

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL WORKSHOP.
TOWN HALL CHAMBERS
Tuesday, January 31, 2012
7:00 p.m.**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Tuesday, January 31, 2012. Chair Bob Quinn opened the meeting at 7:05 p.m.

The following were in attendance:

**Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Robin Dayton
Councilor Sharri MacDonald
Councilor Michael Coleman
Town Manager Jack Turcotte
Assistant Town Manager V. Louise Reid
Pat Brown - Presenter**

The Town Council Chair presented a review of our goals for discussion in the Workshop this evening and assuring the audience that he appreciates the atmosphere of cooperation and support during discussions of subjects with varied opinions. He set the rules for the workshop as it regards limitation of speaking time and order.

The Chair introduced the Assistant Town Manager who presented the focus of the Workshop. She indicated that this Workshop is to receive input and begin discussing good practices that are in the best interests of our Town Leaders, community and organizations. Our Town is experiencing many positive changes including an update of our Town Charter and the Comprehensive Plan. This workshop is intended to assist as we move forward continuing on this positive path. The Workshop focus is as follows: (1) to assist Council Members, the Town Manager and Assistant Town Manager, who is authorized to step in as Acting Town Manager. These are the people from whom citizens look to "lead by example". It does not include Department Heads or other Town employees; (2) Any suggested guidelines for Town Leaders are intended to apply only to their role in relation to business oriented organizations and not charitable, social service or religious based groups; (3) It does not say that Town resources may not be used for special events. It's to discuss options that may provide Town Leaders ways to best manage all possible uses of Town resources; (4) It does not say Town Leaders may not actively volunteer; and (5) It is not meant to target or benefit any individual or any group but an opportunity to build a solid foundation for future economic growth. This workshop is to simply start a conversation, not make decisions. The best way to think about it is as a large community meeting. Discussions like this are part of the process when a community is moving forward such as we are. These are all good signs that we are beginning to take our rightful place as a great coastal community. The willingness of everyone to be part of the process will lead to a better understanding of each other's opinions which will help keep the community on a positive path.

Chair Quinn indicated that discussion would follow as follows:

1. Request for the use of Town resources
 - Practical guidelines for effective decision making. It is not meant to say that Town resources may not be used for special events. It's to discuss options that may provide Town Leaders ways to best manage all possible uses of Town resources.
2. Solicitations by Town Leaders
 - Developing good practice guidelines for appropriate solicitations.
3. Simple guidelines for appropriate involvement in community service. In no way is meant to prohibit our Town Leaders from actively volunteering.
4. Understanding confidentiality on the Town level
 - Receipt of confidential information personally vs. officially

The Town Manager thanked Linda Hardacker for her willingness to be our recorder of comments for this Workshop. The Chair then introduced Pat Brown who made her opening remarks regarding the Workshop.

PAT BROWN: "For me this entire evening is centered around one word. Why? Before I get to the "Why's" that brought me here, I want to start with these "Why's". Why do you think I'm here? What do I personally have to gain out of all this? What's my motivation for doing all the hundreds of hours of research I've put into this? Why am I doing this? Simply put, because people come to me with "Why" questions. They think I know the "because" and if I don't, they know I care enough to find out. This started out small, just a couple of "Why's" from a couple of people about a couple of things. But when I went in search of the "because", I was left with more "Why's". And that's okay, but then I was asked, "Why are you asking that??" The answer is simple. I need "the because". That's it. No vendetta, no ulterior motive, nothing up my sleeve. And I don't know about you, but I've never been one to accept answers like, "it's okay, don't worry about it", "it's always been done that way" or "it just is". The types of questions being asked by this Community weren't unusual. They're asked everywhere. Not only here, but all over the world. It happens when doing things "the same ol' way" are no longer in sync with the world around us. And there lies the danger. We may be a small Town, but we're part of a big world. And unless we look at the hard questions and align ourselves with the rest of the world, we leave our Town Leaders wide open to make mistakes. There's nothing worse than a person who is doing what they believe to be all the right things for all the right reasons who accidentally crosses over a line they never even knew existed. But the rest of the world knew. It's like watching someone walking backward toward a cliff and not doing all you can to stop them from falling off. So when do we look at this stuff? After there's a problem? Wait for someone to make a mistake and get called out for it. That's the easy way out. I tell you, it would've been a heck of a lot easier than standing here tonight. When that happens, and it will, we all loose. Every single person and business in this entire Town bears the blame because we could've done something but decided not to. And that brings me back to why I'm here. Why I've taken this on. Like all of you, I believe in this Town. This Town is truly on a path to greatness. And we're all a part of it. It's up to all of us to continue to do all we can to help it along its way. To have each other's backs. We have two choices tonight. Fight, take things personally, attack, feel attacked and leave no better off, or even worse, than we started. Or we can all be the bigger person. We can put our personal interests aside. Look to what the rest of the world is doing and see what fits for our Town. The second choice opens all kinds of incredible possibilities for our Town. The Town

we all love. I've done the work to get it this far. It's up to each of you to see where it goes from here. Choice one or choice two. I'm going to end with a Why question I'd like everyone to think about: Why wouldn't we do all we can to clear up situations that create questions? Bring them up to the surface, get them handled. Let the focus of this workshop be about creating good practices not conflict. "

Pat Brown summarized the use of Town resources for Special Events requested by a person, business or organization. She said this is partly good practice and partly wise-use-of-resources. The Town has limited resources. While all citizens, businesses and organizations should expect these resources to be used as fully and as extensively as possible, right now there is no information available to enable the Town to manage the use of these resources. It may be beneficial to the Town to implement a system to help identify which resources are commonly used, by whom and how much they cost. We also don't know which competing uses are most beneficial to the Town as a whole. Having no clear guidelines for choosing among competing uses creates the possibility for people to assume that an approved use may be unfair to the proponent of a different use. Making the entire process more transparent should help the Town navigate through potentially problematic situations. As requests for Town resources for special events increase, we need to have a way to guarantee that traditionally held ongoing annual events, such as Special Olympics Lobster Dip, Captain Christopher Scott Cash Memorial Race, etc., will receive the Town resource support to continue in the future.

The following individuals participated in discussion during the workshop. Their presentations were on both sides of the issues. Below are the comments summarized from all those who verbally participated in the discussion on each area of subject. Speakers included James Harmon, Executive Director of the Chamber of Commerce, Councilor Sharri MacDonald, President of OOB365, John Bird, Laura Bolduc, Jerome Begart, Councilor Robin Dayton, Vice Chair Michael Tousignant, John Clutier, Paul Ladakakos, Chairman Quinn, Neal Weinstein, Councilor Michael Coleman, Linda Mailhot, Kathy Smith, Eileen Payette, David Putnam, and Craig Oster.

NEAL WEINSTEIN: He expressed his sentiment that this Workshop was a waste of time and that the appearance of the set up of the meeting is not a workshop setting. He said this is nothing but a political event of the Chamber of Commerce against the work of OOB365.

CHAIR QUINN: I would ask that we do not mention specific groups in this discussion.

NEAL WEINSTEIN: He indicated that we all know what this is about and we all know there are only two groups in town – the Chamber of Commerce and the OOB365. (A voice from audience said – “and BRASS.” Mr. Weinstein said – and yes, BRASS. He went on to say this is a town of 8,000 people and it all comes down to the matter of the Assistant Town Manager sending out a request for people to take part in a booklet being prepared by OOB365 and that she got nothing from doing this but this is what started this whole thing. He mentioned several times that there is no need for more beaus racy

BUD HARMON: This is not about any special group. It is about our growing community and the need for an accounting and planning process. We are all aware of the economic situations we are all dealing with and are aware that budgets will be tight this year. This is just about being

accountable for the taxpayer money that is being spent. It is a desire for us to have transparency and do what is best for the future of the community in which we are all invested.

LINDA MAILHOT: She indicated she had some questions. She said that we already have a Special Event process in place which has been useful and helpful. The Council has the ability in this process to accept or deny a request for a special event permit. There seemed to be questions on the reasonableness for some of the issues which are being addressed by the elected officials already. The use of Town resources has not appeared to be an issue nor has it seemed to be an overspending of town resources.

JEROME BEGART: He indicated that these are interesting issues and he wished the number of people in attendance had turned out during the Charter Commission meetings. He said the issue should be revenue more than the negatives being suggested about the use of town funds. He agreed that when there is an excessive use of town funds it is sensible that those asking for Special Events would pay for those extra costs themselves. It appears he said that the events we are talking about related to those that are enjoyable to those of our citizens and are an attraction to bring other to our community. It is possible that if no costs to the Town are the policy it would be up to the groups to raise their own funding to cover the expenses. If that is the case, don't harass those who are raising money.

PAUL LADAKAKOS: He spoke about his being a citizen of this community and of the financial struggles that seniors and families are having to pay their taxes and that he felt that nothing should be coming out of the taxpayer's investment in the Town. He said he is aware of the struggles that people are going through to meet their bills, put food on their table, pay their taxes and it would appear that the citizens should not be paying to sponsor these events.

NEAL WEINSTEIN: He indicated that resources are not identified. He suggested that the groups that should not be raising funds is the Fire and Police for it is not even members of the Old Orchard Police and Fire that is raising money but an outside group and that only a small portion of the money comes to the Police and Fire Department. The beau racy will turn people away from our community. We look at other towns where they are allowed to have cafes on the street, tables outside, but we don't allow that. This whole discussion tonight was not well thought out.

COUNCILOR MACDONALD: She expressed not understanding what this is really all about. She said the OOB365 has a mission to support activities in the off season time for the benefit of our citizens and the business owners in the downtown area who made it known that they are having hard times. She expressed that there does not appear to be large costs of using town services and that in most instances OOB365 has paid for these areas themselves. She mentioned that during the summer months we have barrels on the beach and many other benefits for the summer tourist season and it seems only reasonable that our citizens who are paying for this would have an opportunity to enjoy events in their community in the off season time line. She said that in most instances the police were already on duty; the barrels would need to be emptied as part of activities that it is, in her opinion, a little bucket of costs. She also said that it is interesting that at budget time no one came to complain or question about the costs of tourism in our community but now the question is being raised about activities provided for our year round residents. She said she supports tourism and recognizes all that is done for them but there has to be some understanding of what OOB365 is doing for the local residents as well. Councilor

MacDonald indicated that this is not about making money but about bringing people to our community and supporting the local businesses.

TOWN MANAGER: He said that he could not project the amount of money that is spent in supporting event because there is no data. He said that if he would guess it is a minimal amount and that as the Town Manager it has always been his intent if it is in the interest of the tax payers to provide services. He also indicated that in most instances police are already on duty, many services are already being provided so that many times it is “in the line of regular duty.” He indicated that you can’t write structure to replace decision making. He indicated that heavy equipment of course is costly but the majority of services required are already being provided.

COUNCILOR COLEMAN: He suggested that when a Special Event Permit comes to the Town Clerk’s office, it is then sent to the Police, Fire, and Public Works for their sign off. It would seem to him that it would be easy to quantify the expense based on the requests in the special event permit. He suggested that costing this out and quantifying without a great deal of burden certainly could be done.

TOWN MANAGER: He concurred that there is some costs that are easy to confirm. She indicated that it is evident that if you need two police officers and only one is on duty, that there would be a cost or if a big piece of equipment is necessary that cost would be calculable.

VICE CHAIR TOUSIGNANT: He mentioned that as it has been noted; often services are provided when the personnel would be on duty anyway.

JOHN BIRD: He indicated that the question that needs to be asked is if the cost is business or town related. There is no conflict if it is benefiting the citizens of the community. He also agreed that it is an accounting area and that it would appear that the costs of services could easily be recorded as has been suggested by others. He also said it would not be in the best interest of anyone to put a burden on the taxpayers if that was excessive but it does not appear to the case.

JOHN CLOUTIER: He said this was an interesting discussion. He said he felt that the Special Event process is working and why change something that is working. Keeping things simple is in the best interest of the citizens.

COUNCILOR DAYTON: She mentioned that she has tried for years on the Council to have the costs of using town resources quantified and this has not been done. She is asking the Town Administration to keep track of expenses; it can be done and needs to be done. Quantify if only an estimate. Can’t say it’s a little or it’s a lot if you don’t have records to substantiate it.

Use of Town Resources for Special Events

Limited resources – what does this include - \$ unknown – profits unknown?

What events are beneficial?

Need process – transparency.

Preserve events that we have presently.

Council/Town Manager determines allocations (requests).

Do we need more processes?

Should be made available to all.

**We are growing and there are more events.
Need for a coordinated process – Special Event Ordinance.
Process for determining what a beneficial event is.
Do you want to grandfather established events?
Line items in budget. Fund or Pay?
Could be seen as conflict over resources depending on who determines use.
Taxpayer dollars for events – how much used for events?
Some resources used for events benefit local citizens (off season events).
Town Manager indicated special events are a minor expense overall.
If additional/resources are needed – Council needs to determine approval.**

The Chair thanked everyone for their comments on the above issue and moved on to the discussion of Solicitations by Town Leaders. Pat Brown indicated that the Office of the Maine State Attorney General advised Legislators “...it is advisable to avoid soliciting donations from someone whose purpose in making the donation you reasonably should know is to influence your vote on any matter or the performance of your official duties. Also avoid soliciting donations from anyone who you know is likely to have an interest in legislation coming before you. Similar types of conflicts for Old Orchard Town Councils or Town Manager could be someone coming before Council for a business license. Most people cannot divide themselves into their own various roles, nor can others divide these people into their different roles. If, for example, the President of the company you work for asks you to contribute to the company’s building fund at the same time as you happen to be asking for a raise, is it really possible for you not to believe that your chances of a raise will be improved if you make a large contribution? Some Towns have very tight restrictions when it comes to solicitation, like Bangor. They restrict every member of Government from soliciting for anything. That seems extreme. But given our community comradery of neighbor helping neighbor, it seems appropriate for our Town Leaders to solicit Town residents and businesses for social service, charitable and religious groups such as the Food Pantry, a local church, a religious group, the American Legion, the Special Olympics, etc. And they should be able to solicit for their own businesses or employer. This topic is centered on the appropriateness of Town Leaders soliciting for business oriented organizations. Developing good practice guidelines that fit the flavor of our community may help Town Leaders define what our community believes to be considered as “good judgment”. She suggested the need to set up simple guidelines for appropriate involvement by Town Leaders in community service. Excluded are Charitable, Social Service, Religious organizations designated by the IRS as tax exempt. Volunteering and working with the various business-oriented groups in Town does not require the same level of commitment as serving as an officer or board member of that same organization. Our Town officials and Council Members are, by definition, active in our community – and that is precisely what is needed for them to be effective and informed about Town affairs. However, a commitment to direct or to operate that same group requires a greater commitment of dedication, time, and energy than does a simple volunteer position. Another point to consider is that serving as a focal point of both an organization and the Town, the power and authority of one position is easily transferred to the other position. This is especially true in a town of our size. She indicated that in the past, individuals have resigned from a local business oriented organization Board and other local Boards upon entering into positions of Town Leaders. These three questions came word for word directly from the International City/County Management Association website. And I quote:

“Here are some questions that ICMA encourages its members to ask themselves when they consider service on the board of directors of a nonprofit or community group:

- **Could your board service lead a reasonable person to wonder whether your loyalty to the local government could be questioned in any way?**
- **Is it likely that the organization will come before your local government to request funding or some other consideration?**
- **Would your involvement appear to lend support to one group in the community over another?”**

The Chair introduced the next discussion item and the following comments were made:

LAURA BOLDUC: In questioning solicitation she indicated that perception is not always correct. She related her experiences with the School Board where procedures and policy were in place so that questions such as being raised this evening were settled and specific. She said that perception isn’t quantifiable. She said that true leaders are involved in their community and that is why they are elected to the position on the Council. To deny them the right to do this would be counter productive to what service is all about. She also suggested that she did not appreciate the facial expressions of Councilor Dayton. She mentioned that at the school if a janitor is on duty he would clean up after an event; if not, the event coordinator would be responsible for funding the salary of janitor. It is a simple and transparent way of doing business.

JEROME BEGERT: He talked about past history and the fact that our community is growing. He said that revenue needs to be categorized. Grants, solicitation, etc., are important forms of revenue. He argued that intimidation is possible but does not seem to be the issue here. Transparency in being proactive in addressing anything that might be questionable is the way to handle these issues.

LINDA MAILHOT: She pointed out that most of the issues being discussed this evening are already addressed in the Maine Revised Statutes. There are clear guidelines already established so setting additional policies, rules, etc., is a burden to those serving. She raised the conflict of exempting religious or charitable groups. Perhaps the way is for no exceptions to be made. Intimidation would put into everyone’s participation a question of what they can do. For instance, is Mr. Quinn’s collecting the offering at Mass on Sunday a conflict of interest? She stipulated again that why are we making rules or procedures when they are already in place?

KATHY SMITH: She said that her concern is not a Councilor’ involvement in activities is a wonderful thing but she is concerned about waiving fees for groups a Councilor is involved in and it would be better for them to remove themselves from that vote. She explained about her own husband’s business and the need to look at these things in a transparent way.

COUNCILOR COLEMAN: I understand the need to be aware of conflicts for if my neighbor plans to do something to his property which would enhance the value of my own, I would feel I would have to remove myself from that vote. Transparency would require that.

VICE CHAIR TOUSIGNANT: He indicated that we always waive the fee for non profits. This has been the policy as long as he has been involved in Council.

COUNCILOR MACDONALD: She said that she owns no business and that she has always removed herself from any vote regarding her family's business. She also indicated that OOB365 does not have any staff. Volunteers do all the work. She said she would not remove herself from the organization. She said that all money raised by OOB 365 has been accounted for and money left over from one event is rolled into the next one. She said she does not understand why all these questions are being raised and that she feels responsible for the issues being raised but that she will continue to serve. She said she does not need leadership training, she is a leader in Old Orchard and she is proud of what has been accomplished by OOB 365.

Solicitation by Town Leaders

Fire and Police should not solicit.

Department Heads and Town Employees should not solicit.

Should not matter if it is charitable or not.

Can be intimidating.

Town leaders should use volunteers to solicit.

Chamber has Bylaws that prevent Conflict of Interest.

Volunteer organizations directed by volunteer directors – a question of how this works.

The final discussion was on the subject of Conflict of Interest. The following comments were given.

Pat Brown again said discussion would be considering the following issues. Whether a Councilor should serve in a leadership role or sit on a Board of any organization within the Town or which organization conducts activities within the Town. Councilors may be members of such organizations. Councilors will disclose their membership in any organization whenever voting on items pertaining to those organizations, and as appropriate, in order to avoid any appearance of a conflict of interest, shall abstain from voting on the issue. Should a Councilor, Town official or Town employee, either individually or on behalf of a business or organization, engage in an activity, written or verbal, to promote a business or organization located in the Town or which conducts activities in the Town. Promoting a business or organization shall include, but not be limited to, soliciting contributions or petitioning for the support of an organization or business. Nothing in this provision is intended to prevent a Councilor, Town official or Town employee from promoting his or her own business or employer. As you are aware our Town is experiencing many positive changes include a new Police Station, a Ballpark, Library renovations, and a new vibrant organization and events. Participation is high with volunteers and Municipal Officials getting involved in the efforts. It is not surprising to forecast that more opportunities will be coming to our community as we continue dedication towards forward movements. It is important at this time to get together to discuss the allocation of Town resources, especially in a tight budget season and how and if they will continue to be available. In addition, communities are becoming increasingly aware of conflicts of interest when crossing between municipal and public boundaries and often the issues don't become clear until it is too late.

These are all discussions that need to take place when a community is moving forward and they are a sign to prepare for more opportunities to follow. Please take the time to give input and be part of the process. It is agreed that we are fortunate to have those who serve in government and those who serve daily in the municipal government. There is always the need to face identifying potential Conflict of Interest. The first step in the process is to classify the “gray areas” of Conflict of Interest and to make them fair and understandable to all – black and white as possible. Doing this will protect the Town Councilors and Officials from unintentionally acting or being perceived as acting in any way that could be considered a Conflict of Interest or breach of confidentiality. It is not the desire to harm or inhibit the work of any Town Councilor or Official or organization but instead meant to be a means in which the ground rules are clear, which will enable all to work together in an organized, transparent, and efficient manner for the greater good of our community. It is true that the Town Council cannot legislate morals and the resolution of ethical problems must indeed rest largely in the individual conscience. It is, however, the responsibility of Town Council to define ethical standards as most professions have done to chart the areas of real or apparent impropriety. If public confidence in government is to be maintained and enhanced, it is not enough that we all avoid acts of misconduct; and that we make sure there is no creation of an appearance or perception of misconduct. Subchapter 11, adopted in the State of Maine, addressing Legislative Ethics, states that “the increasing complexity of government at all levels, with broader intervention into private affairs, makes conflicts of interest almost inevitable for all public officials, and particularly for those in Government who must cast their votes on measures affecting the lives of residents, business and organizations.” The adoption of broader standards of ethics for Councilors and town officials and employees does not impugn either their integrity or their dedication but rather it recognizes the increasing complexity of government and private life. It is meant to provide helpful advice and guidance when confronted with unprecedented or difficult programs involving action which is neither clearly right nor clearly wrong. In response to a question regarding solicitation by a State Legislator, the Office of the Maine State Attorney General advised Legislators “...it is advisable to avoid soliciting donations from someone whose purpose in making the donation you know, or reasonably should know, is to influence your vote on any matter or the performance of your duties as a legislator, or to reward you for any past action. It is also advisable to avoid soliciting donations from anyone who you know is, or is likely to become, subject to or interested in legislation that is pending before the committee or legislative body in which you serve as a legislator.” Being a Council member or Town Manager of Old Orchard Beach is similar to being a Maine State Legislator because some of the same conflicts apply. Most people cannot divide themselves into their own various roles, nor can others divide these people into their different roles. If, for example, the President of the company you work for asks you to contribute to the company’s building fund at the same time as you happen to be asking for a raise, is it really possible for you not to believe that your chances of a raise will be improved if you make a large contribution? Right now, we are putting our Town Leaders in just that position. Some Towns have very tight restrictions when it comes to solicitation. But given our community comradery of neighbor helping neighbor, it seems appropriate for our Town Leaders to solicit Town residents and businesses for social service, charitable and religious groups such as the Food Pantry, a local church, a religious group, the American Legion, the Special Olympics, etc. And they should be able to solicit for their own businesses or employer. This topic is centered on the appropriateness of Town Leaders soliciting for business oriented organizations. Developing good practice guidelines that fit the flavor of our community may help Town Leaders define what our community believes to be

considered as “good judgment”. Simple guidelines for appropriate involvement by Town Leaders in community service. Excluded are Charitable, Social Service, Religious organizations designated by the IRS as tax exempt. Volunteering and working with the various business-oriented groups in Town does not require the same level of commitment as serving as an officer or board member of that same organization. Our Town officials and Council Members are, by definition, active in our community – and that is precisely what is needed for them to be effective and informed about Town affairs. However, a commitment to direct or to operate that same group requires a greater commitment of dedication, time, and energy than does a simple volunteer position.

While many times serving the best interest of a business oriented organization and the taxpayers do mesh well together, there may be times when they don't. The risk of entering the gray zone of conflict of interest is much greater when an organization is business oriented for two reasons. One focus of a business oriented organization is economic development and there are times when residents and some businesses are not on the same side of the fence on particular issues (such as the current topic of smoking on the beach). Second, serving as a focal point of both an organization and the Town, the power and authority of one position is easily transferred to the other position. This is especially true in a town of our size. A current Town ordinance already exists that specifically restricts Town Officials from serving on a Town Board, Commission or Committee. Division 2, Rules for Advisory Boards and Committees, Section 2-234 – Powers and Duties. Section 2-234. The Town Manager, department heads or council members shall not be appointed as regular or alternate members, nor may they serve as secretary to any board, commission or committee. 1) Since this is appropriate for Town Committees, Commissions, and Boards, is it reasonable to extend this expectation to Town Leaders for business oriented organizations headquartered in Town that are not a charity, social service or religious based organizations designated by the IRS as tax exempt? 2) In the past, individuals have resigned from a local business oriented organization Board and other local Boards upon entering into positions of Town Leaders. The following questions relating to this topic copied directly from the International City/County Management Association website and are included here as food for thought.

BUD HARMON: He related that the Chamber has bylaws that make it not possible for someone to serve on the Board who is serving on the Council and related about Mark Bourassa who ran for Council but had served on the Chamber Board and when elected he resigned from the Board. He recounted that Louise Reid as Director of The Salvation Army Pavilion served on the Board and when she became Assistant Town Manager she resigned from the Board to avoid any conflict of interest.

COUNCILOR MACDONALD: She said that the rules that are being considered would mean she could not vote at all. I shop at Radley's, eat at the Brunswick, JJ's, shop at the Puzzle Store, etc. I have an interest in all citizen related issues. She said perhaps when Mark Bourassa resigned, that was what was expected at that time; but the times have changed and perhaps that needs to be considered as well. She also mentioned that she has asked often for the groups to communicate but that invitation has not been accepted.

EILEEN PAYETTE: She asked if there was a legal opinion on this conflict of interest issue and recounted that she felt it was time for all the parties to come together.

TOWN MANAGER: He explained that Bernstein & Shur had written a letter, not an opinion, and although there are no specific rules for conflict of interest – there were suggestions made which included removing oneself from votes where the appearance of a conflict might present itself. Bernstein & Shur has instructed the Administration that the law concerning conflicts of interest in Maine is such that “no definite rule can be given indicating the line of demarcation between that which is proper and that which is unlawful.” Opinion of the Justices, 330 A.2d 912, 917 (Me. 1975), quoting Tuscan v. Smith, 130 Me. 36, 46 (1931). As the Law Court further stated in the Opinion of the Justices, supra, “Questions whether there is a ‘conflict of interests’ violative of law are not susceptible of generalized answers. Essentially each case will be ‘law’ only unto itself.” One of the suggestions made by legal Counsel is that “Whenever there is an appearance of a potential conflict the Councilor with the possible conflict should disclose his or her relationship to the applicant and state whether he or she feels capable of reviewing the permit application “fairly, impartially and without favoritism.” If the Councilor feels that he or she cannot be impartial, then the Councilor should abstain from participating in the matter. If the Councilor feels there is no reason to abstain, then he or she can participate unless there is an objection from another Councilor. If there is objection from another Councilor, then the question of abstention would be determined by a majority of those Councilors who are not alleged to have a conflict of interest. A primary concern in resolving any question about a potential conflict of interest is ensuring public confidence that the Council is acting in the public interest. In the case of special event permits, there will undoubtedly be many circumstances in which the public interests and interests of the applicant are aligned, and therefore disclosure will be fully adequate to deal with the appearance of a potential conflict of interest. The Council must decide each case on its own merit, utilizing the procedure I have suggested above.

EILEEN PAYETTE: She continued by recommending that the groups involved in the discussions this evening should combine their efforts for it is all for the benefit of the community.

DAVID PUTNAM: He spoke of his pride in the community; looking at the past history and seeing what is being done for the citizens and the changes made within the community. He congratulated what is being done for the children of our community and the events that are being planned and coordinated for the benefit our residents and the promotion of the tourist industry. He spoke about the need to allocate costs in a fair and manageable way.

BUD HARMON: He explained that the purpose this evening was to look forward to the growing needs of our community. He said that the meeting tonight was to discuss ground rules, set some structure to move forward in the community for we are growing and will continue to grow. He talked about civic pride in our community and the working relationship between the citizens and the business owners.

COUNCILOR COLEMAN: He expressed appreciation for those who have worked diligently on the issues for discussion this evening. He spoke about the helpfulness of ICMA and also reminded everyone that when one does remove oneself from a questionable vote, the vote could be confirmed anyway and with the increase in the number of Councilors serving in November it will be even more possible for persons removing themselves from a vote not having a negative impact.

COUNCILOR DAYTON: She said she hoped this would not be the end of discussion on this subject. These are tough discussions and she appreciated everyone that had come this evening. It is not desire to hurt anyone but rather to join together to move forward our community and the activities of our community.

VICE CHAIR QUINN: He appreciated the involvement of everyone this evening and said he was not sure what will develop next but this has been a good way to begin the discussion on important issues.

Members of the audience made the following comments.

Charter/Council deals with this issue.

Need more transparency.

Councilors at election disclose affiliations.

A policy would need to be quantifiable.

When you are elected Councilor determines which hat they wear.

Perception is not quantifiable.

Could lead to false expectations.

Covered in Maine State law.

Council is considered part time.

Individual decision of what they do in their off time.

Town leaders should not vote on matters of waiving a fee, etc.

Fees are waived for non profits.

Town has legal opinion on these matters – two types of conflict of interest.

Major organizations should work together – Ballpark, OOB365, Brass and the Chamber of Commerce.

Need same rules or a level playing field.

Looking for protection for all.

Follow up Issues: It was noted that conversation needs to continue as we attempt to move forward on the issues that were discussed this evening. One of the issues which seemed to be pressed was for the Administration and Council to weigh in on how much it costs for Town staff to perform services for many of the Special Events in the Town. The question was raised whether it is worth staff time to evaluate the cost. The Town Manager indicated that to determine what had been spent in the past year for resources for community events would be difficult and that in the past few years he believed that the amount of money has been relatively minor and there had not been a lot of extra staff time used. Everyone agreed that tax dollars are crucial and that an attempt should at least be made to track the staff charges to support the special events.

The Chair thanked all those who attended and the helpful input that was provided and closed the Workshop at 9:45 p.m.

Respectfully Submitted,

V. Louise Reid
Town Council Secretary

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of thirteen (13) pages is a true copy of the original Minutes of the Special Town Council Meeting of January 31, 2012.

V. Louise Reid