

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, January 21, 2014
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 21, 2014. Chair O'Neill opened the meeting at 7:02 p.m.

The following were in attendance:

Chair Shawn O'Neill
Vice Chair Bob Quinn
Councilor Jay Kelley
Councilor Malorie Pastor
Councilor Joseph Thornton
Councilor Michael Tousignant
Councilor Kenneth Blow
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid

Pledge to the Flag
Roll Call

ACKNOWLEDGEMENTS:

COUNCILOR PASTOR: She reported on attending an event sponsored by State Representative Justin Chenette held at the Saco Museum regarding a new initiatives for 501-3C – regarding active citizens, volunteerism, school and municipality issues, entrepreneurship, Bikes for Kids, and other valued programs that could be part or, or introduced, to the tri-city municipalities (Biddeford, Saco and Old Orchard Beach.)

COUNCILOR BLOW: He thanked OOB365 and the American Legion for the recent Community Dinner that served over 350 people. We appreciated their endeavors for the community.

ACCEPTANCE OF MINUTES: Town Council Meeting Minutes of January 7, 2014.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Accept the Town Council Minutes as read.

VOTE: Unanimous.

PUBLIC HEARINGS:

CHAIR: I open this Public Hearing at 7:05 p.m.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL: Steven Nielsen (309-3-3), 14 Westland Avenue, one year round rental; and Sandra Stiles (316-2-2), 16 Odessa Avenue, one year round rental.

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

MOTION: Councilor Pastor motioned and Councilor Kelley seconded to approve the Business License as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT:

- ❖ Met again with Police, Code Enforcement, and General Assistance to address issues related to winter rentals, including code violations, criminal activity and other calls for service. We will be meeting on a weekly basis going forward to address this issue. Code Enforcement will be stepping up its inspections of winter rental properties to ensure that they are safe.
- ❖ Flood map update:
 - Attended 2 meetings for community officials.
 - Continued dialogue with congressional representatives.
 - Excellent article in Monday's Press Herald.
 - Different methodologies and assumptions used.
 - Purpose of maps is to assess risk and inform property owners of risk so that they can make informed choices, protect life and property.
 - Own property in two towns, is FEMA saying equally safe both.
- ❖ Attended Planning Board meeting to discuss with Board the issue of private wastewater pump stations in the Dunegrass development.
 - Also working with Planning staff and legal counsel to clarify what the Town's obligations are as it relates to enforcing private restrictive covenants, as well as any obligation to enforce conditions contained in contracts between private parties for the sale of property.
- ❖ Attended a negotiating session on the police union contract. Another one on Friday.
- ❖ Library update
 - Bids are due next Tuesday.
 - Met with the architect to discuss addendums to the bid documents.
 - Building Committee: Charter issue raised related to council appointments.
 - Intention was to promote communication/information
 - I will meet monthly with the Library Board: also Lee.
 - If the Council wishes to have update can do so here or a workshop.
- ❖ Legislative issues: participated by phone in monthly meeting of York County delegation in Augusta.
 - Revenue Sharing.
 - MaineCare transportation issues.
- ❖ Train whistle concerns: initiate process to investigate quiet zones.

❖ Little River dredging: pre-construction meeting on Thursday start soon.

COUNCILOR TOUSIGNANT: He requested the Assistant Town Manager to notify members of the Acorn Village and Danforth Condominium Association membership.

NEW BUSINESS:

6088 Discussion with Action: Amend Chapter 2 – Administration, Article IV – Boards, Committees, Commissions, Division 8 – Ballpark Commission, Ballpark Commission Section 2-396, 2-398, 2-399, 2-401, 2-402 and 2-404.

BACKGROUND: At a recent Public Hearing the following was discussed and opportunity for public comment to be made. Some of the changes include revisions to the Ballpark Commission Ordinance and were general in nature such as the listing of the addition of the Ballpark address and other minor changes. It should be noted that the Ballpark operates as an Enterprise Fund. Section 3 related to Appointment, vacancies, terms were a critical piece of the requested change. Whereas the Commission consisting of seven members appointed by Council and the issue of attendance at the meetings has been a concern of the Commission and the lack of quorum on several occasions has made it impossible for them to conduct their meetings. Councilor Bob Quinn had suggested a time frame. That fact that officers are elected in January prompted the idea of the “calendar” as the time frame. It was noted that members of the Commission serve at the will of the Council and may be removed by a vote of the Council at any time for any reason. Additionally added: To remain on the Commission, members must attend at least 75% of the meetings in a calendar year either in person, by telephone or teleconferencing (leave out Skype) and actively contribute their efforts in various tasks (e.g., meeting participation, timely completion of assignments) important to the usefulness of the Commission’s powers and duties. Under the area of Powers and duties it was noted that: The Commission is responsible for developing the Ballpark’s business planning including financial, marketing, operation, and long-term property enhancements. In conjunction with the business planning the Commission shall research alternatives for effective internal financial tracking, external marketing, and ballpark operations and provide recommendations to the Town Manager for negotiating agreements/contracts, Council review and consideration for approval. Operations may include, but is not limited to, equipment, materials, vendors and park users. Section 6 was discussed as it involved Quorum, procedures, officers and it was suggested that four members rather than five constitute a quorum. Further lengthy discussion on the following was also considered: The Commission shall choose annually a chairperson, vice chairperson, secretary and a financial liaison from among its members. The financial liaison maintains copies of purchase orders, invoices and other financial documents including the Finance Director’s monthly reports. Original purchase orders, invoices and other financial documents are maintained by the Finance Director. The official cash flow and financial records are maintained by the Finance Director. Under Section 7 – Authority to Appoint agents it was noted that The Commission may, with the consent of the Town Manager and the Town Council, designate one or more of its members or qualified non-members (the latter approved by the Town Manger of Council) to serve as the Commission’s agents for carrying out the Commission’s responsibilities.

The changes were favorably considered by the Council and the Town Manager was to make necessary changes to it and it would be on the next agenda for consideration for approval.

Proposed amendments to the Ballpark Commission ordinance: December 17, 2013

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DIVISION 8: BALLPARK COMMISSION

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

Sec. 2-396. Ballpark defined.

For purposes of this Ordinance, the term "the Ballpark" means the municipal facility located on Ballpark Way off of E. Emerson Cummings Boulevard, commonly known as The Ballpark, consisting of approximately 49 acres of land improved with a stadium, playing fields and parking areas. The Ballpark operates as an enterprise fund.

Sec. 2-397. Ballpark commission formed.

Pursuant to Sec. 409.4 of the Charter, there is hereby created an agency of the Town by the name of the "Ballpark Commission."

Sec. 2-398. Appointment, vacancies, term.

The Ballpark Commission ("Commission") shall consist of seven members appointed by the Town Council for a term of three years each commencing on the date of appointment, except that of those first appointed, three shall be for a term of three years, three shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the Commission shall be filled by the Town Council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the Commission serve at the will of the Town Council and may be removed by vote of the Council at any time for any reason. Commissioners shall attend at least 75% of Commission meetings held during a calendar year, either in person or by telephone or video conferencing. Commission members shall actively contribute their efforts to various tasks (e.g., meeting participation, timely completion of assignments, sub-committees) important to the usefulness of the Commission's powers and duties.

Sec. 2.399. Powers and duties.

Subject to Town Council oversight, the Commission is responsible for developing The Ballpark's business planning including improvement, maintenance, financial tracking, marketing, operations, and long-term property enhancements, offering recommendations to the Town Manager and Town Council for consideration and approval. Operations may include, but is not limited to equipment, materials, vendors and park users.

~~Subject to Town Council oversight, the Commission shall be responsible for the improvement, maintenance and operation of the Ballpark.~~ In order to carry out that responsibility, the Commission shall have the following powers and duties:

Undertaking maintenance of and improvements to the physical facilities, subject to appropriation of funds therefore by the Town Council and subject to the Town's established purchasing and procurement procedures.

Scheduling events, subject to issuance by the Town Council of special events permits under Chapter 42, Article IV, Division 5 of the Town Code.

Raising funds to be used exclusively for the improvement, maintenance and operation of

the Ballpark through the sale of advertising or other promotional activities and through soliciting and accepting donations on behalf of the Town, all in accordance with the Town's established finance and accounting procedures.

All such funds received by the Commission shall be remitted to the Town Treasurer for deposit in a dedicated revenue account denominated "the Ballpark Fund."

Soliciting, supporting and organizing the efforts of volunteers to assist in the improvement, maintenance and operation of the Ballpark as a community facility.

With the approval of the Town Manager, obtaining the assistance of Town employees in connection with the improvement, maintenance and operation of the Ballpark.

Performing such other duties and responsibilities and exercising such other powers as the Town Council may, from time to time, by order, assign to the Commission.

Sec. 2-400. Meetings.

The Commission shall establish a schedule of regular meetings, which shall provide for at least twelve meetings per calendar year. The Commission shall meet at least monthly during June, July, August and September. The Commission Chairperson may call special meetings as he or she deems necessary.

Sec. 2-401. Quorum, procedure, officers.

~~Five~~ Four members of the Commission shall constitute a quorum for the purpose of conducting a meeting. Any action by the Commission requires a majority vote of those members present and voting. The Commission may adopt additional rules, not inconsistent with this Ordinance, for the conduct of its activities.

The Commission shall choose annually a chairperson, vice chairperson, secretary, and may choose a financial liaison from among its members. The secretary shall maintain a permanent record of the Commission's meetings. The financial liaison will maintain records of purchase orders, invoices and other financial documents including the Town Financial Director's monthly reports. Original financial records, including purchase orders, invoices and other financial documents, are maintained by the Town Finance Director.

Sec. 2-402. Authority to appoint agents.

The Commission may, with the consent of the Town Manager and the Town Council, designate one or more of its members or, qualified non-members if authorized in writing by the Town Manager or Town Council) to serve as the Commission's agents for carrying out the Commission's responsibilities. Such agents may not, however, bind the Town to any contractual or financial commitments unless expressly authorized to do so by the Town Council.

Sec. 2-403. Report to the Council.

On a quarterly basis, starting on the 16th of June, 2010, the Commission shall submit to the Town Council a written report on the status of improvements, maintenance and operations at the Ballpark, including a summary of the Commission's activities during the immediately preceding three months.

Sec. 2-404. Ballpark is land owned by the public but not considered a park.

The Ballpark, as defined in this Ordinance, is intended to be operated as a sports/entertainment/events and recreation area and not as a public park subject to the care and superintendence of the Conservation Commission. ~~nor shall The Ballpark's~~ operation shall not be considered a recreation program subject to oversight by the Recreation Board.

Secs. 2-405 – 2-410. Reserved.

MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to Amend Chapter 2 – Administration, Article IV – Boards, Committees, Commissions, Division 8 – Ballpark Commission, Ballpark Commission Section 2-396, 2-398, 2-399, 2-401, 2-402 and 2-404.

VOTE: Unanimous.

6089 Discussion with Action: Accept the bid for the purchase of one fifteen (15) horsepower Hydromatic Pump from Mechanical Solutions for \$6,496 from Account Number 20161-50330 – Wastewater Equipment Replacement, with a balance of \$33,190.

BACKGROUND: The request is for a pump to replace a pump that was rebuilt and installed in 2010 at the Dunegrass 100 Pump Station. As a general rule pumps of this size can only be rebuilt once and rebuilt pumps do not last as long as new pumps. Mechanical Solutions is the licensed vendor for Hydromatic pumps in the Northeast. The pump station piping, electrical and controls are based on this pump. Any deviation from this pump would require modifications to the pump station itself. As indicated in the quote, delivery is in five weeks. All the new pumps from Hydromatic are rated for use with VFDs FOB Factory. Freight would be prepaid and added to the invoice. In dealing with the Company the Superintendent of Waste Water, Chris White, was able to negotiate a discount reducing the price from \$6,939 to \$6,496. Options are presented but not required.

The Council was asked to honor a request from the Superintendent of the Waste Water Department to take the funding from Account Number 53002-50846 – CIP, with a balance of \$300,291.03 since this equipment is an integral part of the Pump Station with a useful life span of over ten years. Funding is available but since this does fall under the criteria for a capital purchase the Finance Director had no problem with this.

MOTION: _____ motioned and _____ seconded to Accept the bid for the purchased of one fifteen (15) horsepower Hydromatic Pump from Mechanical Solutions for \$6,496 from Account Number ~~20161-50330 – Wastewater Equipment Replacement, with a balance of \$33,190.~~ Account Number 53002-50846 – CIP, with a balance of \$300,291.03.

Comment [LR1]:

6090 Discussion with Action: Re-Appoint Eber Weinstein as a regular member of the Planning Board, term to expire 12/31/15.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the appointments as read.

VOTE: Unanimous.

6091 Discussion with Action: Approve the Special Event Permit application for MAPS to hold their annual Breakaway 5K Road Race on Saturday, August 16th, 2014 and Saturday, August 15th, 2015, both starting at 7:45 a.m. in the Square. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event; and a Request to waive the fee.

MOTION: Councilor Pastor motioned and Councilor Tousignant seconded to Approve the Special Event Permit Application as read.

VOTE: Unanimous.

6092 Discussion with Action: Request the signature of the Chairman of the Town Council to sign the updated Zoning Map, per Section 78-457 of the Zoning Ordinance, with the following information, "On December 3, 2013, by official action of the Town Council, the following change(s) were made in the Official Zoning Map: "Expand the Campground Overlay District over a single parcel zoned R-1 located at 9-11 St. John Street, MBL 206-26-7 (Ne're Beach Campground), owned by Pacy LLC and Expand the Campground Overlay District over a single parcel zoned GB-1 located at 17 Ocean Park Road, MBL 210-10-4 (OOB Campground) owned by RBD Inc. " which entry shall be signed by the chairman of the town council and attested by the town clerk.

MOTION: Councilor Thornton motioned and Councilor Pastor seconded to Remove Without Prejudice Item Number 6092 because of a correction needed to be made on the map designation.

VOTE: Unanimous.

6093 Discussion with Action: Act on amended Warrant for the Regional School Unit #23 Election, being held on April 8, 2014.

BACKGROUND: The Warrant signed by the Town Council listed the Title and Section in State Law that referred to the election of initial directors and that section of the law referred to their year determination by drawing lots. Per the voters at the Regional Meeting, the successful candidates are chosen by the highest vote getter, and not by drawing lots; therefore, the Warrant has been amended to reflect the wording of the Regional meeting.

**TOWN OF OLD ORCHARD BEACH
WARRANT FOR SPECIAL MUNICIPAL ELECTION
April 8, 2014**

County of York, ss.

To Roger Stevens, a resident of the Town of Old Orchard Beach, Maine:

You are hereby directed to notify the voters of the Town of Old Orchard Beach of the Special Municipal Election described in this warrant.

You are hereby notified that a Special Municipal Election is to be held on Tuesday, April 8, 2014 at the Old Orchard Beach High School, E. Emerson Cummings Boulevard, to act by secret ballot on Article 1, as follows:

Article 1: To elect three Directors to the Board of Directors for Regional School Unit #23, Old Orchard Beach, with the candidates receiving the highest, second highest and third highest number of votes, to serve initial staggered terms, continuing, respectively, until their successors have been elected and qualified following the regular Town of Old Orchard Beach municipal election in November 2017, 2016, and 2015.

Polls shall be opened at 8:00 a.m. and close at 8:00 p.m.

Absentee ballots will be processed on Election Day (April 8th) every hour on the hour beginning at 9:00 a.m.

Dated _____, 2014

MUNICIPAL OFFICERS OF THE TOWN OF OLD ORCHARD BEACH

MOTION: Vice Chair Quinn motioned and Councilor Pastor seconded to Act on amended Warrant for the Regional School Unit #23 Election, being held on April 8, 2014.

VOTE: Unanimous.

6094 Discussion with Action: Resolution urging the Governor and State Legislature to Fund Municipal Revenue Sharing.

TOWN MANAGER: In FY2014, Old Orchard Beach is projected to receive \$380,400 of the \$65 million to be distributed statewide to municipalities. In FY 2015 the municipality is expected to receive \$350,806 if the Legislature finds \$40 million in savings. If the Legislature fails to find the savings, then in FY15 the total revenue sharing pool will decrease from \$60 million to \$20 million, leaving Old Orchard Beach with \$116,935, a reduction of 67% of FY14 revenue sharing. The signed resolution will be sent to members of the Appropriations Committee as well as our State Senator and Representative and the Governor as well.

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to sign a Resolution urging the Governor and State Legislature to Fund Municipal Revenue Sharing.

VOTE: Unanimous.

RESOLUTION

Resolve, to express the Old Orchard Beach Town Council's support for the restoration of State Municipal Revenue Sharing funding for fiscal year 2015.

Whereas, unless the State Legislature acts in the current legislative session municipal revenue sharing will be slashed to less than 15% of full funding; and

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Whereas, the Appropriations Committee will conduct a hearing this week to consider LR 2721, a bill that would restore a portion of municipal revenue sharing; and

Whereas, municipal revenue sharing has been the State's primary municipal property tax relief program since its inception over 40 years ago; and

Whereas, Title 30-A §5681 establishes in its purpose statement that the principal problem of financing municipal services is the burden on property taxes; and

Whereas, the purpose statement further holds that in order to stabilize the municipal property tax burden it is necessary to provide funds from the broad-based taxes of State Government; and

Whereas, the property tax burden on Old Orchard Beach residents has increased due to state-granted tax exemptions such as the Business Equipment Tax Reimbursement (BETR) program, the Business Equipment Tax Exemption (BETE) program, the effective reduction of local road assistance, and the State not fully funding its mandated Homestead Exemption; and

Whereas, in the current fiscal year Old Orchard Beach received \$500,000 less in revenue sharing than if the program had been fully funded, and will lose an additional \$260,000 next year without action by the Legislature, with the combined loss of revenue sharing adding 55 cents to the municipal tax rate; and

Whereas, Old Orchard Beach residents and businesses contribute a disproportionate share of sales taxes to State government because of Old Orchard Beach's success as a summer resort destination ; and

Whereas, the Town of Old Orchard Beach must fund an enhanced level of public services and public infrastructure to support the summer visitors who generate sales tax revenue for the State; and

Whereas, the Old Orchard Beach Town Council finds that municipal services already strain to meet needed service levels, capital expenditures are not keeping pace with infrastructure needs for roads, wastewater, sidewalks and facility maintenance, and collaborative and shared services have already been incorporated into current operations such as dispatch, assessing, and technology support;

Now, Therefore, Be It Resolved by the Old Orchard Beach Town Council that through the continuing reduction of municipal revenue sharing the State of Maine is violating the purpose and intent of Title 30-A §5681 and is thereby exacerbating the over-reliance of Old Orchard Beach on the property tax and increasing the tax burden on Old Orchard Beach property owners regardless of their ability to pay; and

Now, Therefore Be It Further Resolved that the Old Orchard Beach Town Council urges its State representatives, the Appropriations Committee, and the Governor, to actively support LR 2721 and to return municipal revenue sharing to full funding over a three-year period as an

equitable means to reduce the local property tax burden, and to maintain existing municipal services and infrastructure.

Read and Adopted by a Vote of the Old Orchard Beach Town Council: January 21, 2014

GOOD AND WELFARE:

ADJOURNMENT:

MOTION: Councilor Pastor motioned and Councilor Blow seconded to adjourn the Town Council Meeting at 7:38 p.m.

VOTE: Unanimous.

Respectfully Submitted,

V. Louise Reid
Town Council Secretary

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of ten (10) pages is a copy of the original Minutes of the Town Council Meeting of January 21, 2014.

V. Louise Reid