

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, MAY 4, 2010  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, May 4, 2010. Chair MacDonald opened the meeting at 7:02 p.m.**

**The following were in attendance:**

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

**Absent: Councilor Laura Bolduc**

**Pledge to the Flag  
Roll Call**

**EMERGENCY ITEM: Councilor O'Neill motioned and Vice Chair Tousignant seconded to add an Emergency Item, Agenda Number 5477, Discussion with Action: Award bid for Repairs to Stormwater Vault on Fourth Street" to Dearborn Construction in the Amount of \$19,350 from Account Number 20203-50831. .**

**Declaration of Emergency**

**The repairs to the stormwater vault need to be completed as quickly as possible and in advance of the summer season. Delay until the next Council meeting would jeopardize timely completion of the project.**

**VOTE: Unanimous.**

**ACKNOWLEDGEMENTS:**

**VICE CHAIR TOUSIGNANT: Appreciation to all those who attended the Town Council Appreciation Day at the Ballpark. It was a great occasion and to see what the volunteers have done brings a great deal of satisfaction to all those who joined in the event. Our appreciation to all who have donated to the ballpark in so many ways. It would take a great deal of time to mention each individual, organization and company by name but we thank you all and now for the tournaments. The schedule is on the Web site.**

**COUNCILOR DAYTON:** Our appreciation to all who worked so hard this past Sunday at the second annual Taste of Old Orchard Beach. Again, there are so many to thank but this was a great community event and we shower our appreciation on each of you.

**ASSISTANT TOWN MANAGER:** I would like to express my appreciation to the fifth Grade teachers and their four 5<sup>th</sup> grade classes at Loranger who joined us today for Junior Achievement Shadowing Day. My appreciation to vice chair Tousignant for attending and Councilor Robin Dayton for teaching on of the sessions in the afternoon. The students visited the police station, fire station, public works and waste water departments and then conducted their Town Council meeting in the Town Hall before visiting each of the department within the Town Hall. We appreciated representatives from the RSU, including our representatives from the RSU including our own representatives Gary Curtis, Principal Lloyd Crocker, Vice Principal George Szabo as well as participation by Missy Labbe of Eco Maine. My special thanks to Chief John Glass who always is on hand to assist us, often without recognition. Special thanks to Carter and Helene Whittaker for their participation in the session representing the Community Policing Group but as important their taking over all the preparations for lunch for the youngsters. Of course the excitement of the day was the surprise visit by Officer St. Pierre and Gunther. To all my personal thanks and appreciation.

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of April 20, 2010;  
Town Council Workshops of April 21, 2010; April 27,  
2010; and April 28, 2010.

**MOTION:** Vice Chair Tousignant motioned and Councilor Dayton seconded to  
Accept the Minutes as read.

**VOTE:** Unanimous.

**PUBLIC HEARINGS:**

**CHAIR:** I open this Public Hearing at 7:12 p.m.

Shall we Amend Ordinance Section 42-201 to Allow Vehicles on the Beach  
as part of a Town Council approved Special Event Permit?

**CHAIR MACDONALD:** Passage of this Ordinance Amendment is necessary to allow the  
Balloon Festival which will bring thousands to our community.

**EXHIBIT:**

**TOWN OF OLD ORCHARD BEACH  
REGULAR TOWN COUNCIL MEETING  
NOTICE OF PUBLIC HEARING**

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on May 4, 2010, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that section 54-187, Restrictions and Prohibitions, of the Town of Old Orchard Beach Traffic Ordinance is amended by adding the underscored language and deleting the strikethrough language:

**Sec. 42-201. Use of the beach areas.**

**No motorized or vehicular traffic of any kind may enter or use the beach for any purpose, with the exception of public safety vehicles, ~~and the town's public works vehicles, designated for public safety or beach cleaning purposes,~~ and vehicles authorized by the Town Council as part of a Special Event Permit.**

**CHAIR:** I close this Public hearing at 7:14 p.m.

**CHAIR:** I open this Public Hearing at \_\_\_\_\_ p.m.

**Shall We Amend Section 54-187, Traffic and Vehicles by disallowing parking on the right side (facing the Ocean) of Temple Ave. from Free Street to West Grand Avenue; and designating two handicap spaces in front of the Temple on Temple Avenue?**

**BACKGROUND:** This plan is to be tried this summer with any adjustments or considerations once the summer is over.

**EXHIBITS:** **TEMPLE AVENUE PARKING MEETING**  
**April 9, 2010**

**Attendees:** Deputy Chief Keith Babin, Public Works Director William Robertson, Fire Chief John Glass, Town Manager Jack Turcotte, Ocean Park Director Ed Rae, Planning Board Chair Winn Winch.

**A trial plan for Summer of 2010:**

**Review Plan – need ordinance change allowing to park on curb side of Temple and create additional handicapped parking spaces as indicated on the map.**

- 1. Need to set Public Hearing on April 20, 2010**
- 2. Public Hearing May 4, 2010**
- 3. Final Approval May 18, 2010**
- 4. Ocean Park will attend Public Hearing Meeting**
- 5. Ocean Park has already notified all residences that the plan is under consideration.**
- 6. New space will be created by Public Works as outline in the map.**
- 7. At the end of the summer the group will get together to review the plan and report to Council.**
- 8. Signs will be erected within five working days of final Council approval, weather permitting.**
- 9. Will use “No Parking” signs for now. Public Works has them already. If plan becomes more permanent we will design new signs that are date related. (“No Parking on this side from May – to September -. (Consider Columbus Day?**

**EXHIBITS:**

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

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on May 4, 2010, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that section 54-187, Restrictions and Prohibitions, of the Town of Old Orchard Beach Traffic Ordinance is amended by adding the underscored language:

Temple Avenue. No vehicle shall remain parked on Temple Avenue between West Grand Avenue and Seaside Avenue for a period of time longer than one hour. Parallel parking shall be allowed on the left side (facing the ocean) of Temple Avenue from Seaside Avenue to the seawall; diagonal parking shall be allowed on the right side (facing the ocean) of Temple Avenue from Seaside Avenue to the seawall, except that three consecutive parking spaces shall be designated by the chief of police and shall have a two-hour limit from 7:00 a.m. to 7:00 p.m. No vehicle shall be parked on the right side (facing the Ocean) of Temple Ave. from Free St. to West Grand Ave. and two handicap spaces will be located in front of the Temple on Temple Ave.

**PHIL DENISON:** I wish to express appreciation to staff who worked professionally and amiably with us on this safety issue.

**WINN WINCH:** I concur with Phil on the excellent manner in which the staff has worked with Ed Rae, Ocean Park Association Director, in bringing to an agreement this proposal to be tried this summer.

**HELENE WHITTAKER:** I would ask why there was no parking on one side all the way up to the tracks which would make it easier for strollers.

**JOHN BIRD:** I don't think we need to have one side from Clove to West Grand.

**TOWN MANAGER:** We wish to try this for the summer and see how it works out and we will meet at the end of the summer and discuss the success or failure of the effort.

**BARBARA ULTSCH:** I trust that you will have adequate signage.

**BILL ROBERTSON:** We will move the line 4 feet by 6 feet with a double line painted all the way.

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

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

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

Jeanne Hackert (211-8-1), 197 Saco Avenue, one year round rental; Jim Albert dba/Planet Terry's (211-9-17), 213 Saco Avenue, Outside Display; Constance Young (305-3-7), 4 Aldine Terrace, one year round rental; Marie MaGuire (310-6-1-410), 39 West Grand Avenue, Unit #410, one year round rental; Brenda Dowling dba/GB's Pies (324-6-1), Victualers with Preparation; Terry Sondra (301-3-1-205), 189 East Grand Avenue, Unit 205, one year rental; Harry Milton (210-1-7-43), 11 Smithwheel Road, Unit 43, one year round rental; and Lyn Gervais (103-1-46), 21 Milliken Mills Road, two year round rentals.

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

**VOTE:** Unanimous.

**CHAIR:** I close this Public Hearing at 7:26 p.m.

**CHAIR:** I open this Public Hearing at 7:27 p.m.

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

Patio Pub Inc., dba/Hooligan's Landing (306-6-1-DD), 2 Old Orchard Street, Solo/Duo Acts/Comedy Inside, 12:00 p.m. – 1:00 a.m.; Good Tunes Dance Club Inc. dba/Referee's (206-31-19-B), 2 First Street, Live Music; 8:00 p.m. – 1:00 a.m. Inside; and Patio Pub, Inc. dba/Pier Patio Pub (306-6-1-J), 2 Old Orchard Street, DJ, Bands, Comedy, Karaoke, etc. Inside & Outside, 12:00 p.m. to 1:00 a.m.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to approve the Amusement Permits as read.

**VOTE:** Unanimous.

**CHAIR:** I close this Public Hearing at 7:28 p.m.

**PAUL GOLZBEIN:** It is with great tribute to the Volunteers of the Ballpark that I present this picturized bat to be displayed at the Ballpark. The volunteers have done a wonderful job and deserve an enormous amount of credit for bringing the Ballpark back to life.

**NEW BUSINESS:**

# 5464 **Discussion with Action: Approve Liquor License Renewals of Patio Pub Inc., dba/Hooligan's Landing (306-6-1-DD), 2 Old Orchard Street, s-m-v in a Restaurant; Venetia LLC dba/Venetia's Restaurant (313-4-3), 93 West Grand Avenue, m-v in a Restaurant; Good Tunes Dance Club Inc., dba/Referee's (206-31-19-B) 2 First Street, s-m-v in a Restaurant Lounge; Patio Pub Inc., dba. Pier Patio Pub (306-6-1-J), 2 Old Orchard Street, s-m-v in a Restaurant Lounge; Chrysanthe Dikos dba/Chrys's Restaurant (306-5-1-E), 12 Old Orchard Street, m-v- in a Restaurant; and William & Lesa Watson dba/Pierre's Restaurant (305-4-4), 47 East Grand Avenue, s-m-v in a Restaurant.**

**MOTION: Councilor O'Neill motioned and Vice Chair Tousignant seconded to approve the Liquor License Renewals as read.**

**VOTE: Unanimous.**

# 5465 **Discussion with Action: Amend the Code of Ordinances, Section 54-187, Brown Street, to allow for a handicap parking space on the left side facing the ocean.**

**CHAIR MACDONALD: This request has been researched by the Police Department.**

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

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**Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that section 54-187, Restrictions and Prohibitions, of the Town of Old Orchard Beach Traffic Ordinance is amended by adding the underscored language:**

**Brown Street. No vehicle shall be parked on the northeasterly side of Brown Street (left side facing the ocean), except one handicap parking space shall be designated by the Chief of Police.**

**MOTION: Councilor O'Neill motioned and Vice Chair Tousignant seconded to Amend the Code of Ordinances, Section 54-187, Brown Street, to allow for a handicap parking space on the left side facing the ocean.**

**VOTE: Unanimous.**

# 5466 **Discussion with Action: Amend Chapter 18, Businesses by Amending Article II Licenses, Section 18-26, 18-28, 18-30, 18-31, 18-33 through and including 18-36, 18-38, Article III Body Piercing, Sections 18-66, 18-68, 18-**

**100, 18-102 through and including 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 18-487, 18-488, Article IX Campgrounds, Section 18-526, and to Add Article X Victualers, Section 18-581 and 18-582 and to Delete the following: Article III Body Piercing, Sections 18-69, Sections 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 X, Auctions, Sections 18-581 through and including 18-585, and Article XI Head Shops, Section 18-601 through and including Section 18-606 of the Old Orchard Beach Code of Ordinances.**

**MOTION: Councilor O'Neill motioned and Vice Chair Tousignant seconded to Amend Chapter 18, Businesses by Amending Article II Licenses, Section 18-26, 18-28, 18-30, 18-31, 18-33 through and including 18-36, 18-38, Article III Body Piercing, Sections 18-66, 18-68, 18-100, 18-102 through and including 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 18-487, 18-488, Article IX Campgrounds, Section 18-526, and to Add Article X Victualers, Section 18-581 and 18-582 and to Delete the following: Article III Body Piercing, Sections 18-69, Sections 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 X, Auctions, Sections 18-581 through and including 18-585, and Article XI Head Shops, Section 18-601 through and including Section 18-606 of the Old Orchard Beach Code of Ordinances.**

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

**# 5467 Discussion with Action: Amend Chapter 30, Fire Prevention and Protection, Article II Uniform Fire Code, Section 30-26, and 30-59, Article IV Life Safety Code, Section 30-76 and Chapter 38, Miscellaneous Offenses, Article II, Weapons, Section 38-25 and 38-29, Article VI, Boarding Up of Seasonal Facilities, Section 38-242.**

**CHAIR: This final draft reflects the requested changes that keep the initial licensing authority with the Town Council and renewals to be done by staff. This is the same as the current Ordinance.**

**Chapter 30 Fire Prevention:**

**Section 30-26/30-76 was modified to standardize the Local Fire Prevention and Safety Codes with the State Fire Marshall's Office. This also eliminated the need to continually update the codes locally at each 3 year code cycle.**

**Section 30-59** This Ordinance amendment eliminates the requirement for sprinkler installations in one and two family homes that are three stories or greater. The Ordinance Committee and Codes staff and the Fire Chief agreed that while the local requirement is a good recommendation, it is more restrictive than the current National Fire Protection Association and International Residential Code Standards adopted by the Town and State of Maine. Also the surrounding communities do not require this level of protection. It should be noted that it is likely that State Law will require sprinklers in ALL single family and two family homes in 2012.

## **Chapter 38**

**Section 38-25** This amendment creates definitions of certain firearms.

**Section 38-29** This amendment adds “rifled muzzle loader” firearms to the currently exempt “smooth bore” muzzle loader. This was done at the request of a citizen and approved by the Police.

**Section 38-242** This amendment to the Boarding Ordinance removes the automatic denial of the application if the Town fails to act on it within 30 days. The Ordinance Committee and staff agreed that this language was not necessary.

**MOTION:** Vice Chair Tousignant motioned and Councilor O’Neill seconded to Amend Chapter 30, Fire Prevention and Protection, Article II Uniform Fire Code, Section 30-26, and 30-59, Article IV Life Safety Code, Section 30-76 and Chapter 38, Miscellaneous Offenses, Article II, Weapons, Section 38-25 and 38-29, Article VI, Boarding Up of Seasonal Facilities, Section 38-242.

**VOTE:** Unanimous.

**# 5468 Discussion with Action:** Approve the Special Event Permit application for the Libby Memorial Library to hold their 3<sup>rd</sup> Annual Seaside Art & Crafts Festival on Saturday, July 24<sup>th</sup>, 2010, 10 a.m. to 4 p.m. in Veteran’s Memorial Park. Request to waive the fee.

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

**VOTE:** Unanimous.

**# 5469 Discussion with Action:** Approve the Special Event Permit application for the Memorial Park sub-committee to hold a Candlelight Remembrance on Sunday, May 30, 2010, from 8 p.m. to 9 p.m. in Veteran’s Memorial Park. Request to waive the fee.

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



**VOTE: Unanimous.**

**# 5470 Discussion with Action: Approve the Special Event Permit application for the Recreation Department to hold Summer Concerts in the Park in Memorial Park, every Thursday from July 1<sup>st</sup> to August 19<sup>th</sup>, 2010 from 6:30 p.m. to 8:30 p.m. Request for a banner to hang from the Town Hall balcony. Request to waive the fee.**

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

**VOTE: Unanimous.**

**# 5471 Discussion with Action: Approve the amendment of the Special Event Permit application of MAPS to hold their Breakaway 5K Road Race on August 21, 2010, approved by the Town Council on March 2, 2010, to include a request for a banner in the Square from August 5<sup>th</sup> to August 21<sup>st</sup>, 2010.**

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

**VOTE: Unanimous.**

**# 5472 Discussion with Action: Approve the Special Event Permit application for Tom's of Maine to hold a clambake for their employees on the beach at the end of Sandollar Avenue on Wednesday, August 11<sup>th</sup>, 2010 from noon to 5 p.m.; and a request to park vehicles at the Ballpark where they will then provide transportation to the event.**

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

**VOTE: Unanimous.**

**# 5473 Discussion with Action: Approve the Special Event Permit Application for the Normandie Motor Inn to host a bonfire on the beach in front of their Inn on Tuesday, June 8, 2010 from 8:00 p.m. to 11:00 p.m. for the Newfound Regional High School Senior Class.**

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

**VOTE: Unanimous.**

**# 5474 Discussion with Action: Approve the Special Event Permit for The Salvation Army to have the street closed off at the corner of Church & Sixth Street to allow children to cross the street safely to access various activities occurring on Salvation Army property on Saturday, May 15, 2010; and a request to waive the fee.**

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

**VOTE: Unanimous.**

**# 5475 Discussion with Action: Accept, with Regret, the resignation of Carter Whittaker from the Comprehensive Plan Committee; Appoint Winthrop Winch to the Comprehensive Plan Committee, term to expire December 31, 2011; and appoint James Walker and Planner Gary Lamb to the Sea Level Adaptation Working Group, terms to expire December 31, 2011; and appoint Richard Larochelle to the Finance Committee, term to expire December 31, 2011.**

**MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Accept, with Regret, the resignation of Carter Whittaker from the Comprehensive Plan Committee; Appoint Winthrop Winch to the Comprehensive Plan Committee, term to expire December 31, 2011; and appoint James Walker and Planner Gary Lamb to the Sea Level Adaptation Working Group, terms to expire December 31, 2011; and appoint Richard Larochelle to the Finance Committee, term to expire December 31, 2011.**

**VOTE: Unanimous.**

**# 5476 Discussion with Action: Set a Public Hearing for May 18, 2010 to Amend Chapter 26, Environment, Article I, in General, Article III Noise, Sections 26-56, Section 26- 58 through and including 26-59, Sections 26-62 through and including Sections 26-66, and Delete Article II, Litter.**

**MIKE NUGENT:**

- **Article II Litter** – The Police recommended removing this language as they never would use this Ordinance. If there were a littering issue they would issue a summons based on the State Statute. If there is a trash problem on private property, the Town's adopted Property Maintenance Code would be used. The Committee agreed that this Ordinance duplicated other laws and ordinances and was no longer necessary.
- **The New Article II Sound** – In 2001, the Police Department issued summons to court to the Salvation Army for Unnecessary Noise, under the current Noise Ordinance. This case was lost because there were not clear procedures set forth in the Ordinance. Since 2001, the Police have been mediating noise complaints but have been unable to enforce the Ordinance.

**Revision Process: Since 2005, Planning Staff, an ad hoc Noise Committee, the Police Department and professional noise consultants have worked to amend the existing ordinance in order to alleviate the problems surrounding noise control. The intention of this revision is to develop an enforceable noise ordinance that**

can be used effectively to settle noise disputes in town. The Ordinance Committee began to review the current ordinance and the former ad hoc committee's work.

Noise Consultants: This revision process had been led by professional noise consultants, Steve Ambrose of SE Ambrose & Associates and Rob Rand of Rand Acoustics. These consultants were hired in August of 2005 to assist staff and the committee in amending the existing ordinance.

After meeting with members of the ad hoc Noise Committee, Police Department staff and the Ordinance committee the following amendments are presented for Council review:

Sec. 26-56

The Ordinance Definition area revised to reflect new terms in the body of the Ordinance Draft.

Sec. 26-58

This section clarifies that if more stringent Zoning regs exist, that would preempt this section.

Sec. 26-59

This section changes the existing Exemption for the former "license performing arts facility" and renames it "The Ballpark".

Sec. 26-62

This section clarifies what "loud and unnecessary noise" is and potentially fixes some enforcement problems. In the past, when noise enforcement was attempted, alleged violators have performed their own ambient noise tests. In the summer, the noise level of normal ambient sound in many districts is often times higher than the levels in Table 26-63. This fact compromises successful prosecution of violation. If adopted, subsection "d" recognizes that if the average ambient noise level is greater than the levels specified in Section 26-63, the sound level emanating from the alleged violator's property line shall be measured. If the sound level emanating from the alleged violator's property is greater than 10 dB (A) above the average ambient noise level it shall be deemed to be loud and unnecessary noise and in violation of this Ordinance.

If adopted, this would allow the Police to enforce the Ordinance under circumstances where they could not in the past.

Sec. 26-63

It is important to note that there are no proposed changes to the noise levels allowed in the present ordinance.

Sub section 2 which allowed 15 minutes of excessive noise per day was eliminated as it complicated enforcement and the Police have discretion in these matters.

Sec. 26-64

**Sub Section 8 was modified to allow construction, all year, starting at 7am Monday thru Saturday and 9am on Sundays. Previously construction is not supposed to start before 9 am in the summer.**

**New proposed exclusion 11 exempts primary uses on properties like Palace Playland from noise limitations. Those uses are:**

- (1) *Primary uses.* Primary uses are as follows:**
- a. Mechanical and nonmechanical amusement rides, go-cart tracks, water slides, miniature golf courses, bumper boats, aquariums and similar activities.**
  - b. Virtual reality amusements.**
  - c. Amusement arcades.**
  - d. Games of skill.**
  - e. Services such as manicurists, face painting, and similar activities.**
  - f. Public performances, whether by live actors or mechanical/video means.**
  - g. Recreational equipment rentals.**
  - h. Temporary structures including booths and tents erected to accommodate uses described in this section.**
  - i. Boardwalks, observation decks, landscaped park areas, and similar structures or facilities established to provide public seating and afford public views of the ocean or beach, and that are not associated with a complementary use.**

**This proposal does not exempt the complimentary uses:**

- (2) *Complementary uses.* Complementary uses are as follows:**
- a. Drinking establishments.**
  - b. Tattoo parlors.**
  - c. Restaurants.**
  - d. Food stands with a minimum of a ten-foot setback from the front property line.**
  - e. Retail.**

**New proposed exclusion 12 exempts noise generated within a mixed use structure such as the Brunswick or Grand Victorian that effect the units within the building only. Properties like these would still have to comply outside of the building.**

**New proposed exclusion 13 allows the Salvation Army to have sound levels like the GB-1 Zone during daytime hours in the summer. If adopted, this would allow them to operate as they have been for the last several years.**

**Sec. 26-65**

**New Sub Section 4 gives the police another way to eliminate disturbances during the nighttime hours.**

**Sec. 26-66**

**This section was completely redrafted at the recommendation of the noise consultants to create a procedure that, if followed, would make the ordinance enforceable.**

Chapter 26 ENVIRONMENT\*

\*Cross references: Economic development committee, § 2-261 et seq.; department of planning and development, § 2-472; animals, ch. 14; parks and recreation, ch. 42; solid waste, ch. 46; streets, sidewalks and other public places, ch. 50; utilities, ch. 58; buildings and building regulations, ch. 66; floods, ch. 70; subdivisions, ch. 74; zoning, ch. 78; erosion and sedimentation control, § 78-1856 et seq.; manufactured housing, § 78-2056 et seq.

State law references: Nuisances, 17 M.R.S.A. § 2701 et seq.; abatement of nuisances, 30-A M.R.S.A. § 3104; disposition of abandoned property, 30-A M.R.S.A. § 3106.

Article I. In General

Secs. 26-1--26-~~25~~ 55. Reserved.

Article II. Litter

~~Sec. 26-26. Definitions.~~

~~Sec. 26-27. Maintenance of property.~~

~~Sec. 26-28. Receptacles.~~

~~Sec. 26-29. Disposal.~~

~~Secs. 26-30--26-55. Reserved.~~

Article III. ~~Noise~~ Sound

Sec. 26-56. Definitions.

Sec. 26-57. Findings.

Sec. 26-58. Effect of zoning.

Sec. 26-59. Exemptions for licensed performing arts facility.

Sec. 26-60. Enforcement.

Sec. 26-61. Penalties.

Sec. 26-62. Loud and unnecessary noise.

Sec. 26-63. Noise level standards.

Sec. 26-64. Exclusions.

Sec. 26-65. Specific prohibitions.

Sec. 26-66. Measurement procedures.

Sec. 26-67. Inspections.

ARTICLE I. IN GENERAL

Secs. 26-1--26-~~25~~ 55. Reserved.

~~ARTICLE II. LITTER\*~~

~~\*State law references: Litter control, 17 M.R.S.A. § 2261 et seq.~~

~~Sec. 26-26. Definitions.~~

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

~~*Litter* means and includes any manmade or man-used waste material which, if deposited within the town otherwise than in a litter receptacle or a state-licensed waste disposal facility, tends to create a danger to public health, safety or welfare or to impair the environment. Litter may include but is not limited to any garbage, trash, refuse, debris including demolition debris, newspaper, magazine, glass, metal, white goods, automobile parts, plastic or paper containers or other matter of any kind or object likely to injure any person or create a traffic hazard.~~

~~Litter receptacle means and includes any container which is designed to receive litter and to prevent the escape of litter deposited therein, which is of such size or sufficient capacity to hold all litter generated between collection periods.~~

~~Public place means and includes any highway, street, road, way, sidewalk, park, playground, beach or any land, building or other structure frequented by the general public, whether publicly or privately owned.~~

~~(Ord. of 6-18-1980, § 1; Ord. of 2-7-1989)~~

~~Cross references: Definitions generally, § 1-2.~~

~~Sec. 26-27. Maintenance of property.~~

~~(a) Every owner, occupant or lessee of a building, structure or parcel of land used for residential, business or commercial purposes shall ensure that all litter is properly containerized in litter receptacles and shall maintain litter collection and storage areas in a clean condition.~~

~~(b) All litter that is subject to movement by the elements shall be secured by the owner, occupant or lessee of the premises where it is found before the litter is allowed to be removed by the elements to adjoining premises.~~

~~(c) Every owner, occupant or lessee of any public place, including but not limited to hotels, motels, restaurants, fast food outlets, shops, stores, office buildings, apartment buildings and indoor or outdoor retail establishments, shall at all times keep the premises clean of all litter and shall take all necessary measures, including regular periodic cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises or to accumulate upon the premises.~~

~~(d) All owners, occupants or lessees of premises shall keep the sidewalks and alleys adjacent thereto free of litter.~~

~~(Ord. of 6-18-1980, § 2)~~

~~Sec. 26-28. Receptacles.~~

~~(a) Every owner, occupant or lessee using or occupying any public place shall provide and maintain adequate litter receptacles of sizes, numbers and types as required to contain all litter generated by those persons frequenting that public place.~~

~~(b) Every owner, occupant or lessee of private premises shall provide and maintain litter receptacles for collection of litter as necessary and in such a manner that litter will be prevented from being carried by the elements to adjoining premises.~~

~~(c) Persons placing litter in litter receptacles shall do so in such a manner as to prevent litter from being carried from the receptacles by the elements.~~

~~(d) No person shall cause the removing, upsetting, mutilating, defacing or tampering with litter receptacles or cause the contents thereof to be spilled or to be strewn in or upon any public place or private premises.~~

~~(e) Litter receptacles shall not be placed in any location where they may obstruct vehicular traffic or unreasonably obstruct pedestrian traffic.~~

~~(Ord. of 6-18-1980, § 3)~~

~~Sec. 26-29. Disposal.~~

~~(a) No person shall throw, deposit, drop, discard or otherwise dispose of litter in or upon any public place, except:~~

~~(1) In an area designated by the state or the town for the disposal of garbage and refuse, if such person is authorized to use such property for such purpose; or~~

~~(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such public place.~~

~~(b) No person shall throw, drop, deposit, discard or otherwise dispose of litter while traveling in any vehicle or from any vehicle in or upon any public place, except into a litter receptacle in~~

~~such a manner that the litter will be prevented from being carried away or deposited by the elements.~~

~~(Ord. of 2-7-1989, § 4)~~

~~Sees. 26-30--26-55. Reserved.~~

ARTICLE ~~III~~ II ~~NOISE\*~~SOUND \*

\*Cross references: **Operation of noise-creating devices on public rights-of-way, § 50-271 et seq.**

State law references: **Disorderly conduct, 17 M.R.S.A. § 501; unnecessary automobile noise, 29-A M.R.S.A. § 2079.**

Sec. 26-56. Definitions.

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

*Ambient noise level* means the all-encompassing noise level associated with the given environment, being a composite of sounds from many distant, individually indistinguishable sources, excluding the alleged offensive noise and excluding noise from isolated identifiable vehicles at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

*Daytime hours* means the hours between 7:00 a.m. and 10:00 p.m. Monday through Saturday, and the hours 9:00 a.m. through 10:00 p.m. on Sunday's.

*dB(A)* means the abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the A-weighting of a sound level meter.

*Decibel (dB)* means the practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

*Domestic power equipment* means but is not limited to power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

*Effective Source Noise Level* means the source noise level after an adjustment for the adverse character of noise (including tonal, impulsive, bass or rumble noise).

*Lmax* means Maximum Sound Level as defined herein.

*Maximum Sound Level* means the maximum sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" meter response over a measurement period; expressed as *Lmax* in dBA.

*Nighttime hours* means the hours between 10:00 p.m. and 7:00 a.m. Sunday evening through Saturday morning, except that night means the hours between 10:00 p.m. Saturday and 9:00 a.m. Sunday.

*Noise level* means the sound pressure level as measured with a sound level meter using the A-weighting network. The level so read is designated "db(A)" or "dBA."

*Property line* means that real or imaginary line along the ground surface and its vertical extension which:

- (1) Separates real property owned or controlled by any person from contiguous real property owned or controlled by another person; and
- (2) Separates real property from the public right-of-way.

*Source Noise Level* means the equivalent sound level (or *Leq*) of the noise radiated from a source or group of sources and determined by subtracting (on an energy basis) the background sound level – with the source(s) off – from the total sound level – measured with the source(s) on.

*Sound level* or Leg means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for A-weighting, “Fast” response over a measurement period; expressed as Leg in dBA.

*Sound level meter* means an instrument for the measurement of sound levels conforming to ANSI type I or type II standards.

*Sound pressure level* means the level of a sound measured in dB units with a sound level meter which has a uniform (flat) response over the band of frequencies measured.

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.

(Ord. of 3-16-1983, § 8-309; Ord. of 3-15-1994)

Sec. 26-57. Findings.

It is found and declared that:

(1) The making and creation of loud, unnecessary or unusual noises within the town limits is a condition which has existed for some time, and the extent and volume of such noises is increasing.

(2) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use effect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the town residents; and

(3) The necessity in the public interest for the provisions and prohibitions contained and adopted in this article is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained and adopted in this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the town and its inhabitants.

(Ord. of 3-16-1983, § 8-301)

Sec. 26-58. Effect of zoning.

Any section of chapter 78 ~~pertaining to~~ of the Code (~~z~~Zoning) which is more stringent than the standards set forth in this article shall ~~remain in force~~ prevail over the standards of this article.

(Ord. of 3-16-1983, § 8-311)

Sec. 26-59. Exemptions ~~for licensed performing arts facility.~~ The Ballpark.

This article shall not apply to ~~any performing arts facility~~ activities at The Ballpark holding a license-Special Event Permit pursuant to article ~~VI~~ IV of chapter ~~18~~ 42 Divisions 5 ~~for licensing performing arts facilities~~ during such time as such ~~license-permit~~ remains in effect and has not been suspended or revoked. and the permittee is in compliance with all conditions placed on the Special Events Permit.

(Ord. of 2-10-1992, § 8-313)

Cross references: Special Events, § 42-231 et seq. ~~-Performing arts facilities, § 18-286 et seq.-~~

Sec. 26-60. Enforcement.

(a) The police department is directed to enforce this article.

(b) No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this article while such person is engaged in the performance of his duty.

(c) Violations of this article shall be prosecuted in the same manner as other civil violations; provided, however, that for an initial violation of this article, with the exception of the



violations specified in section 26-65(3), a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken if the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice.

(d) If the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a civil complaint.

(Ord. of 3-16-1983, § 8-308; Ord. of 3-15-1994; Ord. of 8-4-1998)

Sec. 26-61. Penalties.

Any person in violation of any of the sections of this article shall be deemed guilty of a civil infraction and, upon conviction, shall be fined as provided in section 1-14. Each day such violation continues after the time for correction of the violation has been given in an order shall constitute a continuing violation, and the amount of fine shall be doubled for each day the violation continues. The fine shall not exceed \$400.00 per day.

(Ord. of 3-16-1983, § 8-310; Ord. of 3-15-1994)

Sec. 26-62. Loud and unnecessary noise.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unnecessary noise within the town limits. For the purposes of this article, the term "loud and unnecessary noise" shall mean any sound which either:

a) exceeds the limits of the table in section 26-63, or;

b) is a permitted sound as defined in Section 26-64 but does not comply with restrictions for that permitted sound, or;

c) fits the descriptions given in section 26-65 or;

d) in the event that the average ambient noise level is greater than the levels specified in Section 26-63, the sound level emanating from the alleged violator's property line shall be measured as specified in sections 26-66 and 26-67. If the sound level emanating from the alleged violator's property is greater than 10 dB(A) above the average ambient noise level it shall be deemed to be loud and unnecessary noise and in violation of this Ordinance.

(Ord. of 3-16-1983, § 8-302; Ord. of 3-15-1994)

Sec. 26-63. Noise level standards.

Sound from any source controlled by this article shall not exceed the following limits at the lot line of the emitter:

**SOUND PRESSURE LEVEL LIMITS  
MEASURED IN dB(A)**

TABLE INSET:

	Day	Night
Industrial district (ID) and planned mixed use development (PMUD)	70	60
General business district 1 (GB-1) and general business district 2 (GB-2)	70	60

Downtown district (DD-1)	80*	70*
Downtown district (DD-2)	70*	60*
Residential districts including R-1, R-2, R-3, R-4, R-5, RD, BRD	55	45

\*Nighttime hours in the DD-1 and DD-2 zones shall commence at 12:00 midnight and shall end as specified in section 26-56.

(1) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.

~~(2) The levels specified may be exceeded by ten dB(A) for a single period, not to exceed 15 minutes in any one day.~~

(Ord. of 3-16-1983, § 8-303; Ord. of 10-5-1983; Ord. of 3-15-1994; Ord. of 9-19-1995)

Sec. 26-64. Exclusions.

The noise levels in section 26-63 shall not apply to noise emitted by or related to:

- (1) Natural phenomena.
- (2) Any bell or chime from any building clock, school or church.
- (3) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms not terminating within 30 minutes after being activated shall be unlawful.
- (4) Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- (5) Farming equipment or farming activity.
- (6) Noise from domestic power equipment, such as but not limited to power saws, sanders, grinders, lawn and garden tools or similar devices operated during daytime hours.
- (7) Timber harvesting (felling trees and removing logs from the woods).
- (8) Noise generated by any construction or demolition equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in section 26-63. For purposes of this subsection, daytime hours and nighttime hours shall be as defined in section 26-56, ~~except that during the period from Memorial Day through Labor Day each year, daytime hours shall mean the hours between 9:00 a.m. and 4:00 p.m. daily, and nighttime hours shall mean the hours between 4:00 p.m. and 9:00 a.m. daily.~~ Emergency construction or repair work by public utilities shall also be exempted. The police department may allow construction during nighttime hours if it is demonstrated that the extenuating circumstances disallow construction during the daytime hours.
- (9) Noise created by refuse and solid waste collection.
- (10) Municipal or public works projects.
- (11) Noise generated by primary uses in the Amusement Overlay District as defined in Section 78-1083 (1) of the Zoning Ordinance; during daytime hours as outlined for the DD-1 zone in section 26-63 of this Chapter.
- (12) Noise generated within a mixed use structure effecting only the uses or unit owners within the structure.
- (13) From June 1<sup>st</sup> to October 1<sup>st</sup> of each year, Day Time Noise generated from Salvation Army Pavilion (Tax Map 311 Block 6 Lot 1) shall be allowed to comply with the noise level standards for the GB-1 Zoning District as show in Section 23-63 measured at the receiving station. Night time noise levels shall comply with the noise level standards for the R-2 Zoning District throughout the year.

(Ord. of 3-16-1983, § 8-304; Ord. of 9-10-1985; Ord. of 3-15-1994)

Sec. 26-65. Specific prohibitions.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive:

(1) Owning, possessing or harboring any animal or bird which, frequently or for continued duration, makes sounds which create a noise disturbance across a residential real property boundary. For the purpose of this article, a barking dog shall mean a dog that barks, bays, cries, howls or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one-half hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" for purposes of this article if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which teased or provoked the dog.

(2) The using or operating or the permitting to be played, used or operated of any radio, receiver, electronically amplified musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of music or sound, which is cast upon the public street and which exceeds the level limits specified in section 26-63.

(3) The use of any automobile, motorcycle or other vehicle, nonessential to safe and reasonable operation, in one or more of the following ways:

- a. Revving of motor vehicle engines.
- b. The use of audio equipment clearly audible beyond the confines of a motor vehicle.

(4) The creation of a noise disturbance by or with any sound including the unamplified human voice by three or more people that congregate during nighttime hours. This prohibition shall not be applicable for alerting for personal danger or peril of life emergency.

(Ord. of 3-16-1983, § 8-305; Ord. of 7-6-1993; Ord. of 3-15-1994; Ord. of 8-4-1998)

Sec. 26-66. Measurement procedures.

For the purpose of determining sound levels set forth in this article, the following procedures shall be utilized.

(1) The sound measurements shall be made while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum, and fluctuating rates.

(2) No outdoor measurements shall be taken:

- a. During periods when wind speeds (including gusts) exceed 15 mph;
- b. Without an acoustically acceptable windscreen properly attached to the microphone;
- c. Under any condition that allows the measuring instrument to become wet (e.g., rain, snow, or condensation); or
- d. When the ambient temperature is out of the range of the tolerance of the measuring instrument.

(3) The Investigating Officer shall, to the extent practicable, identify all sources contributing to the noise at the point of measurement.

(4) Prior to taking noise measurements the Investigating Officer shall explore the vicinity of the source in question to identify other sound sources that could affect measurements, to

establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound radiated from the source in question.

(5) When measuring sound, the sound level meter shall be set for A-weighting, "Fast" meter response, linear averaging, and the proper range (i.e., where the sound level registers in the upper measurement range without exceeding its limits). The sample duration shall be at least one minute or one cycle of equipment operation, whichever is longer. To ensure measurement repeatability, a second measure shall be taken that must agree with the first within 2 dBA for both measures to be acceptable. The final measurement is the average of two samples.

(6) The measuring instrument shall be placed at a minimum height of 3 ft above the ground and from any reflective surface. The microphone shall be held at arm's length and pointed at the source at the angle recommended by the measuring instrument's manufacturer.

(7) If temporary sound sources unrelated to the measurements are plainly audible, such as aircraft flyovers, barking dogs, or moving motorcycles, the measurements should be postponed until these extraneous sounds have negligible effect on the sound levels of interest.

(8) The observation session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question.

(9) Instruments used to determine sound levels shall be ANSI Type 1 or 2 meters and shall be maintained with yearly calibration certificates traceable to NIST.

(10) The measurement period shall be for no less than one minute, (a 1-minute Leq) or for a greater time interval encompassing the variations in sound for the source being measured, as determined by the Investigating Officer.

(11) The measurement shall be taken at the source lot line, except as specified in Section 26.64.(13).

(12) To determine the Source Noise Level, the background level (Leq) shall be measured and subtracted from the measured total sound level (Leq). If the total sound level does not exceed the background sound level by 2 dB or more, the source level cannot be derived and a violation of the ordinance cannot be substantiated.

(13) A minimum of two Source Noise Level measurements shall be obtained. If the two measurements (Leq) differ by more than 2 dBA (3 dBA permitted for music), the investigating personnel shall measure again as needed until two measurements agree within 2 dBA (3 dBA for music), or discontinue measurements and a violation of the ordinance cannot be substantiated. The two measurements shall be averaged arithmetically and the result called the Averaged Source Noise Level.

(14) The report for each measurement session shall include but not be limited to:

a. The date and times at which measurements are taken.

b. The results of the calibration check.

c. The weather conditions.

d. The identification of all monitoring equipment.

e. A description of the source(s) and its operating cycle.

f. The total sound level (level with the sources in question operating, Leq and Lmax values).

g. The background sound level (level without the sources in question operating, Leq and Lmax values).

h. The averaged Source Noise Level (Leq).

i. The Effective Source Noise Level (Leq(e)).

(Ord. of 3-16-1983, § 8-306; Ord. of 3-15-1994)

Sec. 26-67. Inspections.

(a) For the purpose of determining compliance with this article, the police department is authorized to make inspections of all noise sources and to take measurements and make tests whenever necessary to determine the quantity and character of noise.

(b) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his duties under this article. (Ord. of 3-16-1983, § 8-307; Ord. of 3-15-1994).

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing for May 18, 2010 to Amend Chapter 26, Environment, Article I, in General, Article III Noise, Sections 26-56, Section 26- 58 through and including 26-59, Sections 26-62 through and including Sections 26–66, and Delete Article II, Litter.

**VOTE:** Unanimous.

# 5477 Discussion with Action: Award bid for Repairs to Stormwater Vault on Fourth Street to Dearborn Construction in the Amount of \$19,350 from Account Number 20203-50831 .

**Declaration of Emergency**

The repairs to the stormwater vault need to be completed as quickly as possible and in advance of the summer season. Delay until the next Council meeting would jeopardize timely completion of the project.

The following bids were received:

	<b>Bid Price</b>	<b>Alternate 1</b>	<b>Alternate 2</b>
Atlantic Mechanical, Inc.	\$19,635	\$ 1,980	\$ 1,800
Dearborn Construction	19,690	\$ 600	\$ 340
Scott Dugas Trucking	18,425	\$ 1,750	\$ 1,535

**PUBLIC WORKS DIRECTOR:** First, there was a typographical error in Addendum No. 1 to the bidding documents which announced an amended deadline for submission of the bids. The Addendum read “1:30 p.m. on Friday April 27, 2010,” when that Friday was actually April 30<sup>th</sup>. Because the addendum itself is dated April 27, it is clear that the date (April 27) not the day (Friday) was in error, and the three vendors who submitted bids all clearly understood that Friday was the deadline. Second, due to some confusion about the time for opening the bids, the Interim Public Works Director opened two proposals prior to the stated 1:30 p.m. submission deadline. Unfortunately, the first bidder was advised by telephone that there were no other bidders. However, that does not constitute a formal award of the bid by the Town, and there is no indication that any of the bidders were prejudiced legally as a result of the early opening of the bids. The request for bid proposals makes it clear that the Town “reserves the right to reject any and all proposals, to waive any technical or legal deficiencies, and to negotiate with any parties submitting a proposal for the work.” The Council has the discretion to award the bid to any bidder whose proposal the Council considers in the best interests of the Town.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Award bid for Repairs to Stormwater Vault on Fourth Street to Dearborn Construction in the Amount of \$19,350 from Account Number 20203-50831 .

**VOTE:** Unanimous.

**GOOD AND WELFARE:**

**GARY CURTIS:** Excellent news from the RSU is a congratulatory one for Old Orchard Beach where Principal Lloyd Crocker will be honored by the Governor tomorrow as the new President of the Maine Principal's Association; and already awards to Vice Principal Smythe and also Carol Marcotte,

**HELENE WHITTAKER:** Councilors: Old Orchard Beach is considered a family friendly town....do you realize in the summer months with about 100,000 people we could be considered the largest city in the state of Maine? We are not small town during May, June, July, August and September!! And this Town Council expects the Police Department to take care of business with a limited number of officers? Let's be realistic. Please, take a look at the town Annual Report and on page 28, the crime statistics from the Police records total 2,162. June 249, July 435 and August 437, these are NOT traffic violations! They are; forcible rape, simple assault, false pretenses, drugs, narcotic violations, disorderly conduct, liquor law violations, trespass of real property and the list goes on.....tell us we don't need police presence! If you want the valued efforts of OOB365 to continue, the ballpark to flourish, the downtown revitalization program not to be disrupted, and other programs given by the recreation department and Ocean Park Assoc. to continue to be well attended by so many people.....then, we certainly need the beefed up police presence during the active summer months. We cannot have it all, we cannot do it all without police presence. It's like raising a child with no discipline. Let's not forget what we were in the past and who we are now and what the future holds, just look around you and see.... things are happening to help secure that future. Don't ruin it all by your actions. As a citizen of Old Orchard Beach and President of Community Watch Council overseeing Neighborhood Watch, I want you all to know how deeply disappointed we are by the action taken to cut the Police budget. The need to have our neighborhoods patrolled is a necessity to keep our neighbors' safe and feeling secure. You may not realize how much the police and yellow shirts are looked up to by the children in our neighborhoods; that alone is priceless. To see all the good police work we have accomplished so far in the neighborhoods, and let this fall through the cracks because of budget restraints, is an injustice to our community. Reconsider your action, please, by giving the Police what is needed and necessary to keep the town we all love and feel so passionate about, the safety and security of a family friendly Old Orchard Beach. Helene Whittaker CWC, President PS: Why is it in this case not the department head making the budget cut decision? Why are you focusing on the summer recruits line item? I submit these petitions to the Town Council Secretary and ask that they be included with the Minutes.

**JEFFREY REGAN: 1 Smith Ave, Cpl with the Old Orchard Beach Police Department and President of the Old Orchard Beach Patrolman's Association. Since the budget process has begun we have heard some proposed cuts to the budget such as those being proposed to our reserve police officer program. I am speaking tonight to address council and inform you of the concerns that the rank and file members of the police department have with these cuts. I would like to say that we recognize that these are difficult financial times for all people. We understand that current times call for fiscal responsibility and that budget cuts are an unavoidable by-product of the current economy. We realize that cuts must be made to all departments and know that we are not exempt to those cuts. With that having been said, it is well known that when economies suffer, crime rates soar. Now is not the time to be cutting personnel that provide essential services, especially those that have a direct impact on public safety. Our officers and our reserve officers are paramount to the safety of our officers, our citizens and our visitors. In the summer season Old Orchard Beach turns from a small town to a big city, and that brings with it big city problems. We need the resources to combat those problems. If the current proposed cuts to the reserve officer program are realized we will not have the resources to do so, and our ability to provide safety and security to ourselves, the citizens that we serve and the many visitors who come to town every year will be jeopardized. Officers, citizens and tourists will be placed in substantial risk as a result of that decision and public safety will suffer. It's a short term fix which will cause long term problems in workers compensation issues, replacement costs and civil liabilities. We understand that infrastructure improvements and economic development are key to any community's survival, but you also make the investment to protect those improvements as well, not make those improvements at the expense of public safety. We are seeing an influx of events which bring more and more people into town, people who have an expectation of coming to a safe and secure environment. Police resources are becoming more and more stretched to protect those visitors and now we are being asked to be stretched that much more. We have reached a critical point. We are saying to you that we cannot be stretched any further and still provide for the safety of the people in town should these cuts come to fruition. We have more places and people in town to protect and less officers to provide that protection with. In the past the department has always worked with the council during lean economic times. Last year we were approached by council and asked if we would be willing to help the town with its financial situation. Without hesitation the police department union stepped up and offered financial concessions, concessions that would have come directly from members pockets to help. This year we have not been approached by council despite our willingness to help in the past. Instead we have been chastised for contractual agreements, agreements which were agreed to and signed off by three members of this current council. It should not be forgotten or go unmentioned that concessions were made on the departments part as well to receive the current contractual agreements that are being discussed. We are saying that we are willing to listen to and work with you as we have in the past, the question is, are you willing to work with us? We have been able to address budget issues in the past through co-operative efforts within the department. Let us do so now. Stop the line item cuts to the police department budget. Let those who you charge with the task of protecting the public try to cut the budget in their department in a way that will have the least amount of effect on public safety. Give us a chance to work with you and our administration to reach a common goal and still provide that safety. With the current proposed cuts, safety and security is unsustainable. I ask you on behalf of the officers I represent and the citizens that we protect to reconsider any cuts to the reserve police officer program. Thank you.**

**MARK BOURASSA:** I implore the Council to reconsider this cut. We have come through times when the lack of the presence of authority caused great unrest in Old Orchard Beach. Over the past few years we have established a family friendly environment and we feel this cut will move us back many years.

**GARY CURTIS:** It is the responsibility of government to maintain the roads, educate the children, provide police and fire protection. Although you are trying to be fiscally responsible, this is not the way to cut – The money saved for the Town by the RSU should be used to support the keeping of the recruits.

**RICKI LETOUT:** She asked how much it had been reduced and suggested that this percentage of the money paid by taxpayers is so little that it should not even be a consideration.

**JAMES HARMON:** He suggested that many groups have worked very hard to change the image of Old orchard Beach to being family-friendly and the summer patrol, whom he called ‘local goodwill ambassadors’ are part of that image. All it takes is one incident involving a crowd control issue and we’re back to the 80s and 90s reading about riots in Old orchard Beach. There will be more events this summer that will draw many visitors including the upcoming balloon festival and activities at the Ballpark and at Ocean Park. How can we consider cutting police presence when the Town is encouraging more activities for residents and visitors?

**ROBERT RILEY:** 8 Willow Creek Lane. I am encouraging the Council to have no cuts in the recruit budget.

**PAUL GOLZBEIN:** I encourage the Council to realize that perception is everything. You are creating a problem with the reduction of staff. Staff has done an exceptional job over the past few years working with the BRASS group and business leaders in maintaining a healthy, family-oriented environment and I encourage strongly that you review your decision recognizing there are ramifications if you deny the hiring of the recruits. I spend over \$100,000 each summer for private security who work well with the summer recruits. I don’t want this to stop. When people see police officers they won’t be misbehaving but if they don’t see them, they will. \$40,000 is not a lot of money. You can find it somewhere.

**WINN WINCH:** With the events you are planning like the Balloon Festival it shows no reasoning that you would cut security coverage. I encourage you to reinstate those funds.

**JACK SARNO:** I also recognize the importance of this coverage and I ask you to reconsider reinstating those funds.

**RICH REDMOND:** With the assistance of Chief Kelley and his staff, business owners, BRASS, and others have worked together in a very impressive manner to see that there is an environment in the downtown which is safe for those who visit and for those who live in our Town. I ask that you take a negative decision and turn it into a positive one by reinstating the decision to hire recruits as needed. If you don’t, we will go backwards which means robberies, fights, a very negative environment in which you are placing citizens and visitors alike.



**TOWN MANAGER:** He indicated the reasoning in cutting this amount was to avoid hiring staff that may have to be let go later depending on the final budget that will be approved by the Council in June. I admit to being concerned also that there will not be enough presence but the responsibility is mine to balance the budget.

**CHIEF KELLEY:** Chief Kelley has indicated he believes the reduction in the summer reserve Corps will significantly affect his ability to keep up patrols and prevent problems before they escalate. Part of the Police Departments strategy over the past several years has been to place officers outside the bars as they close for business. This allows them to keep an eye on any potential trouble.

**FRED DOLGAN:** Your decision will set our town back many years.

**THOMAS ROACH:** I am a retired security guard and I can tell you from experience that the yellow shirt is the body of security that keeps thing safe. People who come to a community and see fighting or negative activities, they will not return, so this is a business decision. I would encourage you to reconsider your decision.

**JEROME BENARD:** He indicated he could give his usual stance on security but just encouraged the Council to reconsider their decision. He also recommended the placement of cameras as a means to enhance safety issues.

**JOHN BIRD:** He said he was confused about what is going on. There is a question here of exactly how much money we are talking about and how many police officers this involves. Perhaps there needs to be a clearer indication of exactly what we are talking about.

**HELENE WHITTAKER:** Can I have those who agree that we need to reinstate the recruits, Please stand up. (Almost the entire audience of those attending stood and clapped.)

**SETH DAVIS:** I came last time and indicated that I was concerned about this cut and consider it a personal affront as a citizen that you are taking away the security of our community. He also mentioned the Tom's in Maine event where you have people from outside the community wanting to come to Old Orchard and hearing that we think so little of security, why will they want to come. I join with my neighbor, Steve Nelson, who could not be here but asked that I read his letter into the file:

*My name Steve Nelson and we enjoy sort of "dual citizenship" living in Saco year round and having a cottage in Ocean Park. I have completed both the Basic and Advanced Citizen's Police Academy courses given by the Old Orchard Beach Police Department. Last year I also volunteered to help train the summer police officers. It is time well spent! Working with the Police Department has taught me just how close the bad guys are to our front doors and how extremely difficult the job is that Chief Kelley and his officers perform 24/7. The tow most important areas I learned about have been drugs and gang activity. With all the drugs and the police tracking over 20 gangs in the Old Orchard Beach area, how can you even THINK of reducing the Police Department during the busiest time of the year? With 75,000 people in a Town of under 10,000 year round residents on a given summer weekend, police downsizing is a true recipe for disaster. Sure, develop the Ball Park, have some great events, bring in more people but who is going to protect the community? Just think of one mugging, attack, robbery where the*

*victim is/has a really sharp attorney who notes the reduced police force during the peak summer season and the law suit will have not zero's than Jill Eastman can count. I'm sorry I am not present to deliver these comments in person. Work has taken me of our Town this week but I would be happy to chat with any of you. Just let me know when and where. Steve Nelson*

**CLARENCE STEWART:** Reminded the Council of the bad press that will come out of their decision.

**BARBARA ULTSCH:** I think this Council is being “penny wise – dollar foolish.”

**PEGGY LAVERRIER:** I am speaking for the citizens in Pinebrook Terrace who have joined together through the Community Watch asking that you consider again what you are doing to the safety stability of our town. We have been helped so much this past year by the Police with issues in our community and with the reduction that help will go away. I guess the question to you is “what is the value on a life?”

**COUNCILOR DAYTON:** The town has \$663,884 dollars available from surplus funds that could be used to cover the cost to reinstate the reductions in the summer patrol. This figure does not include the \$25,000 which was drawn from this fund a few weeks ago for the Ballpark “without the blink of an eye.” The Town also has about \$5 million dollars in the undesignated account which is about twice as much as is needed. “Don’t sit here and tell me this is about money. This isn’t about money. Every single one of you deserves to know that.” She also indicated that she wanted the Town Council to call a special meeting to reinstate funds that were cut from the summer patrol budget. The summer patrol begins training on May 10<sup>th</sup> and if the Police Department were going to hire more summer patrol officers, it must do so soon. One of the primary functions of the Town is to provide public safety and the Town is not so poor that it can’t afford \$40,000 to reinstate funds for the reserve officers. It is a minuscule percentage. She indicated that we have 80,000 people come to Old Orchard Beach in the summer and it’s our right to be safe. We’re not so poor that we can’t afford \$40,000 for the full complement of reserve officers.

**CHAIR MACDONALD:** She indicated that the Town is down \$1.6 million in State revenue dollars. We’ve got to make up \$1.6 million. The Council is going through the entire budget and looking at every department and the Council has had to ask some tough questions. The reduction in reserves is not something everyone likes and she wished the Town had more revenue. She said she appreciated eve

**COUNCILOR O’NEILL:** He indicated he is grateful that people came to share their thoughts but the proper time to discuss the budget was the budget workshop sessions. He said that he took offense that Councilor Dayton implied the issue was personal and he was hurt by the applause she received.

## ADJOURNMENT

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

**VOTE:** Unanimous.

**Respectfully Submitted,**

**V. Louise Reid  
Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of twenty-seven (27) pages is a true copy of the original Minutes of the Town Council Meeting of May 4, 2010.**

**V. Louise Reid**