

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, FEBRUARY 1, 2011
TOWN HALL CHAMBERS**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, February 1, 2011. Chairman Quinn opened the meeting at 7:05 p.m.

The following were in attendance:

**Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Robin Dayton Arrived at 7:20 p.m. due to snow storm
Councilor Sharri MacDonald
Town Manager Jack Turcotte
Assistant Town Manager Louise Reid**

Absent: Councilor Shawn O'Neill

**Pledge to the Flag
Roll Call**

ACKNOWLEDGENTS:

VICE CHAIR TOUSIGNANT: Our thanks to the Lions Club and the OOB 365 group for the outstanding Community Dinner held a week-or-so ago and attended by many who enjoyed the opportunity to talk and enjoy a good meal. Also thanks to all who participated in the race sponsored by Jimmy the Greek's for the benefit of the Recreation Department. All and all it was a very successful weekend and we are most grateful to those who worked so hard to make it a success. Also congratulations on another very successful Progressive Dinner. We would also like to remind everyone of winter fest which is scheduled for Saturday, February 26th with a host of wintertime activities for you and your families to enjoy. Look at the OOB365 website for details.

CHAIR QUINN: I would like to remind our citizens of the following workshops:

**Wednesday, February 9 - Town Council Chamber
West Grand Avenue Project and
Sidewalks**

**Following the Town Council Meeting of Tuesday, February 15th
Workshop on Parking Issues.**

**Thursday, February 24th – Workshop on discussion of Saco Avenue/
Union Avenue/E. Emerson Cummings Blvd. signalization
Project presentation by Gorill-Palmer Consulting Engineers, Inc.**

And finally:

**Wednesday, March 9, 2011 – Workshop on Pay to Throw and
the Sewer User Fee.**

COUNCILOR MACDONALD: We would like to welcome home from Afghanistan for the next couple of weeks, one of our own. Welcome home, Duston Paul, 101st Airborne. We would also express appreciation to the Edith Belle Memorial Library for their donation to the Town's Community Animal Watch Committee.

ACCEPTANCE OF MINUTES: Special Town Council Minutes of December 7, 2010; Town Council Minutes of January 4, 2011; Town Council Workshop Minutes of January 19, 2011; and Special Town Council Meeting Minutes of January 19, 2011.

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

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

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

Mark & Lyn Gervais (103-4-27), 18 Pond View Road, one year round rental; Shannon & Susan Croteau dba/Mr. Bill's Seafood & Pizza (206-26-4B), 34 C Saco Avenue, Victualers with Preparation; Peter Townsend (211-2-8), 32 Old Salt Road, one year round rental; Denis & Daphne Rioux (305-5-6), 6 Cleaves Street, one year round cottage only; Benjamin Bucci (309-2-3), 15 Washington Avenue, three year round rentals; David Rivas (311-23-6), 101 Saco Avenue and 2 Twelfth Street, two year round rentals; and Imperial Capital Bank (312-13-11), 31 Washington Avenue, three year round rentals.

CHAIR: I close this Public Hearing at 7:10 p.m.

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

VOTE: Unanimous.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT AND APPROVAL

CHAIR: I open this Public Hearing at 7:10 p.m.

Dimitri Inc., dba/Jimmy the Greek's Brick Oven Restaurant (211-9-1), 215 Saco Avenue, Musicians, Comedians, and other; amplified inside and outside; 12:00 p.m. to 1:00 a.m.

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

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to approve the Special Amusement permit as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT

- A. It is budget time and I am meeting with department heads and Jill Eastman on a very full schedule.**
- B. Continue to work with Maine Municipal Health Insurance Trustees executives in review of our health program. We are having a Health Insurance Awareness Program for Town employees on Thursday.**
- C. John Glass, Public Works and I continue to work with the school to adapt to the High School Cafeteria a refurbished Public Works generator which should result in an official Old Orchard Beach Emergency warming shelter.**
- D. We continue to look at the condition of the Fire Station. We had a visual test of inside walls showing no mold. At this time we are scheduling air quality tests. However we have been encouraged to address the water infrastructure needs as quickly as possible.**
- E. I have been working with an electrician and Mike Nugent on a small amount of unfinished electrical needs in the Ballpark Club House in anticipation of the arrival of the Raging Tide.**
- F. I have met with a representative of the Library who would like to help sponsor a living Christmas tree to be installed in Memorial Park in memory of a prominent citizen who passed away.**
- G. Have continued to meet with staff and John Weaver regarding the Pay-to-Throw program.**
- H. Attended Ballpark Commission Meeting.**
- I. Met with Department of Transportation on the Saco Avenue/Union Avenue/E. Emerson Cummings intersection project. I asked the DOT to do a workshop for the Council prior to the project plan being finalized.**
- J. Continue to work with Bill Botting and Sanford regarding details of the dispatch consolidation.**
- K. Have met with a representative from the Community Watch Council. The CW group is working with the schools and other appropriate agencies with a goal of addressing bullying at the student, adult and community level.**
- L. My wife, Chris, and I were fortunate enough to attend the Call Fire Fighters Annual Award Banquet Saturday night and it was a great time for me to reflect on the importance of our Call Fire Department Force and their very valuable contribution to the Fire Department and the community. It was a nice event. Sorry I missed the OOB 365 progressive dinner. I have not made one yet due to scheduling conflicts but Chris and I are anxiously awaiting the next one.**
- M. It is with deep regret that I announce the resignation of Dave Goyet from the Ballpark Commission due to his work schedule. We have appreciated his commitment to the ongoing work at the Ballpark.**
- N. I will again spend four days away from work during February school vacation ice fishing with all my kids and grand kids on Moosehead Lake. My wife says this could be the last year we go north to freeze in a log cabin in the winter.**

Councilor Dayton arrived at 7:20 having driven through a snow storm.

COUNCILOR MACDONALD: She discussed the future warming shelter plan that is presently being worked on but reminded everyone that if shelter is needed the Town Hall and other areas would be available should that need arise.

5631 Discussion with Action: Revise Chapter 66, Article II, Building Code Section 66-26, 66-27 and 66-112, and Delete 66-28 and Article VIII and IX, of the Code of Ordinances of the Town of Old Orchard Beach.

BACKGROUND:

From: Mike Nugent/Code Enforcement Officer

Date: 2/18/2011

Re: New State Building Code

In 2007, the State Legislature passed a law creating the first ever “State Wide Building Code”.

MAINE UNIFORM BUILDING AND ENERGY CODE

§9724. Application

2. Prior statewide codes and standards. Effective December 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466. [2009, c. 261, Pt. A, §8 (AMD) .]

3. Ordinances. Effective December 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void. [2009, c. 261, Pt. A, §9 (AMD) .]

4. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. The requirements of the Maine Uniform Building and Energy Code do not apply to:

A. Log homes or manufactured housing as defined in chapter 951; or [2007, c. 699, §6 (NEW).]

B. Post and beam or timber frame construction. [2007, c. 699, §6 (NEW).]
[2007, c. 699, §6 (NEW) .]

1. Limitations on home rule authority. This chapter provides express limitations on municipal home rule authority. Beginning December 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008.

Pursuant to MRS A Title 10 ss 9724 , all towns in Maine population of 2000 or more, must use the new standard which will be the 2009 International Building Code, International Residential Code and International Energy Conservation instead of any local building code.

The building Code for the Town of Old Orchard Beach is the 2003 International Building Code and International Residential Code with some local amendments.

The good news for a Town like Old Orchard Beach is that there will be no major impact on how we do business today. The 2009 Code is substantially the same as the 2003 Code.

The new laws also change the Code Enforcement Certification program. While many Code Officers will be “grandfathered” due to their tenure or because they hold National Certifications and experience enforcing similar standards, some Code Officers will have to attend hours of training and testing.

THESE REGULATIONS WERE INCLUDED IN THE PACKET DELIVERED FOR THE JANUARY 4TH MEETING.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Revise Chapter 66, Article II, Building Code Section 66-26, 66-27 and 66-112, and Delete 66-28 and Article VIII and IX, of the Code of Ordinances of the Town of Old Orchard Beach.

VOTE: Unanimous.

5632 Discussion with Action: Amend the Code of Ordinances, Article IV, Division 8, Ballpark Commission, Sections 2-398 and 2-401 to add Alternates.

The Old Orchard Beach Ballpark Commission has agreed that there should be several changes to be considered to keep the continuity and momentum flowing. The Committee voted unanimously for the following:

- 1. Add two alternate commissioners for the purpose of filling in should regular members not be available for scheduled meetings. These alternates would be voting members only when filling in for absent commissars and at such time they would be considered a Commissioner and held in the same regard and with the same responsibilities as sitting Commissioners.**
- 2. The Commissioners hope that the Council would consider changing the number of Commissioners that constitute a quorum from the current number of five (5) to four (4) members, in the hope that given certain unforeseen circumstances that the Commission would always be able to vote on any item in a timely fashion.**

The Ordinance below shows the change suggested by the Council at the time of discussion in the January 4th meeting.

DIVISION 8. BALLPARK COMMISSION

Sec. 2-396. Ballpark defined.

For purposes of this division, the term "the ballpark" means the municipal facility located on E. Emerson Cummings Boulevard, commonly known as the Ballpark, consisting of approximately 49 acres of land improved with a stadium, playing fields and parking areas. (Ord. of 3-16-2010, § 1)

Sec. 2-397. Ballpark commission formed.

Pursuant to section 409.4 of the Charter, there is hereby created an agency of the town by the name of the "ballpark commission."

(Ord. of 3-16-2010, § 2)

Sec. 2-398. Appointment, vacancies, term.

The ballpark commission ("commission") shall consist of seven regular members and two alternate members appointed by the town council for a term of three years each commencing on the date of appointment, except that of those first appointed, three shall be for a term of three years, three shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the commission shall be filled by the town council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the commission serve at the will of the town council and may be removed by vote of the council at any time for any reason.

(Ord. of 3-16-2010, § 3)

Sec. 2-399. Powers and duties.

Subject to town council oversight, the commission shall be responsible for the improvement, maintenance and operation of the ballpark. In order to carry out that responsibility, the commission shall have the following powers and duties:

Undertaking maintenance of and improvements to the physical facilities, subject to appropriation of funds therefore by the town council and subject to the town's established purchasing and procurement procedures.

Scheduling events, subject to issuance by the town council of special events permits under chapter 42, article IV, division 5 of the Town Code.

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

All such funds received by the commission shall be remitted to the town treasurer for deposit in a dedicated revenue account denominated "the ballpark fund."

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

With the approval of the town manager, obtaining the assistance of town employees in connection with the improvement, maintenance and operation of the ballpark.

Performing such other duties and responsibilities and exercising such other powers as the town council may, from time to time, by order, assign to the commission.

(Ord. of 3-16-2010, § 4)

Sec. 2-400. Meetings.

The commission shall establish a schedule of regular meetings, which shall provide for at least 12 meetings per calendar year. The commission shall meet at least monthly during June, July, August and September. The commission chairperson may call special meetings as he or she deems necessary.

(Ord. of 3-16-2010, § 5)

Sec. 2-401. Quorum, procedure, officers.

Five members of the commission shall constitute a quorum for the purpose of conducting a meeting. Any action by the commission requires a majority vote of those members present and voting. The commission may adopt additional rules, not inconsistent with this division, for the conduct of its activities.

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

(Ord. of 3-16-2010, § 6)

Sec. 2-402. Authority to appoint agents.

The commission may, with the consent of the town manager and the vote of the town council, designate one or more of the members or other volunteers to serve as the commission's agents for carrying out the commission's responsibilities. Such agents may not, however, bind the town to any contractual or financial commitments unless expressly authorized to do so by the town council.

(Ord. of 3-16-2010, § 7; Ord. of 8-25-2010)

Sec. 2-403. Report to the council.

On a quarterly basis, starting on the 16th of June, 2010, the Commission shall submit to the town council a written report on the status of improvements, maintenance and operations at the ballpark, including a summary of the commission's activities during the immediately preceding three months.

(Ord. of 3-16-2010, § 8)

Sec. 2-404. Ballpark is land owned by the public but not considered a park.

The ballpark, as defined in this division, is intended to be operated as a sports/entertainment/events and recreation area and not as a public park subject to the care and superintendence of the conservation commission nor shall its operation be considered a recreation program subject to oversight by the recreation board.

(Ord. of 3-16-2010, § 9)

Secs. 2-405--2-410. Reserved.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Amend the Code of Ordinances, Article IV, Division 8, Ballpark Commission, Sections 2-398 to add Alternates.

VOTE: Unanimous.

5633 Discussion with Action: Authorize the Town Manager to close Town Hall only on Friday, December 23, 2011 with Town Hall employees taking either ½ vacation day or ½ floating holiday.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Authorize the Town Manager to close Town Hall only on Friday, December 23, 2011 with Town Hall employees taking either ½ vacation day or ½ floating holiday.

VOTE: Unanimous.

5634 Discussion with Action: Approve the Special Event Permit application for the Libby Memorial Library to hold their 4th Annual Seaside Art & Crafts Festival on Saturday, July 23, 2011 from noon to 6:00 p.m. in Memorial Park; and a request to waive the fee.

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

VOTE: Unanimous.

5635 Discussion with Action: Approve the Special Event Permit Application from Joseph Burns and Ashley Rocca to hold their wedding in Memorial Park, at the Gazebo, on Friday, June 3rd, 2011 at noon time for approximately one hour.

MOTION: MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5636 Discussion with Action: Approve the Special Event Permit application for the Town of Old Orchard Beach to hold the annual Memorial Day Parade on Monday, May 30th, 2011; and a request to waive the fee.

MOTION: Councilor MacDonald motioned and Councilor Dayton seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5637 Discussion with Action: Approve the Special Event Permit application for Maureen Duca to hold her wedding on the beach in front of the Seawatch Condominiums on Saturday, May 28th, 2011 from 7 a.m. to 2 p.m. (wedding ceremony at noon); and a request permission to rope off area in front of condos for ceremony.

MOTION: Councilor MacDonald motioned and Councilor Dayton seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5638 Discussion with Action: Approve the Special Event Permit application for William Rusnak and Carlyne Thibault to hold their wedding on the beach at the end of Oceana Avenue on Saturday, June 25th, 2011; request permission to rope off 40' by 40' section of beach adjacent to boardwalk from 9 a.m. to 4 p.m., and to block boardwalk for beginning of ceremony at 2 p.m.

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

VOTE: Unanimous.

5640 Discussion with Action: Approve the Special Event Permit application for OOB365 to hold their 2nd Annual Winter Carnival on Friday, February 25th, from noon to 8 p.m. and Saturday, February 26th, 2011 from 10 a.m. to 5 p.m.; and a request to close Old Orchard Street and the Square.

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

VOTE: Unanimous.

5640 Discussion with Action: Authorize the Town Manager to negotiate an Agreement to consolidate the Old Orchard Beach Dispatch Services to Sanford, Maine, effective April 1, 2011 with an approximate cost of \$125,000 from Account Number 10013-30100 – Undesignated Fund, with a balance of \$4,628,066.

TOWN MANAGER: During the 2010/2011 budget process operation the idea of combining our Dispatch operations with Scarborough began and continued until it was noted that the State of Maine announced a State plan to consolidate to PSAP centers into sixteen County locations and it became clear that Sanford would likely be the York County Center. Although Scarborough was Old Orchard's 911 dispatch center, Scarborough may be forced to relocate within Cumberland County. As a result of the State's announcement Mr. Turcotte indicated he shifted his consolidation focus to Sanford. The most challenging activity to this consolidation has been in the area of technology. The Town Manager indicated that we will need to install a microwave transmission system plus additional equipment requiring an upfront cost of approximately \$103,180 which would negate a majority of the savings for the first year; however the following years we would see a significant savings for the Town. It was also noted that there must be proactive plans for technology that will quickly become the new "standard of care" in the 911 industry called Next Generation 911 (NG911). Sanford commits to providing services that are as efficient and consistent as possible. Old Orchard would not be able to receive the benefits of the NG911 technology with our present existing equipment. It was indicated that the upfront, one-time cost will be \$124,180 with an annual operating cost of \$15,064 for technology. Sanford is charging \$300,000 for an annual fee but added to that is \$15,064 for the cost of technology for a total annual cost of \$316,064. The annual savings for Old Orchard Beach will be approximately \$135,000 per year; over a five-year period the savings would be \$675,000. The Sanford fee will likely, from time-to-time, be subjected to increases due to new Federal and State mandated labor costs, etc.; however if we are to maintain our Dispatch program our cost will also be subjected to future annual increases for the same reasons. The safety net for Old Orchard Beach will be that we will not have to accept future increased costs independently as all the municipalities who use Sanford for dispatching will share in the future cost. It was decided that microwave is going to be used since it is less susceptible to weather events than the other solutions. Tower rental fees for the microwave

equipment were discussed as these vary depending on which tower is used, and it looks like the most reasonable path in terms of lower tower rental cost would be to go from the Sanford Police Department Tower to Fort Ridge in Shapleigh, to the Water Tower in Old Orchard Beach, and then to the Police Station. Fort Ridge would be the only tower requiring a rental fee under this scenario. The Council asked Mr. Botting to contact the microwave provider to get an idea how long an engineering study of the microwave paths would take.

The study would be about \$8,100 were part of the start-up costs. Old Orchard Beach Police Chief, Dana Kelley, Deputy Chief, Keith Babin, and Fire Chief John Glass encouraged the Council to move forward with this in a timely manner. During the evening the Old Orchard Town Manager reminded the Council that the fiscal year 2009-2010 budget for Old Orchard Dispatch was \$433,102 and the actual costs were \$450,355. The fiscal year 2010-2011 was cut by \$150,000 for a total budget of \$295,674. If we don't consolidate Dispatch we would have to budget \$457,090 for fiscal year 2011-2012 which would be \$23,988 more than the fiscal year 2009-2010. Sanford agrees to furnish to the Town of Old Orchard Beach all qualified personnel, facilities and materials necessary to provide dispatch and Public Safety Answering Point (PSAP) Services. The terms of the agreement will be five years but extension with the mutual consent of Sanford and Old Orchard Beach is agreed to also. Sanford will be responsible for any capital expenses that may be required to allow Sanford to provide communications services to Old Orchard Beach. There is a six month termination clause. Old Orchard Beach will have two representatives on the Sanford Regional Communications Advisory Board; a regular voting member and an alternate, serving a three-year term. This Committee will meet quarterly or more often, if necessary.

During the discussion the Town Manager indicated that he felt this would save the Town "a big chunk of money" and that he had confidence in the ability of Sanford to handle our consolidation. Councilor Dayton gave a great deal of information on dispatching and the quality of service provided and indicated that "Sanford has a lot of expertise with this type of consolidation" and that she fully expected them to be able to keep up with technological advances much better than a small dispatch center such as we have had in Old Orchard Beach. Councilor MacDonald expressed some concerns but indicated that she had specifically asked Police Chief Kelley and Fire Chief Glass if they agreed with this change and they totally supported it and as such she was voting for it. Chair Quinn did again question the \$300,000 cost considering our 9,401 citizens and the possible tourist amount given in the calculation. He indicated there are many unknowns in the cost structures. Vice Chair Tousignant again looked forward to receiving the engineering report to assure that the microwave connections can be made. There was a consensus that the technological upgrades over the next five years would made a small dispatch center have to find additional funding to cover those kinds of upgrades if they could be financially supported at all. The Town Manager indicated he believed that the numbers were as firm and concise as they can be at this time. The Town Manager also indicated that legal counsel is preparing an agreement with Dan Patry on the use of the tower owned by him and consideration as to future ownership as well. A formal agreement would be forthcoming on this matter. Discussion continued and the original motion verbiage contained in the agenda item was removed and seconded and the following motion was made.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to authorize the Town Manager to negotiate and finalize a five-year contract with the Town of Sanford for Public Safety Dispatching Services based on the content of the draft

contract presented to Council, effective April 1, 2011, with an approximate cost of \$125,000 from Account Number 10013-30100 – Undesignated Fund, with a balance of \$4,628,066; and to finalize a written agreement with Dan Patry for the use of his Saco Avenue Water Tower permitting the Town to install communication equipment. Both agreements will be supported by the Town Attorney prior to signing.

VOTE: Unanimous.

5641 Discussion with Action: Approve Liquor License Renewal of Dimitri Inc., dba/Jimmy the Greek's Brick Oven Restaurant (211-9-1), 215 Saco Avenue, s-m-v in a Restaurant/Lounge.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Approve Liquor License Renewal of Dimitri Inc., dba/Jimmy the Greek's Brick Oven Restaurant (211-9-1), 215 Saco Avenue, s-m-v in a Restaurant/Lounge.

VOTE: Unanimous.

5642 Discussion with Action: Set a Public Hearing Date of February 15, 2011 to amend Chapter 66, Buildings and Building Regulations by adding the new Article VIII: The Property Assessed Clean Energy Program (PACE).

MIKE NUGENT: The essence of the PACE Program is for citizens to secure low interest loans to perform necessary energy saving improvements to their homes. In April, the State of Maine received approximately \$30 million dollars to create an energy efficiency loan fund. The Legislature in turn enacted a law to structure this loan fund. The Efficiency Maine Trust is administering the program and municipal participation in this fund is important to its success. For any building owner to be eligible for a loan under the program a municipality must agree to participate by enacting an ordinance. The Trust has a webpage devoted to PACE where a model "passive" track ordinance and other materials may be found:

<http://www.energymaine.com/PACE>.

In 2009, the Maine Legislature enacted, "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".

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 properties 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.

PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the

Trust's administration of the municipality's PACE program, and 4) desire and intend to assist and cooperate with the Trust in its administration of the municipality's PACE program.

There is little staff involvement with the program as Efficiency Maine administers the program on behalf of the Town. This Ordinance simply gives our Citizens a financing option.

A representative from Efficiency Maine will likely be at the Public hearing.

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

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 Town wishes to establish a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent; and

WHEREAS, PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) desire and intend to assist and cooperate with the Trust in its administration of the municipality's PACE program;

WHEREAS, the Town may from time to time amend this article to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program; however, the Trust has indicated that the Town shall be responsible for administration of loans made from those other funding sources.

WHEREAS, if the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Town's adoption of this article and those standards, rules or model documents substantially conflict with this article, the Town may, as needed, conform this article and its PACE program to those standards, rules, or model documents, subject to the final determination at that time of the Town Council.

NOW THEREFORE, be it ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 66, BUILDINGS AND BUILDING REGULATIONS, of the Old Orchard Beach Code is amended by adding the following new Article VIII:

ARTICLE VIII. PROPERTY ASSESSED CLEAN ENERGY ORDINANCE

Sec. 66-231. Establishment of PACE program.

By and through this article and in conformity with applicable federal and State laws, the Town of Old Orchard Beach establishes a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town.

Sec. 66-232. Enabling legislation.

The Town enacts this article pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “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” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

Sec. 66-233. Title.

This article shall be known and may be cited as “the Town of Old Orchard Beach Property Assessed Clean Energy (PACE) Ordinance.”

Sec. 66-234. Definitions.

Except as specifically defined below, words and phrases used in this article shall have their customary meanings; as used in this article, the following words and phrases shall have the meanings indicated:

Energy saving improvement means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

(1) will result in increased energy efficiency and substantially reduced energy use and:

a. meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

b. involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

(2) involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

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.

PACE assessment means an assessment made against qualifying property to repay a PACE loan.

PACE district means the area within which the Town establishes a PACE program hereunder, which is all that area within the Town's boundaries.

PACE loan means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

PACE mortgage means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

PACE program means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

Qualifying property means real property located in the PACE district of the Town.

Renewable energy installation means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Trust means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

Sec. 66-235. PACE administration contract.

Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Town will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Town. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

(a) the Trust will enter into PACE agreements with owners of qualifying property in the Town'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 owner;

(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 assessment;

(g) the Trust or its agent on behalf of the Town, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

Sec. 66-236. Adoption of education and outreach program.

In conjunction with adopting this article, the Town shall adopt and implement an education and outreach program so that citizens of the Town are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

Sec. 66-237. Assistance and cooperation.

The Town desires to and intends to assist and cooperate with the Trust in its administration of the Town's PACE program.

Sec. 66-238. Assessments not a tax.

PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

Sec. 66-239. No liability created.

(a) Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors, tax collectors, town councilors and the town manager 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, including, without limitation, claims for or related to uncollected PACE assessments.

(b) The Town has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing Date of February 15, 2011 to amend Chapter 66, Buildings and Building Regulations by adding the new Article VIII: The Property Assessed Clean Energy Program (PACE).

VOTE: Unanimous.

5643 Discussion with Action: Set a Public Hearing Date of February 15, 2011 to Amend Chapter 78 – Zoning, Section 78-1, 78-2 through and including 78-5, 78-34, 78-93 through and including 78-95, 78-456 through and including 78-457, Division 17, Section 78-1176 through and including 78-1185, 78-1201 through and including 78-1218. These amendments deal with mandated Shoreland Zoning,

MIKE NUGENT: This has been reviewed by the Planning Board and the Town Council and will now again go a public hearing. Many of the changes were minor in nature and are reflected in the document given to the Council. Many were changes in definition such as campsite, individual private – this was deleted because Old Orchard Beach does not allow individual private campsites. Definition of development – was incorporated in exact language of Chapter 1000 – Guidelines. Definition of dwelling unit – again they added the Chapter 1000 definition of “residential dwelling unit. Definition of recreational vehicle –modified the last clause as follows: “unless it is park model located within a campground or a pick-up coach and is located outside the shoreland zone.” Definition of upland edge of a wetland – deleted “and/or” language. Definition of wetland contiguous – made the change of deleting the word “coastal.” Section 78-33 – Violations – enforcement provisions are already contained in the OOB ordinance in very similar language. Section 78-34 – Building permits – deleted language is not necessary because material is covered in Section 78-1183. Section 78-36 – Applications for building permits and certificates of occupancy – no changes recommended by our attorney to the administrative and enforcement procedures at this time. Section 78-37 – Maintenance of Records – deleted, no reason to repeat same obligation as in original ordinance. Section 78-70 – Meetings – did not agree as the process is governed by State statute which prevails. Section 78-1181© - Special Exceptions – Included exact language of Chapter 1000 Guidelines. Section 78-1182(d) – Resource protection subdistrict – request for verbiage to be included. Lane Use Table – subsection (33) – See definition of “individual, private campsites” and deletion of all references to that possible use. Section 78-1185 – Space and bulk requirements – Added as required.

THE 51 PAGE DOCUMENT CAN BE SECURED BY THE PUBLIC FROM PLANNING AND CODE DEPARTMENT.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing Date of February 15, 2011 to Amend Chapter 78 – Zoning, Section 78-1, 78-2 through and including 78-5, 78-34, 78-93 through and including 78-95, 78-456 through and including 78-457, Division 17, Section 78-1176 through and including 78-1185, 78-1201 through and including 78-1218. These amendments deal with mandated Shoreland Zoning,

VOTE: Unanimous.

5344 Discussion with Action: Set a Public Hearing Date of February 15, 2011 to amend Chapter 22 – Emergency Services by adding the new Article III: The Emergency Management Ordinance.

EMERGENCY MANAGEMENT ORDINANCE

Be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 22 of the Old Orchard Beach Code, Emergency Services, is amended by adding the following new Article III:

ARTICLE III. EMERGENCY MANAGEMENT

Sec. 22-40. Authority.

This article is enacted pursuant to and in accordance with the provisions of subchapter 3 of Chapter 13 of Title 37-B of the Maine Revised Statutes.

Sec. 22-41. Intent and purpose.

It is the intent and purpose of this article to establish a mechanism and procedures that will ensure the complete and efficient utilization of all the Town's facilities to combat disaster as defined herein.

Sec. 22-42. Definitions.

Sec. 22-43. *Disaster* means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, extreme public health emergency, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

Emergency management means the coordination and implementation of an organized effort to mitigate against, prepare for, respond to or recover from a disaster.

Emergency management forces means persons, including volunteers, engaged in performing emergency management, including, but not limited to, persons acting pursuant to an emergency proclamation by the Governor or an emergency declaration under this article.

Sec. 22-44. Emergency Management Director.

The Emergency Management Director shall be appointed by the Town Council upon recommendation of the Town Manager for the Town of Old Orchard Beach. The Emergency Management Director shall coordinate the activities of the fire, police, code enforcement, public works and planning departments with respect to emergency management. Collectively, such departments shall constitute the municipal emergency management agency for the Town of Old Orchard Beach.

Sec. 22-45. Duties of Emergency Management Director.

The Emergency Management Director shall be responsible for the planning, coordination and operation of emergency management in the Town and shall maintain liaison with county, state and federal authorities and the authorities of other nearby cities and towns so as to ensure the most effective operation of the emergency management plan. His duties shall include, but are not limited to, the following:

- (a) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town for emergency management purposes.
- (b) Development of plans for the immediate use of all the facilities, equipment, manpower and other resources of the Town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare.
- (c) Subject to approval of the Town Council (or the Town Manager during a declared emergency), negotiating and concluding agreements with owners or persons in control of buildings or other property for emergency management purposes and designating suitable buildings as public shelters.
- (d) Through public informational programs, educating the civilian population as to actions necessary and required for the protection of their persons and property in case of disaster, either impending or present.
- (e) Conducting public practice alerts or providing educational resources to ensure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.
- (f) Coordinating the activity of all other public and private agencies engaged in any emergency management activity.
- (g) Assuming such authority and conducting such activity as the Town Manager may direct to promote and execute the emergency management plan.

Sec. 22-46. Declaration of emergency.

Whenever a disaster exists or appears imminent within the Town of Old Orchard Beach, the Emergency Management Director, in consultation with the Town Manager and after notification to the members of the Town Council where feasible, may, by written declaration, declare that an emergency exists in the Town. A copy of the declaration shall be posted in the Town Office and a copy filed with the Town Clerk. The Emergency Management Director may contact representatives of the news media to inform them about the declaration, when appropriate.

Sec. 22-47. Emergency powers and duties.

(a) During any period when an emergency has been declared by the Emergency Management Director under section 22-45 of this article or when the Governor has proclaimed an emergency pursuant to state statute, the Emergency Management Director may promulgate such rules and regulations as he deems necessary to protect life and property and preserve critical resources. Such regulations may include, but are not limited to:

(1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces to facilitate the mass movement of persons from critical areas within or outside the Town.

(2) Regulations pertaining to the movement of persons from areas deemed hazardous or vulnerable to disaster.

(3) Such other regulations necessary to preserve public peace, health and safety.

(b) The Emergency Management Director, with the approval of the Town Manager, may obtain or commandeer vital supplies, equipment and other property needed for the protection of health, life and property of the people and bind the Town for the fair value thereof.

(c) The Emergency Management Director may require emergency services of any Town officer or employee. If regular Town forces are determined inadequate, the Director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to all immunities provided by law.

Sec. 22-48. Termination of emergency.

When the Emergency Management Director is satisfied that an emergency no longer exists within the Town, he shall terminate the declaration of emergency by issuing a written declaration of termination of emergency, in the same manner as a declaration of emergency is issued under section 22-45 above.

Sec. 22-49. Emergency management plan.

The Emergency Management Director shall prepare, maintain and periodically update as needed a comprehensive emergency management plan and submit the same to the Town Council for adoption by Town Council order.

Sec. 22-50. Prohibited acts.

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations or plans issued pursuant to this article or to willfully obstruct, hinder or delay any emergency management forces in the exercise of their duties under this article.

Sec. 22-51. Violations and penalties.

Any person violating any provision of this article or rule or regulation promulgated under this article commits a civil violation punishable by a civil penalty of a minimum of \$100 to a maximum of \$500 per occurrence.

Sec. 22-52. Effect on existing ordinances and regulations.

At all times when the orders, rules and regulations made and promulgated pursuant to this article are in effect, they shall supersede any inconsistent provisions of existing ordinances, orders or rules for as long as the declared emergency exists.

Chief John Glass indicated that this was an ordinance that needed to be instituted. John Bird asked what the urgency was of doing this or what precipitated this ordinance. Chief Glass indicated it was at the encouragement of the Emergency Management State organization.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing Date of February 15, 2011 to amend Chapter 22 – Emergency Services by adding the new Article III: The Emergency Management Ordinance.

VOTE: Unanimous.

GOOD AND WELFARE:

JEROME BEGERT: He commended that this be provided to the Charter Review Commission for incorporation into the Charter changes.

SARA MORING: She spoke about her concerns including her approval that the General Assistance level of funding was increased. She said that Maine has the highest poverty level and that this increase in the amount that a person can receive is a good thing. She talked about a teacher, Andrew Corvett, who challenged children and her background in teaching. She insisted that sidewalks be plowed as it is hard for adults and children to get through. She thanked the Police for a wellness check on her grandmother.

COUNCILOR MACDONALD: Again reminded folks that if the storm requires a place to get warm that the Town Hall and the American Legion are places to consider calling.

COUNCILOR DAYTON: We would like to express our thanks to the C. Fayette Staples Post – American Legion for their generous donation of \$600 to support our K-9 Program. We are constantly grateful for the community support that is offered by the American Legion whose Generosity makes possible so many community services. To the Legion and their members and all those who contribute to their efforts, our sincere thanks and appreciation.

On Saturday, February 5, 2011 from 10:00 a.m. to 12:00 noon at the Old Orchard Beach Town Hall the York County Renewable Energy Initiative (YCREI) will meet to promote the use of renewable energy in homes, businesses and other buildings through education, community outreach and barrier reduction. The desire is to encourage energy conservation, energy efficiency practices and promote the use of renewable energy. I would like to invite Old

Orchard Beach citizens and business owners alike from the surrounding communities to join this major energy concern. In every community there are people that share this concern that we, as a nation, are not doing enough to reduce the energy consumption and that the environmental and economic consequences that have and will surface due to our country's addiction to oil must be addressed one household and one community at a time.

ADJOURNMENT

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to adjourn at 8:40 p.m..

VOTE: Unanimous.

Respectfully Submitted,

**V. Louise Reid
Town Council Secretary**

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of twenty-one (21) pages is a true copy of the original Minutes of the Town Council Meeting of February 1, 2011.

V. Louise Reid