

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, March 15, 2011
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, March 15, 2011. Chair Quinn opened the meeting at 7:02 p.m.

Pledge to the Flag

Roll Call:

The following were in attendance:

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

EMERGENCY MOTION:

CHAIR: I would ask for a motion to include an Emergency Item to be added to the Agenda.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to add an Emergency Item to the Agenda pursuant to Section 404.1 of the Town Charter – Agenda Item Number 5365 before Agenda Item 5364 –Discussion with Action: Adopt the Order that the Police Chief and Deputy Police chief are both designated as contact persons authorized to accept forfeited property and take delivery of related transfer documents and/or money under the Federal Comprehensive Crime Control Act of 1984.

VOTE: Unanimous.

ACKNOWLEDGENTS:

VICE CHAIR TOUSIGNANT: A special thanks to the American Legion and to OOB 365 for the Community Dinner held there on Sunday. It was great to see groups of citizens of all ages joining together and enjoying not only a great meal but also an opportunity to chat around the table and get to know new friends. Our thanks to the American Legion for the use of their hall and for all the volunteers who joined in to make this a success. To those who attended, we will be having more of these and would invite those who have not attended to join in this community celebration.

COUNCILOR DAYTON: She requested that the Sea Level Adaptation Group report be put on the web site. She indicated that it is a quality report and should be shared with the public.

CHAIRMAN QUINN: I would remind citizens that our budget workshops begin this coming Thursday, March 17, 2011 at 7:00 in the Town Council Chamber when the Assessing Department and the Police Department will present their budgets for 2012 to the Town Council.

ACCEPTANCE OF MINUTES: Town Council Workshop Minutes of February 24, 2011; and Town Council Minutes of March 1, 2011.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to Accept the Town Council Workshop Minutes of February 24, 2011 and the Town Council Minutes of March 1, 2011.

VOTE: Unanimous.

PUBLIC HEARING: 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?

CHAIR: I open this Public Hearing at 7:07 p.m.

These amendments deal with mandated Shoreland Zoning.

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

BACKGROUND:

At the last Town Council meeting, the Council instructed the Code Enforcement Officer to proceed with the ordinance change and moved to have another Public Hearing. The changes were made and presented to Council.

From: Mike Nugent/ Code Enforcement Officer

Date: 4/7/2011

Re: Shoreland Zoning/Citizen Change Request

Mr. Joe Guarino lives on Ross Rd. abutting Goosefare brook. He is requesting 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 mater line is the upland edge of the wetland and not the open water”

(His letter has been provided to Council).

He is also requesting Stream Protection zone delineation be reduced from 150 feet from the brook to 100 feet.

Attached is the final revision of the Shoreland Amendments to the Zoning Ordinance. It is exactly like the 1/27/11 draft except the only differences are as follows:

Definitions Section 78-1:

Height of a wireless telecommunications facility definition was put back to its original writing, correcting a previous mistake by the consultant.

Normal high water line of inland waters was amended by deleting the following:

~~For wetlands adjacent to Goosefare Brook, the normal high water mark is the upland edge of the wetland and not the edge of the open water.~~

Shoreland zone Normal high water line of inland waters was amended by deleting the following:

(3) One hundred ~~fifty~~ feet, horizontal distance, of the normal high water line of the non tidal portion of Goosefare Brook upstream of the Boston and Maine Railroad bridge;

Sec. 78-1182. Establishment of Shoreland Zone Sub districts.

(f) *Stream protection sub district (SP)*. This sub district includes all land areas within one hundred (100) feet, horizontal distance, of the normal high water line of a stream and all land areas within 100 feet of the high water line of the non tidal portion of the Goosefare Brook, located from the Boston and Maine Railroad tracks upstream to the Saco border

There was over an hour of discussion on the Shoreland Zoning issue. Ginger McMullin, Chair of the Conservation Commission, spoke about concerns of the Commission.

Summary of Comments from Conservation Commission to Town Council on March 15, 2011

Ginger McMullin, Chair of the Conservation Commission provided comments on behalf of the Conservation Commission, which had discussed the recent changes to the Shoreland Zoning ordinance at their meeting the night before. The Conservation Commission asked that the Town Council consider changes to the current proposal in three areas:

1. Under the definition of Wetland, Freshwater, it was suggested that the council insert wording into the definition as follows: Wetland, freshwater, for the purposes of Shoreland Zoning, means a freshwater swamp, marsh, and bog or similar area, other than a forested wetland, which is:

(1) of ten or more contiguous acres; or wetlands...that do not conform to the criteria of this definition.

Note: Permits for freshwater wetlands smaller than 10 acres may be required from the Maine DEP or U.S. Army Corps of Engineers.

The concern of the Conservation Commission here is that if people read only this zoning ordinance, they may get into trouble if they are not aware that they may need permits from other entities.

2. The Commission expressed concern that the Shoreland zone around Goosefare Brook has been reduced from 150 to 100 feet. Early in the process, they were assured that present protections under Shoreland zoning would not be lessened. The Shoreland zone here has been 150 feet since 1993. Goosefare Brook is defined by the State as an impaired stream, and many people are working to improve water quality here, including our neighbors in Saco where the buffer is set to 150'. Goosefare Brook is especially important to Old Orchard because the heavily used swimming beach at its mouth. The Commission asked that the resource protection zone here remain, and that it be maintained at 150 feet.

3. Finally, the Commission commented on the change of the zoning of the Town-owned parcel that contains the Milliken Street parking lot from Resource Protection to General Development. A handout was given to the Council that showed a portion of the beginning with habitat maps from the Maine Department of Inland Fisheries and Wildlife. The handout showed that the majority of this area is a wetland (shown in green) which is identified as being valuable for flood control. The observation was made that the Town is spending a great deal of money dredging a channel adjacent to the property in an attempt to alleviate flooding. The Commission feels that an area providing flood control is indeed a valuable resource in the area, and needs to be identified as such. If kept in Resource Protection as originally proposed in the Shoreland zoning revisions, many uses including single family residences and accessory structures would still be permitted. The Commission asked that the council keep this area in Resource Protection.

John Bird spoke several times and presented a memo to the Council of suggested changes. He stated that the ordinance amendment was flawed because it indicates that the Shoreland map resolves conflicts in the text in one section but states a contrary position later in the document. He expressed concerns about Ocean Park flooding being affected by the reduction of the delineation of the zone surrounding Goosefare Brook. He indicated that it was spot zoning. He did say that the ordinance is contradictory; difficult to read and contradictions specifically in the area of definitions. He did not agree with the map change for the Milliken Street parking lot parcel and urged the Council to become more familiar with the Zoning map. Councilor Dayton asked if the Milliken Street parking lot map changed prior to the March 1st meeting and the Code Enforcement Officer answered that it did. Dusty Guarino inquired why the Town was zoning her area more restrictively than the State Department of Environmental Protection. Joe Guarino asked that the changes that had been presented be adhered to although it appeared that many in the audience did not agree with the change being made. Andrea Berlin proposed that we keep our current stream protection standard and stated that without the set backs, decks, patios and other changes would begin to erode the buffer and that the Town should not give up the control over these matters. Mr. Eric Begin asked that the current changes being presented this evening be retained. Councilor Shawn O'Neill reminded everyone that this whole Shoreland Zoning discussion and review has been completely open process with workshops, public hearings, and discussions and that indeed the Code Enforcement Officer was requested to move ahead as he has done in the presentation of the public hearing this evening. He said there are no secrets here and everything is above board. Discussion ensued regarding resource protection and general development for the Milliken Street Parking lot. The

question was asked about when the ordinance would begin; the Code Enforcement officer said he thought as soon as the Council approved it under new business; however has since learned that unlike normal ordinances, the Shoreland amendments will not become effective until the State's Department of Environmental Protection approves them.

CHAIR: I close this Public Hearing at 8:07 p.m.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 8:07 p.m.

Alfred T. Simpson – Street Musician – Downtown Area - Personal Service, and a request to waive the fee; Jeffrey Cyr (103-1-5-40), 56 Ross Road, #40, one year round rental; Ron E. Ricchiuto (301-7-10-22), 190 East Grand Avenue, #22, one year round rental; Lafayette Waves Inc., dba/West Grand Market (313-6-1), 77 West Grand Avenue, Retail – Victualers with Preparation and Alcohol; Lafayette Waves Inc., dba/The Goodie Bag (313-6-1-A), 77 West Grand Avenue, Retail, Victualers without Preparation and No Alcohol Sales; Lafayette Waves Inc., dba/Beach Street Café (313-6-1-B), 77 West Grand Avenue, Victualers with Preparation and Alcohol; Philip & Robin Pelletier (318-8-6-78), 146 West Grand Avenue, #78, one year round rental; and Wilbur & Joan Carter, Carter, Kirk A. Trustee (323-9-6), 30 Randall Avenue, one seasonal rental.

CHAIR: I close this Public Hearing at 8:10 p.m.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT AND APPROVAL

CHAIR: I open this Public Hearing at 8:11 p.m.

New England Restaurant Group dba/Pirates Patio & Galley (304-2-9), 2 Walnut Street, Amplified Music and Dancing – Inside and Outside – 12:00 p.m. to 9:00 p.m.; J.J. Eatery LLC dba/J.J.'s Eatery II (306-5-1-F), 12 B Old Orchard Street, Single Acoustics Inside and Outside – 6:30 p.m. – 11:00 p.m.; Fly by Night Inc., dba/Mr. Goodbar (306-5-2), 6 East Grand Avenue, Live Music, Bands, DJ's Inside – 7:00 p.m. to 1:00 a.m.; Patio Pub Inc., dba/Pier Patio Pub (306-6-1-J), 2 Old Orchard Street, Amplified, Bands, Solo's, Comedy, DJ's Inside and Outside – 11:00 a.m. to 1:00 a.m.; and Patio Pub, Inc., dba/Hooligan's Landing (306-6-1-DD), 2 Old Orchard Street, Solo & Duet Acts, Comedy – Inside – 11:00 a.m. to 1:00 a.m.

CHAIR: I would like a motion to address New England Restaurant Group dba/Pirates Patio & Galley (304-2-9), 2 Walnut Street, Amplified Music and Dancing – Inside and Outside – 12:00 p.m. to 9:00 p.m. separately.

VOTE: Unanimous.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to address New England Restaurant Group dba/Pirates Patio & Galley (304-2-9), 2 Walnut Street, Amplified Music and Dancing – Inside and Outside – 12:00 p.m. to 9:00 p.m.;

VOTE: Unanimous.

Ms. Louise Berthiaune indicated that her home is facing the business and that over the last summer there were many times that she and those who were in her home were irritated by the noise (music). She indicated she had been at the Council meeting last year to request an earlier time closing than 9:00 p.m. and that it appears the 9:00p.m. time frame is on the amusement permit this year again. She also spoke of the need to control smoking as it is really a health issue for she and the other neighbors who live close by and that there should be a designated smoking area which is clearly defined to the people in the bar. Mr. Anthony Giudice who represented the business spoke immediately to say that they would take an 8:00 p.m. adjustment to the amusement licenses and that they would seek to work with the neighbors on the smoking issue. In addition the Code Enforcement officer indicated that he would work with the groups to address this issue. Councilor Dayton thanked everyone concerned for their willingness to work together.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to table this item till the next meeting to approve the Special Amusement Permits for New England Restaurant Group dba/Pirates Patio & Galley (304-2-9), 2 Walnut Street, Amplified Music and Dancing – Inside and Outside – 12:00 p.m. to 8:00 p.m.; noting the ending hour to be 8:00 rather than 9:00 p.m.

VOTE: Unanimous.

CHAIR QUINN: I close this Public Hearing at 8:22 p.m.

CHAIR QUINN: I open this Public Hearing at 8:22 p.m.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to approve the Amusement Permits for J.J. Eatery LLC dba/J.J.'s Eatery II (306-5-1-F), 12 B Old Orchard Street, Single Acoustics Inside and Outside – 6:30 p.m. – 11:00 p.m.; Fly by Night Inc., dba/Mr. Goodbar (306-5-2), 6 East Grand Avenue, Live Music, Bands, DJ's Inside – 7:00 p.m. to 1:00 a.m.; Patio Pub Inc., dba/Pier Patio Pub (306-6-1-J), 2 Old Orchard Street, Amplified, Bands, Solo's, Comedy, DJ's Inside and Outside – 11:00 a.m. to 1:00 a.m.; and Patio Pub, Inc., dba/Hooligan's Landing (306-6-1-DD), 2 Old Orchard Street, Solo & Duet Acts, Comedy – Inside – 11:00 a.m. to 1:00 a.m.

VOTE: Unanimous.

CHAIR QUINN: I close this Public Hearing 8:23 p.m.

TOWN MANAGER'S REPORT:

I am providing a very generalized Town Manager's report because I left my trusty 1940 electronic calendar home today. My time has primarily been spent on the budget in anticipation of tonight's unveiling. This is supposed to be a Manager's Budget but hours have been spent in conversation and dialogue with staff. Thank you to the staff and to Jill. The remainder of my schedule has focused on the Ballpark and you will hear more about that when we discuss the Recreation Department Budget and a little tonight during the Budget presentation. I would like to have Jason Webber update you tonight on the Skateboard Park. Soon after I will discuss with you the proposed 2011/2012 budget. Louise also wanted me to remind you there is a change in the Budget Workshop Schedule. The Workshop scheduled for Thursday, March 24 has been cancelled and will be rescheduled because of a schedule conflict.

Jason Webber introduced James Albert who presented a check for \$1,600 for the Recreation Department to be used for the summer program scholarships. The continued generosity of Old Orchard Beach Business Owner, James Albert, has continually benefited the Old Orchard Beach Summer Camp Scholarship Program – *Send a Kid to Camp* by sponsoring the JIMMY THE GREEK’S FROZEN 4 MILER. Jason Webber, Recreation Director, backed up by a good number of high school students in the audience, discussed the fundraising goals to help build a skate park for Old Orchard Beach. He said – “You’ve seen them all around Town. In the parking lot and sidewalks of Town Square. Up and down Old Orchard Street. Here, there, and everywhere. Old Orchard Beach kids and their skateboards. Having fun in the only place available to them. Just like their friends they are having fun, bonding, and enjoying a sport they love, but with no other “field” than a parking lot or a busy sidewalk or street. We want to make a change! The creation of a skate park will provide Old Orchard Beach kids opportunities to enhance their skills and talents socially and athletically but just as importantly, safely. By supporting a community skate park we are not only showing the kids that we care about their safety, but that we also care about their interests.” It is expected that they will need to raise \$90,000 to create a skate park. They have already received \$30,000 from the Town Council as part of the CIP budget. They have also received a grant from the Tony Hawk foundation of \$5,000. Consideration of the placement of the skate board park will be safety and sensitivity to the needs of the neighbors. A suggestion has been the Ball Park. Proximity to the Police Station and the Ball Park will provide the passive supervision that has proven most effective in successful skate parks through the United States. The project is administered through the Recreation Department. Eric Santos who serves on the Recreation Board talked about a fund raiser being held and encouraged the Town Council to support the plan for the Skate board park.

5355 Discussion: on: Presentation of the 2012 Fiscal Year Municipal Budget.

TOWN MANAGER: The Town Manager will present to the Town Council his recommendations for the 2012 Fiscal Year Municipal Budget.

**TOWN MANAGER’S BUDGET PRESENTATION
TUESDAY, MARCH 15, 2011**

The Proposed 2011/2012 Budget contains some strategies that fall under:

1. Reduced Cost of Operations
2. Thinking out-of-the box
3. Doing things differently
4. Utilization of staff talent.

My philosophy of meeting long-term goals or implementing change is taking baby steps. It is my belief, in a small organization, major changes or upheavals create dysfunction, chaos and lack of spirit and productivity. So I usually work under the “one small step at a time philosophy.” Everyone in this room understands the challenge of the Budget constraints in these difficult economic times. Yes, the recession may be lessening but the Town budget

remains a challenge. Cost of operating the Town is constantly increasing and revenues are now constantly decreasing.

There are major ways to address this problem:

1. Reduce operating costs to offset budget increases.
2. Increase revenues to offset the losses.
3. Collect more tax revenue; or
4. Combination of some (4) or all.

One of the most common misconceptions that I have learned in my new career is there is a very far reaching connection to having an outstanding Old Orchard Beach summer and the Town Budget.

Certainly as a Town Manager you hope and pray for a great tourist summer which in turn supports businesses and maintains a healthy economic community. But great summers do not directly increase Town revenue; in fact great summers result in increasing municipal costs. Now the positives out way the negatives by far and economic stability are by far the most important component of the Town. But it takes awhile to explain to my non-municipal-oriented friends why Old Orchard Beach's budget is not on an economic high when Old Orchard Beach had a banner summer.

I don't have any long-term solutions to Old Orchard Beach's challenges; costs will continue to go up to operate the Town; cost saving plans and reductions will always be an option but less and less each year as the budget becomes more and more frugal with staff and operational expenditures. This budget has fewer employees and more employees multi-tasking and it includes some ideas and suggestions for your consideration.

No one has directed me to reduce staff. No one has directed me to add new staff. Last year because I had only four or five months experience, I tip-toed through the budget process. This year I have confidence and experience enough to be able to position myself to become more directive, confident and passionate regarding my thoughts and suggestions. Even with my built up level of self confidence I will respect your position, your opinion and your final decision. I have never lost site of my position and responsibilities while recognizing that the Town is your Town and I am here to serve you. I started formulating this budget during the last year budget discussion and continue to fine tune points of the budget as late as this morning. In fact I have a meeting with a group tonight that is working with me to fine tune more of the budget even after tonight. My work is not done; it is just beginning. The municipal expenditure side of the budget is almost a flat 0%. In fact, except for a last minute change by Waste Water it could have easily been decreased. The Waste Water budget has an expenditure which is needed and substantially and technically isn't a capital project. In order to accommodate for its expenditure, I have reduced the Waste Water original \$300,000 capital Budget to \$250,000.

In the area of staffing the Budget reflects the following staff adjustments:

- A partial reduction of an Administrative staff in the Police Department;
- Elimination of a Position in Planning.
- Elimination of the Assistant Town Manager position.

Reduction of the Assessing position to a half-time position.
The reduction of a full time position in Code.
The reduction of a full time position in Finance.
A reduction of a Receptionist position in Recreation.
Reduction in Administrative Assistant time at Public Works.
I have asked the Finance Assistant to accept the responsibility of Human Resource Director/Assistant to the Town Manager.

I have also taken the liberty to address new challenges. Additional expenditures; The Police Station will need a second shift night Office Manager and I have included \$25,000 to the Recreation Department budget to provide money for salaries to manage the areas of the Ballpark operation. This, of course, will be explained in detail when we address the individual budgets. Since I am on the major changes discussions, let me continue – not in order of importance.

The new Police Station budget will be approximately \$53,700.

Maine State Retirement - \$41,500
Health Insurance - \$105,000
Shuttle Bus - \$35,000
Labor Cost – dealing with 5 Union negotiations.
Waste Water - \$50,000
County Tax - \$24,000
Solid Waste - \$80,000
RSU - \$400,000

Even with all these increases the municipal budget (excluding Revenue and the School Budget) is increased less than 1/2 % of 1% - a .44% increase. I have not budgeted or addressed any changes to parking enforcement in the area of Capital expenditures but I did include \$17,000 increase for lot attendees. I have, however, budgeted for staffing at two public bathrooms with the suggestion we charge a fee for bathroom use to offset the \$52,000 dollar expense over the last two years we have paid out in vandalism repairs. Now – there is a major problem addressing staff changes; and the problem is this;

In large cities or larger school districts the budget process is much different. When I was the Superintendent in Sanford I had 600 plus employees and when we proposed budget it was simply positions, and seldom personalized.

In a small Town addressing staffing is different. I designed staffing around the strength and weaknesses of individual people. I looked at how we could better utilize staff talent and designed a staff plan accordingly.

This is however, a problem with my approach. Due to personnel decisions continued employment in Old Orchard Beach for some key employees is somewhat uncertain. Therefore a staffing plan could be seriously affected by unexpected changes in personnel. There is also no fund balance inserted into the budget at this moment. If Council chooses they can insert \$618,000 dollars into the revenue side of the budget and still maintain a 12% fund balance level and reduce the impact of this budget to the tax rate.

The revenue side of the budget is the frustrating side of the budget presentation and the Old Orchard Beach Proposed 2012 budget is heavily influence by the revenue shortfall.

**\$100,000 in State Revenue Sharing
\$95,000 in Homestead Exemption Program
\$75,000 in Interest Income
\$500,000 in fund balance
\$234,000 will be taken from Rescue Billing to pay this year's installment
of the new Police Station Bond and fund a new Cruiser.**

This of course is a very broad review of the proposed budget. As the old saying goes: "The devil's in the details."

Expenditure side – the 2011-2012 budget is up by \$467,323 including a guess at the School Budget of an additional \$400,000.

**Total Budget decrease on the Revenue Side
(\$1,089,500) \$one million, eight nine thousand, five hundred decrease of which
\$500,000 is fund balance.**

**Totals – Old Orchard Beach Proposed Budget is \$25,009,679
Compared to last year at \$24,542,356 or an increase of \$467,323 – or \$2.49%.
As it stands right now the impact on the tax is \$1.01 increase.**

**QUICK REVIEW OF
MAJOR CHANGES IN THE
OLD ORCHARD BEACH PROPOSED BUDGET
2011- 2012**

In Random Order:

Town Manager's Office:

- **Elimination of Assistant Town Manager Position. Transfer of staff to Police Station – 2nd shift as Office Manager**
- **Elimination of Assistant Finance Position
Transfer of Staff to Town Manager as
Director of Human Resources/Administrative Assistant**
- **Reduction of Deputy Assessor to ½ time,
Transfer of Staff to ½ Code in replacement
of ½ Code Retirement.**
- **Reduction of 2/3 Police Administrative Position - Based on anticipated
retirement.**
- **Elimination of Recreation Receptionist Position.**

- **Elimination of 1/3 Administration Position at Public Works – Transfer of Staff 1/3 to Finance.**
- **Elimination of Administrative Assistant in Planning Department**
- **Addition of a 2nd Shift Office Manager to the Police Department**
- **Addition of \$25,000 to the Recreation Department Budget for Ballpark operational expenses.**
- **Addition of Bathroom Attendants at the West Grand Comfort Station and the Memorial Park Bathroom**

The Council thanked the Town Manager for his report and reminded citizens of the budget hearing that will be ongoing.

5356 Discussion: Establish a policy for televising Workshops.

CHAIR: Councilor Robin Dayton requested this item on the agenda to discuss the televising policy of meetings and workshops. There have been many more requests for televising meetings and workshops this year which has raised issues of scheduling and staff time.

Councilor Dayton explained that there needs to be a policy on when a meeting is televised and when it is not. We do not have such a policy at this time. The Town Manager explained that this is a subject that we are addressing taking into consideration not only the space that we have but the staff requirements as well. Councilor O'Neill indicated he felt that all workshops should be televised if possible. This will provide transparency in all we do. Chair Quinn said he had spoken with a Board member of the RSU and since they paid for a piece of the equipment that we are using, certainly they should have access to our citizens as well. He also reiterated that he felt the budget sessions should be televised as this is an important part of keeping the public informed about the use of their tax dollars. Councilor MacDonald indicated that she felt transparency is what we do with ourselves and each other and how we interact with one another. Chief John Glass who is largely responsible for the production of the programs said he felt there was a need for an established schedule of meetings to be televised, in the order of importance. Vice Chair Tousignant said it is hard to pick and choose because all the committees are important but it becomes a necessity when you have to consider staffing and time frame schedules. Councilor Dayton suggested exploring the option of audit recording.

John Bird and Jerome Begard reminded the Council that the new Police Community room was promised to be available so that televising could be done. The Town Manager stated that the needs of the Police Department need to be considered, especially June, July and August they need availability in the Police Community Room for roll call three times a day.

Jerome Begard indicated that he was not representing the rest of the Charter Commission at this moment but he had been wishing for over a year that the Town Council would occasionally join the Charter Commission meetings to share their years of experience and

perspectives. There are budget workshops on the near horizon, so you may soon not be available. If you have schedule conflicts during our meetings on March 22 and 24th and April 12 and 26, maybe you will use the webpage [charterTown Council@oobmaine.com](mailto:charterTownCouncil@oobmaine.com)

to forward e-mails to Town Council members. Here are a couple incentives to encourage your input. On Tuesday, April 12, 2011, the Charter Commission will meet at our new police station's conference room. Town Manager Jack Turcotte will outline and explain multiple concerns about proposed charter changes which he collected while conferring with your department heads. You could just receive that outline by e-mail, but as the Town Manager told us: "a bullet point-outline won't convey as well or as much as an illustrative explanation. So if you want to know which proposals raised red flags among your executive branch, that meeting is on at 6:30 p.m. at the new police station conference room. Here's another topic – if voters approve it, the new charter goes into effect at the start of the new fiscal year – July 1, 2012. In the Town-attorney's report of advice, he (not the Commission) proposed that the transition from five to seven town-Councilors should be done all-at-once, on November 6, 2012...making all seven council seats into vacant seats. That makes whoever gets elected this November (2011) into a one-year Councilor, who must run for reelection again and win (on November 6, 2012), or lose and leave office (on November 19, 2012.) That also discombobulates the Charter Commission's original government-continuity/stability-theory of staggering the seven (7) Council seats (each November) by electing two three-year terms and one one-year term, to avoid uneven turnovers. Putting all seven seats up for grabs in November 2012 could be a horrific turnover, with all seven Council-race winners being newcomers who are inexperienced at governance and budgeting. Also in the Town attorney's plan, the November 2012 election would spontaneously establish the staggered terms, by offering: two candidates for three year terms; two for two year terms; and three candidates for one-year terms. Notice I said, "candidates", not councilors because that won't resemble run-off vote-calculations of which candidates got the most votes, That means that candidates (including incumbents) must declare on their nomination papers (for November 2012) whether they are competing for the two three-year terms; or two two-year terms; or the three one-year terms. If all candidates want three-year terms, then five seats go unfilled. If candidates choose three and or two year terms, but none choose to declare for the one-year terms, three seats remain vacant. Charter Commissioners previously discussed a less dramatic/less problematic transition-plan, but since I cannot personally remember it, you will need to attend a Charter meeting on March 22 or 29, or April 12 and 26 to learn more or at least start exchanging e-mails with chartercommission@oobmaine.com --go ahead...I know you want to. Thank you.

The Town Manager agreed to prepare a summary of the various committees and other needs for use of facilities and present it to the Council in what he considers to be the order or importance in the sense of needing television production and staff availability.

5357 Discussion with Action: Amend Article II, Town Council, Section 2-72, Tabling motions, and add Section 2-97, Rules of Procedure are Town Council Policy.

CHAIR: The Council discussed the need for the new Rules of Procedure which are listed below:

Rules of Procedure

Amend Section 2-72 by deleting the strikethrough language and adding the underscored language:

Sec. 2-72. Motion to table.

~~At a meeting of the Town Council, all motions to table, except a motion to table indefinitely, may be amended as to time. If a motion to table indefinitely is carried, the principal question shall be declared lost.~~

The Council may table an agenda item by any of the following three motions:

(1) Motion to lay on the table. This motion is not debatable and not subject to amendment. The effect of this motion is to continue the agenda item until the next meeting of the Council. There is no limit on the number of times an agenda item may be continued by a motion to lay on the table.

(2) Motion to postpone to a day certain. This motion may be amended as to the postponement date and debate is allowed.

(3) Motion to table indefinitely. This motion, which may also be described as a “motion to remove without prejudice,” is not debatable and not subject to amendment. If passed, the effect of the motion is that the principal question is deemed lost. However, that does not preclude the reintroduction of the principal question as a new agenda item for a subsequent Town Council meeting.

Add a new Section 2-97:

The rules of procedure set forth in this Division 2 are a Town Council policy adopted in order to facilitate the conduct of the council’s business. They are not an ordinance, and they may be revised by majority vote of the Town Council at any time, provided the proposed revision is filed in compliance with section 2-54 (“Filing of items for meetings”).

A memo from the Town Clerk to Legal Council prompted the change in the Rules and Procedures.

Re: Parliamentary Procedure

This memo is in response to questions regarding the Town Council Rules of Order, aka/Rules of Procedure. As you know, the Rules of Procedure are outlined in the Code of Ordinances, Chapter 2, and sections 2-51 through 2-96. Because they are Council rules, and not an ordinance, they can be amended at any Town Council meeting when they’re placed on the agenda. I have asked the codifiers to remove the word “ord” after each section and replace it with “Policy” to avoid future confusion regarding the ability to amend these sections. I have spoken with a Parliamentarian, various Town Clerks, and Richard Flewelling, from the legal department at Maine Municipal Association (a free consultation). Apparently, the term the Town Council has used for many, many years, “Remove without Prejudice” is a court term, but

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not used in Roberts Rules and Order. It is also not referred to in the Town Charter, nor the Council Rules of Procedure. When the Council is removing an item without prejudice, the Council is removing that item from the agenda. The correct terminology is to “table indefinitely”, which is outlined in the Council Rules of Procedure [2-72]:

“Sec. 2-72. Motion to table.

At a meeting of the Town Council, all motions to table, except a motion to table indefinitely, may be amended as to time. If a motion to table indefinitely is carried, the principal question shall be declared lost.”

If a Town Councilor wishes to table an item, the Councilor must make a motion to table to a date certain, i.e. “I make a motion to table this item until the December 7th, 2010 meeting”. If the Town Councilor does not make a motion to table to a “defined date”, the item is lost. If there is a tie vote on any issue regarding the item, the item is “lost”. In other words, if the Town Council has a tie vote similar to Tuesday night, when an item was a 2-2 vote to remove without prejudice, the item is lost. You cannot take any further action on the item at the current meeting. You cannot make another motion to table, or a motion to grant/deny the item. If an item is lost, it can be placed on any future Town Council agenda by any Town Councilor as long as the normal Rules of Procedure are followed for placing an item on the agenda.

The one-year rule does not exist unless the item is an ordinance. Under the Town Charter, section 410, “Sec. 410. Public Hearing on Ordinances.

A proposed ordinance may be introduced in writing by any Councilor to the agenda of any regular or special meeting of the Council. Upon introduction of an ordinance, the Town Clerk shall distribute a copy to each Councilor and to the Town Manager, shall file a reasonable number of copies in the office of the Town Clerk, shall post a copy of the proposed ordinance on the bulletin board in the Town Hall, and shall cause to be published in a newspaper of general circulation in the Town the wording of the proposed ordinance or a title descriptive of its contents and purpose, together with notice of the time and place of public hearing thereon. The public hearing shall follow the publication in the newspaper by at least seven (7) days, may be held separately or in connection with a regular or special meeting of the Council and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. An ordinance shall become effective upon its adoption by the Council or at such other time as it may specify. After the public hearing the Council may adopt the ordinance with or without amendment or reject it, but in no case shall the ordinance be adopted or rejected in less than fourteen (14) days after the public hearing. If an ordinance is amended so as to change substantially its meaning, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure hereinbefore required for a newly introduced ordinance. The above procedure may be waived only as provided in Section 410.1 dealing with emergency ordinances. **The Council may enact rules controlling reintroduction of defeated ordinances, provided that no defeated ordinance may be reintroduced for a period of one hundred eighty (180) days from the date of the meeting at which it was considered.”**

I hope this helps to clarify some questions regarding the Rules of Procedure.

If anyone has any questions, please don’t hesitate to ask me.

Town Clerk
Kim McLaughlin

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Amend Article II, Town Council, Section 2-72, Tabling motions, and add Section 2-97, Rules of Procedure are Town Council Policy.

VOTE: Unanimous.

5358 Discussion with Action: Accept, with regret, the resignation of Jacqui Deveneau from the Recycling Committee; and Accept, with regret, the resignation of Carol Hudson from the Recycling Committee.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Accept, with regret, the resignation of Jacqui Deveneau from the Recycling Committee; and Accept, with regret, the resignation of Carol Hudson from the Recycling Committee.

VOTE: Unanimous.

5359 Discussion with Action: Ballpark fees to remain as currently set until additional information can be presented.

TOWN MANAGER: The Town Manager will update the Town Council on the issue of setting the Ballpark fees.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to have the Ballpark fees remain as currently set until additional information can be presented.

VOTE: Unanimous.

5360 Discussion with Action: Appoint Alan Graves as a Regular Member of the Ballpark Commission, Term to expire 12/31/2012; and Appoint Patricia Driscoll as a Regular Member of the Comprehensive Plan Committee, term to expire 12/31/2011.

MOTION: Vice Chair tousignant motioned and Councilor O'Neill seconded to Appoint Alan Graves as a Regular Member of the Ballpark Commission, Term to expire 12/31/2012; and Appoint Patricia Driscoll as a Regular Member of the Comprehensive Plan Committee, term to expire 12/31/2011.

VOTE: Unanimous.

5361 Discussion with Action: Approve the Special Event Permit application for Southern Maine Community College and Central Maine Community College to hold the USCAA Baseball Tournament on Friday, May 13th, through Tuesday, May 17th, 2011; and a request to waive the fee. Insurance, listing the Town as additionally insured, to be provided to the Town Clerk's Office at least one week prior to May 13th.

In the discussion period, Councilor O'Neill asked why the "listing the Town as additionally insured" is on the agenda and why the insurance permits had not already been received. It was noted that some agencies, groups, etc., do not have their current policy updated since the event

isn't till the summer months and that this is a notation to make sure publicly it is required that they provide this documentation to the Town Clerk.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to Approve the Special Event Permit application for Southern Maine Community College and Central Maine Community College to hold the USCAA Baseball Tournament on Friday, May 13th, through Tuesday, May 17th, 2011; and a request to waive the fee. Insurance, listing the Town as additionally insured, to be provided to the Town Clerk's Office at least one week prior to May 13th.

VOTE: Unanimous.

5362 **Discussion with Action:** Approve the Special Event Permit application for the 8th Annual Captain Christopher S. Cash 5K Race on Saturday, June 23, 2012 from 6 a.m. to noon; a request for a banner in the Square and Cascade Road; and a request to waive the fee. Insurance for event, listing the Town of Old Orchard Beach additionally insured, to be provided to the Town Clerk's Office at one week prior to the event.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve the Special Event Permit application for the 8th Annual Captain Christopher S. Cash 5K Race on Saturday, June 23, 2012 from 6 a.m. to noon; a request for a banner in the Square and Cascade Road; and a request to waive the fee. Insurance for event, listing the Town of Old Orchard Beach additionally insured, to be provided to the Town Clerk's Office at one week prior to the event.

VOTE: Unanimous.

5363 **Discussion with Action:** Approve Liquor License Renewals of New England Restaurant Group dba/Pirates Patio & Galley (304-2-9), 2 Walnut Street, s-m-v in a Restaurant; Fly By Night Inc., dba/Mr. Goodbar (306-5-2), 6 East Grand Avenue, s-m-v in a Class A Lounge; New Pier Pizza Corp. dba/Pier Pizza (306-6-1) 2 Old Orchard Street, m-v in a Restaurant; Patio Pub Inc. dba/Pier Patio Pub (306-6-1-J) 2 Old Orchard Street, s-m-v in a Restaurant/Lounge; and Patio Pub Inc., dba/Hooligan's Landing (306-6-1-DD), 2 Old Orchard Street, s-m-v in a Restaurant.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to table the Liquor License Renewal to the next meeting of New England Restaurant Group dba/Pirates Patio & Galley (304-2-9), 2 Walnut Street, s-m-v in a Restaurant;

VOTE: Unanimous

MOTION: Councilor O'Neill motioned and Vice Chair Tousignant seconded to Approve the Liquor License Renewals of Fly By Night Inc., dba/Mr. Goodbar (306-5-2), 6 East Grand Avenue, s-m-v in a Class A Lounge; New Pier Pizza Corp. dba/Pier Pizza (306-6-1) 2 Old Orchard Street, m-v in a Restaurant; Patio Pub Inc. dba/Pier Patio Pub (306-6-1-J) 2 Old Orchard Street, s-m-v in a Restaurant/Lounge; and Patio Pub Inc., dba/Hooligan's Landing (306-6-1-DD), 2 Old Orchard Street, s-m-v in a Restaurant.

VOTE: Unanimous.

5365 Discussion with Action: Adopt the Order that the Police Chief and Deputy Police chief are both designated as contact persons authorized to accept forfeited property and take delivery of related transfer documents and/or money under the Federal Comprehensive Crime Control Act of 1984.

TOWN MANAGER: The form provided by the United States Department of Justice requires the signature of our attorney. This agenda item will make it possible by enacting a standing order authorizing appropriate personnel in the Police Department to be able to accept such property on behalf of the Town.

MOTION: Councilor O'Neill motioned and Vice Chair Tousignant seconded to Adopt the Order that the Police Chief and Deputy Police Chief are both designated as contact persons authorized to accept forfeited property and take delivery of related transfer documents and/or money under the Federal Comprehensive Crime Control Act of 1984.

VOTE: Unanimous.

GOOD AND WELFARE

5364 Discussion with Action: Discuss Labor Contract. (Note: This item discusses a labor contract proposal related to the AFSCME Council 93, Local 481-06, Old Orchard Beach Waste Water Treatment Plant Union Contract, pursuant to 1 M.R.S.A., Section 405, 6(d), and this discussion will be held in executive session.)

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Enter into an Executive Session discusses a labor contract proposal related to the AFSCME Council 93, Local 481-06, Old Orchard Beach Waste Water Treatment Plant Union Contract, pursuant to 1 M.R.S.A., Section 405, 6(d).

VOTE: Unanimous.

EXECUTIVE SESSION

MOTION: Vice Chair Tousignant motioned and Councilor O'Neill seconded to Adjourn the Executive Session.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to adjourn the Town Council Meeting of March 15, 2010 at 11:04 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 eighteen (18) pages is a true copy of the original Minutes of the Town Council Workshop of March 15, 2011.

Louise Reid