

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Wednesday May 11, 2011
TOWN HALL CHAMBERS
7:00 p.m.**

A Special Town Council Meeting of the Old Orchard Beach Town Council was held on Wednesday, May 11, 2011. Chair Quinn opened the meeting at 7:07 p.m.

The following were in attendance:

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

CHAIR QUINN: As a result of the Journal Tribune not advertising our Town Council meeting of May 3, 2011, the agenda items being considered this evening needed to be tabled until this evening.

COUNCILOR MACDONALD: She announced about the upcoming week of Ballpark activities and encouraged attendance and continued support of the summer activities.

CHAIR QUINN: He pointed to the display sent by Ms. Clark's fifth grade class in appreciation of Junior Achievement Shadowing Day. He also announced the RSU23 school budget hearing at the Saco Middle School on May 24th at 6:00 p.m.

ACCEPTANCE OF MINUTES: Town Council Workshop of April 11, 2011; Town Council Workshop of April 14, 2011; Town Council Meeting of April 19, 2011; and Town Council Workshop of April 21, 2011.

MOTION: Councilor MacDonald motioned and Vice Chair Tousignant seconded to accept the Minutes as read.

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

Brian Robillard (101-1-14), 175 Portland Avenue, two year round rentals; Jay Martin (202-2-3), 207 East Grand Avenue, 4C, one year round rental; Jumpin Jakes LLC dba/Jumpin Jakes (208-3-3), 181 Saco Avenue, Victualers with Preparation and Alcohol; Michelle & Steve Sanborn (210-1-20-2), 39 Smithwheel Road, #2, one year round rental; Sharon A. Binette (304-7-7), 94 East Grand Avenue, one year round rental – 1st floor only;

Charles Gordon (305-2-1-42), 31 East Grand Avenue, #42, one year round rental; Carolyn M. Sarno (305-4-1-607), 1 Cleaves Street, Unit 607, one year round rental; Susan M. Fisher (305-2-1-24), 31 East Grand Avenue, #24, one year round rental; Ron Cloutier (312-5-7), 17 West Old Orchard Avenue, one year round rental; and Walter & Donna Satkus (313-2-4-2), 15 Bay Avenue, #2, one year round rental.

CHAIR: I open this Public Hearing at 7:09 p.m.

CHAIR: I close this Public Hearing at 7:11p.m.

MOTION: Vice Chair Tousignant and Councilor Dayton seconded to approve the Business Licenses as read.

VOTE: Unanimous.

PUBLIC HEARING LIQUOR LICENSES AND APPROVAL:

Jumpin Jakes LLC dba/Jumpin Jakes Restaurant (208-3-3), 181 Saco Avenue, s-m-v in a Restaurant; and Hoss & Mary Co. dba/Hoss & Mary's Tasty Grub (307-1-3), 27 West Grand Avenue, m-v in a Restaurant.

CHAIR: I open this Public Hearing at 7:11 p.m.

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

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

VOTE: Unanimous.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT AND APPROVAL:

Jumpin Jakes LLC dba/Jumpin Jakes Restaurant (208-3-3), 181 Saco Avenue, Live Jazz/Live Folk/Live Comedy – Inside and Outside – 12:00 p.m. to 12:00 a.m.; Mimi Vattes & Dani Sisson (306-5-4), 10 East Grand Avenue, Dance/Music with DJ – Amplified, Inside – 9:00 p.m. to 1:00 a.m.; J. G. Cutter LLC dba/Barefoot Boy (305-4-5), 45 East Grand Avenue, Band (Amplified) – Inside – 9:00 a.m. to 12:00 a.m.; Christopher B. Small dba/Oasis Bar & Grille, Inc. (306-5-3), 8 East Grand Avenue, Acoustic Solo & Duo Entertainers, DJ – Inside and Outside – 9:00 a.m. to 1:00 a.m.

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

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to consider Mimi Vattes & Dani Sisson (306-5-4), 10 East Grand Avenue, Dance/Music with DJ – Amplified, Inside – 9:00 p.m. to 1:00 a.m. separately.

VOTE: Unanimous.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Table this Item till the Regular Town Council Meeting of May 17, 2011.

VOTE: Unanimous.

MOTION: Councilor MacDonald motioned and Vice Chair Tousignant seconded to approve the following business licenses as read: Jumpin Jakes LLC dba/Jumpin Jakes Restaurant (208-3-3), 181 Saco Avenue, Live Jazz/Live Folk/Live Comedy – Inside and Outside – 12:00 p.m. to 12:00 a.m.; J. G. Cutter LLC dba/Barefoot Boy (305-4-5), 45 East Grand Avenue, Band (Amplified) – Inside – 9:00 a.m. to 12:00 a.m.; Christopher B. Small dba/Oasis Bar & Grille, Inc. (306-5-3), 8 East Grand Avenue, Acoustic Solo & Duo Entertainers, DJ – Inside and Outside – 9:00 a.m. to 1:00 a.m.

VOTE: Unanimous.

CHAIR: I close this Public Hearing at 7:15 p.m.

TABLED ITEM: # 5367 - Discussion with Action: Accept the bid for a Contract with Ocean Park Cleaning, Inc. for Cleaning Services for the Police Department not to exceed \$18,500 from Account Number 20129-50310 – New Police Station- Service Contracts, with a balance of \$15,000.

SERVICES AGREEMENT

THIS AGREEMENT is made this 4th day of May, 2011 by and between the Town of Old Orchard Beach, a municipal corporation existing under the laws of the State of Maine and located in the County of York, State of Maine (hereinafter "OWNER") and Ocean Park Cleaning, Inc.(hereinafter "CONTRACTOR"),

WITNESSETH:

In consideration of the mutual covenants and conditions contained herein, the OWNER and the CONTRACTOR agree as follows:

I. SCOPE OF SERVICES

The CONTRACTOR shall perform all of the work as described in the Request for Proposals and Specifications entitled: Janitorial Services issued under date of February 21, 2011 by Keith Babin, Deputy Police Chief and shall do so in accordance with the Contractor's Proposal dated March 8, 2011 , which Request for Proposals, Specifications and Proposals are attached hereto and made a part hereof (hereinafter, collectively referred to as the "Services"), and the CONTRACTOR covenants that it shall do everything required by this Agreement, the conditions of the Agreement (together with the General, Supplementary and other Conditions, if any), the Request for Proposals, the Specifications, the Drawings and the Proposal in return for payment as provided herein.

A. The CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in his analysis, reports, and other Services. Deficiencies are defined as willful or negligent acts that distort or falsify the state of the art of the products and Services developed and provided hereunder, or willful or negligent nonassignment of personnel or assignment of unqualified personnel to perform the duties hereunder.

II. CONTRACTOR OBLIGATIONS

The CONTRACTOR warrants:

A. That it will furnish all personnel except as otherwise specified herein, and do everything necessary and proper to satisfactorily perform the Services required by this Agreement.

B. That it is financially solvent, is experienced in and competent to perform the Services and is able to furnish the personnel to be furnished by it.

C. That it is familiar with all federal, State and local statutes, laws, rules, regulations, ordinances and orders which may in any way affect the Services.

D. That it has carefully examined the Request for Bid Proposals, the Specifications, this Agreement and the site of the Services and has conducted its own investigation of the nature and location of the Services, the character personnel needed to perform the Services and all conditions which may in any way affect the performance of the Services.

E. That any increase in CONTRACTOR'S costs during the term of this Agreement shall be the sole responsibility of the CONTRACTOR.

III. CONTRACT PRICE

The OWNER shall pay the CONTRACTOR for the performance of Services under this Agreement on a monthly basis per work performed for that period (the "Contract Price") per attached proposal. The Contract Price shall not exceed \$18,200 per year for the duration of the Contract.

IV. OWNER'S RIGHT TO TERMINATE CONTRACT

Without prejudice to any other right or remedy, the OWNER may terminate this Agreement for cause by providing the CONTRACTOR and its surety with seven (7) days' written notice of termination. For purposes of this Agreement, cause includes, but is not limited to: the adjudication of the CONTRACTOR as a bankrupt; the making of a general assignment by the CONTRACTOR for the benefit of its creditors; the appointment of a receiver because of the CONTRACTOR's insolvency; the CONTRACTOR's persistent or repeated refusal or failure, except for cases in which extension of time is provided, to supply enough properly-skilled workers or proper materials to perform the Services; the CONTRACTOR's persistent disregard of federal, state or local statutes, laws, codes, rules, regulations, orders or ordinances; and the CONTRACTOR's substantial violation of any provisions of this Agreement. If such expense shall exceed such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER.

Further, the OWNER may terminate this Agreement for convenience upon thirty (30) days' written notice to the CONTRACTOR, in which case, the OWNER shall pay the CONTRACTOR for all Services satisfactorily performed and materials purchased up to the date of receipt of such notice by the CONTRACTOR. In the event that the OWNER terminates this Agreement for cause and it subsequently is determined that cause did not exist, such termination shall be deemed to be for convenience.

V. INSURANCE

Except as otherwise provided by this Agreement, the CONTRACTOR and its subcontractors and consultants shall obtain and maintain, throughout the term of this Agreement, at no expense to the OWNER, the following insurance coverages:

a. Public Liability Insurance in the amount of not less than Four Hundred Thousand Dollars (\$400,000) or such other amount as is established by the Maine Tort Claims Act (14 M.R.S.A. §8101 et seq.) as amended from time to time, combined single limit, to protect the CONTRACTOR, any subcontractor performing Services under this Agreement, and the OWNER from claims and damages that may arise from operations under this

b. Agreement, whether such operations be by CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by them.

VI. INDEMNIFICATION

The CONTRACTOR agrees to defend, indemnify, and hold harmless the OWNER, its officers, agents, and employees against any and all liabilities, causes of action, judgments, claims or demands, including attorney's fees and costs, for personal injury (including death) or property damage arising out of or caused by the performance of Services under this Agreement by CONTRACTOR, its subcontractors, agents or employees.

VII. NON-WAIVER

Except as expressly provided in this Agreement, the failure or waiver, or successive failures or waivers on the part of either party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either party hereto, its successors or permitted assigns, to enforce the same in the event of any subsequent breach thereof.

VIII. NOTICES

Notices hereunder shall be deemed sufficient if sent by U.S. Certified mail as follows:

TO OWNER:	Keith Babin, Deputy Police Chief Town of Old Orchard Beach 1 Portland Ave Old Orchard Beach, Maine 04064
TO CONTRACTOR:	Arnie Vasiliauskas Ocean Park Cleaning, Inc PO Box 485 Ocean Park, ME 04063

IX. REMEDIES

Except as otherwise agreed by the parties in writing, all disputes, claims, counterclaims and other matters in question between the OWNER and the CONTRACTOR arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction. This Agreement is made and shall be construed under the laws of the State of Maine. Except as otherwise expressly agreed by the parties in writing, exclusive venue for any such civil action shall be in Maine.

X. COMPLIANCE WITH APPLICABLE LAWS

The CONTRACTOR agrees that it and its subcontractors, if any, shall comply with all applicable federal, State and local statutes, laws, rules, regulations, codes, ordinances, orders and resolutions in the performance of Services under this agreement.

XI. EXTENT OF AGREEMENT

This Agreement (and the proposal attached hereto and hereby incorporated into this Agreement) represent(s) the entire and integrated Agreement between OWNER and the CONTRACTOR and supersedes all prior negotiations, representations, or agreements, either written or oral, for a period of one year from date of signing, with an option to extend for one more year.. This Agreement may be amended only by written instrument signed by both OWNER and the CONTRACTOR.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Witness _____ OWNER
By: _____

Town Manager

CONTRACTOR

Witness _____
By: _____
Its _____

A lengthy discussion was held on the contract. The Town Manager apologized for the delay in him examining in detail the contract and indicated that he did not have the opportunity to analyze a possible additional contract with the Ocean Park Cleaning Company, Inc. Deputy Chief Keith Babin explained that the previous request of the Town Council had been met in the agreement by making it a one-year contract with the possibility of extension of time and also there was an exit clause. With that confirmation the Council decided not to Table the Item but rather called for a vote.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Accept the bid for a one-year contract with Ocean Park Cleaning, Inc. for Cleaning Services for the Police Department with the opportunity to extend the contract for an additional year, and the approval of the exit clause as defined in the Agreement, the contract not to exceed \$18,500 from Account Number 20129-50310 – New Police Station-Service Contracts, with a balance of \$15,000.

VOTE: Unanimous.

NEW BUSINESS:

5384 Discussion with Action: Approve the Special Event Permit application from the Veteran’s Memorial Park Committee to hold a Candlelight Remembrance in Memorial Park on Sunday, May 29th, 2011, from 7 p.m. to 8 p.m. Illumination Bags to be sold in the Square and Memorial Park all day, and at Town Hall prior to the event; and a request to waive the fee.

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

VOTE: Unanimous.

5385 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a sand sculpture contest on the beach between Randall and Ancona Avenues on Sunday, July 3, 2011, from 3:00 p.m. to 5:00 p.m.; and a request to waive the fee.

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

VOTE: Unanimous.

5386 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a parade on Monday, July 4, 2011 from 9:30 a.m. to 11:30 a.m. on Temple Avenue; and a request to waive the fee.

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

VOTE: Unanimous.

5387 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a Christian Youth Conference Block Dance on Saturday, August 13, 2011 from 7:30 p.m. to 11:00 p.m. in Ocean Park; and a request to waive the fee.

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

VOTE: Unanimous.

5388 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold Square and Line Dances in the Ocean Park Square on Monday, July 4, 2011 and Saturday, September 3, 2011 from 7:00 p.m. to 9:30 p.m.; and a request to waive the fee.

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

VOTE: Unanimous.

5389 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold Illumination Night on Saturday, August 6, 2011 from 5:00 p.m. to 10:30 p.m. in Ocean Park; and a request to waive the fee.

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

VOTE: Unanimous.

5390 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a Christian Youth Conference Block Dance on Saturday, August 13, 2011 from 7:30 p.m. to 11:00 p.m. in Ocean Park; and a request to waive the fee.

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

VOTE: Unanimous.

5391 Discussion with Action: Approve the Special Event Permit application for Palace Playland and the Pier to have Fireworks on the beach in front of Palace Playland every Thursday night from June 23rd, 2011 through Labor Day, 2011, with a special display on July 4th, 2011 (rain date July 5th), starting at 9:45 p.m.; and a request to waive the fee.

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

VOTE: Unanimous.

5392 Discussion with Action: Approve the Special Event Permit Application for Thornton Academy to hold a Beach Picnic, to include a Campfire, for their Student Ambassador Program on the beach at the end of Randall Avenue on Thursday, May 12, 2011, with a rain date of Friday, May 20, 2011, from 5:00 p.m. to 9:00 p.m.; and a request to waive the fee.

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

VOTE: Unanimous.

5393 Discussion with Action: Approve the Special Event Permit Application for the Ocean Tripp Inn to hold a Sugarloaf Explorer Year-end Event to include a Bonfire on the beach at the end of Union Avenue on Saturday, May 21, 2011, from noon to 8:00 p.m.

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

VOTE: Unanimous.

5394 Discussion with Action: Approve the Transfer of the Defendant in Rem, or any portion thereof, pursuant to 15 M.R.S.A, Section 5824(3) and Section 5826(6) and accept the seizure money should it be awarded by the Courts, CR-11-25.

Under the rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture “approval” and “continuing resolution” or approval cannot be accepted. In Rem – in order to streamline what is otherwise a cumbersome forfeiture process, the practice is to seek State, County, or Municipal approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the municipal legislative body and the law enforcement agency involved are cautioned that they should not encumber funds or property until a Final Order granting them lawful title to the property is delivered to them.

Jerome Begert spoke at length about seizure money. He said the seizure money is not a guaranteed expectation to dependably incorporate as a revenue line-item in our municipal budget. It could be a little, a lot, or zero. However, since seizure money (which is good) is not the same as tax-increases (which is bad.) Because the Town Council was complicit in the removal of the former skateboard park (to build our new Police Station), from now on, including tonight's Agenda 5394, every time a seizure-money vote comes before this Town Council, you are morally obligated to segregate those proceeds specifically for rebuilding the Skate park until we have enough money. Remember the words – "I assure you....etc." are not legally viable components of an ethical vernacular for Town governance. Unless someone can presently produce an authoritative federal government document (from website fed.gov) that explicitly articulates an exclusive destination fro seizure money, then Old Orchard's most annoying fiduciary fuddy-duddy is asking you please to modestly amend Agenda 5394 (and future similar items) to add these words – "to segregate that money to CIP, under Recreation Board oversight, for rebuilding the Skateboard Park.

Attorney Neil Weinstein questioned the legality of transfer of Defendant in Rem and whether the monies could be applied to particular areas and budget considerations. He indicated that before a court can decide a case, it must have jurisdiction over the parties as well as over the subject matter. He suggested areas of legality including does the Federal court for the State of Maine have the power to decide the case; or does the local State Court have the power involving a certain amount of monies. The question to be researched is whether there are specifics as to where the monies can be applied – Police, general budget, skateboard park, etc. Attorney Weinstein reminded the Council that the Courts are not computerized so this information is not available on it.

Councilor Robin Dayton indicated that she felt it was premature to discuss where the money can go until we find out the legality of the requirements.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Approve the Transfer of the Defendant in Rem, or any portion thereof, pursuant to 15 M.R.S.A, Section 5824(3) and Section 5826(6) and accept the seizure money should it be awarded by the Courts, CR-11-25

VOTE: Unanimous.

5395 Discussion with Action: Authorize the Town Manager to enter into the "Property Assessed Clean Energy (PACE) Program Agreement" with the Efficiency Maine Trust.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Authorize the Town Manager to enter into the "Property Assessed Clean Energy (PACE) Program Agreement" with the Efficiency Maine Trust.

VOTE: Unanimous.

CHAIR QUINN: The Town Council previously was given a presentation on this PACE program and instructed the staff to move forward in the process to be part of the PACE program.

**PROPERTY ASSESSED CLEAN ENERGY (PACE)
ADMINISTRATION CONTRACT**

THIS Property Assessed Clean Energy (PACE) Administration Contract (the “Contract”) is entered into this _____ day of _____, 20_____, by and between The Town of Old Orchard Beach, a municipal corporation duly organized and existing under the laws of the State of Maine whose mailing address is 1 Portland Ave. Old Orchard Beach, ME (the “Municipality”) and the Efficiency Maine Trust, a legal entity and instrumentality of and a body corporate and politic under the laws of the State of Maine (the “Trust”). The foregoing also are referred to herein collectively as the “Parties” or singly as “Party.”

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE Program, so that owners of qualifying property can access financing for energy saving improvements to their properties located in the municipality; financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE Program; and

WHEREAS, the Municipality has adopted a PACE Ordinance; and

WHEREAS, the Parties wish to establish their respective responsibilities in the administration of the PACE Program.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS. Capitalized terms used in this Contract shall have the meanings given them in 35-A M.R.S.A. §10153 unless otherwise specified herein. In addition, these terms are defined as follows:

1.1. PACE agreement. “Pace Agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE Mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

1.2. PACE District. “PACE District” means the area within which the Municipality establishes a PACE Program under this Contract, which is all of that area within the Municipality’s boundaries.

1.3. PACE Loan. “PACE Loan” means a loan made to the owner(s) of a Qualifying Property for an Energy Saving Improvement.

2. **TRUST’S RESPONSIBILITIES.** The Trust shall, itself or through its authorized agents:

2.1. Administration. Administer the functions of a PACE Program which administration shall include, without limitation:

- A. the Trust will enter into PACE Agreements with owners of Qualifying Property in the Municipality’s PACE District;
- B. the Trust, or its agent, will create and record a Notice of the PACE Agreement in the appropriate County Registry of Deeds to create a PACE Mortgage;
- C. the Trust, or its agent, will disburse the PACE Loan to the property owner;
- D. the Trust, or its agent, will send PACE Assessment statements with payment deadlines to the property owners;
- E. the Trust, or its agent, will be responsible for collection of the PACE Assessments;
- F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE Assessment;
- G. the Trust or its agent, promptly shall record the discharge of a PACE mortgage upon full payment of the PACE loan;
- H. the Trust, or its agent, will be responsible for management of federal grant funds; and
- I. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support Energy Saving Improvements.

2.2. Terms and Conditions. Pursuant to 35-A M.R.S.A. §10154, the Trust may establish terms and conditions under which municipalities and property owners may participate in a PACE Program established thereunder, and the Parties agree that they, the

PACE Program hereunder and this Contract are subject to those terms and conditions as amended from time-to-time.

3. MUNICIPALITY'S RESPONSIBILITIES.

3.1. Education and Outreach Programs. The Municipality agrees to adopt and implement an education and outreach program so that owners of property in the Municipality are made aware of home energy saving opportunities, including the opportunity to finance Energy Saving Improvements with a PACE Loan.

3.2 Conformity with Home Energy Savings Program. The Municipality agrees to conform its PACE Program to the requirements contained in the Home Energy Savings Program.

3.3. Acceptance and Disbursement of Funds. The Municipality agrees to accept PACE funds from the Trust and to disburse PACE funds back to the Trust as needed to satisfy the conditions of the federal grants and to allow the Trust to fund and administer a uniform system of municipal PACE Programs throughout the State.

3.4. Assistance and Cooperation. The Municipality agrees to cooperate with the Trust in the administration of the Municipality's PACE Program, including but not limited to, providing information about applicant properties including property tax payment and lien status, taxable value of residential properties in town, and providing reasonable and necessary aid to the Trust for required data collection, recordkeeping and reporting functions relative to the PACE Program in the PACE District, and providing reasonable and necessary support to the Trust's PACE loan, PACE Assessment, and billing and collection functions.

3.5. Conformity. If standards or rules and regulations are adopted by any State or federal agency subsequent to the Municipality's adoption of a PACE Ordinance or participation in a PACE Program and those standards or rules and regulations substantially conflict with the Municipality's manner of participation in the PACE Program, the Municipality, should it desire to continue its participation in the PACE Program, will be required to take necessary steps to conform its participation to those standards or rules and regulations.

4. TERM.

4.1. This Contract is for a period of three (3) years and shall automatically be renewed for additional periods of three (3) years unless either Party provides the other with ninety (90) days' advance written notice of intent not to renew this Contract.

5. TERMINATION.

5.1. Either Party may terminate this Contract for convenience by providing the other with ninety (90) days' advance written notice of termination. On and after the date of termination, the Municipality no longer will have a PACE Program administered by the Trust except for those PACE Loans already secured by PACE Mortgages as of the date of termination.

6. LIABILITY.

6.1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE Program established under this Contract, including, without limitation, claims for or related to uncollected PACE Assessments.

6.2. Other than the fulfillment of its obligations specified in a PACE Agreement, the Municipality has no liability to a property owner for or related to Energy Saving Improvements financed under a PACE Program.

7. MISCELLANEOUS PROVISIONS

7.1 Notices. All notices, demands or other communications made pursuant to this Contract shall be in writing and shall be sent by (i) registered or certified United States mail, postage prepaid, (ii) by overnight courier, or (iii) by facsimile. Such notice shall be deemed effective upon delivery addressed as follows:

To the Municipality:

To the Trust:

Efficiency Maine Trust
101 Second Street
Hallowell, ME 04347
Attention: _____

7.2 Entire Agreement, Modifications. This Contract constitutes the entire agreement of the Parties, and neither Party shall be bound by any statement or representation not contained herein. Except as provided herein, this Contract cannot be changed, amended or modified, except by another agreement in writing signed by all Parties hereto or by their respective successors in interest.

7.3 Headings. The section headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or interest of any provisions of this Contract.

7.4 Severability. If any section, term, covenant, or condition of this Contract or the application thereto to any person or circumstances shall, to any extent be illegal, invalid or unenforceable because of judicial construction, the remaining sections, terms, covenants, and conditions of this Contract, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each section, term, covenant, or condition of this Contract shall be valid and be enforced to the fullest extent permitted by Law.

7.5 Governing Law, Remedies. This Contract shall be governed by and construed in accordance with the laws of the State of Maine. Except as otherwise agreed by the Parties in writing, all disputes, claims, counterclaims and other matters in question between the Municipality and the Trust arising out of or relating to this Contract shall be decided by a Maine court of competent jurisdiction.

7.6 Assignment; Successors and Assigns. This Contract may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably conditioned, delayed or withheld. This Contract shall benefit and be binding upon the Parties hereto and their respective permitted successors and assigns.

7.7 Non-Waiver. Except as expressly provided in this Contract, the failure or waiver, or successive failures or waivers on the part of either Party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either Party hereto, its successors or Contract permitted assigns, to enforce the same in the event of any subsequent breach thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Property Assessed Clean Energy (PACE) Administration Contract, to be executed by their duly authorized representatives as of the date first set forth above.

MUNICIPALITY

By: _____
Signature

Print Name

Its: _____ (Title)

EFFICIENCY MAINE TRUST

By: _____
Signature

Print Name

Its: _____ (Title)

Version 3.1 10-8-10

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Authorize the Town Manager to enter into the "Property Assessed Clean Energy (PACE) Program Agreement" with the Efficiency Maine Trust.

VOTE: Unanimous.

5396 **Discussion with Action:** Approve the Liquor License Renewal of J. G. Cutter LLC dba/Barefoot Boy (305-4-5), 45 East Grand Avenue, s-m-v in a Restaurant; Christopher B. Small dba/Oasis Bar & Grille Inc.(306-5-3), 8 East Grand Avenue, s-m-v in a Class A Lounge; and Mime Vattes & Dani Sisson dba/Club Galaxy (306-5-4), 10 East Grand Avenue, s-m-v in a Class A. Lounge.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Table the liquor license renewal of Mime Vattes & Dani Sisson dba/Club Galaxy (306-5-4), 10 East Grand Avenue, s-m-v in a Class A. Lounge until the next Regular Town Council Meeting of May 17, 2011.

VOTE: Unanimous.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded Approve the Liquor License Renewal of J. G. Cutter LLC dba/Barefoot Boy (305-4-5), 45 East Grand Avenue, s-m-v in a Restaurant; and Christopher B. Small dba/Oasis Bar & Grille Inc.(306-5-3), 8 East Grand Avenue, s-m-v in a Class A Lounge.

VOTE: Unanimous.

5397 Discussion with Action: Approve the Location of and Business Plan for the site establishment, maintenance and operations of the Community Garden to be located as indicated on the herein attached "Site Plan" marked "Exhibit A" and incorporate the herein attached "Business Plan" marked "Exhibit B" as the operational guidance for the Old Orchard Beach Community Garden to be managed jointly by the Town of Old Orchard Beach, R.S.U. 23, the Conservation Commission, the Community for Children, the Fire Department, Call Force, the Public Works Department, and other non-governmental Organizations approved by the, *To Be Appointed*, (Community Garden Governing Committee); with joint fund raising opportunities and avenues to develop and maintain said Community Garden to be pursued via any and all applicable member organizations and individuals subject to the approval of the Town Council and any other action the Town Council deems appropriate to create the Old Orchard Beach Community Garden.

OLD ORCHARD BEACH COMMUNITY GARDEN REGULATIONS

EXHIBIT B

GARDEN CULTIVATION

1. TIMELINE: Gardens are to be cultivated (soil turned over in preparation for planting) by Memorial Day, planted by mid-June, and tended throughout the season (i.e., planted, weeded and produce picked). Gardens must be "put to bed" by Nov 1 (i.e., fencing and stakes taken down, all plants removed and generally tidy. Stakes are to be left neatly in a designated area.

2. ORGANIC GUIDELINES: Synthetic fertilizers and pesticides are prohibited. Allowed substances include compost, compost tea, manure, blood meal, bone meal, ground rock (phosphate rock, agricultural lime, greensand, gypsum, etc.), wood ash, seaweed, insect barriers, straw, non-PVC plastic mulch, non-colored newspaper containing soy-based ink, Bt, diatomaceous earth and deterrent sprays from nontoxic materials such as garlic, soap, hot pepper or seaweed. Botanical insecticides like rotenone, pyrethrum and neem are not permitted as they harm earthworms, fish and beneficial insects. No smoking or tobacco products in the garden or parking area. Tobacco mosaic virus, which can be carried on

people's hands, is a serious threat to tomatoes and other plants. No pets are allowed in the garden.

3. USE OF PLOTS: Garden plots cannot be sublet or used for any commercial purposes. No produce may be grown for sale. Extra produce may be grown for donation to the Salvation Army Food Pantry or any other Food Pantry of the gardeners choice. Acceptable plants in the community garden include fruits, vegetables, herbs, perennials and annuals. Because of the difficulty of managing potato beetles, potatoes are prohibited. Trees are prohibited.

Gardeners

should consider the effect of shading on neighboring plots when planting tall crops such as corn or sunflowers, and locate plants appropriately. Children are welcome in the garden but must be monitored to avoid damaging garden plots.

4. GARDEN MAINTENANCE: Gardens must be tended regularly and visually display greater numbers of intended plantings than weeds, as determined by Garden Review of the Board (see #12 below). Gardens must not look overgrown, unkempt or abandoned. Trash such as unused plastic pots, unused fencing, etc., may not be left in the garden during the planting season.

5. NURSERY AREA: Donated or extra seeds or seedlings, or other unwanted plants may be left there for pickup by other gardeners.

6. AMENDMENTS: Manure, compost and straw are free for use when available. Mulching is encouraged to deter weeds and help retain soil moisture. Black-and-white only, soy-ink newsprint is allowed as mulch. Paper or other unsightly organic materials used as mulch must be covered with soil, compost or straw. Limited use of black plastic to mulch hot weather crops or to prevent weed growth is permitted, but must be removed immediately after use. Bark mulches are not allowed because they inhibit growth and should not be turned into the garden beds. No treated lumber or other objects that are treated or painted with toxic materials may be used in the garden. Garden signs must be painted with non-lead paint.

7. COMPOST: All organic refuse from the garden is composted. Sticks, plastic, string and diseased or infested plants should be excluded from these bins and placed in the rubbish-no exceptions. The compost bins are for non-diseased plants and organic household garbage, such as vegetable material, fruits or coffee grounds. NO animal products or fat should go in the bins at anytime.

8. PATHS: Paths and perimeters (around all sides of your garden) are the responsibility of each individual gardener. They must be kept weeded and trimmed with clippings removed. Adjacent gardeners share mutual responsibility for shared paths. Mulches are not allowed in the paths.

9. PERIMETER STAKES: Posts with blue tips mark the outside border of the garden and also major pathways, which are wide enough to allow easy wheelbarrow and water hose access. Please do not remove the perimeter stakes or expand your garden into pathways or beyond the outside border. You will be required to reverse any expansions into these areas.

Garden Review and Help

10. GARDEN BOARD: At the spring meeting gardeners will select a Board consisting of Chair, Vice Chair, Treasurer and Secretary. The Board will be established to review any issues that may arise during the year. They will also share the task of coordinating garden activities. They commit to no less than one year. The tasks of the Board include: attending garden meetings, assigning garden plots, maintaining a waiting list, evaluating the health of the garden including pest monitoring and overseeing task assignments. The Board may delegate any of these tasks to other Gardeners and are available for questions and concerns from the Renters. All money collected from the rental of garden plots will be handed over to the town finance director Jill Eastman for expenses associated with the maintenance of the community garden.

11. GARDEN MEETINGS: The secretary will be responsible for communication by posing minutes from meeting on the conservation page of the Towns Website. All Gardeners are required to attend at least one garden meeting each year. Gardeners must notify the secretary if they are unable to attend either the spring or fall meeting and are responsible for finding out what happened at the missed meeting. Minutes are generally e-mailed out after the meeting.

12. GARDEN REVIEW: Gardens should be maintained according to the standards outlined in these guidelines (see item #4 above). Failure to comply (i.e., gardens falling below the standards set forth) will result in notification to the gardener from the Garden Board. The Gardener will have two weeks from the date of this notification to correct the problem. Failure to correct the problem will result in forfeiture of the garden plot with notification by a letter by the Garden Chair. If the gardener has any questions, it is his or her responsibility to contact a member of the board.

13. PLOT ASSIGNMENTS: The Garden Board maintains a waiting list of people interested in the garden and assigns plots in the winter. Priority will be given to Old Orchard Beach residents.

14. GARDEN FEE AND REGISTRATION: The annual fee for a 10' by 10' garden plot is \$25 for Old Orchard residents and \$30 for non-residents. The fee must be paid at the time of registration. Checks are payable to the Town of Old Orchard Beach. Proof of residency is needed at the time of registration.

15. VOLUNTEERS: Plot renters and others may volunteer to help with the many Community Garden tasks including administration, reviewing, site preparation, maintenance and other chores. They may contact anyone on the Board to offer their assistance.

16. COMMUNICATION: E-mail is an important means of communication for the Gardeners, and is the preferred method of communicating about garden-wide issues. Important notices are also posted to the Conservation Page of the Town's Web Site. Gardeners and volunteers are responsible for reading all posted material pertinent to Garden business or decisions.

EXHIBIT "A"



Background: The Town Manager sought to explain the need to change the word “manage” as defined in the plan – to “supervise,” as this agenda designation has raised some serious concerns. He explained that although to supervise and to manage appear to be much the same; the root words imply a slight difference. He explained there is a difference between overseeing as a supervisor but a manager handles or administers issues. In the area of the Ballpark and a Community Garden, the Town Manager is the manager as the municipal administrator. He also said he supports the garden concept and the Town will provide the water line and fence posts. Gardening enthusiasts are trying again to start a community garden at the Old Orchard Beach Ballpark after the request failed last year when the regional school unit asked the Town Council for a school and community garden at the Ballpark. The Council voted the proposal down, and instead a student garden was cultivated at the Loranger Middle School. Some of the issues involved last year and addressed by the Council were concerns with children walking to the garden with construction going on

nearby to build the now-complete police station. At a recent meeting of the Community for Children, a group working on youth and community activities, Chairperson Jackie Tseliks, who is also the RSU23 school health coordinator, said the Loranger Garden was a success and members of the group would like to see a garden that the whole community can enjoy. Items grown in the community garden cannot be sold commercially and gardeners are encouraged to donate extra products to local food banks. A community garden would give people who live in retirement communities who aren't allowed to garden or those who have small yards, a place to grow food. Andrea Berlin indicated that "Community gardens are very popular in other communities and I believe we can ease some of the financial burdens for struggling families and retirees by establishing such a garden in Old Orchard Beach." Chair Bob Quinn indicated he thought a community garden could be a good benefit to the community and could give the opportunity for fresh produce to people who may not otherwise be able to afford it. The Ballpark Commission approved the establishment of a community garden at the Ballpark during a meeting earlier this week. Ballpark Commission Chair, Paul Crossman, said he was personally in favor of the idea of a public garden and thought the garden would be a wonderful thing for the community. He indicated it is public land and it is community accessible. It should be noted that the Committee has presented a business plan which we all understand is a flexible document that changes, grows, and needs to be updated on a regular basis. It basically details how and why you are proposing a particular project; how the facility or project will be operated in the future; and how you can manage and maintain the facility for sustainability. The Business Plan is to demonstrate to the funding and regulatory agencies, which in our case is the Town Council, that those running it have the financial and managerial ability to maintain the operation. A one year trial of a community garden will take place this year as approved by the Town Council in a four to one vote. The Town Council approved the pilot program for a community garden which will be located on the grounds of the Ballpark, on the far end of the parking lot. Gardeners will be able to rent 10 by 10 foot plots of land for \$25. It was also indicated that donations will be accepted in order to allow free plots to families that perhaps could not afford them. The Town Manager suggested that in its pilot year, garden plots only be available for Town residents, as officials determine how many demands there is in Town for the gardens. The total size of the municipal community garden will not exceed 100 feet by 300 feet, and the Town will provide fencing and a water line. The Town Manger indicated that Public Works has extra fence posts and do trenching for a water line. The garden will be at no cost to the Town. Vice Chair Tousignant indicated that the garden community will establish a five-member committee to govern the garden and the Committee will answer to the Town Manager and the Town Council. Andrea Berlin who spoke on this issue of the Community Garden said that there is a lot of high density housing and many people don't have the yard space for a garden and that there are many residents who live in retirement communities and aren't allowed to grow vegetables who would like this opportunity. She said she sent soil samples for testing and found that the area doesn't need much enrichment and that this is a real positive move for the community. Councilor Sharri MacDonald did not support the establishment of the Garden in the Ballpark. She reminded the audience that she had offered the Conservation Commission two acres of land last year and they did not take her up on the offer. She indicated she had significant safety concerns with the area back of the parking lot where the garden will be located. She said she thought the area was not lighted enough and last year she reminded everyone that the Police had to be called because a vagrant person was living in a tent nearby. She asked Andrea Berlin if the garden could be in the front of the parking lot area at the Ballpark or explore a different location in Town.

Andrea Berlin responded that the area in front of the parking lot was too shady, and the area that has been chosen is raised with good loam and dark, good looking soil and doesn't need to be cleared. This site is perfect she indicated and the location has ample parking and easy access to the waterline. She said the group needed to get the garden up and running and could consider other places next year. She indicated that there was more activity in the Ballpark recently and she didn't see the safety issues as a favor to deter the use of the area as a Community Garden. Chair Quinn added that the community garden would be a dawn to dusk operation and people would not be gardening there after dark. Councilor Shawn O'Neill said he supported the garden and the location. Although he recognized and supported the garden and the location he also recognized the safety concerns but that there is a lot more activity in the area than there was when this project was considered last year. He also felt that the use of the Ballpark will bring people into the area and saw it as a win/win situation. He questioned, however, the attorney cost and it was indicated there were no attorney costs involved. The Business Plan was developed by the group itself.

Jerome Begert spoke on Agenda Item 5397 and although the Chair asked for only five minutes from each speaker, Mr. Begert did as that his comments be included in the Minutes. Mr. Begert indicated "that we all respect Andrea and Pierre for their inspiration, initiative, energy and dedication to the community garden concept. But if you cross-reference and analyze town-ordinance (not to mention State statute), there are conflicts with the multitask committee concept. Some complicate cooperative efforts and jurisdictional control, while others generate extra costs by preventing multidirectional cost-sharing and independent fundraising. To untangle ordinance- obstructions and recodify, so an ordinance-symbiosis can enable the start of fundraising, management and on-the-ground garden-work, that will involve Code Enforcement Officer, the Town Attorney, the Planning Department (land-use issues), the Finance Department, and overlapping town Council workshops and a public hearing; which all starts with one workshop just to set the sequence of these logistic-laden phases; all the while hurting the feelings of folks who think that is unnecessary overkill. Ordinance-conflicts derive from: Article 4/Boars, Committees, Commissions, Sections 2-233 (B,C,F), and 2-235 (1,2,3). Division 6/Recreation Board, Sections 2-356 (B-5), and 2-358 (A). Division B/The Ballpark (and its commission) Section 2-396 (Ballpark defined), 2-397 and 399 and 2-404...that's the whopper, the core of your Ballpark ordinance. All that needs to be recodified to create symbiosis for the multifaceted committee to function. And as the Town Council, Town Manager, Planning Department and the Town Attorney comb through the contradictions, they are going to remember policy imperatives that obstruct ordinance changes. Also, it is an innocent mistake to assume that Regional School Unit 23 can be involved in joint-management of any Municipal government advisory-committee. State-statute and court-precedent establish that the RSU is a state-agency that is governed only by state-statute authority, and that RSU board of directors' members (although elected by Town-residents_ are not town officials and therefore are not obliged to meet any expectation of the voters who elect them, or of local government officials. Town Charter law forbids any elected official (like an RSU – representative) or any paid government employee (like an RSU-administrator or teacher) from serving as a committee-appointee. RSU/State-statute commands that any geographic location where students have academic, athletic or extracurricular activities...that location automatically becomes the deeded property of the non-municipal RSU (Sate) entity; taking control away from local government, and thus away from direct citizen-control. That's a recipe for turf-war chaos and acrimony that would further damage the RSU's credibility and public-confidence. The fastest loop-hole, to start

the garden soon, (using Chapter 42, Article 4, Division 5) is for the garden-group to: Form a licenses nonprofit organization; get liability insurance; and apply for a (summer long) special event permit. Nonprofits always get permit-fees waived by Town Council, after their application goes through the Planning (and other) Department(s). Civic groups like The Salvation Army, The Chamber of Commerce, Ocean Park Association, Rotary Club, Alumni Association, OOB365, Chris Cash Race, and Classic Car rally – as licenses nonprofits – have liability-insurance that “additionally insures the Town” for accidents, unforeseeable consequences and vandalism. A garden would not be expensive to insure. And it won’t need another pass by the Ballpark Commission, if the garden is located behind the Fire station (across from the Police Station) where public safety is guaranteed and where water (for irrigation) is affordably accessible. Otherwise, this proposal faces the gauntlet of Council Workshops, analytic ordinance-recodification, (by Officer Nugent and the Town Attorney), and a final public hearing. Suspenseful and aggravating as that sounds, remember – Town Council is behind schedule on their State-law-required budget workshops (such as tonight’s) which end with a final vote in late June. The ordinance-recodification gauntlet will postpone (if not obstruct) success. But if that process does give approval and garden work started by late summer (or next spring: Where will the new government –instituted committee get \$7,800 to annually budget for law-required newspaper-ads (at \$300 each) to publicize every meeting? Three out of five/four out of seven committee members just talking (not voting) is a quorum to be advertised. Where will we get thousands of dollars for excavation, plumbers, to install irrigation pipes and an automatic sprinkler system, and a new water bill? How do we compensate various government-departments for supplies, for non-departmental equipment-use and labor-costs? This next budget already will layoff government employees; postpone equipment purchases; forcibly cut \$14,00 from the Assistant Town Manager’s income (while giver her twice as much work); it will trim expenses in our schools, and otherwise cut spending right down to charitable contribution cuts; eliminating fireworks subsidization, and reducing toile-paper inventory. Shared sacrifice is everywhere. If fundraising (over the past year) for a community garden (or any other charity) came up empty, remember – citizens have to reach into the same savings, retirement-accounts and social-security to pay for tax-increases. While taxpayers are struggling to keep warm and to keep their family’s home away from tax-foreclosure, Town Council will be surgically finding efficiencies in our inflation-driven budget, not adding new financial entitlements and budget encumbrances. A summer long special event permit for behind the fire station, where public safety is guaranteed and irrigation is more practical, will avoid the ordinance-gauntlet and the policy-imperatives that would obstruct the community garden dream. The next three pages I submit only to the minutes, because its public – safety-calculus would be too unnerving, for our garden-advocates and also for the general public. I prefer to not taint our Town’s public image. Public Safety Calculus: It is noble to feed poor folks with their own charitably subsidized garden plot. I’m close to poor-folk-status myself.) I speculate, however, how many financially vulnerable people have the time, strength, and motivation to cultivate, sow, nurture, weed, water and harvest a garden (away from their residence)? Four categories of the financially vulnerable: The unemployed, who are busy trying to reenter the job market. Under-employed, who are searching for or laboring at 2nd and 3rd jobs. If you work multiple jobs, you have no spare time to garden; the physically disabled, incapable of physical exertion; the cognitively distressed/depressed who cannot sustain motivation to labor at anything over time (like a job), and who cannot socialize well with others; those who defraud government-welfare; some with multiple criminal-records; some who are sex offenders; Nobody is going to pay the Maine Attorney General’s Office, to process criminal-background

checks on folks who rent community garden plots. That's not cheap. Town government does background-checks only on money-handlers and employees who get near school children. Will (licenses nonprofit) private funds or tax dollars pay for full time security guards? Even if we spent \$10,000 for a security camera (to point at the isolated garden location), its remote-radio-signal won't send video all the way to the far-off Sanford dispatch center. One year ago, I personally witnessed "transients" being arrested (at gunpoint) from the exact location of the proposed garden. Because their tent was hidden by a large bush, they had gone unnoticed by ballpark-volunteers and law-enforcement officers (for who-knows how long.) A predator, waiting in the nearby woods, would go unseen. The proposed garden-location beyond the parking lot's far end is out-of-sight, around behind the Stadium. On an event-free day at the empty ballpark, a victim could be dragged a few feet (over chicken wire fence (into the woods. When the lot is full of parked cars/trucks/vans/buses for a popular event, I never see people staring toward the proposed garden location. Who would notice if a victim got abducted into a nearby getaway vehicle, while the crowd is cheering a homerun? Without expensive background-checks or cameras or security guards, the only safe place (for the garden) will be behind the fire-station...across from the police station, where it can be watched. Sorry to have been an alarmist, but this needs to be tabled, reorganized, and relocated."

Paul Crossman, Chair of the Ballpark Commission, spoke positively about the Community Garden concept and also said that the Ballpark Commission supported this endeavor one hundred and ten percent. Councilor Dayton reminded everyone that the Community Garden individuals have gone back to the Ballpark Commission defining the plan, not once but twice. They have provided everything that is required. Fred Dolgan, member of the Recycling Committee indicated that he is thrilled with this effort and cannot believe there is any negativity towards its operation. Councilor MacDonald said she could not vote for it but everyone should be respectful of each other's opinions. When asked about a possible Rain Garden, Andrea Berlin indicated that a rain garden is a planted depression that allows rainwater run off from impervious urban areas like roofs, driveways, walkways and compacted lawn areas the opportunity to be absorbed. It can support habitat for birds and butterflies. It can be incorporated into a larger garden as a border or as an entry feature.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Approve a community garden in the Ballpark of 100 feet by 300 feet for a one-year pilot program with the Town of Old Orchard Beach supplying the water and the fencing and establishing a five-member board to run the garden and reporting to the Town Manager and Town Council with no cost to the Town.

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

GOOD AND WELFARE:

The meeting was closed at 8:30 p.m.

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-three (23) pages is a true copy of the original Special Town Council Minutes of the Town Council Meeting held on May 11, 2011.

Louise Reid