

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, August 21, 2012
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, August 21, 2012. Chair Quinn opened the meeting at 7:02 p.m.

The following were in attendance:

**Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Sharri MacDonald
Councilor Robin Dayton
Councilor Michael Coleman
Town Manager Mark Pearson
Assistant Town Manager V. Louise Reid
Attorney Rob Crawford – Bernstein & Shur**

**Pledge to the Flag
Roll Call**

EMERGENCY ITEMS:

CHAIR QUINN: We have a request to add the following emergency items to the Agenda:

MOTION: Councilor Dayton motioned and Chair Quinn seconded to move Agenda Item Number 5715 following Agenda Item Number 5720 - Discussion with Action: Direct the Town Manager to issue a one (1) percent increase, retroactive to July 1, 2012, to all currently employed non-Union personnel who have been so employed for at least one year.

VOTE: Unanimous.

MOTION: Councilor MacDonald motioned and Vice Chair Tousignant seconded to add the following Emergency Item pursuant to Charter Section 404.1 – Agenda Item # 5725 to the Agenda to be considered after Agenda Item 5722... Discussion with Action: Approve the Amendment to the Inca Son Special Event permit that was approved by the Town Council on May 1, 2012; applicant requests to perform on Sunday, September 2, 2012, instead of Saturday, September 1, 2012, due to medical reasons; all other information to remain the same.

VOTE: Unanimous.

ACKNOWLEDGEMENTS:

COUNCILOR COLEMAN: We are still looking for volunteers to help us with the REV3 Triathlon event this coming weekend. We would encourage you to go on the internet and sign up – www.rev3tri.com Revolution3 or Rev3, is a national race company and this is the first triathlon in Maine and we are thrilled to have it in Old Orchard Beach. 1,100 athletes have registered and based on past history we can expect between 900 and 1,000 participants. The Rev3 will begin at 6:20 a.m. on Sunday and morning and will feature two courses that will take athletes throughout our town and other communities. On Saturday there will be a scavenger hunt family adventure race at 11:00 a.m. If you go on their web site you will be able to get all the scheduling activity information that you need. Come and join us in this important and historic event.

ASSISTANT TOWN MANAGER: I would like to thank Councilor MacDonald and all those who participated in the American Legion activities over the last two weeks for all their effort and dedication. I also would like to thank John and Pam Gallo and the Raging Tide for an exciting summer and looking forward to another year of great adventure. The Administration would like to thank the Ballpark Commission and all the dedicated volunteers for what has been a very successful summer. To all of you – may you sense a great feeling of accomplishment of your personal mission in the betterment of our community. I also would like to take this opportunity to wish, on behalf of the Administration and the Town Council, best wishes and congratulations to Councilor Robin Dayton and Matthew Comeau on their upcoming wedding this weekend.

COUNCILOR MACDONALD: She thanked everyone for their participation over the past two weeks in the American Legion games and expressed keen appreciation for those who attended and those contributed in many hours of manpower.

ACCEPTANCE OF MINUTES: Special Town Council Minutes of August 1, 2012; Town Council Minutes of August 7, 2012; and Special Town Council Minutes of August 14, 2012.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to
Accept the Minutes as read.

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:08 p.m.

Wagon Wheel LLC (108-2-1-B), 3 Old Orchard Road, six seasonal RV rentals (pre-existing sites); MAHC Inc., (205-1-27 X), 28C Portland Avenue, one year round rental; Brandon Decker (205-16-3-6D), 9 Cascade Road, Unit 6D, one year round rental; Heidi M. Card (206-28-18), 38 School Street, one year round rental; Wild Acres LLC (208-3-2), 179 Saco Avenue, 22 seasonal RV rentals (pre-existing sites); Virginia Tent LLC (208-3-6), 4 Williams Street, 23 seasonal RV rentals (pre-existing sites); and Frederick Thompson (318-8-6-50), 146 West Grand Avenue, Unit #50, one year round rental.

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

MOTION: Councilor MacDonald motioned and Councilor Coleman seconded to Approve the Business Licenses as read.

VOTE: Unanimous.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT:

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

Joseph's by the Sea Inc., dba/Joseph's by the Sea (310-3-3), 55 West Grand Avenue, DJ & Live Music Inside – 12:00 p.m. to 11:00 p.m.

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

MOTION: Councilor Coleman motioned and Councilor MacDonald seconded to Approve the Special Amusement Permit as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT:

On behalf of the Town of Old Orchard Beach, we would like to recognize the outstanding efforts of the supervisory staff of the Old Orchard Beach Fire/EMS/Lifeguard Department. During Fire Chief John Glass's recent long term absence from his duties due to illness, the senior officers of the department assumed the duties and responsibilities of the department so that the operations and goals of the department could be continued and no loss of service would be experienced by our residents or visitors. Fire Captains Normand Gendron, John Gilboy, John Fitzpatrick, Brett Jones, Ron Vire, Mike Glaude as well as Lifeguard Captain Keith Willett and Administrative/Billing Clerk Terry Nagle all took on additional duties and tasks such as budgeting, payroll, purchasing, personnel and other administrative roles with dedication and diligence. These employees, as well as other department personnel, performed beyond expectations and worked as a team to insure the department's mission and goals were accomplished. We shall be placing letters of commendation in their personnel files as well as authorizing special commendation bars for their uniforms. Our sincere thanks and congratulations are expressed to the entire department staff for their dedication during this period of time that Chief Glass was out of work. We would also like to welcome back Chief Glass who is back on duty this week.

NEW BUSINESS:

5707 Discussion with Action: Grant easement to Stillridge LLC, across land located in Memorial Park, west of the Tennis Courts.

JEFFREY HINDERLITER: At the 21 August Council Meeting, Stillridge LLC is requesting the Council grant an easement across land located in Memorial Park, west of the tennis

courts. The purpose of the easement is to provide delivery truck access to the rear of the existing AZ's Market building so that a new business, Family Dollar, can replace AZ's Market. As I've been told, the proposal cannot move forward unless the easement is granted because the current turning radius is not in accordance with Family Dollar's engineering guidelines. Below, I offer some background information. During the spring/summer of this year, Ellis Commercial Management, representing Stillridge LLC, approached the town requesting acceptance of the easement described above. After consideration of the proposal, staff felt they could not recommend this proposal due, in part, to potential impacts to Memorial Park, no solid plans to improve the immediate area affected by the easement and little documentation to clearly define this proposal. Ellis Commercial Management and Stillridge LLC continued to pursue the proposal and developed a more detailed plan, including complete building renovation, vegetation improvements to replace what may be removed and an overall more defined plan. After meeting on-site and discussing the proposal with Ellis Commercial Management, staff had a more favorable view and recommended they secure a positive recommendation from the Conservation Commission and Memorial Park Committee before it moves forward to Council consideration. Representatives from Ellis Commercial Management meet with both the Commission and Committee and it is my understanding received support; therefore, at this time the proposal has reached a point for Council consideration. Attached to this memo are several documents (identified as Exhibits) submitted by Ellis Commercial Management. Below is a brief description of those Exhibits:

- Exhibit 1: Cover letter describing the proposal
- Exhibit 2: Easement Deed
- Exhibit 3: Plan identifying easement location
- Exhibit 4: Plan showing new paving line and new trees
- Exhibit 5: Photo showing existing conditions
- Exhibit 6: Photos simulation showing proposed improvements
- Exhibit 7: Stillridge LLC acknowledgement of Memorial Park
- Committee's recommendations. It's my understanding Ellis Commercial Management is working on securing Mary Beth's signature
- Exhibit 8: Email from Mary Beth representing Memorial Park Committee's recommendations

A few items the Council may choose to consider when making their decision:

- We need our town attorney's review and feedback before Council action. The material attached to this memo was sent to the town attorney on 15 August and it is my hope they will provide feedback in time for Council to consider before the 21 August meeting.
- Is the Council authorized to grant easements? I'll ask our town attorney's input on this.
- Should a more formal plan identifying the easement location be prepared (e.g. land survey)?
- There's an email from Mary Beth, representing the Memorial Park Committee, stating the Committee's recommendations. One of these recommendations is Stillridge LLC will give \$5,000 to the Committee to ensure all work is completed in a professional workman manner and if it is, this money will be returned to Stillridge LLC. In response, Ellis Commercial Management created a letter outlining Stillridge's commitment to the Memorial Park Committee recommendations. Does

the Council find this is acceptable? In regards to the \$5,000, in my opinion, it will be wise to set up an escrow account with our town interim finance director.

- Does the Council have all the information they need to make a decision at this time?

To date, representatives from Ellis Commercial Management worked with town staff, Commissions and Committees to comply with our requests and I appreciate their willingness and patience throughout this process. It was noted that our Town Attorney's opinion is that this should go to Referendum on the November ballot for the people to decide if they want to do this. However both the Conservation and the Memorial Park Committees have supported the easement. Members of both Committees are present at the meeting this evening. Below are some considerations to be reviewed by the Council:

The Town's Charter contains various restrictions on the sale of Town owned property. For property which is neither tax-acquired or surplus such as this proposal, no property may be "offered for any sale, leased for more than three years, or otherwise disposed of without a referendum vote." Section 409.15. The proposed easement in this case to pave a portion of town owned land for truck access for the shopping center is a disposition of a property right in the land that would fall within this restriction. The Charter does allow the Town to lease town-owned land for up to three years, so that could be an option you could pursue if it is of interest to the applicant. Finally, before a portion of the property is potentially sold through referendum or leased, it will be important to check if there are any deed restrictions on the park, i.e. if it was given as a gift or if there are other impediments to disposition."

James Benoit of Direct Real Estate was there representing the Dollar Store Corporation; and Tom Ellis of Ellis Commercial; as well as Mary Beth Robillard of the Memorial Park Committee; and Ginger McMullen of the Conservation Commission; attended the meeting. The Council discussed this agenda item in length and did approve a three-year easement for a small slice of Veterans Memorial park that will help make way for a proposed Family Dollar store on Heath Street, currently housing AZ's Fresh Food Market. An easement is commonly defined as a non-possessory interest in another person's land. An easement is a property interest that allows the holder of the easement to use property that he or she does not own or possess. An easement does not allow the easement holder to occupy the land, or to exclude others from the land, unless they interfere with the easement holder's use. In contract, the possessor of the land may continue to use the easement and may exclude everyone except the easement holder from the land. Easements are usually created by conveyance in a deed, or some other written document such as a will or a contract. Courts generally assume easements are created to last forever, unless otherwise indicated in the document creating the easement. It was noted that as far as the municipality is concerned, the council can only agree to a three year lease. Mr. Ellis explained to the Town Council that he plans to completely redesign the building and put a Family store in part of the building and the other part to be determined. In order to meet the discount store's regulations for a turning radius for delivery trucks they would need the use of a 700-square foot portion of the abutting Veterans Memorial Park. Mr. Ellis explained to the Council that he has opened Family Dollar stores in small towns throughout Maine and they have been successful. They have offered name brand items at discount prices and allow people to do some of their shopping in Town instead of going out of Town to larger stores like Wal-Mart. These type of stores offer just a little of everything to a community. Mr. Ellis indicated they would plant new vegetation and make improvements to the area of the park near the store. The Chair of the

Memorial Park Committee spoke favorably for the Committee and felt that the changes that were made would greatly enhance the park as well. Councilor MacDonald said she felt the chain stores like Family Dollar would hurt small mom and pop stores. Vice Chair Tousignant, however, thought the project was a good idea but he had difficulty with the three-year lease issue. He said if the Council were to vote to approve it, it would be forcing future Councils into a decision. He felt the Council could put the issue out to referendum in November and that Ellis could wait until then for a decision. Mr. Ellis said, however, that he needed the Council's lease approval to move forward on the project and meet deadlines with the hope that a referendum vote would occur in the future. Councilor Coleman indicated that he felt the proposal would make improvements in the park and in the neighborhood. He did not see any reason for not moving forward with the proposal as it is 700 square feet and the improvements far outweigh the small, little sliver that the Town is giving up. When Mary Beth Robillard spoke she said the Memorial Park Committee felt it was a "win/win" proposition. The question of the request for it to go to referendum would be dealt with in the future. The Assistant Town Manager reminded them that at least 45 days prior to the election the Town Council has to order and direct the Town Clerk to put the question on the ballot. The Town Council voted to approve an agreement to lease the segment of the Park for \$5,000 for three years. Councilors Robin Dayton, Michael Coleman and Chair Bob Quinn voted in favor but Councilor Sharri MacDonald and Vice Chair Tousignant voted against it.

It was indicated by the Dollar Store advocates that in consideration of contractual time constraints that a request for a three year lease will be made to the Council and a possible request to go to referendum for a permanent easement in November.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to grant a three year lease as described in Exhibit 2 and instruct the Lessee to comply with the payment of \$5,000 and direct the Town Manager to negotiate a lease agreement to be presented to the Council for signature at the next Council meeting.

VOTE: Yea: Councilors Coleman and Dayton and Chair Quinn
Nea: Councilor MacDonald and Vice Chair Tousignant

5708 Discussion with Action: Approve the Amended Special Event Permit application for REV3, that received Town Council approval on 8/16/11 and amended previously on 5/1/12, and 8/7/12, to change the set-up time from 8 a.m. on Friday, August 24th, to 2 p.m. on Thursday, August 23rd, 2012.

MOTION: Councilor Coleman motioned and Councilor MacDonald seconded to Approved the Amended Special Event permit as read.

VOTE: Unanimous.

5709 Discussion with Action: Approve the Liquor License Renewal for Joseph's by the Sea Inc. dba/Joseph's by the Sea (310-3-3), 55 West Grand Avenue, s-m-v in a Restaurant; and VFW Post 7997 (312-14-2), 76 Atlantic Avenue, s-m-v in a Club.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Approved the

Special Event permit as read.

VOTE: Unanimous.

5710 Discussion with Action: Approve the amendment to the Knights of Columbus Special Event Permit previously approved by the Town Council on 8/7/12 for a Tootsie Roll Drive in the Square on 8/10 and 8/11/12. Due to rain, the Knights of Columbus are requesting rain dates of Friday, August 31st and Saturday, September 1st, 2012; everything else remaining the same.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Approve the Amended Special Event permit as read.

VOTE: Unanimous.

5711 Discussion with Action: Appoint David Huntington as Election Warden; and Urbain Goulet, Jerome Plante, and Michael Lavenbein as Deputy Wardens, terms to expire August 21, 2013.

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

VOTE: Unanimous.

5712 Discussion with Action: Approve the Special Event Permit application for The Pier Patio Pub Inc. to hold the Old Orchard Beach Bikefest on Saturday, September 8th, 2012 from 11 a.m. to 1 a.m. in the Square. Request to close the Square to motorcycles and bicycles only. Paid the application fee; request the fee be refunded.

Councilor Coleman reminded the Council that a great deal of the money raised at this event goes to charity.

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

VOTE: Unanimous.

5713 Discussion with Action: Approve the Special Event Permit application for the POW/MIA Recognition/OOB365 to hold the POW-MIA Recognition Weekend on Friday, September 21st through Sunday, September 23rd, 2012 at the Ballpark from 8 a.m. to 8 p.m.; to include ceremonies, BBQ grills and the Ballpark Concession Stand, the landing of a Huey 68-16563, a 21-gun Salute on Saturday afternoon, and a Baseball Game on Sunday. Request to place a banner on the posts at the intersection of E. Emerson Cummings Boulevard and Saco Avenue; and a request to waive the fee.

Both Councilor MacDonald and Vice Chair Tousignant noted they are members of the OOB365 and as such are involved in these activities.

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

VOTE: Unanimous.

5714 Discussion with Action: Confirm the Appointment and Approve the Employment Agreement for James Butler as full-time Code Enforcement Officer for the Town of Old Orchard Beach, effective August 21, 2012, with a probationary period ending October 23, 2012, at a salary of \$48,100.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Confirm the Appointment and Approve the Employment Agreement for James Butler as full-time Code Enforcement Officer for the Town of Old Orchard Beach, effective August 21, 2012, with a probationary period ending October 23, 2012, at a salary of \$48,100.

VOTE: Unanimous.

5716 Discussion with Action: Confirm the Appointment and Approve the Employment Agreement between the Town of Old Orchard Beach and the Human Resource Director, Tammy Lambert, effective August 21, 2012, at a salary of \$52,500.

There was consensus among the Council to table this indefinitely and the suggestion made that at the time of the performance evaluations that a raise be introduced at that time or in October when she would have been here one year. It was acknowledge that the Human Resource position is vital to the municipality and that she has done a great job bringing policies and procedures to date.

MOTION: Councilor Dayton motioned with regret and Councilor Coleman seconded to Table Indefinitely the confirmation of the Appointment and Approval of the Employment Agreement between the Town of Old Orchard Beach and the Human Resource Director, Tammy Lambert, effective August 21, 2012, at a salary of \$52,500.

VOTE: Yea: Councilors Coleman, MacDonald, Vice Chair Tousignant and Chair Quinn
Nea: Councilor Dayton

5717 Discussion with Action: Today In America Television Production Proposal featuring Old Orchard Beach.

TOWN MANAGER: The Town Manager and the Assistant Town Manager were approached by USM Studio's Production Manager, Mike Leonetta, regarding the possible

program inclusion of Old Orchard Beach as a place where people would like to live. Today in America program stands apart and plunges into the heart of mainstream America. Today in America was the brainchild of Producers who always hoped to create exceptional stories on unique individuals and businesses. Created exclusively for Terry Bradshaw to host, Today in America appeals to a broad audience. It captures the era of the changing economic times and digs into the knowledge and passion of each of its Featured Guests. The show's writers specialize in crafting immersive stories. "Viewers will be excited to see that we've gone beyond the typical news stories. From the moment we launched the series, we knew that we were telling stories that would get noticed" said Vice President of Production, Jim Nicholas. "These are stories about experts who have the ability to share first-hand insights with our viewers." Far from being exclusive to any one field, Today in America successfully blends business news stories, lifestyle features and in-depth interviews with doctors, scientists, inventors, business owners, philanthropists and newsmakers from a variety of industries. Today in America is the first show of its genre hosted by Terry Bradshaw that's geared towards the educated, affluent viewer. Based on viewer feedback, the show has spawned interest, inquiries and practical applications. Today in America provides an open invitation for all those who wish to tune-in to learn something new. As viewers enjoy the familiar voice of Terry Bradshaw telling each and every story, they should beware. They may not want to stop watching. Even if they're just remotely interested in a certain subject, they'll owe it to themselves to learn something new. In fact, viewers find they are learning the latest information right along with Terry himself! Terry had a chance to reflect on recent segments this past season and shared his thoughts. "I'm learning so much myself! I love how each story is so informative. You literally learn something new with each episode". And that is exactly what Producers want to keep doing. "Viewers can't get any closer than having this inside track" said Executive Producer, Paul Scott. "What they see on our show is what's really happening out there in the business world. It's an armchair seat!" By covering the best new practices and the overall evolution of so many up-and-coming industries, it's no wonder that the show is thriving. Today in America producers won a combined 12 Telly Awards in 2010. The show is filmed on-location in cities around the world and also filmed and produced at United States Media Television's studios in Coral Springs, Florida. Along with Host Terry Bradshaw, Today in America combines a team of talented producers, writers, editors and broadcast professionals to deliver educational programming that is unparalleled in the industry. Today in America airs during the day on a variety of well-known news networks throughout the United States and Canada. The Town Manager and the Assistant Town Manager in a forty-five minute interview with the Producers talked about all that Old Orchard Beach has to offer for such a program idea, but also that this is the place to live. We described to them big city elements close by, quality of life, points of interest, talked about the workforce, health care, parks and recreation, the educational system and of course the wealth the beach offers. The Town Manager then met with members of OOB365, the Chamber of Commerce and BRASS and indicated to them that there is a cost to this of approximately \$19,000. He explained the program and invited them to a conference call on Tuesday, the 21st at 11:00 in our conference room. At the Conference call on the 21st discussion continued with Pat Brown, Charlie Taylor, Bud Harmon, Chair Bob Quinn, the Town Manager and Assistant Town Manager in attendance. More information was provided and serious questions were asked by those in attendance from Old Orchard. The final conclusion was that this would continue to be looked at but delayed because of the lateness in the season in order to reflect positively on the summer activities.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to table indefinitely a possible production contract with Today in America.

VOTE: Unanimous.

5718 Discussion with Action: Appoint Karen Brozek as an Alternate Member of the Conservation Commission, term to expire 12/31/13.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Appoint Karen Brozek as an Alternate Member of the Conservation Commission, term to expire 12/31/13.

VOTE: Unanimous.

5719 Discussion with Action: Procedure for payment of unapproved invoices.

TOWN MANAGER: The Town Manager has made it clear to department heads, committee chairs and all others involved in requesting payment for services performed, that a purchase order is required before any work can be done. Department Heads have been dedicated to following the process but there has been difficulty in getting adherence to the procedures from some others and the Town Manager is asking for direction in how to handle payment of invoices where the work was not approved but the work has been done and the invoice is waiting to be paid. The Council requested that the Assistant Town Manager secure a copy of the Contract before the Council Meeting scheduled for September 4, 2012. Members of the Conservation Commission at the meeting related that Tetra Tech in Lansing, Michigan is an environment consulting firm who train dogs to sniff out illegal connections were in the area of New Hampshire and Maine just recently and that this is where the connection was made to secure their services to address a very serious condition in the water in Ocean Park. FB Environmental was coordinating this effort in Maine and the connection was made in their regard. John Bird explained to the Assistant Town Manager that using this source was a cost saving measure for the town and thus the urgency in signing on for the work to be completed while they were in this part of the state. Pet waste can degrade water quality and create public health risks. Contaminated run off has been in the past and continues to be an issue in the Old Orchard Beach community. Pollutants from pet waste is transported by runoff every time it rains and when not properly disposed of may be channeled by rain or melting snow into lakes, ocean, streams, storm sewers and finally in the ocean. Overly fertile water becomes cloudy and green and is unattractive for swimming and fishing. The waste and the algae decay, oxygen is depleted, which can lead to fish kills. Also ammonia can be released, further endangering Maine's fish population. It should be noted that diseases or parasite can be transmitted from pet waste to humans including campylobacteriosis, cryptosporidium, toxocariasis, and toxoplasmosis, all of which can cause headaches, muscle aches, lymph node enlargements, diarrhea, dehydration, stomach cramps and can be fatal to people with depressed immune systems. Maine Healthy Beach Program, of which Old Orchard Beach is a part, highly supported the need for work to be done in this area in response to the growing concern about public health risks posed by polluted coastal bathing beaches. The Conservation Commission has during many years supported the

upgrades to our beach issues including study of water quality issues, potential or actual sources of pollution, current conditions and water test results. Old Orchard has been involved in monitoring and data analysis, and survey work on the issues brought to their attention.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to table to the September 4, 2012 meeting the procedure for payment of unapproved invoices.

VOTE: Unanimous.

5720 Discussion with Action: Direct the Town Manager to issue a one (1) percent increase, retroactive to July 1, 2012, to all currently employed non-Union personnel who have been so employed for at least one year.

There was a long and conflicted discussion regarding this item with the final decision not to approve the 1% increase.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Direct the Town Manager to issue a one (1) percent increase, retroactive to July 1, 2012, to all currently employed non-Union personnel who have been so employed for at least one year.

**VOTE: Yea: Councilor Dayton and Councilor Coleman
Nea; Councilor MacDonald, Vice Chair Tousignant, Chair Quinn**

5715 Discussion with Action: Amend the current Employment Agreement between the Town of Old Orchard Beach and Jeffrey Hinderliter, Town Planner, to include in his duties the position of Community Development Director, at a combined salary of \$58,500, effective August 21, 2012.

Again there was lengthy conversation over this agenda item with the acknowledgement that the Planner had already accepted and doing these additional responsibilities for several months. The question was whether to amend the contract at this time or wait till the performance evaluation process had taken place. There was a question and motion made but withdrawn to table indefinitely. Finally the decision was made to amend the current Agreement.

MOTION: Councilor Coleman motioned and Chair Quinn seconded to Amend the current Employment Agreement between the Town of Old Orchard Beach and Jeffrey Hinderliter, Town Planner, to include in his duties the position of Community Development Director, at a combined salary of \$58,500, effective August 21, 2012, with no 1% increase or merit increase within the fiscal year 2013.

**VOTE: Yea: Councilors Coleman and Dayton, Chair Quinn
Nea: Councilor MacDonald and Vice Chair Tousignant**

5721 Discussion with Action: Affirm the completed six month evaluation of the Town Manager, Mark Pearson, with satisfactory performance.

Councilor Coleman and Councilor Dayton praised the work of the Town Manager over the past six months noting all the issues that he has addressed.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to affirm the complete six month evaluation of the Town Manager, Mark Pearson with satisfactory performance.

VOTE: Unanimous.

5722 Discussion with Action: Confirm the Appointment and Amend the Two-Year Employment Agreement between the Town of Old Orchard Beach and the Town Manager, Mark Pearson, retroactive to August 13, 2012, at a salary of \$96,636.80.

Discussion between the Council on the two year contract and an increase in his salary continued including the fact that the six month review was satisfactory. The Council voted three to two to extend his contract by two years and to increase his salary to about \$96,600 plus \$5,000 a year toward his retirement program for an approximate salary of \$101,600. Those voting in favor were Councilors Coleman and Dayton and Vice Chair Tousignant. Those voting against were Councilor MacDonald and Chair Quinn. Councilor Coleman indicated that just after the Town Manager was hired quite a few challenges were presented to him including a series of arsons, a murder, an alleged embezzlement from the Library and other issues. He felt the Town Manager had weathered the storm and we are going down the right path. Councilor Dayton praised the Town Managers for making the town operation more efficient and saving the Town money on insurance around \$12,000 which is more than enough to cover his raise. She indicated that no previous Town Managers have done the work of this one in their first six months. She said he has cleaned up the messes left by previous Town Managers. Chair Quinn said that although he has done a good job and he supported extending his contract, he thought the raise, at just more than eight percent, and not appropriate in comparison to what other non-union long-time employees are being offered. Councilor MacDonald said that there have been some bad things along with the good and she didn't think Pearson had been vetted enough to determine if he is a good fit. She said she was not feeling it for the Town and she didn't think it's in the best interest of the Town to extend the contract and give him a raise in salary.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Confirm the Appointment and Amend the Two-Year Employment Agreement between the Town of Old Orchard Beach and the Town Manager, Mark Pearson, retroactive to August 13, 2012, at a salary of \$96,636.80.

**VOTE: Yea: Councilors Dayton & Coleman and Vice Chair Tousignant
Nea: Chair Quinn and Councilor MacDonald**

5725 Discussion with Action: Approve the Amendment to the Inca Son Special Event permit that was approved by the Town Council on May 1, 2012; applicant requests to perform on Sunday, September 2, 2012, instead of Saturday, September 1, 2012, due to medical reasons; all other information to remain the same.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Approve the Amendment to the Special Event Permit as read.

VOTE: Unanimous.

GOOD AND WELFARE:

PAT BROWN: She reminded everyone that there is excitement in the air for the Revolution3 Triathlon and the town and race officials are gearing up for the busy weekend. They are still looking for volunteers for the race and she provided information as to how people could sign up.

JEROME BEGARD: He congratulated Councilors MacDonald and Dayton for participating in the Ballpark “dunk” for support of the Ballpark. He talked about stewardship of the Council and the need to address the Charter and the issues related to it. He spoke at length about the Central Maine Power agreement and the Ballpark. There was an agreement during the Jack Turcotte management between Central Maine Power and the Ballpark (Municipality) to pay a monthly rate and Mr. Begard was asking that this be revised and a report made to the Council regarding the funding, past and future.

MARK KOENIGS: He asked questions about the line item budget and whether the Town Manager’s salary had been put into the 2013 Fiscal Budget. He reminded the Council that no raises have been provided to the Library staff and that consideration should be given to that fact as well. He spoke about collaboration between the Town and the Library. His basic comments were budgetary in content and concerns that what is expected of one is expected of all departments and other budget participants. He also announced a public hearing being held by the Conservation Commission on the Eastern Trail.

KATHY SMITH: Kathy Smith spoke on behalf of the Town staff in answer to Mr. Begard’s suggestion that “hoping that those at the meeting who work for the Town weren’t there just to “glower.” Kathy spoke passionately sharing her opinion, and by the applause those in the audience. She shared what many municipal employees have expressed to the administration. She indicated that the employees do a great job doing what they are supposed to do and the performance is not revenue dependent. She indicated that when we can’t even attend a meeting that we have a personal interest in without getting made to feel uncomfortable is very upsetting and insulting. She said she felt that in meetings employees have been insulted and humiliated. She said that she has been greatly discouraged attending workshops with the negativity of some who attended that we are not worth the raise. She indicated that to feel devalued, no amount of money can take that away. She

further stated that the general feeling of staff is that the service is totally disregarded. She expressed real appreciation for those with whom she works and says the dedication and hard work is there; it is just not acknowledged.

DANA FURTADO: He spoke at length about the work at the Ballpark this summer and acknowledged many that worked, volunteering without pay, and supporting the program. He talked about the events coming up and encouraged the public to participate and also to support by volunteering their time and efforts and be encouraging those who give so much. He expressed that it has been a good summer and it has been because of a combined effort of people working together in a common cause.

Chair Quinn indicated to the public prior to the Executive Sessions that the Town Council will be working with the Town Attorney to come up with a system to address delinquent taxes and to bring awareness to the serious problem in which the Town is owed \$1.8 million in back taxes. This is equivalent he said to nine percent of the current year's Town budget. He noted that after two years of unpaid taxes, the Town can put a lien on a person's property. The Council is anxious to approach the issue with fairness and compassion. \$1.8 million in back taxes over the last ten years means that there is an average of \$180,000 a year that the Town is losing in revenue.

5723 Executive Session pursuant to 1 M.R.S.A., Section 405(6)(E) for the Town Council to consult with the Town Attorney concerning the Town's legal rights and responsibilities related to the disposition of Town-owned property acquired through the foreclosure of real estate liens.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Enter into Executive Session pursuant to 1 M.R.S.A., Section 405(6)(E) for the Town Council to consult with the Town Attorney concerning the Town's legal rights and responsibilities related to the disposition of Town-owned property acquired through the foreclosure of real estate liens.

VOTE: Unanimous.

5724 Executive Session pursuant to 1 M.R.S.A., Section 405(6)(C) for purposes of discussing issues related to use and disposition of certain interest of the Town property formerly owned by Acorn Village LLC, acquired by the Town through the foreclosure of real estate tax liens.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Enter into Executive Session pursuant to 1 M.R.S.A., Section 405(6)(C) for purposes of discussing issues related to use and disposition of certain interest of the Town property formerly owned by Acorn Village LLC, acquired by the Town through the foreclosure of real estate tax liens.

VOTE: Unanimous.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Adjourn the Executive Session at 11:59 p.m.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Adjourn the Town Council Meeting at midnight.

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 fifteen (15) pages is a copy of the original Minutes of the Town Council Meeting of August 21, 2012.

V. Louise Reid