

TOWN OF OLD ORCHARD BEACH  
**PLANNING BOARD MEETING MINUTES**  
 Thursday October 11, 2012

<b>Call to Order at 7:08 pm</b>	<b>Call to Order</b>
<b>Pledge to the Flag</b>	
<b>Roll Call:</b> Chair Winch, Eber Weinstein, Mark Koenigs, Carl D’Agostino. <b>Absent:</b> David Darling <b>Staff:</b> Jeffery Hinderliter, Town Planner Valdine Helstrom, Administrative Assistant.	
<p>APPROVAL OF MINUTES – 8/9/12, 9/6/12, 9/13/12</p> <p><b><u>August 8, 2012 Meeting Minutes:</u></b>        Chair Winch had a correction on the 8/9/12 minutes on page 3, after the bullets. Change slows to soils.        Mr. Koenigs made a correction also on the 8/9/12 minutes, on page 3, 3<sup>rd</sup> paragraph from the bottom of the page to change instead of “animal shelters land” to “<b>abutting</b> the animal shelters land”.</p> <p>Mr. Koenigs made a correction on page 6, right before #11. Change “granite sidewalk with curb” to “sidewalk with granite curbing”.</p> <p>Mr. Koenigs made a correction on page 6, #14. To change “grading” to “grating”.</p> <p>Mr. Koenigs moved to approve the August 9, 2012 meeting minutes as amended. Seconded by Mr. Weinstein.</p> <p><b><u>September 6, 2012 Meeting Minutes:</u></b>        Mr. Koenigs made a correction to Item #5 on page 2. TFH Architects should be taken out of that sentence.        Mr. Koenigs made a motion to approve the September 6, 2012 meeting minutes as amended. Seconded by Mr. D’Agostino.</p>	<p style="text-align: center;"><b><u>MINUTES</u></b></p> <p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b> <b>(4-0)</b></p> <p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b> <b>(4-0)</b></p>
<p><b><u>ITEM 1</u></b>  <b>Proposal: Post Construction Storm water Management Ordinance</b>  <b>Action: Presentation by Wright-Pierce Engineering.</b></p> <p>Christine Rinehart, P.E. from Wright Pierce introduced herself to the Board Members.</p> <p>Ms. Rinehart made a presentation on the Draft Post Construction Storm water Management Ordinance. This ordinance is required by the town’s small municipal separate storm water sewer system (MS4) general permit.</p> <p>This permit regulates the town’s discharge of storm water to waters of the state from our system. Under this MS4 general permit, it includes 5 minimum control measures and one of these being Post</p>	<p style="text-align: center;"><b><u>ITEM 1</u></b></p>

**Construction Storm Water Management.**

The permit requires the town to adopt an ordinance, or similar measure to ensure the long term operation of maintenance of Post Construction BMP's.

The ordinance was supposed to be adopted by June 30, 2009.

Wright Pierce worked with the Town Planner and the DPW Director to draft the ordinance to meet the needs of the town and recently it was reviewed by the town's attorney.

The purpose of the ordinance is to reduce the impact on receiving waters from post construction storm water discharges. Ultimately it is to protect the water quality of local receiving waters.

This ordinance would apply to all new development or re-development with construction activity with 1 acre or more of disturbed area.

Would require the applicant to submit post construction storm water management plan with their subdivision and site plan application. The applicant would be required to enter into a maintenance agreement with the town basically stating that they would be responsible for the maintenance of these BMP's as well as repairing any deficiencies. The maintenance agreement would be included with the deed. The ordinance requires that the owner/operator of the BMP's hire a qualified post construction inspector to annually inspect the post construction BMP's. Then they would submit an annual certificate to the town certifying that the BMP's are functioning as intended.

This ordinance requires approval by the Planning Board prior to the final approval of the application. It would then be reviewed by the town under the peer review process. The Planning Board may require the applicant to provide perpetual easements.

The applicant would also have to submit the following:

1. Meet storm water DEP Management standards for quantity or quality.
2. Provide documentation showing that they had the legal obligation and resources to operate, repair and maintain these BMP's.
3. Enter into a maintenance agreement with the town prior to the start of construction.
4. Document any compliance with rules relative to their DEP storm water permits that are needed for the project.
5. Need to notify the Planning Board if they intend to have post construction BMP's that discharge directly into the towns MS4 at the time of the application and after construction. They would have to provide details which BMP's were actually installed and provide details such as record drawings relative to the BMP's.

Chair Winch questioned who will be the keeper of all of this documentation.

Mr. Hinderliter stated that he thinks that that the way the ordinance is written, it is a combination of the Public Works Department and the Planning/Code Office's responsibility within the ordinance.

Mr. Weinstein asked if this was a Federal or State law to require this.

Ms. Rinehart stated that the MS4 program is a Federal mandate requirement that the state implements.

Mr. Weinstein also asked if this post construction storm water management plan will be required to have an engineers stamp.

Ms. Rinehart stated that she doesn't believe that the engineer has to develop the plan.

They require an annual certification that the BMP's are functioning properly.

The perpetual easement for the BMP's is not a requirement although the Planning Board has the option to require it.

Mr. Weinstein asked if the one year requirement is Federal.

Ms. Rinehart stated that it is in the MS4 general permit.

Jeffrey Hinderliter mentioned that it is going to be a tough transition for a lot of municipalities that

qualify under this program.

Ms. Rinehart stated that this is the minimum standards ordinance.

Mr. Koenigs read the General Permit on page 19 item #6:

*Pollution prevention good housekeeping for municipal operations.  
 The town will develop a storm water pollution plan by the end of the permit year two for public works facility, transfer station, school bus maintenance facilities operated by the permittee unless the facility is currently operated/regulated under the Maine Industrial Storm Water Pollution Program.*

Mr. Koenigs asked if we have such a program in place.

Ms. Rinehart stated that we do. The Public Works garage and the salt shed has this program in place. The Transfer Station did not require one under this program.

Chair Winch stated that this is just for informational purposes only because this is not land use and it now will go to the council.

Mark Koenigs asked how the Planning Board members are going to be asked to review this if it is a stand alone ordinance.

Jeffrey Hinderliter stated that it will be partially the responsibility of staff to identify when projects qualify under this ordinance to let the Planning Board know.

Mr. Koenigs recommended that this be added to the checklist of the application process.

Jeffrey Hinderliter stated that the one big change is that the town would be responsible for the upkeep of storm water management systems.

Ms. Rinehart informed the Board Members that until this ordinance gets adopted, the town needs to ensure that all the BMP's that were approved and constructed between 2009 to when this ordinance is adopted, that the BMP's are being maintained.

Mark Koenigs questioned what happens to the BMP's that are in place prior to 2009.

Ms. Rinehart stated that currently under the general permit you don't have to maintain these but that things are changing.

Mr. Koenigs also mentioned that the town should take the responsibility to maintain the rest of the BMP's that are in place.

**ITEM 2**

**Proposal:** Major Subdivision: 44 single family residential lot cluster subdivision  
**Action:** Final Review  
**Owner:** Beachmont Land Development LLC  
**Location:** 200 Portland Ave, MBL: 103-1-30

Steve Blais from Blais Civil Engineers introduced himself.

Mr. Blais went over some of the items that were in the last submittal:

- Added the collapsible Bollard details to the plans and incorporated that the Bollards are required to stay there for 25 years.
- Groundwater findings, Mr. Sweet and Mr. Toothaker surveyed the elevation of the

**ITEM 2**

groundwater table. It works adequately.

- They have graded in a gravel based road to have adequate access to maintain the pond.
- Relocated the pond outlets in case it overflows.
- Included drainage easements along the property lines so that draining is adequate.
- Got the Performance Guarantee worksheet complete.
- Got the final draft of the Homeowners Agreement.

Jeffrey Hinderliter stated that he thinks that the Planning Board can have confidence in approving this proposal.

He has a couple of recommended conditions attached and also has 2 waivers that would need to be granted first.

They are expecting the DEP approval in a couple of weeks.

Jeffrey Hinderliter stated that if there are any major changes, it would have to come before the Planning Board for approval.

Carl asked if there is going to be any blasting done.

Cary Seamans stated that they will be blasting for the foundations.

Win Winch read the waiver requests from section 74-34:

Where the planning board finds that, due to special circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare or is inappropriate because of inadequate or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

Where the planning board finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter or where there are special circumstances of a particular plan, it may vary this chapter so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, or the zoning ordinance in [chapter 78](#), where such exist.

First Waiver:

**SECTION 74-278 (B7)**

**All structures with required plumbing in a planned unit development or cluster development shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with the sanitation sections of this chapter.**

Mark Koenigs made a motion to approve this major subdivision of a 44 single-family residential lot cluster subdivision with the owner being Beachmont Land Development, LLC, located at 200 Portland Avenue, MBL 103-1-30 that we grant a waiver for the central collection treatment standard system to allow individual septic systems. Waiving section 74-278 (B7). Seconded by Eber Weinstein.

**Motion**

**Vote  
(4-0)**

Mr. Koenigs added that the applicant has gone through the engineering process of determining that individual septic systems have been acceptable to meet the standards and other than hooking up to a sewer system, this is better than a central system.

Mr. Hinderliter recorded the vote:

Carl D'Agostino - Yes  
Eber Weinstein - Yes  
Mark Koenigs – Yes  
Chair Win Winch - Yes

Second Waiver:

**SECTION 74-309 (L)**

**Subdivisions over 15 lots to provide 2 street connections for egress/ingress for the subdivision.**

Mark Koenigs made a motion to approve this major subdivision of a 44 single-family residential lot cluster subdivision with the owner being Beachmont Land Development, LLC, located at 200 Portland Avenue, MBL 103-1-30 that we grant a waiver for the standard that requires subdivisions over 15 lots to provide 2 street connections for egress/ingress for the subdivision which is required under the chapter 74-309 (L). Seconded by Carl D'Agostino.

Eber Weinstein stated that if we have a subdivision with requirements, that there is a reason for this and added there are two main reasons for this concern:

- 1). The protection of property (fire and public safety)
- 2.) Making sure that there is no problem with the amount of traffic going out of Portland Avenue.

Mr. Hinderliter recorded the vote:

Carl D'Agostino - Yes  
Eber Weinstein - Yes  
Mark Koenigs – Yes  
Chair Win Winch - Yes

Eber Weinstein was concerned that if there are substantial changes to the Homeowners Association Documentation they would have to come back to the Planning Board.

Jeffrey Hinderliter added a condition: Substantive changes to the declaration of easements, restrictions and covenants for the Beachmont Subdivision shall be presented to the Planning Board for their consideration.

Mr. Koenigs mentioned that he would like to list the criteria for approval and to make known that the applicant has complied with all of the conditions and criteria to our satisfaction and to

**Motion**

**Vote  
(4-0)**

stipulate these 3 criteria:

- 1.) New Sub-division
- 2.) Shore land Zoning
- 3.) Cluster Subdivision

Mark Koenigs made a motion to approve the major subdivision for a 44 single family resident lot cluster subdivision owned by Beachmont Land Development, LLC, located at 200 Portland Avenue, MBL 103-1-30 with the following conditions of approval:

- 1.) The construction shall not begin until all applicable Maine (DEP) Permit Application approvals are secured by the application and/or property owner.
  - 2.) If these Maine (DEP) approvals change the plans on written documentation that was submitted as part of the Planning Board approval, those changes shall be submitted to the Planning Board.
  - 3.) The traffic exclusion device at the Date Street Connection (Bollards) shall remain for 25 years.
  - 4.) Date Street shall not be used as a construction entrance.
  - 5.) Lots 27 & 32 shall be graded such that as the surface drainage is directed towards the drainage system. Lots 28 & 30 shall be graded to direct all surface drainage from the rear of the property of the field inlets located along the downgrading and side lot.
  - 6.) Presented Declaration of Easements. Easement restrictions and covenants for the Beachmont Subdivision as presented in the final form and if that is changed substantive changes that also come back to the Planning Board for their further approval.
- Seconded by Carl D'Agostino.

The Board Members questioned the word “proposed” for the no cut buffer that was supposed to be removed from the mylar.

Mr. Blais stated that he will have the word “proposed” removed from the mylar upon the Planning Board signing it.

The Planning Board will only be signing the findings of facts tonight.

Mr. Hinderliter recorded the vote:

Carl D'Agostino - Yes  
Eber Weinstein - Yes  
Mark Koenigs – Yes  
Chair Win Winch - Yes

**Motion**

**Vote  
(4-0)**

<p><b><u>ITEM 3</u></b>  <b>Proposal:</b> Site Plan Review: Edith Libby Memorial Library Addition/Parking Expansion/Site Work (all work associated with Bond Project)  <b>Action:</b> Final Review  <b>Owner:</b> Town of Old Orchard Beach  <b>Location:</b> 27 Staples St., MBL: 206-27-1</p> <p>Dave Merrill from TFH Architects introduced himself to the Board Members. He provided the Board Members a short submission stating what they had verbally spoken about at the last meeting as well as the comments and minutes of the meeting with Bill Robertson, DPW Director. Generally Mr. Robertson is on board with all of the discussions they have had to date in terms of sidewalks, structures, connecting to utilities, drainage or any issues that have to do with work that he could either provide for the library or have to coordinate with city services and utilities.</p> <p>Mr. Hinderliter stated that in his opinion the board members have discussed everything and we are at the time for the Planning Board to determine whether they can approve the site plan review application which he recommends without conditions.      Mr. Koenigs will abstain from the voting.</p> <p>Carl D’Agostino made a motion to approve the site plan for the Edith Libby Memorial Library Expansion, 27 Staples Street, MBL 206-27-1. Seconded by Eber Weinstein.</p> <p>Mr. Hinderliter recorded the vote:</p> <p>Carl D’Agostino - Yes      Eber Weinstein - Yes      Mark Koenigs – Abstain      Chair Win Winch - Yes</p>	<p><b><u>ITEM 3</u></b></p> <p><b>Motion</b></p> <p><b>Vote</b>  <b>(3-0-1)</b></p>
<p><b><u>ITEM 4</u></b>  <b>Proposal:</b> Minor Subdivision: 4-lot residential subdivision  <b>Action:</b> Determination of completeness; schedule public hearing and site walk  <b>Owner:</b> Dominator Golf, LLC  <b>Location:</b> Wild Dunes Way (Adjacent to hole 13 in Dunegrass), Map 105A, Lot 200</p> <p>Les Berry from Dominator Golf, LLC introduced himself to the Board Members. What they are proposing to do is to create 4 house lots along Wild Dunes Way adjacent to hole 13 fairway. These lots are from section B. They have the existing sewer, water and storm drainage. As far as the DEP, they already have enough impervious area already within this drainage basin that’s been approved. They do not have to have any more DEP requirements except a minor revision to relocate the units on site.</p> <p>Chair Winch stated that they will have to schedule a site walk on the 4<sup>th</sup> lot near the intersection.</p> <p>Mr. D’Agostino asked if the maintenance shed will be removed on lot 1. Mr. Berry stated that it is abandoned and it is going to be removed.      Also a part of a minor subdivision application includes a checklist of 14 items from section 74-2. The Planning Board requests written responses to this checklist.</p>	<p><b><u>ITEM 4</u></b></p>

<p>The Planning Board scheduled a site walk for November 1, 2012 at 5:30 p.m. And will also schedule a Public Hearing for November 8, 2012.</p> <p>Mr. Koenigs made a motion to determine the application complete for a minor subdivision of a 4 lot residential subdivision on 13<sup>th</sup> hole in Dunegrass, owner being Dominator Golf, LLC, Wild Dunes Way adjacent to hole 13 Dunegrass, MBL 105A-200. Seconded by Eber Weinstein.</p>	<p><b>Motion</b></p> <p><b>Vote</b> <b>(4-0)</b></p>
<p><b><u>ITEM 5</u></b></p> <p><b>Proposal:</b>      <b>Conditional Use: 1.92 mile long 34.5 kV CMP transmission line rebuild</b></p> <p><b>Action:</b>        <b>Conditional use review; schedule public hearing and site walk</b></p> <p><b>Owner:</b>         <b>Central Maine Power Co.</b></p> <p><b>Location:</b>      <b>Existing CMP transmission line corridor from Vallee Lane substation to School Street Extension substation</b></p> <p>Annette Dearden from Power Engineers talked about the transmission lines that are going to be rebuilt at the golf course. They will be the same poles, no additional clearing, the same right of way and the same center line. They will be adding a fiber optic line which allows communication only between the substations. They have secured DEP approval.</p> <p>Mr. Koenigs mentioned that he is on the Conservation Committee and they are working to get a trail by the School St. extension. He also added that this may be a great time to work with the contractors. Mr. Koenigs is interested in where their work access will be coming from. He is interested in the property from the substation at School St. extension up to Dirigo Drive. There is no public access.</p> <p>Ms. Dearden stated that they are going to work under the 1 power line where they are replacing the pole.</p> <p>Mr. Koenigs also mentioned that the Conservation Committee had some meetings with the abutters and a lady has a gate and the contractors went through her gate without her permission.</p> <p>Mr. Dearden stated that these may have been different contractors other than CMP and that the homeowners have the option to be on a list to be notified if anyone needs to get on their property for any reason.</p> <p>Mr. Koenigs suggested that Bill Robertson, DPW Director would be another contact person that the contractors or CMP should be in touch with so that they can be aware of the project.</p> <p>Mr. Hinderliter stated that all of his concerns have been addressed within the application itself and he recommends that the Planning Board schedule a Public Hearing.</p> <p>Mr. Koenigs mentioned that they are assuming that Bill Robertson, DPW Director will be doing a test section with some reclaim that he has behind the old transfer station. He has an access road that has a couple of town gates that would restrict their access from that direction.</p> <p>Mr. Koenigs also mentioned that he is curious about the section that goes around Long Cove Road isn't fully connected from Wild Dunes Way. It should make a loop. The power lines are on either side of the trail and looking at CMP's plans possibly the trail isn't where it is supposed to be.</p> <p>Ms. Dearden stated that the town did get a copy of the DEP application and there are some detailed maps included for the Planning Board to look at.</p> <p>Eber Weinstein asked if they are replacing 34.5 KV lines with 69 KV lines.</p>	<p><b><u>ITEM 5</u></b></p>

Mr. Dearden stated that they can carry the 69 KV lines but CMP's plan is to operate it at the lower voltage.

Mr. Weinstein asked about the number of poles that will be replaced. The plan states that they are replacing 31 poles with 29 poles.

Ms. Dearden stated that she can confirm these pole numbers for the board and refer them to look at the DEP application. They will be replacing every pole that is there. These will be wooden poles but they will be a little taller than the others so that they can accommodate the fiber optic line. They are not expecting any electrical interference with the communications at this level.

Mr. Koenigs wanted clarification that they are upgrading section 105 but section 106 is the other existing line and nothing is going to happen to that set of poles.

**ITEM 6**

**Proposal: Site Plan Review: 2,053 sq. ft. building expansion, exterior renovation and site work to multi-use commercial building**

**Action: Determination of completeness; schedule public hearing and site walk**

**Owner: Stillridge LLC**

**Location: 8 Heath St., MBL: 206-27-13**

Oscar Emerson from Down to Earth Professional Land Services and David St. Germaine from Stillridge LLC were here to represent the proposed improvements to the former IGA site on 8 Heath Street.

This project consists of some expansion in the front of the building and will have an enclosure on the existing sidewalk as part of the building. On the Westerly side, the wooden structure will be replaced with a new expansion area. They will have a total area of 3,106 sq.ft.

Parking is going to remain the same utilizing the existing paved area for parking. There is going to be a shift in the stalls to accommodate an 8' sidewalk in front of the building. They will also relocate the light poles to make sure they are in the center of the parking stalls.

Mark Koenigs asked about the power pole in the back near the easement.

Mr. Emerson informed him that there will be a relocation of that power pole.

The size of the project is about 1.8 acres and is located in the DD-2 district. They meet all the criteria for setbacks, building heights and lot building coverage.

Mr. Koenigs mentioned that at the site walk, it might be helpful to stake out the limits of the easement and mark out where the new trees are going to go (landscaping) and limits of the pavement. He also had a concern that at the end of the easement in the back of the building there is a pathway that has been beaten down and questioned what other improvements other than the 5 trees could be helpful to the park. It would be helpful if they could establish a buffer line.

Mr. Emerson stated that \$50,000 has been set aside to fix up the whole area in the back.

Mr. Koenigs suggested that they should have the pavement where it is needed for the trucks and take out the pavement where it is not needed.

Mr. Emerson stated that one of the aspects that is a reality is a required dimensioning by the tenants. There is a business aspect that is part of development and some of the criteria for particular tenants is having a certain amount of service lanes for their trucks.

Jeffrey Hinderliter recommends that the Planning Board can determine this application complete

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<p>contingent upon his comments as well as the comments from the Planning Board.</p> <p>A site walk has been scheduled for 6:00 pm. on November 1, 2012.        Also a Public Hearing is scheduled for November 8, 2012.        The Planning Board’s Workshop meeting will be scheduled for 6:30 p.m. on November 1, 2012.</p> <p>Carl D’Agostino made a motion that the site plan application submitted by Stillridge LLC for a building expansion on 8 Heath Street, MBL 206-27-13 for exterior renovations to site work to a multi use commercial building is determined complete contingent upon the comments from Mr. Hinderliter and the Planning Board. Seconded by Win Winch.        Mark Koenigs abstained.</p>	<p><b>Motion</b></p> <p><b>Vote</b> <b>(3-0-1)</b></p>
<p><b><u>GOOD AND WELFARE:</u></b></p> <p>John Bird from Ocean Park had a concern about the Storm water Management Ordinance. He stated that because the town didn’t get this ordinance adopted when it was supposed to, the town is in jeopardy to make sure that all of the post construction storm water management ordinances get taken care of. He suggests that the Planning Board put in as conditions to any that are approved, the same conditions that are in the ordinance so that they would be required to maintain this themselves rather than making this the town’s problem.</p> <p>Mr. Hinderliter stated that the review to the homeownership looks like it was covered within the written file. The one question that he has is that it is the town’s responsibility for maintaining the storm water system in accordance with that permit. But in the homeownership documents, it says that the applicant is responsible for maintaining those until the town accepts it.</p> <p>Chair Winch read a letter from Fred Kennedy, owner of the Alouette Atlantic Resort. Mr. Kennedy thanked the Board for all they had done in taking the time to consider and review his proposal.</p> <p>Mr. Koenigs wanted to let the public know that there is currently only 5 Planning Board Members and they need 2 more alternates if anyone is interested.</p>	
<p>ADJOURNMENT        WINTHROP WINCH, CHAIRMAN</p>	
<p>Meeting adjourned at 9:25 pm</p>	<p><b>Adjournment</b></p>

*I, Valdine Helstrom, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Ten (10) pages is a true copy of the original minutes of the Planning Board Meeting of October 11, 2012.*

Valerie L. Helton