

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, October 16, 2012
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, October 16, 2012. Chair Quinn opened the meeting at 7:04 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**

**Pledge to the Flag
Roll Call**

PRESENTATION:

**Presentation to Chet Wancewicz
for his outstanding involvement in our community
as a member of Neighborhood Watch -
by Chief Dana Kelley**

**T O W N O F Old Orchard Beach, Maine
P R O C L A M A T I O N**

WHEREAS: Chester Wancewicz, a citizen of Old Orchard Beach, is leaving our community to relocate to another State; and where “Chet” has been an active volunteer within our community as it relates to Police Services; we offer the Town Council’s proclamation in his honor;

WHEREAS: Chet has been a dedicated member of the Neighborhood Watch since its inception, taking an “hands on” and “zero tolerance” approach to any disorder in our community; taking daily foot patrols, reporting suspicious observations often leading to arrests, or finding a resolution to community concerns and volunteering hundreds of hours;

WHEREAS: Chet’s keen sense of observation has led to the successful investigation and sting operation of an illegal massage parlor resulting in several arrests and eradicating the neighborhood of ongoing and disruptive crimes; and on the early morning hours of July 9,

2011, Chet observed a crime in progress and called 911 and his observations were detailed and quickly passed along to Dispatch resulting in the arrest and conviction of two adult males who were responsible for hundreds of dollars of damage to the Memorial Park; and more importantly, it ended the destruction in the park;

WHEREAS: In 2012 Chet was awarded the “James Durant Citizens Recognition Award” by the Maine Association of Police for his outstanding dedication and volunteerism to the Town of Old Orchard Beach; and more recently his patrols have brought forth issues within the “Old Campground Neighborhood” Neighborhood Watch area citing suspicious activity and safety concerns throughout the neighborhood.

NOW, THEREFORE: We, the Town Council of Old Orchard Beach, Maine, do hereby proclaim our best wishes to this outstanding volunteer as he moves to another community where we are confident he will provide the same type of service:

Chet thanked the Council and Chief Dana Kelley and Lt. Tim Deluca for the opportunity of being apart of this important program. It has been an educational and a learning experience for which he was very grateful.

**Presentation to
Vice Chair Michael Tousignant
for outstanding Town Council service -
by the Assistant Town Manager**

The Assistant Town Manager will offer good wishes to the Vice Chair, Michael Tousignant, and appreciation and respect for the service and commitment he has given as a Town Councilor and Vice Chair.

PRESENTATION TO VICE CHAIR MICHAEL TOUSIGNANT

As the Assistant Town Manager it is my privilege on behalf of the Town Council to honor Vice Chair Michael Tousignant for the effort and commitment he has made to the citizens of Old Orchard Beach in his service on the Town Council since November 4, 2008 to November 19, 2012; a period of four years. He chose not to run again this year but knowing the Vice Chair as I have for many years, I am confident that he will continue to be committed and provide dedicated service to so many areas and issues of our community. Citizen discontent is, in part, a reflection of the failure of local government officials to sufficiently stay in touch with their citizens. This is not the case when Mike Tousignant was elected. He has been an ardent proponent of addressing the needs and the requests of those who elected him. He has been a proponent and supporter of the Town staff for which they are most appreciative. He has lived up, I believe, to the truth stated by Albert Schweitzer: “I don’t know what your destiny will be, but one thing I do know: the only ones among you who will be really happy are those who have sought and found how to serve.” Thank you, Vice Chair Tousignant, for securing the good of others – for being your brother’s keeper – and for caring for others enough to make their problems your own. In closing, our own Margaret Chase Smith said it best of all – “Public service is more than doing a job efficiently and honestly. It must be a complete dedication to the people with full recognition that every human being is entitled to courtesy and consideration.” Mike’s

committed work with OOB365, the Ballpark, the Veterans of Foreign Wars, and other groups moving forward good works in Old Orchard Beach, will continue. We have learned, have we not, that the more generous we are; the more joyous we become; the more cooperative we are; the more valuable we become; the more enthusiastic we are, the more productive we become; The more serving we are, the more prosperous we become; for when one is a servant; they are rich indeed. On behalf of the Town Council I would like to present you with this reminder of our appreciation for your service on the Town Council.

ACKNOWLEDGEMENTS:

COUNCILOR DAYTON: She encouraged citizens to take the opportunity to pick up an absentee ballot available in the Town Clerk's office and to take the responsibility to vote early.

COUNCILOR COLEMAN: He presented to the public the opportunity to watch Candidates Night on the next two Thursday evenings and get to know the candidates.

ACCEPTANCE OF MINUTES: Revised Administrative Review Board Minutes of July 31, 2012; Administrative Review Board Minutes of September 18, 2012; and Town Council Minutes of October 2, 2012.

MOTION: Vice Chair Tousignant 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 7:20 p.m.

Stephanie Levell (311-22-3), 12 Eleventh Street, one year round rental; **Seaview Apartments LLC** (315-13-9), 16 Seaview Avenue, two year round rentals; and **Marnee Bublitz** (316-8-5), 12 Seacliff Avenue, one year round rental.

CHAIR: I close this Public Hearing at 7:21 p.m.

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

VOTE: Unanimous.

PUBLIC HEARING:

CHAIR: I open this Public Hearing at 7:23 p.m.

Shall We Authorize the grant of a permanent easement for not more than 1,000 square feet to the rear and side of Old Orchard Beach Tax Map 206-27-13 adjacent to the boundary of

the Town's Veteran's Memorial Park as shown on the preliminary survey dated August 24, 2012, on file in the Town Clerk's Office, in exchange for certain agreed landscaping improvements estimated at \$50,000 and a \$5,000 donation to the Veteran's Memorial Park Committee and payment of the Town's legal fees, which will appear on the November 6 2012 ballot?

REFERENDUM INFORMATION:

Our Attorney has reviewed all aspects of this proposal.

- 1. Use of the Land.** According to the information you provided to us, the Town's records show that the Town took the land currently used as the Memorial Park by eminent domain for "purposes of a public park and playground" in 1942, and also received a deed from the owner. The statutory provisions in effect in 1942 authorizing towns to acquire land by eminent domain for public parks did not contain any provisions prohibiting a town from subsequently changing the use of the property so acquired, and likewise the deed that the Town received does not contain any restrictions as to future use of the property. The statute in 1942 did contain this language: "Nothing herein shall be held to deprive the former land owners from proceeding to restrain the use of such land for other than public park purposes". Maine R.S. 1942, c. 5, Sec. 110. Thus, although there are no restrictions on further use in either the statute or the deed, there is a possibility that the former land owners could bring an action to attempt to stop such uses other than for public purposes.

- 2. Easement Language.** The general form of the proposed easement is fine, but we suggest you consider the following additions. If you agree, you should have the applicant provide a new version that addresses these concerns:
 - a. The lease should have a survey and description showing area of leasehold and easement area attached;**
 - b. There should be a limitation in both the lease and easement as to use of the property and regarding any limitations on transfer through a sublease;**
 - c. The lease should provide for security and affirmation to cover cost to restore the property to its existing conditions at the end of lease period;**
 - d. The lease and easement should contain clear statements of the Town's reserved rights, a requirement of lessee holder to maintain area in good order; allow the Town the right to enter to fix things and assess cost of same to lessee, and the obligation of the lessee to insure and indemnify town.**
 - e. Will the Town require rights over the land for future uses sewer, water or other uses?**

During the discussion in this Public Hearing, there was disagreement as to the dollar value to the citizen as expressed by Jerome Begert, John Bird, and Mark Koenigs who questioned the numbers. Mr. Koenig invited citizens to a site walk regarding the land to get a real perspective on the size and value. It was indicated that it is already on the ballot as a referendum so it is a done deal. However, Vice Chair Tousignant and Councilor Coleman stated they felt this was a worthwhile value for the seven feet of land and is a win for the neighborhood and it was recommended by the Memorial Park Committee. It was pointed out also that the assessed value of the building/land will increase as a result of the upgrade to the

property. It is better than what was there before and an eye-sore is being made into an attractive addition to the neighborhood. The Chair spoke about this being an Anchor Store and the need for that piece of land to be available to move the purchase forward.

TOWN MANAGER'S REPORT: The Town Manager reported that there has been a lot of activity over the past few weeks. Several phone calls have been made in discussion about the copier contract relative to the Town. A Personnel Evaluation Workshop was held for our Department Heads as well as a Workshop training session on the MUNIS program. Meetings were held with attorney on negotiation issues and we have interviewed three individuals for the Finance Director position. Met with a representative of the Maine Turnpike Authority and had meetings with the Chair on Council issues. Met with contractor on the reformation of seating arrangement for the new Town Council. This coming week I will be having a meeting with Town Managers on issues relevant to all communities and also will be attending a meeting in Kennebunk on the MERC contract that some of us have and considerations about that contract ending.

Councilor MacDonald encouraged the Town Manager to confirm whether we have to stay with MERC once the sale is final.

TABLED ITEM: # 5755 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 October 28, 2012, at a salary of \$52,500 from Account Number 20118-50350 – Contingency, with a balance of \$290,178.14.

BACKGROUND:

During the last Council Meeting this agenda item was discussed with concern raised regarding the denotation of vacation time in excess of the four weeks which were given at the date of hire with an additional four weeks accrued for a total of eight weeks. It was explained that this was a compensation in exchange for a lower salary offered at that time considering the professional experience of the candidate.

The Human Resource Specialist has been with us since October 28, 2011 and has done a remarkable job bringing human resources procedures and projects forward. Not having someone in this position before has left the Town in difficult situations relative to legal and procedural levels of administration. She has organized the department, instituted training programs, worked on the performance evaluation reporting, directed personnel issues in the right directions, and began Union negotiations. The request of the Town Manager is that she be designated a Department Head and designated Human Resource Director, effective October 28, 2012, at a salary of \$52,500 with the possibility of merit increases determined by the Town Manager and continue all previous provided benefits in the previous employment agreement. She comes with over twenty-five years of experience as the Human Resource Director in Saco, Maine.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to table Indefinitely to Confirm the Appointment and Approve the Employment Agreement between the Town of Old Orchard Beach and the Human Resource Director,

Tammy Lambert, effective October 28, 2012, at a salary of \$52,500 from Account Number 20118-50350 – Contingency, with a balance of \$290,178.14.

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

NEW BUSINESS:

5758 Discussion with Action: Approve the removal of Invasive Phragmites from Jordan Marsh; Engineers estimate a five (5) year program in the amount of \$15,000 from Account Number 31141-50867 – West Grand Stormwater Bond, with a balance of \$773,740.44.

PUBLIC WORKS DIRECTOR; Phragmites Australis (a.k.a. – Phragmites or common reed) is an invasive grass species that frequently colonizes freshwater and saltwater marshes, especially along areas of recent or ongoing development. The plant is an aggressive colonizer, and once established, Phragmites is difficult to eradicate and very hard to control. It would require an aggressive control strategy to solve. The control strategy will include mechanical and chemical treatments devised by the York County Soil and Water Conservation District and Wright-Pierce. It should be noted that due to the sensitive nature of wetlands and other water resources, State and Federal regulations require permitting for any discharges of pollutants to most of these features.

The Public Works Director sent out a Request for Proposal on October 2, 2012 with all bids due back by October 11, 2012. Two bids were received:

Boyle Associates	\$ 4,480.00
Municipal Pest Management Services	\$ 6,425.00

There was a great deal of discussion on this agenda item. The Town has spent a great deal of time in the development of a strategy for controlling invasive plants in Jordan Park Marsh. The York County Soil and Water Conservation District developed an Invasive Plant Management Plan to control the existing stand of Phragmites Australis (also known as common reed) and Iris pseudacorus (also known as yellow flag iris). The Plan recommended an Integrated Vegetation Management approach as the most effective, long-term control strategy. The integrated approach includes both mechanical and chemical control measure techniques, including repeated chemical applications, mowing, and monitoring by a licensed and qualified contractor over a five year period. The Plan has been provided to stakeholders for review including the Ocean Park Association, Ocean Park Meadows Condominium Owners Association, Ocean Park Conservation Society, Oceanwood Camp & Conference Center, and an Ocean Park resident. Multiple stakeholder meetings have been held to discuss the Plan. Discussion was rather intense when John Bird indicated that the area is not owned by the Town but rather the Ocean Park Association. Councilor Dayton spoke strongly that this is not the time to be bringing up that bit of information when we have been talking about this for years and here we are ready to move to get something done. The majority of the Council members agreed with her and it was strongly recommended by the majority of Council to move forward with this even though we have passed the date of beginning the project as originally suggested but that the mowing option would at least move us ahead. It appeared that the two specialized

companies that bid on the eradication project would not be available to start the major part of the work and whether applying herbicide at this time of the year would have any effect. Bill Robertson, Public Works Director, said he felt that if the Town did not take action against the stand of phragmites, which is about one-third of an acre in size and is located on the northern edge of the marsh on West Grand Avenue, it will take even a stronger hold and spread further. The plant is an aggressive colonizer and once established, difficult to eradicate and very hard to control and would require an aggressive control strategy to solve. Joe Anderson of the York County Soil and Water Commission participated in the discussion as did the Ed Leonard of Wright Pierce. It was indicated there were only a handful of companies capable of addressing the phragmites problem in Jordan Marsh. Both companies that responded would not be able to undertake the multi-phase eradication process until late August of 2013 but the Public Works Director encouraged the Council to move ahead with the project so he can get one of the companies to come next fall to the community. Those two companies, Boyle Associates and Municipal Pest Management Services made their bids to be considered by Wright Pierce. The money for the project will come out of the West Grand Stormwater Bond which was approved by voters about five years ago and which still has a balance of \$774,000. Both Boyle Associates and Municipal Pest Management Services would employ a combination of herbicide and cutting methods to get rid of phragmites. Councilor MacDonald asked about the difference between phragmites and water-milfoil to which it was explained that water-milfoil is a submersed, aquatic plant with branching stems emerging from dense, spreading roots. Feather-divided leaves are arranged in densely packed whorls which are generally four to six leaves per whorl. It is important to note that invasive plants, if left unchecked, will limit many uses on lands now and for future generations; can harm the natural heritage of our wetlands, meadows, forests, lakes and rivers; decrease the ability to enjoy hunting, fishing, bird watching and other recreational pursuits. The longer we wait the more expensive it becomes. It was noted that some residents in Ocean Park and a couple of the Councilors are concerned about the negative impact on the environment from the use of chemical treatment to eradicate the phragmites but it was also noted that both companies would use mechanical and chemical treatments devised by the York County Soil and Water Conservation District and Wright Pierce. Vice Chair Tousignant motioned to table and Councilor MacDonald seconded but it did not get enough votes for consideration.

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Approve the removal of Invasive Phragmites from Jordan Marsh; Engineers estimate a five (5) year program in the amount of \$15,000 from Account Number 31141-50867 – West Grand Stormwater Bond, with a balance of \$773,740.44.

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

5759 Discussion with Action: Approve paving “A” Street from Summit Street to Adelaide Road in the amount of \$8,840 from Account Number 31141-50868 – Summit/School Bond, with a balance of \$550,284.34.

PUBLIC WORKS DIRECTOR: “A” Street is off Summit Street – although not part of the original project – it should have been. We did sewer work on it, pipe replacement, and a sewer manhole because it has always been a problem for the Town. Under the bond

project we also replaced a culvert under Adelaide Road by the Campground. If the Council does not agree with this proposal; the money would have to come out of the Road Maintenance Account – Account Number 20151-50506, with a balance of \$40,412.79.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Approve paving “A” Street from Summit Street to Adelaide Road in the amount of \$8,840 from Account Number 31141-50868 – Summit/School Bond, with a balance of \$550,284.34.

VOTE: Unanimous.

5760 Discussion with Action: Approve paving Seaside Avenue (Evacuation Route) from Temple Avenue to Union Avenue in the amount of \$49,980 from Account # 31141-50867 – West Grand Stormwater Bond, with a balance of \$773,740.44.

PUBLIC WORKS DIRECTOR: The paving of Seaside was always part of the West Grand Bond because it is the new Evacuation Route for emergencies. Its elevation is higher than West Grand therefore not subject to flooding. It will be signed “Evacuation Route” and needs to be shimmed and have overlay.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve paving Seaside Avenue (Evacuation Route) from Temple Avenue to Union Avenue in the amount of \$49,980 from Account # 31141-50867 – West Grand Stormwater Bond, with a balance of \$773,740.44.

VOTE: Unanimous.

5761 Discussion with Action: Amend Chapter 78 (Zoning Ordinance), Section 78-1185, Space and Bulk Requirements (Shoreland Zone) and 78-1203 (5), and 78-1203 (8) - Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line or a water body or within a wetland.

BACKGROUND:

1. Shoreland Zoning Amendments. Amendments to Old Orchard Beach Code of Ordinances, Chapter 78 – Zoning, Article VI – Districts, Division 17 – Shoreland Zone, Sections 78-1185, 78-1203 (5), 78-1203 (8).

- This ordinance amendment proposal seeks to relocate already adopted Shoreland Zoning Ordinance standards by removing the standards from a DEP order and placing those standards within the appropriate place in the Shoreland Ordinance. This amendment does not propose new language- it simply takes already adopted language and puts it in its rightful place in the ordinance.
- The council adopted the new Shoreland Ordinance during late spring and summer of 2011.
- DEP conditionally approved the Shoreland Ordinance during July 2011 and documented this through there typical order letter. This order letter included a few amended standards, which are part of DEP’s conditional approval letter.

- The town was required to adopt the amended standards and apparently did this by including the entire order letter as part of the ordinance. Only the amended standards within the order letter need to be included within the ordinance.
- To find these amended standards, you first must find the DEP order letter in the ordinance. Then you have to figure out where in the ordinance the amended standards belong.
- Adopting the DEP order letter (in its entirety) as part of the ordinance creates confusion and misinterpretation of the ordinance. Taking the amended standards out of the letter and placing those standards in the appropriate place in the ordinance will clear this up.
- Again, this proposal does not change any already adopted standards. It simply requests that we take the amended standards out of the DEP order letter and place these standards in their rightful place in the ordinance.
- The Planning Board (PB) held a public hearing on 9 August and recommended the changes move forward for Council consideration and public hearing.

**NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH**

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 78 (Zoning Ordinance), Section 78-1185, Space and Bulk Requirements (Shoreland Zone), and 78-1203, Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland (Shoreland Zone), are amended by deleting the strikethrough language and adding the underscored language, as shown below:

78-1185, Space and bulk requirements.

- 1) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included towards calculating minimum lot area.
- 2) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971
- 3) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- 4) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

Section 78-1203 (5)

Except for piers existing on May 17, 2011 in Outside of the DD-1 and DD-2 districts, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

Section 78-1203 (8)

Except for piers existing on May 17, 2011 in the DD-1 and DD-2 districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure. In the DD-1 and DD-2 districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland in existence on May 17, 2011, shall not exceed 35 feet in height above the pier, wharf, dock or other structure.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to Amend Chapter 78 (Zoning Ordinance), Section 78-1185, Space and Bulk Requirements (Shoreland Zone) and 78-1203 (5), and 78-1203 (8) - Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line or a water body or within a wetland.

VOTE: Unanimous.

5762 Discussion with Action: Amend Chapter 78 (Zoning Ordinance), Section 78-1023, Conditional Uses, and 78-1268, Child Care Facilities.

BACKGROUND: Conditional Use and Planned Mixed Unit Development Changes. Amendments to Chapter 78 – Zoning, Article VI – Districts, Division 14 – Planned Mixed Use Development, Section 78-1023 – Conditional Uses; Chapter 78 – Zoning, Article VII – Conditional Uses, Division 2 – Conditions, Section 78-1268 – Child Care Facilities.

- As a result of a Child Care Facility proposal the PB recently considered, we found ordinance standards did not allow the use to exist even though it appeared to make sense in this area of town.
- During the PB meeting, it was discussed that one way to resolve this issue was to change ordinance language; therefore, it was decided to move forward with proposed ordinance amendments that will allow the use but still keep an appropriate level of regulation in place. One reason is because the use seems to be an appropriate fit in this district. A second reason is the use will require Conditional Use review which will provide a more detailed analysis of each proposal. There is safety in knowing the PB will still be responsible for review and can evaluate each proposal based upon the CU standards.
- The proposed changes are quite simple:
 1. Child Care Facilities will become a permissible use within the PMUD District by adding this use as a Condition Use under Sec. 78-1023.

2. The access standards of Sec. 78-1268 (b) (2) are deleted. You may recall the standards mentioned specific roads that Child Care Facilities are required to have direct access to/from.
- The PB held a public hearing on 13 September and recommended the changes move forward for Council consideration and public hearing.

Section 78-1023, Conditional Uses, and 78-1268, Child Care Facilities.

**NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH**

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 78 (Zoning Ordinance), Section 78-1023, Conditional Uses, and 78-1268, Child Care Facilities, are amended by deleting the strikethrough language and adding the underscored language, as shown below:

78-1023, Conditional uses.

(19) Child Care Facilities

78-1268, Child care facilities.

~~a. Access shall be permitted only from the following arterial and collector streets: Ross Road, Cascade Road (Route 98), Portland Avenue, Saco Avenue (Route 5), Old Orchard Road, Ocean Park Road (Route 5), and West Grand Avenue or Temple Avenue in the neighborhood commercial district.~~

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Amend Chapter 78 (Zoning Ordinance), Section 78-1023, Conditional Uses, and 78-1268, Child Care Facilities.

VOTE: Unanimous.

5763 Discussion with Action: Amend Chapter 78 (Zoning Ordinance), Section 78-1627, Temporary Signs.

BACKGROUND: Temporary Signs associated with events at the Ballpark amendments. Amendment to Chapter 78 – Zoning, Article VIII – Performance Standards, Division 5 – Signs, Section 78-1627 (4) – Temporary Signs.

- During early July, the Council enacted an emergency ordinance amendment to the sign ordinance (Ch. 78, Art. VIII, Division 5). The Council voted 5-0 in favor of the emergency ordinance.

- This amendment allows temporary signs associated with events at the ballpark. Events include baseball games.
- Before this emergency amendment, the sign ordinance allowed temporary signs only for community festivals, carnivals and special events approved by the Council. It was identified that people who wish to see a baseball game could not locate the ballpark because the ballpark could not legally place off-premises signs. Since baseball games did not qualify as a community festival, carnival or special event, it was determined (after legal consultation) the easiest fix and one that will not jeopardize the intent of the sign ordinance as a whole was to change the temporary sign standard.
- Formal adoption of this ordinance amendment allows temporary signs associated with events at the ballpark to be placed anywhere in town (assuming they have the property owners permission); therefore, temporary signs may be located off-premises.

Temporary signs are exempt from the size and dimensional requirements of the zoning district, provided the signage does not pose a safety hazard and meet all relevant conditions prescribed.

- Emergency ordinance amendments are in effect for 60 days from the date of enactment. Even though an emergency ordinance may be adopted, it still must go through the appropriate adoption procedure to make it a formal ordinance change. That procedure begins with the PB scheduling and holding a public hearing.
- Please remember this only allows temporary signs for events at the ballpark.
- The PB held a public hearing on 13 September and recommended the changes move forward for Council consideration and public hearing. ***The PB recommended the Council include the additional language: “These signs shall be removed within 5 days after the close of the event.” The amended standard will now read:

Section 78-1627 Temporary Signs.

(4) Community festivals, carnivals, events at the Ballpark, and special events. Any signage erected by a business, charitable organization, or public organization directly associated with a public festival, carnival, events at the Ballpark or special community event approved by the Town Council. These signs shall be removed within 5 days after the close of the event.

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Amend Chapter 78 (Zoning Ordinance), Section 78-1023, Conditional Uses, and 78-1268, Child Care Facilities.

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

5764 Acknowledgement by Council that the Town is not becoming a delegated municipality in reference to health inspections and the jurisdiction of the Town’s Health Inspection Officer is limited to certain types of inspections.

CODE ENFORCEMENT OFFICER: If the Council will recall – back in July of 2012, Anita Anderson, the Town’s Health Officer, spoke to the Council and recommended to

the Town Council to repeal the Ordinance that calls for health inspections for all licenses issued by the H.I.P, with the exception of Body Arts (includes tattooists, piercers, etc.) She suggested that the Town Council should pursue working to bring the qualifications for a municipal inspector to a more reasonable level. The current requirements are for a Level 2 FDA Inspector and these requirements are far more suited to those FDA Inspectors who deal with various food processing plants and are not needed in our Town or in 99% of the State. If the requirements do change to bring the training to a more manageable level, the Town can promulgate to a new ordinance for inspection process. She strongly felt that the Town should contact the representatives to discuss the issue. The H.I.P. has taken away local control with no previous information to the stake holders (municipalities). The Council decided at that time to leave things the way the State has set the new rules to see how it works out. According to the Town Code Enforcement Officer, there have been no issues that the Town has had to deal with since the change has been made. I believe that the Health Officer is seeking to assure that the Town Council understands that the present Health Officer no longer has in her job description the inspection of restaurants. The new legislation prohibits her to inspect restaurants and other things that now fall on the DHHS Health Inspection Program. The only other option is for the Town of Old Orchard Beach to become a delegated municipality and we would have to enforce it like the State does and have someone trained to that level. If the Town plans to go with this plan, then the present Health Officer will not serve in this capacity or regard to specific responsibilities.

The Council members discussed this item and the question came down to the possible need for a designated individual next March when the summer season permits are beginning to be assembled and they recommended that the Town Manager look into the cost of becoming a designated municipality.

5765 Discussion with Action: Approve the Transfer of the Defendant in Rem, or any position thereof, pursuant to 15 M.R.S.A. Section 5824(3) and Section 5826(6) and accept the seizure money (\$8,000) should it be awarded by the Courts.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve the Transfer of the Defendant in Rem, or any position thereof, pursuant to 15 M.R.S.A. Section 5824(3) and Section 5826(6) and accept the seizure money (\$8,000) should it be awarded by the Courts.

VOTE: Unanimous.

CHIEF KELLEY: The Chief detailed a four month investigation into illegal drug trafficking in Old Orchard Beach which has led to the arrest of 44 people being charged with various crimes including 36 felonies, 50 misdemeanors and 15 civil violations. He indicated there are 20 more active investigations going on at this time. The charges are the result of a new, more aggressive and proactive approach to the problem that arose at the encouragement of the Town Manager, Mark Pearson. The drug charges include, but are not limited to possession of illegal drugs and drug trafficking. Seized narcotics included crack cocaine, cocaine, heroine, marijuana,

methamphetamine and assorted prescription drugs. Through the investigations people were charged with additional crimes including theft, assault, violating conditions of release and outstanding warrants. The full list of charges he said would be released in a press release in the coming week. The Chief indicated that having the support of the Town Manager has been critical. Together they came up with a plan to reallocate some resources and devote more manpower to investigating drug cases. Through the current budget and using the same number of personnel, town officers became investigators. Previously patrol officers investigated drug complaints but now undercover and plain-clothes officers conduct the investigation and they have been able to be more productive in their arrests. In addition the Chief indicated that twelve state and federal agencies have lent their support including the United States Drug Enforcement Agency, both in Maine and California, the High Impact Drug Trafficking Areas Portland Office, the Southern Maine Violent Crimes Task Force, the Saco and Scarborough Police Department, the Maine State Police, the Sagadahoc and Washington County Sheriff's Offices, and the Lincoln, California Police Department. He indicated that the objective is to address each complaint and hopefully see a reduction in crime. The drugs are often involved in other crimes which have a high cost and destructive effect throughout our society. Drug-related crimes can include anything such as shoplifting, assault, carjacking and home invasions. Being more aggressive in dealing with drugs is also good not only for the citizens but for the tourists industry as well.

5766 Discussion with Action: Approve the Transfer of the Defendant in Rem, or any position thereof, pursuant to 15 M.R.S.A., Section 5824(3) and Section 5826(6) and accept the seizure money (\$621.75) should it be awarded by the Courts.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve the Transfer of the Defendant in Rem, or any position thereof, pursuant to 15 M.R.S.A., Section 5824(3) and Section 5826(6) and accept the seizure money (\$621.75) should it be awarded by the Courts.

VOTE: Unanimous.

5767 Discussion with Action: Amend the Town Council "Policy Concerning Public Records Requests" adopted by the Town Council on July 20th, 2004, and re-affirmed on September 7th, 2004.

ASSISTANT TOWN MANAGER: The Legislature has enacted some important changes to the "open records" provisions of Maine's Freedom of Access Act (FOAA) or "Right to Know" law. The new amendments took effect on August 30, 2012. Our Town Clerk attended the recent workshop on this change while attending the MMA convention in Augusta.

POLICY CONCERNING PUBLIC RECORDS REQUESTS

- 1. All requests to inspect and copy public records will be processed according to the procedures set forth in Maine's Freedom of Access Act at 1 M.R.S.A. § 408**

as amended by PL 2004, Ch. 709, and PL 2011, Ch. 662, a copy copies of which is are attached.

2. The Assistant Town Manager is designated the Freedom of Access Liaison for processing requests to inspect and copy public records. The Town Clerk is designated as the alternate Freedom of Access Liaison in the absence of the Assistant Town Manager. The Freedom of Access Liaison shall assist members of the public in obtaining access to public records.
3. This policy contemplates that members of the public seeking access to public records will ordinarily make their request directly to the office or official having custody of the requested records. Any member of the public who is uncertain about what office or official has custody of particular public records or who experiences difficulty in obtaining public records may request the assistance of the Freedom of Access Liaison.
4. Within a reasonable period of time, the Freedom of Access Liaison will provide a good faith non-binding estimate of the response time and must make a good faith effort to respond within that time. If the request will be denied, the notification must be given to the requestor within five business days of receiving such a request for assistance, ~~the Freedom of Access Liaison shall make a determination on the request.~~ The Freedom of Access Liaison may arrange for the person requesting the records to obtain them directly from the office or official having custody of the records, may provide the requested records directly to the person making the request, or may deny the request if the documents requested are not available for inspection and copying because they are within an exception to the definition of public records under 1 M.R.S.A. § 402(3). If the Freedom of Access Liaison denies a request to inspect and copy documents, the Freedom of Access Liaison shall provide a written notice to the person requesting the documents, explaining the reasons for the denial. The Freedom of Access Liaison shall keep written records of action taken on each request for assistance.
5. A charge of \$15 per hour, after the first hour of staff time, will be charged for searching for, retrieving and compiling requested records.
6. All fees for photocopying records are outlined in the Town of Old Orchard Beach Code of Ordinances, Appendix A, Schedule of License, Permit and Application Fees.

Adopted by Town Council on July 20, 2004

Re-affirmed on September 7, 2004

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Amend the Town Council “Policy Concerning Public Records Requests” adopted by the Town Council on July 20th, 2004, and re-affirmed on September 7th, 2004.

VOTE: Unanimous.

GOOD AND WELFARE:

ADJOURNMENT:

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Adjourn the Town Council Meeting.

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 (16) pages is a copy of the original Minutes of the Town Council Meeting of October 16, 2012.

V. Louise Reid