

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, FEBRUARY 15, 2011  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, February 15, 2011. Chairman Quinn opened the meeting at 7:03 p.m.**

**The following were in attendance:**

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

**Pledge to the Flag  
Roll Call**

**ACKNOWLEDGMENTS:**

**VICE CHAIR TOUSIGNANT:** We are very excited about our 2<sup>nd</sup> Annual Winter fest scheduled for kickoff on Friday, February 25<sup>th</sup> with a sledding party at the top of Old Orchard Street from 4:00 p.m. to 8:00 p.m. with DJ Joeyoke. Don't miss the sled speed trials. Put your sled to the test. Starting at 8:00 p.m. at the Brunswick the new Raging Tide baseball team will join us for a fundraiser for a local non-profit. Saturday you can still get your "sled on." Activities start at 10:00 a.m. There will be horse-drawn carriage rides (free with a button), human dog sled races, vendors, a DJ, snowmobile rides, kids games, and a chance to meet Dune Doggie (the mascot for the Raging Tide baseball team), contests, tube races, trophies will be awarded, a "Slippery Slope" pub crawl in the evening and more. Kids will get in free all day and games are free. Adults can secure the buttons at MacDonald's Garage, Board Silly, JJ's Eatery Too, and the Old Orchard Beach Recreation Department.

**COUNCILOR ROBIN DAYTON:**

**The York County Renewable Energy Initiative is hosting a demonstration workshop on Saturday February 26, 2011 for the building and installation of Interior storm windows for your home and office. Interior Storm Windows offer an immediate, affordable solution to stop heat loss in your home. Having trouble paying your heating bill? Can't afford to install expensive new windows? Come to this workshop. We will show you how to lower your fuel bill with this is an affordable solution to reducing the cost to heat your home or office. Anyone interested in saving money on heating cost should come to Kennebunk Power and Light in Kennebunk on Saturday February 26 at 10:00 am. You will learn what materials work best and how to custom make window barriers. No time to make your own window barriers? No problem. We have affordable installation alternatives. The York County Renewable Energy Initiative is a partnership of volunteers working to reduce energy costs in York County. We promote energy efficiency through demonstrations, workshops, and renewable energy installations using the tried and true**

barn raising model. Please R.S.V.P to 450-8141. For more information please e- mail Atlantichousewrights@yahoo.com

**COUNCILOR O'NEILL:** Our sincere thanks to the American Legion, Post 57, presented the Town with a check for \$3,000 this morning to be used for the Memorial Day Parade. We are constantly amazed at the generosity and kindness of the members of the American Legion who give donations to so many worthy causes in our community. This gift will enable us to have again the best parade in the State of Maine. The Governor of the State of Maine will be our guest speaker at the Memorial Day Parade this year. He had six invitations but accepted Old Orchard Beach's and we are pleased to have him in attendance and thank Paul Golzbein for making this happen.

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

Following our Council Meeting this evening we will have a Workshop on Parking Issues.

Thursday, February 24<sup>th</sup> – 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 Sewer User Fee and Pay to Throw.

**ACCEPTANCE OF MINUTES:** Town Council Workshop of January 27, 2011; and  
Town Council Meeting of February 1, 2011.

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

**VOTE:** Unanimous.

**PUBLIC HEARING NUMBER ONE:**

Shall we Adopt The Property Assessed Clean Energy Program (PACE)?

**CHAIR:** I open this Public Hearing at 7:06 p.m. p.m.

**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 124<sup>th</sup> 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 124<sup>th</sup> 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.**

Councilor Dayton expressed her appreciation to the Code Enforcement Officer for bringing this matter forward. Chair Quinn asked if this is applicable to the whole Town to which the Code Enforcement answered that it was.

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

**PUBLIC HEARING NUMBER TWO:**

**Shall we 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?**

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

**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 sub district – 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.**

**MIKE NUGENT:** The Code Enforcement officer had presented a letter from Joe Guarino who lives on the Ross Road abutting the Goosefare Brook. Mr. Guarino had requested that the definition of Normal High Water Line be changed to eliminate the language that says:

“For wetlands adjacent to Goosefare Brook, the normal high water line is the upland edge of the wetland and not the open water.” He is also requesting Stream Protection Zone delineation be reduced from 150 feet from the Brook to 100 feet. The Code Enforcement Officer indicated that Mr. Guarino indicate he has had problems with excessive zoning restrictions and different interpretations of the Zoning Ordinance since 1993 and stated that each time a new planner comes along his house changes from “in the buffer zone” to “not in the buffer zone.” He stated that he had an issue with the definition of Normal High Water line and that part of the new Shoreland Zoning Code is not part of the Department of Environmental Protection’s (DEP) definition and that as a result the measurements in the upper Goosefare Brook/Ross Road area are from the upland edge of wetland vegetation and not from the actual brook and that the upland edge rule he believes is used only in Shoreline Resource Protection (SRP). Mr. Guarino stated that he was told by the DEP that in his area the upland edge would not apply because there are not ten or more acres of woodland so they would only require 75 feet from the actual brook or Normal High Water Line. One of the other issues that Mr. Guarino raised was under Stream Protection and the removal of some of the wording which would put the Goosefare Brook back to normal Old Orchard Beach regulations that are proposed to be 100 feet. He felt there is no legitimate reason why only one section of one brook should have these special rules. Mr. Guarino continued by saying that he did not feel it was fair that a piece of land that has no visible water on it and is full of large trees (forested wetland) should have a larger setback than an actual body of water, such as Milliken Mills Pond – only a 100-foot setback. He felt that creating conservation areas and protecting critical areas is a noble cause but should be done by working with the landowners, fund raising to purchase land, etc., and not by changing someone’s zoning.

Each of the Councilors posed questions to the Code Enforcement Officer about why this change should not be made before it goes to the Council for approval. The question was raised as to whether this would go back to a Public Hearing although the Code Enforcement Officer indicated that it would be advisable to move this forward and then further in the process move to amend the ordinance to make the changes as requested above once the Planning Board again has the opportunity to review. The Code Enforcement Officer indicated that is believed the Guarino request is reasonable and is in compliance with the State’s Model Ordinance and still provides adequate protection for the Goosefare Brook. The Code Enforcement Office spent some time reviewing the maps of the zoning changes and assuring the Council of the compliance with the DEP requests.

**CHAIR:** I close this Public Hearing at 7:30 p.m.

**PUBLIC HEARING NUMBER THREE:**

Shall we Amend Chapter 22 – Emergency Services by adding the New Article III; The Emergency Management Ordinance?

**CHAIR: I open this Public Hearing at 7:31 p.m.**

## **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 Glass and the Town Manager explained that this is a proposed Emergency Management Ordinance that would clearly define the role of the emergency management director. Fire Chief John Glass currently serves as the Town's emergency management director. The Town Manager indicated that when the Town was working with the York County Emergency Management Agency on a warming shelter project, it became apparent that there was no official document authorizing the position of emergency management director. All municipalities in Maine have this emergency management ordinance. The Town Manager indicated that in a crisis emergency situation there tends to be a lot of people there with a lot of opinions on how to manage these emergencies and conflicts can arise. The proposed ordinance clearly states that in an emergency, the emergency management director (in our case, Chief John Glass) is the person in charge. In the present Town ordinance the duties or powers of the emergency management director are "not spelled out" and the proposed ordinance would clearly define those perimeters. Chief Glass indicated that "we have had an emergency management director and it's all been in place, but we haven't had a specific ordinance until now." The proposed ordinance states that the emergency management director is appointed by the Town Council upon the recommendation of the Town Manager and shall coordinate the activities on the fire, police, code enforcement, public works and planning departments with respect to emergency management. The ordinance defines emergency management as "the coordination and implementation of an organized effort to mitigate against, prepare for, respond to or recover from a disaster. 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. Jerome Begard encouraged the Charter Review Commission have the opportunity to include this in the changes being suggested and the Code Enforcement Officer indicated that was acceptable as well.

**CHAIR:** I close this Public Hearing at 7:35 p.m.

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

**CHAIR:** I open this Public Hearing at 7:36 p.m.

**Chad & Tricia Morin** (205-19-30), 36 Foote Street, one year round rental; **Wayne Smith & Jeffrey Davenport** (207-2-14), 10 Forest Avenue, one year round rental; **Town of Old Orchard Beach – The Ballpark** (207-3-6X), 14 E. Emerson Cummings Blvd.,

request to waive the \$150 License Renewal Fee for their Victualers with Preparation license; and Fly by Night, Inc., dba/Spill the Wine (306-5-2), 6 East Grand Avenue, retail.

**CHAIR:** I close this Public Hearing at 7:38 p.m.

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

**VOTE:** Unanimous.

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

**CHAIR:** I open this Public Hearing at 7:38 p.m.

Dominator Golf, LLC dba/Dunegrass Golf Club (105A-1-200), 200 Wild Dunes Way, Club House, Live Music piped in Inside and Outside, 6:00 a.m. to 1:00 a.m.

**CHAIR:** I close this Public Hearing at \_\_\_\_ 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:**

I will be starting my report by listing the current committee vacancies. I will try to do this regularly in hopes of reminding people that opportunities to serve the Town do exist.

***BOARD VACANCIES***

- ✓ **Ballpark Commission**
  - (1) regular after Dave Goyet's resignation tonight
  - (2) alternates
- ✓ **Community Animal Watch Committee**
  - (1) alternate
- ✓ **Board of Assessment Review**
  - (2) alternates
- ✓ **Comprehensive Plan Committee**
  - (1) regular
- ✓ **Conservation Commission**
  - (1) alternate
- ✓ **Design Review Committee**
  - (1) regular and (2) alternates
- ✓ **Finance Committee**
  - (1) regular and (2) alternates

- ✓ **Planning Board**  
(1) alternate
- ✓ **Recycling Committee**  
(1) regular
- ✓ **Zoning Board of Appeals**  
(1) associate

**I have been busier than I have been since becoming your Town Manager. I am not sure why but being away next week is likely part of the problem.**

**We are currently interviewing five candidates for the Town Planner position. We had anticipated completing the interviews by Friday afternoon; however one candidate is not available and rescheduling this interview will extend the time table.**

**I am working on researching performance document to be when reviewing my strengths and weaknesses regarding my performance.**

**We are working on a new purchasing policy and purchasing manual.**

**Reviewed all the job descriptions for Public Works condensing them to a more realistic number in participation as it regards the eleven employees.**

**I represented Old orchard Beach in Haverhill last week at a Northern New England Passenger Rail Authority Downeaster Station Managers meeting.**

**Our Health Trust meeting for employees went well.**

**Lots of Ballpark meetings and tournament workshops.**

**Chief Kelly, Chief Glass and Deputy Chief Babin and I have been meeting with Kennebunk to see if we can partner together since Kennebunk has voted to have Sanford Dispatch for them.**

**Many department meetings regarding the budget and lots of discussion with the Finance Director regarding the new budget.**

**Attended the new Police Station construction meeting.**

**Had two meetings with Department Heads regarding Parking issues.**

**Met with the Planning Interview Team in preparation for the Planner interviews.**

**The Council requested information on the meeting with Patry over the tower agreement and also and update on Little River. The Town Manager indicated he would provide this.**

**NEW BUSINESS:**

**# 5345 Discussion with Action: Accept, with regret, the resignation of David Goyet from the Ballpark Commission.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Accept, with regret, the resignation of David Goyet from the Ballpark Commission.**

**VOTE; Unanimous.**

**# 5346 Discussion with Action: Approve the Special Event Permit application for the Old Orchard Beach Recycling Committee to hold "Earth Day" in Memorial Park on Saturday, April 16<sup>th</sup>, 2011, rain date Sunday, April 17<sup>th</sup>, 2011, from 10 a.m. to 2 p.m., to possibly include a BBQ; and a request to waive the fee.**

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

**VOTE; Unanimous.**

**# 5347 Discussion with Action: Approve Liquor License Renewal of Dominator Golf, LLC dba/Dunegrass Golf Club (105A-1-200), 200 Wild Dunes Way, s-m-v in a Restaurant/Golf Club.**

**MOTION: Vice Chair Tousignant motioned and Councilor O'Neill seconded to approve the Special Event permit as read.**

**VOTE: Unanimous.**

**# 5348 Discussion with Action: Approve the request of Central Maine Power to attach to a Ballpark Light Pole a transmitter for registering smart meters with a donation to the Ballpark Commission in the amount of approximately \$250 to \$300 a month; and a formal agreement to come back to Town Council for approval.**

**The Town is considering a deal with Central Maine Power Company (CMP) to install a transmitter for registering smart meters on a light pole at the Ballpark. In return, CMP would give \$250 to \$300 a month to the Town, possibility to The Ballpark Commission. The Town Manager indicated that a representative from CMP had contacted him about the possibility of putting up a transmitter on a light pole in the Ballpark if and when the smart meters are installed in Town. The CMP representative described that size of the transmitter as the size of an office wastebasket. The transmitter needs to be in a high location and the CMP representative thought a light pole at the Ballpark would be a good location. If the Town decides to move forward with the proposal, the Council will vote to**

approve a contract at a later date. Should a contract be signed, CMP would pay the Town a monthly lease fee and the Town Council would decide where the revenue would be directed. No date has been set for the installation of the proposed transmitter and the Town Manger indicated he would address the Council's concerns. Councilor MacDonald said that she felt the proposed lease fee was too low and the emergency dispatch towers are able to get much higher license fees. She indicated that she was not against but felt the fee is low but said she supported moving this forward and letting the Town Manager negotiate. Councilor Dayton suggested that the Town Manger have a discussion with the Public Utilities Commission because she questioned whether this fee offered was a set fee as it had been stated. Vice Chair Tousignant agreed with the idea but suggested that CMP as part of the deal could waive the surge fee to turn on the lights at the Ballpark, which is about \$950 a month, for each month the lights are turned on. The Town Manger indicated he had discussed this with the Ballpark Commission and took their suggestions into consideration.

**JEROME BEGART:** As this agenda item resembles a preliminary resolution with a "formal agreement" to come back to the Council later, please motion to amend, so that before you engage this agreement you authorize the Town Manager to instead offer to Central Maine Power Company Stadium Naming Rights (CMP Stadium at the Old Orchard Beach Ballpark) in exchange for continual perpetual (year-round) free electricity for our complete Ballpark facility. That will transform our \$16,000-plus electricity expense, by virtue of its absence, into a stealth-form of revenue. As a consequence our Ballpark will sooner achieve being financially self-sustaining revenue – source, rather than a struggling tax-expenditure. As naming rights go, that is a Bargain for CMP. Then as CMP piggybacks its transmitter's electricity-use from our line, CMP pays for it, not we the taxpayers. That plan is better than this agreement (your agenda item) which allows CMP to piggyback their transmitter's electricity-use onto our electric bill without metering separately and paying for it themselves. CMP's explanation for that was: "You shouldn't notice the difference in electricity-use." This agreement, as is, triggers your fiduciary responsibility to demand from CMP documented scientific and financial proof that: this is a phone line-connected receiver, and not an electricity- guzzling transmitter; and how much taxpayer-funded electricity this receiver uses, and the consequent average cost (documented.) Otherwise unaccountability allows CMP to add to their profit-line at taxpayers' expense. Beyond that, in the agenda item's language the word "donation" is a fuzzy term that implies noncommittal voluntary status. This is a transmitter-mount rental fee. It must be rigidly set and not be flexible or approximate. The smart meter system which will terminate the jobs of most meter-readers makes CMP massively more profitable with little investment, as federal-government taxes have paid for it. Rental fees are deductible form CMP's corporate income taxes, as the cost of doing business. The fee should be more than \$200-300. Try \$500 to \$800 per month. Don't sell us short. Last year the Town Council demanded a public reading of the letter-of-intent for the new baseball team, to play 20-some games, while they give us \$10,000 for a few weeks of ballpark-use. This is a similar situation. As you leapfrog over the charter-law required public-hearing for significant impact agenda items surely (at least) a public contract reading is imperative. Get proof that this is a receiver (not a transmitter); get proof of the receiver's electricity-use and costs, which this agreement requires taxpayers to swallow; and contractually label this as a transmitter-mount rental fee, not a fuzz flexible approximate voluntary noncommittal donation. Fiduciary responsibility means exercising foresight to avoid costs, rather than it incurs costs. Don't sell us short. Do, as an

alternative, authorize the Town-manager to offer CMP stadium-naming rights, in exchange for continual perpetual year-round free electricity for our Ballpark. For that, Old Orchard Beach taxpayers will thank you.

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve the request of Central Maine Power to attach to a Ballpark Light Pole a transmitter for registering smart meters; and a formal agreement to come back to Town Council for approval.

#### **GOOD AND WELFARE**

**SARA MORING:** She spoke of the Public Works Department work on the sidewalks and said they were much better. She again suggested that the beach needed to be cleaned of the snow as well so people could walk. She also mentioned again that she was pleased that the General Assistance amount provided to citizens has been raised because she felt there were an enormously great number of people in Town needing assistance.

#### **ADJOURNMENT**

**MOTION;** Councilor O'Neill motioned and Vice Chair Tousignant seconded to adjourn the meeting at 7:50 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 seventeen (17) pages is a true copy of the original Minutes of the Town Council Meeting of February 15, 2011.

V. Louise Reid