**MOTION:** Councilor Bolduc motioned and Vice Chair Tousignant seconded to Approve the Liquor License Renewal as read.

**VOTE:** Unanimous.

**# 5414 Discussion with Action:** Approve the Special Event Permit application for MAPS to hold their Breakaway 5K Road Race on August 21, 2010, starting at 8 a.m. from East Grand Avenue to Ocean Park and back to Square. Request to close the Square; request for a banner to hang on Saco Avenue; request to waive the fee; pending insurance.

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

**VOTE:** Unanimous.

**# 5415 Discussion with Action:** Approve a Blanket Letter of Approval for Games of Chance for the Masonic Lodge, #215, 130 West Grand Avenue, to expire 12/31/2012.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to Approve the Games of Chance for the Masonic Lodge, #215, 130 West Grand Avenue, to Expire 12/31/2012.

**VOTE:** Unanimous.

# 5416 Discussion with Action: Approve the Democratic and Republican ballot clerks, terms to expire 3/2/2012.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to approve the Democratic and Republican ballot clerks, terms to expire 3/2/2012.

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

# 5417 Discussion with Action: Set Preliminary Fees for use of the Ballpark Fields.

**CHAIR MACDONALD:** The request was received to have an agenda item related to use of the Ballpark field to be used for some baseball games. Currently a special event permit application fee is \$50 per day to use town property for an event, wedding, etc.

Below is a listing of field usage fees in our area.

Here are the rates given from the SMMBL Commissioner for 2010:

	Day	Evening
Deering Oaks	\$90	\$150
Yarmouth HS	\$30	
Biddeford HS	\$60	\$111
Scarborough HS	\$75	\$ 75 +60/hour
Thornton	\$50	
Falmouth	\$105	(not likely renting field this season)

These rates are the per game rates. If a Little League, High School League, etc., wanted to use any of the above fields, they would pay per game for field usage.

Discussion will be on an agenda item allowing \$125/game during the day and \$250/game for night games? The difference with the night games is the electricity usage. Preliminary numbers from Central Maine Power are about \$1500/month if the field was used every night. So that averages out to be \$50/night if it is used every night. These numbers were verified with 2 different Central Maine Power individuals and it is expected that in time for our Council meeting we will have further documented numbers. These numbers are only for the usage of the field, nothing else, not concessions, not the clubhouse. Vice Chair Tousignant asked for information on lights, water and other costs and will this amount cover the costs of use of the field. The Town Manager said he is waiting for some answers from Central Maine Power because of the storms last week. The people who manager the parks don't have the invoices for the lights and there is a demand component for the use of the lights. Councilor Dayton had requested information of the schedule for the events this summer. It would be helpful to have that information of who and when are the games scheduled. The Ballpark group wants to make sure that they get enough from these fees to cover the expenses. Councilor Dayton indicated that these are the booking times and to make a commitment without the price is and will be difficult. If we go forward with this we will see special events coming in and help what works.

**COUNCILOR O'NEILL:** Does this have to be acted on tonight. The question on my mind, anything that is scheduled will they adhere to these fees? One other concern is, are we

competitive with our costs? We should be positioning ourselves to be self supporting. We need to make sure that we are not under-funding the ballpark.

**CHAIR MACDONALD:** This is only for the ballpark, not the club house. This is just for the green space, the ballpark fields. Then there will be fees developed for the club house and the concession groups.

**TOWN MANAGER:** I think this is a temporary fix and we will have to go back and redesign the fee structure once we have a more indebt analysis.

**TOM LACHASSE:** I have compared fees used for other playing fields. We are in the ballpark and I believe this is a good fee structure temporarily.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Set Preliminary Fees for use of the Ballpark Fields at \$125 day fee and \$250 night fee for the playing season 2010.

**VOTE:** Yea: Councilors Bolduc, O'Neill, Dayton and Chair MacDonald.  
Nea: Vice Chair Tousignant

# 5418 Discussion with Action: Appoint Jean Leclerc and Clarence Stewart as regular members of the Comprehensive Plan Committee, terms to expire 12/31/11; appoint Robert Quinn as a regular member of the Zoning Board of Appeals, term to expire 12/31/12, moving from alternate to regular; re-appoint Lucien Huot as a regular member of the Board of Assessment Review, term to expire 12/31/12; appoint Karen Andersen as a regular member of the Planning Board, term to expire 12/31/11, moving from an alternate to regular; appoint Timothy Perrigo as a regular member of the Planning Board, term to expire 12/31/11; re-appoint Kim Schwickrath, Donald Comoletti and Shirley Holt as regular members of the Design Review Committee, terms to expire 12/31/11; re-appoint Ken Lafayette as the alternate business member, and Gary Curtis as the alternate citizen member to the Business License Administrative Board, terms to expire 12/31/11.

**TIANNA HIGGINS:** I have served on two boards – the Zoning Board of Appeals and also the Planning Board. I was elected to the Charter Commission. I received no calls from the Council Chair asking me about how I felt about these appointments and I feel that I have served in the capacity on both boards and desire to continue. I would like to retain my position on the Planning Board. There is an alternate position on the Planning Board. You could have asked my feelings about this or have a discussion with me. I feel slighted that no one had a conversation with me.

**CHAIR MACDONALD:** I was trying to give other individuals an opportunity to serve. I think it is good to mix it up a little. It is time to try new people in positions. It is the ability of the Chair to appoint individuals.

**GARY LAMB:** I understand the Council has some thought about no citizen serving on more than two Committees; however Tianna Higgins presently serves on three boards, Zoning Board of Appeals, Charter Commission and Planning Board. She attends all three regularly; participates greatly and is a tremendous asset to Old Orchard Beach governance.

If it is Council's intention to reduce all citizens to only two committees, then may I suggest we let the citizen choose which two they are on. Tianna did not run for election to the Charter Commission or ask for a Council appointment to the Charter commission; she was elected by thirteen write-in votes. Tianna is our most valuable Planning Board member; a professional civil engineer and logical and thorough in her discussions. We need her at Planning Board because we have two fairly new members and our other engineer member is absent frequently due to work demands. Tianna helps formulate proper legal decisions and discussions and we need her experience and education there to help protect the Town's liability. In addition we have a vacancy now. Even after Tim Perrigo (new member) and Karen Anderson (re-appointed member) are appointed, we still have a vacancy.

**WINN WINCH:** As the Chair of the Planning Board I can tell you that Tianna is our most valuable member and her ability to not serve would set the Planning Board back a great deal. We count on her expertise and I encourage the Council to appoint her to this Board.

**COUNCILOR O'NEILL:** We don't want to treat our volunteers with disrespect and the fact that she has not been reached and had this discussed with her. I fully support Tianna being on the Planning Board and would suggest that we remove the appointment of Tim Perrigo to the Planning Board until further discussion about the appointments to this Committee. I would like to have this remove without prejudice.

**CHAIR MACDONALD:** I take responsibility for these appointments. I feel that when other citizens come forth they need to be given an opportunity to serve as well. We will consider this at the next meeting pending Council interaction.

**MOTION:** Councilor O'Neill motioned and Vice Chair Tousignant seconded to approve the appointments and re-appointments as read but remove without prejudice the appointment of Tim Perrigo to the Planning Board.

**VOTE:** Unanimous.

**GOOD AND WELFARE:**

**PAT BROWN:** I would again request that the Ordinance Review Committee meeting be televised to be transparent and provide the citizens opportunities to be included in one of the two most important committees that are making decisions at this time; the Charter Review Commission and the Ordinance Review Committee.

**JEROME BEGERT:** I encourage the Council to be transparent in their dealings and in their appointments.

**COUNCILOR DAYTON:** I would ask that we be updated on the upcoming baseball tournament scheduled for May.

**KEN SHUPE:** As Chair of the OOB365 Committee I wish to thank the Council and the public and all those heavily involved in the successful Winter Carnival, even without the snow, it was a huge success. To BBI, Public Works, Seacoast RV, Police, Recreation, Fire Department, volunteers, business members, Chamber members and all those who made this



**a complete success. We appreciate the recently held workshop on bringing new businesses to our community and we look forward to upcoming events in the next few months.**

**ADJOURNMENT:**

**MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to adjourn the meeting at 11:03 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 twenty-four (24) pages is a true copy of the original Minutes of the Town Council Meeting of March 2, 2010.**

**Louise Reid**