

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, FEBRUARY 3, 2009 - 7:00 P.M.
TOWN HALL CHAMBERS**

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, February 3, 2009 in the Town Hall Chamber. The Chairman opened the meeting at 7:01p.m.

Documentation provided to Council on items is attached to the official copy of the Minutes.

Pledge to the Flag and Roll Call:

Present:

**Chair Sharri MacDonald
Vice Chair Robin Dayton
Councilor Laura Bolduc
Councilor Mike Tousignant
Councilor Shawn O'Neill
Town Manager Steve Gunty
Assistant Town Manager V. Louise Reid**

ACKNOWLEDGEMENTS:

COUNCILOR DAYTON: We again would remind all residents of Old Orchard Beach of our 125th Anniversary of the Town to be celebrated at the Dunegrass Country Club on Thursday, February 19th with a Reception at 6:00 p.m., followed by dinner at 7:00 p.m. and followed by fabulous entertainment by 'A TASTE OF LACE.'" Tickets are \$25 and can be secured in a number of places including Town Hall, MacDonald's Gas Station, The Chamber of Commerce, Beach Glass, and Saco & Biddeford Savings Institution.

CHAIR MACDONALD: Election for the Regional School Unit will be held on Tuesday, February 10th at the High School or you can come into Town Hall anytime before that date and vote. This is an important opportunity for all citizens to participate in our children's education.

ACCEPTANCE OF MINUTES: Town Council Minutes of January 6, 2009; Town Council Workshop of January 6, 2009; Town Council Workshop of January 13, 2009; Town Council Minutes of January 20, 2009; Town Council Workshop of January 20, 2009; and Special Town Council Meeting of January 27, 2009.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to accept Town Council Minutes of January 20, 2009; Town Council Workshop of January 20, 2009; and Special Town Council Meeting of January 27, 2009.

VOTE: Unanimous.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to accept Town Council Minutes of January 6, 2009; and Town Council Workshop of January 6, 2009.

VOTE: Yea: Councilors O'Neill, Dayton, Tousignant and Chair MacDonald
Abstain: Councilor Bolduc due to excused absence.

MOTION: Councilor Dayton motioned and Councilor Tousignant second to accept Town Council Workshop of January 13, 2009.

VOTE: Yea: Councilors Bolduc, Dayton, Tousignant and Chair MacDonald
Abstain: Councilor O'Neill due to excused absence.

BUSINESS LICENSES: Neal Weinstein (104-2-10), 129 Portland Avenue, Unit 44, one year round rental; John J. McLaughlin Trust (201-3-5), 8 Little River Road, one seasonal rental; Lisa Beesley (210-2-4), 26 Smithwheel Road, four year round rentals; Daniel & Maria Roy (307-1-7-21), 2 Fernald Street, Unit 21, one year round rental; and Natalia Daudaravichene (311-23-5), 11 Thirteenth Street, one year round rental.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to approve the Business Licenses as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT: Thank you, Chair MacDonald. I have provided in your most recent Council packet a listing of the suggested budget sessions over the next couple of months. We would appreciate your consideration of those dates and some feedback as to any changes or modifications to the schedule so that the Administration and the Council will have confirmed dates for these meetings.

NEW BUSINESS:

5113 Discussion with Action: Accept the FY09 Audit by Runyon, Kersteen & Ouellette and Presented by Auditor, Roger Lebreux.

Official copy of the Audit Report and Management Letters can be secured from the Finance Director.

AUDITOR: The annual audit of the Municipality was reported on this evening by Auditor, Roger Lebreux, of the auditing firm, Runyon, Kersteen & Ouellette. A copy of the final Audit is available in the office of the Finance Director. Key Performance Indicators were presents including significant changes which included cash and investments has increased over last year by approximately \$69,000. Outstanding taxes and liens receivable have increased due to the decrease in the collection rate and inventory more than doubled over last year, consisting mostly of fuel and trash bags which are held for resale. Under General Fund Liabilities, Accounts Payable which represents amounts due to others at year end decreased as a result of timing differences. Deferred taxes represent taxes still unpaid 60 days after the end of the year. These amounts are not recognized as revenues in the current year. Accrued wages and expenses increased by \$31,000 in 2008. This amount represents payroll earned in June of

2008 but paid in July or August of 2008. In the General Fund Balances significant changes included reserved fund balance consists primarily of amounts reserved for education. Designated fund balance includes unspent capital improvement projects. Details can be found on Page 39 of the Financial Statements. Undesignated fund balance increased slightly from 2007 to 2008. This amount includes \$73,037 for the School. Under the General Fund Revenues changes include license and permits came in under budget in building/electrical permits, sewer user and dumping fees and other permits and fees. These came in under budget due to fewer permits being issued due to the slowing economy, decreased in waste being taken to Waste Water Treatment Plant and a decrease in commercial tonnage being taken to MERC. Property taxes appear to have exceeded budget due to overlay of \$508,000 which is not budgeted as well as an unfavorable change in deferred taxes of \$185,000. Interest exceeded budget due to conservative budgeting. General Fund Expenditure's changes included capital outlays appear to be under budget. These represent large on-going projects with the remaining balances being designated at year end. These also represent amounts being spent from designated fund balance. A detail of the individual projects are listed on page 48 of the financial statements. Public Works came in over budget due to the excessive snow fall last winter. This resulted in additional overtime wages, additional vehicle repairs as well as road maintenance due to winter damage. Also, renegotiated the contract for cleaning the public restrooms resulting in a fee increase as well as Town now paying for supplies. Property Tax Collection Rates remained consistent to the past four years but decreased in 2008. The Property Tax Rates decreased substantially in 2003 and 2006 due to revaluations. The Town's FY 2008 collection rate of 96.62% has decreased over last year but still remains consistent with the surrounding and similar sized communities. Undesignated fund balances vary widely across the State. Old Orchard Beach is carrying a little less than three months of expenditures in its undesignated fund balance and its policy calls for 1 ½ months of expenditures. There were significant reconciling GASB34 adjustments this year including recording capital assets net of accumulated depreciation; eliminating inter fund balances; eliminating deferred revenue; and recording long-term debt, landfill liability and accrued vacation/sick time. The presentation this evening was intended as a tool to assist the Town Council and management in understanding its financial operating results. Significant deficiencies in the audit included segregation of duties which have been prevalent because of lacking staff for many years. Segregation of duties involves the assignment of responsibilities in such a way that different employees handle different parts of the same transaction. Small size of accounting staff makes this difficult to address. It is to be discussion in the next budget process. Lack of documentation in the school audit was mentioned. Without documentation, funds could be spent inappropriately and not be detected in a timely fashion by employees. According to the Schools implementation has been addressed. The School Department was written again about recording no accounts payable when the fiscal year closed. The School Department is currently working on processing bi-monthly warrant in order to pay vendors in a timely manner as well as taking advantage of discounts. Verifications of times sheets needs to be implemented. Other indications of weaknesses including updating of personnel files, centralized location of cash receipts, backup documentation for real estate and personal property taxes and the addressing of uncollectible accounts with a connection to a Collection Agency.

A very positive and helpful discussion continued during the next few Minutes of the Council meeting. In response to questions by Councilors Dayton and Bolduc the Auditor indicated that in the Funds financial statements, reserves and designations segregate

portions of fund balance that are either not available or have been earmarked for specific purposes. The various reserves and designations are established by actions of the Town Council and Management and can be increased, reduced or eliminated by similar actions. As of June 30, 2008, reservation of funds balances were:

Reserved for Encumbrances: These reserves represent the portion of purchase orders and contracts awarded for which goods and services have not yet been received.

Reserve for Inventory: These reserves represent the portion of fuel and trash bags inventory.

Reserved for Education: These reserves represent specific projects and programs for which the School has made a commitment toward completion.

A complete listing of reserves can be found on page 38 and a listing of designations can be found on page 39 of the financial report.

The Auditor discussed Councilor's concern on how the deficit fund balances are going to be funded, specifically recreation fund and FEMA funding. A question of whether FEMA funds are expected or is the deficit going to be funded by a transfer from the General Fund was explained that some times it takes a period of time for FEMA funds to finally be given back to the municipality but always there is some portion that the municipality will be responsible to cover from the general fund.

The Auditor provided per capita numbers as requested. He also assured Council that he was comfortable with both our level of debt and also the level of accountability and controls that are in place. He highly praised our Finance Director, Jill Eastman, for both the enormous amount of work she did on the audit prior to the auditor's work which saved the municipality additional cost for auditor's time as well as the control and fiduciary responsibility she takes in her work. He reminded the Council that they received monthly financials were provide more than sufficient information on issues of financial during the covered month and projections of where you stand for the year and should be able to monitor overages as they occur.

In a question as to Public Work overages (\$176,000) it was explained by the Auditor that this was a result of a renegotiated contract with Extreme Clean, approved by the former Council for additional work and also the Town is now providing the cleaning supplies for that contract, in addition to the heavy amount of snow last winter.

Council requested of the Town Manager and Finance Director a comparison of our vehicles over the past four year – found for this year on page 34 – and go back historically four years in the previous audit reports. It should be noted that this was a requirement only instituted about six years ago but certainly that far back would be possible to establish this information for the Council.

The question was asked why the audit was late this year and the Auditor explained that there was difficulty in finalizing the School audit and that information was difficult to obtain. The municipality part of the audit was completed in October of 2008. With the Regional School Unit coming into play this may not be an issue next year.

Councilor O'Neill thanks the Auditor for his presentation and the Finance Director for the work of her department. He also mentioned that many of the accountability standards discussed this evening have been in place, are in place, and have been and will be followed in the coming days. He expressed his opinion that he was comfortable with the monitoring of business practices and accountability issues.

Chair MacDonald thanked the Auditor for the presentation and for addressing the questions raised by Council and for the work of the department heads in providing information for the audit.

MOTION: Councilor Bolduc motioned and Councilor Dayton seconded to Accept the FY09 Audit by Runyon, Kersteen & Ouellette and Presented by Auditor, Roger Lebreux.

VOTE: Unanimous.

5114 Discussion with Action: Set a Public Hearing of February 17, 2009 to Amend the Taxicab Ordinance, Code of Ordinance, Section 62-26 through 62-125, by Suspending the Ordinance until September 8, 2009.

Councilor Bolduc motioned and Councilor Dayton seconded to Set a Public Hearing of February 17, 2009 to Amend the Taxicab Ordinance, Code of Ordinance, Section 62-26 through 62-125, by Suspending the Ordinance until September 8, 2009 but in discussion Councilors O'Neill and Tousignant expressed concern as to why it was necessary for such a long period of time for consideration for changes to be made and requested a change in the wording of the Motion. The consensus was that this revision should be expedited by suspending until such time as a new ordinance becomes in effect.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing of February 17, 2009 to Amend the Taxicab Ordinance, Code of Ordinance, Section 62-26 through 62-125, by Suspending the Ordinance until such a time as a new Ordinance becomes in effect."

VOTE: Unanimous.

5115 Discussion with Action: Accept the Resignation of James F. Long from the Biddeford Saco Old Orchard Beach Transit Committee (Shuttlebus); and Accept the Resignation of Keith Babin from the Recreation Committee.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Accept the Resignation of James F. Long from the Biddeford Saco Old Orchard Beach Transit Committee (Shuttlebus); and Accept the Resignation of Keith Babin from the Recreation Committee.

VOTE: Unanimous.

5116 Discussion with Action: Appoint Lee Koenigs as a Regular Member of the Design Review Committee, term to expire 12/31/2010; Appoint Carol Cris Hudson as a Regular Member of the Recycling Committee, term to expire 6/30/2011; Appoint John Regan as a Regular Member of the Recreation Committee, term to expire 12/31/2010; Appoint Dru Laduke and Janet Doherty as Regular Members of the Recreation Committee, terms to expire 12/31/2011; and Appoint Jonah Goyet as the student member of the Recreation Committee, term to expire 12/31/2009.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to approve the appointments as read.

VOTE: Unanimous.

5117 Discussion with Action: Accept the Town Manager's Ballpark Committee Structure Recommendations Presented in Memo of January 16, 2009 and Presented at the Conservation Commission Workshop of January 20, 2009.

TOWN MANAGER: The Town Manager reviewed discussions which occurred in a recent Workshop in which it was felt that the Ballpark Working Group was at a crossroads. While the Group has largely completed its initial mission delineated in the April 14 Improvement Plan, it was acknowledged that to move forward with more meaningful progress, a structured administrative group would have to be formed. This would help alleviate cited concerns over the ability to conduct more aggressive fundraising, oversight of decisions affecting the Ballpark Rehabilitation and its future plans, and the need for a more diverse representation of interests. To that end, it was the informal consensus of the Council present to form a Committee and to ask the Town Manager to formulate a Committee Structure Recommendation. The Town Manager prepared a very informative memo in which he described historical information including numerous studies pertaining to or referencing the Ballpark. Most contained interesting and potentially useful recommendations on future Ballpark development, as well as on overall community development and quality of life. Additionally, some helpful insight on deciding a Committee Structure was also gained. The studies that the Town Manager looked at included the 1987 Downtown Revitalization Plan in which the Town with its Beautification & Revitalization Committee contracted with Maine Tomorrow, to study the downtown area to address problems associated with the short summer tourist season; a depressed downtown economy; and a deteriorating downtown physical condition. Problems discussed were poor roads and sidewalks; lack of development and employment in the downtown; visual blight and a lack of regulation to control it; and sub-standard commercial buildings and undesirable merchandising. The most important goals identified included attracting year-round employment and business; increasing open space; attracting a greater variety of tourists; improving the visual environment; examining civic uses for the ballpark park; promoting of bus tours; investigation of tram trolley system; continuing management of the dunes; improvement of access to the beach and improvement of signs, street furniture, landscaping, etc. He discussed the 1990 Ballpark Advisory Committee's Final Report where the Town Council committed to upgrade its own leadership & performance; public commitment to monitor Council and Ballpark activity; creation of an Economic Development Commission, Local Development Corp, or non-profit body with statutory authority to manage Ballpark; to include OOB residents and employ professional manager; a regular formal mechanism to solicit input and to modify

activities and programs; develop a 3 to 5 year Business Plan; Develop a 3 year marketing plan; identify specific examples of how the facility will add to OOB's overall development; and review ballpark development to ensure compatibility with Comprehensive Plan.

He also discussed the 1991 Comprehensive Plan conducted by Market Decisions. There were 61 Goals defined in the Comprehensive Plan, and one of the fourteen most important goals included developing/upgrading recreational facilities such as a Community Center. Other items including recognize the Performing Arts Center / Ballpark as a valuable community resource to accommodate a variety of recreational & civic uses and as a spur to the resort economy. Upgrading and maintaining the facility to encourage a family, senior & tourist economy. Cultural and recreational needs cited were: Park/Rec Bldg & outdoor skating rink.

The Town Manager also discussed the 1992 Stadium Resolution Committee Report. The goals included easing or eliminating the economic burden of the facility on the Town; promoting activities that complement overall Town objectives; and considering any proposals to rent, lease, or sell the Stadium; establish an organization structure, rules, members of the Policy Board.

Finally he reviewed the 2006 Community Planning Process on the Future of the Ballpark. This was conducted by Holt & Lachman Architects/Planners with a 13 member citizen steering Committee. Result was 4 alternatives, each showing a Balance of public amenities to include: Community Center, public parks/greens, low intensity recreational space with trails and some private development. Consultant recommended a phased development:

While all of these various studies and plans at first glance may seem independent and in some ways incongruent to one another, there are some common threads that can be deciphered for our current benefit. Gleaning the essence from all of these studies as a whole suggests that the Ballpark and its surrounding property can again become a unique community asset with great potential for economic gain, recreational amenity and enhancement of the Town's quality of life.

These results can be realized however, only if certain things are set into motion, namely; completion of a community planning process, community engagement through volunteerism, Council support of those initiatives with some financial resources committed, creation of an Advisory or Policy Board, and appropriate management oversight.

Virtually all of these elements have been set into motion in some form or another to various degrees as follows: a) while incomplete the spark has been started by previous efforts from the Committees and Planning Processes that have studied the Ballpark in the past 18 years (shown under History), b) by more recent and successful volunteer efforts of the Ballpark Working Group (under Conservation Commission) over the past 9 months, c) by Council commitment of some limited seed money (\$25,000) to preserve the Ballpark structures from further deterioration from the elements or vandalism, d) by Council commitment to form an Advisory or Policy Board (i.e. a Committee Structure for the Ballpark currently under review), and e) by Town Manager oversight (with the cooperation of Town Department Directors) of the Ballpark Working Group over the past 9 months.

The Conservation Commission has recommended the following Committee Structure:

The 50 Acre Wood Subcommittee (chaired by Linda Jenkins) is comprised of volunteers. Its mission is a whole parcel focus; to complete the planning process started 2 years ago and ensure that the final design concepts for the Ballpark and its surrounding 50 acres of land are incorporated into the new Comprehensive Plan. Design concepts for the 50 acres of public land will be conducted in very similar fashion as the formal planning process already begun but at little to no cost to the community.

The Ballpark Group is a smaller subset of citizen volunteers within the 50 Acre Wood Subcommittee with a limited parcel focus whose scope of work is on all aspects of the stadium, the baseball field, and surrounding buildings. The mission of the Ballpark Group is prioritized as: 1) return to code status the stadium, ball field and surrounding buildings, 2) use and maintain the stadium, field and facilities in a manner consistent with self sustainability, and 3) generate revenue for and improve the local OOB economy. The Ballpark Group has agreed to report to the 50 Acre Wood Subcommittee and to continue the practice of reporting directly to the Town Manager.

The Town Manager heartily concurs with the recommendation of the Conservation Commission as to the Committee Structure for oversight of the Ballpark and offers the following suggestions by way of enhancement to this arrangement. Due to the likely combination of future plans geared toward both economic opportunities (such as permanent job creation, creation of property tax revenue and developing a year-round destination facility) and geared toward recreational amenities on the parcel (such as a Community Center, Recreation Office, outdoor skating and other recreational uses for the parcel), representation on both the 50 Acre Wood Subcommittee and the Ballpark Group should ideally include stakeholders and technical resources on a volunteer or ex-officio basis or at least on an as-needed basis, from the following public sector segments:

- Chamber of Commerce
- School Department
- Planning Department
- Recreation Department

Additionally, the Town Council may wish to decide if one Councilor should act in the capacity of liaison to the Conservation Commission on Ballpark related issues.

Input and assistance on the community planning/visioning process should be sought from the Planning Department with the process approved by the Council prior to embarking. Standards that meet ethical and community norms for donation solicitation should be adopted to insure positive community relations and to preserve goodwill. Strict accounting standards and transparency should be adopted to insure proper handling of receipts and expenditures of any donated funds. This might involve creation of a legal non-profit corporation or a financial trust arrangement with a local banking institution with regular reports to the Town Manager. Any substantive financial obligations incurred or any substantial expenditure of donated funds or long-term contractual commitments (e.g., leasing, soliciting sale/purchase of land, special events, promotional arrangements, advertising) or land/facility modifications or major improvement projects should be approved by the Town Manager. While not intending this to be cumbersome, more specific guidelines can be developed. Any use of volunteer labor involving jail inmates or request for use of Public Works equipment by donated employee labor should be reviewed with the Town Manager.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Accept the Town Manager's Ballpark Committee Structure Recommendations Presented in Memo of January 16, 2009 and Presented at the Conservation Commission Workshop of January 20, 2009.

**VOTE: Yea: Councilors Dayton, Bolduc, O'Neill and Chair MacDonald
Nea: Councilor Tousignant**

GOOD AND WELFARE:

COUNCILOR DAYTON: My thanks to the Town Manager, Stephen Gunty, for his recommendation which is democracy at its best. The fact that citizen group volunteers have come forward and participated in so much effort in this regard is marvelous and should be acknowledgement but just such commitment.

CHAIR MACDONALD: I met with Department Heads today at their invitation and it was a very productive time together when we shared information which enhances our ability to work together in a commitment to serve the citizens of our community.

TOWN MANAGER: I would like to thank the Chair for her willingness to participate in this open discussion with the Department Heads. It was a productive and amiable meeting and our desire to work together in the days and months ahead was evident.

ADJOURNMENT:

MOTION: Councilor O'Neill motioned and Councilor O'Neill 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 nine (9) pages is a true copy of the original Minutes of the Town Council Meeting of February 3, 2009.

V. Louise Reid