

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, OCTOBER 7, 2008 – 7:00 P.M.  
TOWN HALL CHAMBERS**

**A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, October 7, 2008 in the Town Hall Chamber. The Chairman opened the meeting at 7:03 p.m.**

**Pledge to the Flag and Roll Call:**

**Present were:**

**Chairman James Long  
Councilor Roxanne Frenette  
Councilor Shawn O’Neill  
Councilor Robin Dayton  
Councilor Sharri MacDonald  
Town Manager Stephen Gunty  
Assistant Town Manager V. Louise Reid**

**ACKNOWLEDGEMENTS:**

**COUNCILOR FRENETTE:** A letter of appreciation from the Old Orchard Beach Fire Department to the Town Council expressing their appreciation by the Call Force for funds in connection with the Halloween program that they have done for many years and is one of the outstanding events of our community.

**VICE CHAIRMAN SHAWN O’NEILL:** The Chamber of Commerce will conduct Candidates Night here in the Town Hall Chambers on Wednesday, October 15 at 7:00 p.m. We invite citizens and employees to present questions to the Chamber of Commerce for consideration by the reporters asking the questions. Those questions should be provided as quickly as possible. A change this year in the procedure for write-in candidates’ names means that the person who is being written in files a Declaration of Write-in Candidacy (which can be secured from the Town Clerk’s Office) three business days prior to an election. If you plan to write in a candidates name please make sure that individual is willing to accept the position and registers at Town Hall three business days before the election. The form itself can be downloaded from the web site [www.oobmaine.com](http://www.oobmaine.com).

**COUNCILOR MACDONALD:** Please join me on Thursday, October 16 at 6:00 p.m. to 8:00 p.m. here at the Town Council Chambers. I am anxious to hear your concerns on any issue of importance to any citizen. I would also remind you that absentee ballots are now available at the office of the Town Clerk.

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of September 16, 2008; and Special Town Council Meeting of September 23, 2008.

**MOTION:** Councilor Frenette motioned and Councilor O'Neill seconded to accept the Town Council Meeting Minutes of September 16, 2008; and Special Town Council Meeting of September 23, 2008.

**VOTE:** Unanimous.

**CHAIRMAN LONG:** I open this Public Hearing at 7:05 p.m.

**PUBLIC HEARING:** Shall We Amend Chapter 78, the Zoning Ordinance, Section 78-1628 – Permitted Signs in All Districts, to include off-premise farm signs?

**Timeline:**

Pine Acres Greenhouse owner Tim Rogers has been advocating for a change to our sign ordinance language regarding the ability of a greenhouse/farm business to put out off premise signs on private property with written permission from the owner. Such signs would advertise seasonal produce grown at the location they are sold. This proposed Ordinance revision is in line with state statute in Title 23 section 1913-A.

In the spring of this year, the Council discussed this item at an informal workshop, and the majority consensus indicated the Planning Board should hold a public hearing on the issue and give the Council a recommendation on this matter.

On June 11, 2008, the Planning Board held a public hearing and voted in favor of amending the signage ordinance to allow off premise signage for agricultural producers. The Planning Board used the language from 23 §1913-A. Categorical signs as a starting point for amending the ordinance language, and tailored the language to fit the character of Old Orchard Beach.

**Proposed Revision:**

The Planning Board recommends that Chapter 78, Article VIII, Division 5, signs, of the Code of Ordinances be revised to include the underlined language below:

**Sec. 78-1626. Off-premises signs.**

No permanent signage shall be erected off premises from the principal business or use advertised by the sign except for the following:

- (1) State department of transportation directional signs, approved by the public works department and erected by the state department of transportation.
- (2) Permanent signs located off premises on land owned in fee by the same record property owner, provided that the sign is located no further than 75 linear feet from the front entrance of the principal building containing the business. The sign area will not exceed sign area available under district requirements.
- (3) Temporary off-premises signage may be permitted by the code enforcement officer as prescribed in section 78-1627.

**(4) Off-premises farm stand signs specified in Sec. 78-1628 (4).**  
**(Ord. of 9-18-2001, § 5.4.5)**

Sec. 78-1628. Permitted signs in all districts.

Permitted signs in all districts are as follows:

- (1) Signage not to exceed an aggregate of four square feet painted on mailboxes or attached to the principal structure identifying the occupants of a residential property.
- (2) Temporary signage specified in section 78-1627.
- (3) Outdoor letter board signs. The square footage of such letter board shall be deducted from the allowable square footage of signage for the property.
- (4) **Off-premises farm signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 1 mile of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 2 signs pursuant to this paragraph.**

**State Statute vs. OOB Ordinance Revision**

The bolded text in the proposed revision show the amendments the Planning Board made to the State statute 23 §1913-A. Categorical signs in recommending this language to Town Council. They recommend reducing the distance from the farm the signs may be located and the number of signs allowed per farm. See Below:

<b>Suggested Ordinance Revision</b>	<b>State Statute</b>
<b>must be located within <u>1 mile</u> of where the product is sold</b>	must be located within 5 miles of where the product is sold
<b>may not erect more than <u>2 signs</u></b>	May not erect more than 4 signs

**MARK BUREAU:** I have seen many of these in Scarborough and I have absolutely no problem with them as indicated.

**COUNCILOR FRENETTE:** I have proposed this because it is regulated and it is for only what produce is available during the indicated season.

**CHAIRMAN LONG:** I close this Public Hearing at 7:08 p.m.

**CHAIRMAN LONG:** I open this Public Hearing at 7:09 p.m.

**PUBLIC HEARING:**

**Referendum Question Number One: Do you favor approving the school administrative reorganization plan prepared by the Dayton, Old Orchard Beach and Saco Reorganization Planning Committee to reorganize the Dayton School Department, Old Orchard Beach School Department and Saco School Department into a regional school unit, with an effective date of July 1, 2009?**

**VICE CHAIRMAN O'NEILL:** I would recommend that citizens watch the continuing replay on Channel 3 of the School Regionalization Special Town Council Meeting that is presently playing with the recognition that what is being regionalized is administration.

**GARY CURTIS:** I would just remind citizens of Old Orchard that another presentation will be made here in the Town Hall Chambers on Thursday, October 23<sup>rd</sup> at 7:00 p.m. and we invite all citizens to attend.

**CHAIRMAN LONG:** I close this Public Hearing at 7:12 p.m.

**BUSINESS LICENSES:** Tracy Plante dba/Tracy Plante Child Care (105-1-13), 11 Patoine Place, Child Care; Sheila Battle (201-1-7-4F), 221 East Grand Avenue, Unit 4F, one year round rental; Denise & Emile Maynard (205-6-6-1), 6 Imperial Street, Unit #1, one year round rental; Fly By Night Incorporated dba/Mr. Goodbar (306-5-3), 8 East Grand Avenue, Amusement Casino, Victualers; Marcia & Patricia Halloran (312-2-5), 24 Highland Avenue, one year round rental; and Nancy Snyder (321-5-2), 3 Winona Avenue, one seasonal rental.

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

**VOTE:** Unanimous.

**SPECIAL AMUSEMENT PERMIT:** Fly By Night LLC dba/Mr. Goodbar (306-5-3), 8 East Grand Avenue, Entertainment and Dancing.

**MOTON:** Councilor Frenette motioned and Councilor Dayton seconded to approve the Special Amusement read.

**VOTE:** Unanimous.

## **NEW BUSINESS:**

### **# 5061 Discussion with Action: Approve the application of the Community Development Block Grant.**

**A Public Hearing was held for this grant application with a large number of citizens attending the Public Hearing in favor of this application being approved. This is an opportunity for the citizens to respond to this important Community Development Block Grant. Jessica Wagner has informed the Council that Old Orchard Beach will be applying for the 2009 CDBG Community Enterprise Grant Program. CDBG (Community Development Block Grant) is Federal money transferred from HUD (Department of Housing and Urban Development) to the State office of Community Development and distributed to communities throughout Maine. In 2005, Old Orchard received \$125,000 from this grant program towards improving downtown business façades and other public improvements. In 2009 we are eligible to receive up to \$150,000 towards business façades and public downtown improvements. As part of the application process, we are required to hold an official public hearing. We'd like to schedule this hearing for the September 16<sup>th</sup> Town Council meeting. She has provided the 2009 proposed program statement for this grant.**

### **CDBG · COMMUNITY DEVELOPMENT BLOCK GRANT**

**A healthy and viable downtown is crucial to the economic health and civic pride of the entire Old Orchard Beach Community. Projects like this CDBG façade program make a big difference in our downtown and throughout our community. We have seen the effects of the 2005 CDBG façade grant in our downtown district, and 2009 façade grant will further perpetuate the revitalization and change that we have seen in Old Orchard Beach in recent years.**

**The minutes from this Public Hearing will be included in our grant application, and we will be scored on the level of public participation.**

**This memo outlines important points about this grant program and the application process. Jessica Wagner, Assistant Planner and Certified CDBG Program Administrator may discuss this item and answer questions as they come up.**

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## **WHAT IS CDBG?**

**CDBG (Community Development Block Grant) is Federal money transferred from HUD (Department of Housing and Urban Development) to the State office of Community Development and distributed to communities throughout Maine. Projects funded by CDBG include a wide range of community improvement projects. Including public infrastructure projects, façade and building improvements, housing assistance, etc.**

**All CDBG funded activities must meet one of three national program objectives. These objectives are:**

- 1. Benefit to low and moderate income (LMI) persons (the project must benefit communities having at least 51% LMI).**

2. Prevention and elimination of slum and blight conditions.
3. Meeting community development needs having a particular urgency.

The population of Old Orchard Beach is not 51% low to moderate income, meaning that OOB does not qualify for community wide improvement projects. However, we are able to access this money through the CDBG Community Enterprise Grant Program using our declared ‘slum/blight’ conditions.

## SLUM/BLIGHT

On June 21, 2005 the Town Council declared the downtown area (shown in map) as a blighted area. This declaration is good for 10 years, and it gives us the opportunity to use CDBG money for streetscape and façade improvements in this declared area.

Any business that is not located in this area and wishes CDBG money for a façade improvement may access the grant money through the Code Enforcement Officer declaring the business location as ‘spot blight’.

If the Council wishes to amend the declared blighted area include other areas in town, they may do so. However, will likely be able to achieve success through this grant by relying on the existing declaration and individual ‘spot blight’ declarations.



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## COMMUNITY ENTERPRISE GRANT PROGRAM:

**2005:** OOB received \$125,000 for private façade and public downtown improvements. Nearly all of it went into façade improvements in the downtown.

**2009:** There is still room to receive money for further improvements! We are eligible to receive up to \$150,000 towards private façade and public downtown improvements. Upon receipt of this money, the Town will distribute the funds to projects in town. Each project must be a 50% cash match and no single project can receive more than \$25,000 towards improvements.

## APPLICATION PROCESS:

**September 2008 – February 2009**

- Establishment of an ad hoc CDBG Committee.
- Raise community participation and support for this grant application.
- Official public hearing Tuesday, September 16<sup>th</sup> at 7:00pm in Town Hall Council Chambers – these minutes will be included in our grant application.
- Determine which businesses are in need of improvements and what type of public streetscape improvements could be made in the downtown.
- Encourage business owners to develop facade improvement plans to be included in the grant application.
- Develop selection criteria to be used in the distribution process.

January 9, 2008

- Letter of intent to apply for the grant must be submitted.

February 20, 2009

- Complete application must be submitted.

**IF OLD ORCHARD BEACH IS SELECTED FOR FUNDING:**

**Spring/Summer 2009**

- If Old Orchard Beach is selected for funding, we will continue into the Project Development Phase (phase II) of the application process. This includes officially accepting the funds from the State, holding a second public hearing and completing a mandatory Environmental Review for the project areas. At this time, business owners wishing to utilize this grant money will develop their proposals and apply to receive a portion of the funding. The CDBG representative from the State will assist us in this process.

**CDBG COMMITTEE:**

A group of 5-7 business owners/citizens will make up the CDBG Committee. Jessica Wagner, Asst. Planner and Old Orchard Beach Certified CDBG Program Administrator will be the staff contact and facilitator for this committee. Upon receipt of this grant, we will be required to make this an 'official citizen advisory committee'. Until then this committee may remain Ad Hoc, or Council may choose to certify this group as an official committee (this will show the grant reviewers that we are prepared for receipt and distribution of the grant money).

**This committee will:**

1. Brainstorm ideas for in improvements & discuss buildings that should be targeted for involvement.
2. Help spread the word and encourage public support for this application.
3. Attend any town-wide public hearings in support of this application.
4. Review the grant application prior to submittal to the State.
5. Assist in revising the 2005 selection guidelines, and possibly assist in the selection of funded projects.

## **PROPOSED 2009 PROGRAM STATEMENT**

### **B. COMMUNITY ENTERPRISE GRANT PROGRAM**

The Community Enterprise Grant (CE) Program provides grant funds to assist in innovative solutions to problems faced by micro-businesses, promote business façade programs and make streetscape improvements in downtown and village areas. Assistance to businesses may be in the form of grants or loans at the discretion of the community.

1. **Threshold Criteria and Program Requirements:** CE Program funds will be distributed through an annual grant application selection process.

**(a) Eligible Activities:**

- (i) Eligible activities under the Micro-Enterprise Grant/Loan category are grants or loans to for-profit businesses, façade grants to for-profit or non-profit

businesses for exterior improvements, including signage, painting, siding, awnings, lighting, display windows and other approved exterior improvements (interior improvements are not allowed) and streetscapes including pocket parks, benches, street lighting, tree plantings, signage, traffic calming improvements, sidewalks and other approved improvements; eligible planning activities necessary to complete the Project Development Phase. Sewer, water, storm drainage, parking, roads or streets and other infrastructure improvements and buildings solely for residential use are not eligible. All streetscape improvements must take place on publicly owned property.

**(b) Downtown Revitalization Program Prohibition – Communities applying for a CE grant may not apply for, receive, or benefit from a Downtown Revitalization Program (DR) grant in the same program year.**

**(c) Maximum CE Grant Amount: \$150,000 - Applicants may apply to address one or any combination of eligible activities listed in Section H (1) (a) above but are limited to a total of \$150,000 in CE funds.**

**(d) Maximum Amount of Community Enterprise Grant/Loan Assistance to Businesses: \$25,000**

**(e) Project Benefit:**

**(i) Micro-Enterprise Grant/Loan: Existing or developing businesses that have, or will have five or fewer employees, one of whom owns the enterprise, and whose family income is LMI will meet the project benefit. Employees are not considered in meeting project benefit.**

**(ii) Business Facade Grants: Project benefit will be met when exterior improvements and signage on an existing business take place in a designated slum/blight area, or documentation exists that a business qualifies under a spot blight basis.**

**(iii) Streetscapes: Project benefit will be met when streetscapes take place in a designated slum/blight area or the applicant community where the project will take place is 51% or greater LMI as determined by HUD and the U.S. Census.**

## **2. Special Program Requirements**

**(a) Demonstration of National Objective: Applicants must demonstrate that the project meets the National Objective of 1) benefiting 51% or greater low/moderate income persons, 2) preventing or eliminating slum or blighting conditions, or 3) existing or developing businesses that have, or will have five or fewer employees, one of whom owns the enterprise, and whose family income is LMI. Census information, a certified target area survey, an officially adopted declaration of slum/blight conditions conforming to the requirements of MRSA Title 30-A, Chapter 205, 5202 and HUD, or assurances of spot blight designation or micro-enterprise eligibility must be submitted to OCD. These demonstrations must be made as part of the Letter of Intent and Verification of CDBG National Objective submitted to OCD on or before 4:00pm on Friday January 9, 2009.**

**3. Selection Process:** The selection process will consist of three phases; a letter of intent, an application phase and a project development phase.

**(a) Letter of Intent and Verification of CDBG National Objective:** All communities wishing to submit a CE application must submit a Letter of Intent and Verification of CDBG National Objective to OCD on or before 4:00PM on Friday January 9, 2009 according to the requirements set forth in the 2009 DR application package.

**(b) Application:** The maximum length of an application is four pages, not counting required attachments. The application deadline for the CE Program is 4:00PM on February 20, 2009. Each application will be rated in relation to all others in a two-stage process.

**Stage 1: Review Team Analysis** – Members of the four-person OCD Review Team will assign a Review Point Total for each application reviewed. Review Point Totals will consist of the sum of the three scoring areas below and be determined by the total of each sub-scoring area. A maximum of 100 points is obtainable.

**(i) Impact (40 points):**

**\*State the problems then present the scope and magnitude of the identified problems. – 6 points**

**\*Explain how the problems negatively impact the local economy and the viability of existing downtown or village area. – 8 points**

**\*Clearly define how the problems negatively affect LMI persons and/or contribute to slum/blight conditions. – 10 points**

**\*Describe the obstacles to overcoming the identified problems. – 6 points**

**\*Explain why CE funds are necessary for the project; describe efforts to secure other grant or loan funds, and tell why they are not available locally to assist businesses or local government with their development and site improvement needs. – 10 points**

**(ii) Development Strategy (40 points):**

**\*List the specific activities to be undertaken in the project. For streetscapes include location, size and design features. – 5 points**

**\*Identify the specific use of CE funds and the specific tasks or activities to be funded with each other source of funds. – 5 points**

**\*Provide Identification and description of potential business grant/loan applicants and their needs; or provide details of how areas in need of streetscape improvements were identified and prioritized. – 5 points**

**\*Explain how the CE project will stimulate business in the downtown or village area and assist in improving the area's long-term viability. – 6 points**

**\*Describe how the CE funded activities will have a positive impact on LMI persons and/or on alleviation of the slum/blight conditions. – 6 points**

**\*Provide a project timeline; list activities or actions completed to date. – 4 points**

**\*Describe the capacity and experience of the administrator to market and conduct a grant/loan program or streetscape improvement effort; and describe how CE funds will be expended in a timely manner. – 5 points**

**\*Budget Summary Review – 4 points**

**(iii)Citizen Participation (20 points):**

**\*Effective use of any media (newspapers, radio, TV, etc) to further public awareness and participation. – 4 points**

**\*Relevance of listed meeting/hearing activities/comments (not counting required public hearing) and the overall citizen participation process in application and project development. – 4 points**

**\*Involvement of downtown and local businesses, Chambers of Commerce, development groups or other business related organizations in identification of problems and development of the application and project. – 4 points**

**\*Involvement of potential LMI project beneficiaries in development of the application and project and how the required public hearing relates to the application development and citizen participation process. – 4 points**

**\*How other local resources (cash and in-kind) are directly related to the project and the establishment of a cash value equivalent for all in-kind commitments. – 4 points**

**Stage 2: Final Application Score – Each application will receive a Final Application Score consisting of the average of the scores assigned by members of the 4-person OCD Review Team. Starting at the top of the scoring list, applicants will be invited to proceed to the Project Development Phase as funds allow. There is no minimum Final Application Score required for an application to be considered for funding.**

**MOTION: Councilor Dayton motioned and Councilor Frenette seconded to Approve the Application of the Community Enterprise Community Development Block Grant of \$150,000 for Exterior Business Façade Improvements and Public Streetscape Enhancements.**

**VOTE: Unanimous.**

**# 5062 Discussion with Action: Consider an Order authorizing the Loan Agreement between the Town of Old Orchard Beach and the Maine Municipal Bond Bank for the issuance of a \$1,200,000 Sewer Bond to permanently finance the costs of the West Grand Avenue Pump Station project, as authorized by the voters on June 10, 2008.**

**CHAIRMAN LONG: This is a housekeeping item in connection with the bond referendum item approved by the voters. As you will notice there is a difference in the bond amount approved by the voters because the Town is financing the West Grand Pump Station Project of \$1,200,000 through SRF funds through the Bond Bank. The SRF Funds are for sewer related projects only and are at a reduced interest rate; therefore it is in the best interest of the Town to split the \$5,300,000 authorized by the voters into two issues. One the \$4,100,000**

that was authorized at our last meeting which was a General Obligation Bond and the \$1,200,000 presented here this evening from SRF Funds.

**MOTION:** Councilor Dayton motioned and Councilor Frenette seconded to Consider an Order authorizing the Loan Agreement between the Town of Old Orchard Beach and the Maine Municipal Bond Bank for the issuance of a \$1,200,000 Sewer Bond to permanently finance the costs of the West Grand Avenue Pump Station project, as authorized by the voters on June 10, 2008.

**VOTE:** Unanimous.

**# 5063 Discussion with Action:** Approve the Transfer of Liquor License for Fly By Night LLC dba/Mr. Goodbar (306-5-3) from 8B West Grand Avenue to 8 East Grand Avenue.

**MOTION:** Councilor Frenette motioned and Councilor O'Neill seconded to approve the Transfer of Liquor License for Fly By Night LLC dba/Mr. Goodbar (306-5-3) from 8B West Grand Avenue to 8 East Grand Avenue.

**VOTE:** Unanimous.

**# 5064 Discussion with Action:** Approve the request to credit the \$13,200 sewer connection fee at 26 Old Orchard Street with the \$5,100 paid by Moshe Agam toward sewer improvements on Imperial Street.

**TOWN MANAGER:** I have reviewed with Town Staff the merits of Moshe Agam's request for a credit toward his \$13,200 sewer connection fee at 26 Old Orchard Street with the \$5,100 amount that he paid to assist the Town with major sewer improvements done on Imperial Street. There's a general Staff consensus and I heartily concur with Mr. Agam's assessment of the reasons why his costs were increased on his site due to unavailability of a functioning Town Sewer and that his development costs were increased due to the additional work required on the Imperial Street sewer which ultimately served as a catalyst for other extensive repairs to the sewer line there benefiting many other homes and businesses that did not contribute in the same cost-sharing manner as Mr. Agam was required to, due to his being the first one to connect to the aging line. Additionally, because Mr. Agam already had one sewer connection at one time servicing his business, it is reasonable to credit this small portion of the expenses of the re-routing that he had to do to connect to Imperial Street, that would have been unnecessary had the Old Orchard Street sewer been reachable (i.e., a street opening moratorium was in effect) and connectable (i.e., the sewer line had collapsed evidenced by the camera work).

**MOTION:** Councilor Frenette motioned and Councilor Dayton seconded to Approve the request to credit the \$13,200 sewer connection fee at 26 Old Orchard Street with the \$5,100 paid by Moshe Agam toward sewer improvements on Imperial Street.

**VOTE:** Unanimous.

**# 5065 Discussion: Concept Approval to Adopt one of four type Sewer User Fees including the Tax Basis – Ad Valorem, the Water Use Base, the Equivalent User Base System (EDU), or a Hybrid System, effective July 1, 2009.**

**TOWN MANAGER:** Sewer Rate Studies were commenced by staff in 1997 and in 2005 by consultant Gustafson Environmental. In the Spring of 2008, the Council authorized a similar study by Wright-Pierce on the topic of whether changing the current Ad Valorem method of funding the WWTF and Pump Stations to a Sewer User Fee System would be beneficial. A sufficient period of time has been provided to allow input from citizens, businesses and the Town Council of Old Orchard Beach to understand and discuss the various options. The goal has been to explore a more fair and equitable system and to determine whether the Town can make such a transition within its budget and administrative constraints and without undue impact to any one property group. Besides the current Ad Valorem system, the alternative systems reviewed were the Water Use, Equivalent Dwelling Unit (EDU), and Hybrid. This recommendation does not attempt to capture comprehensively the results of the volume of research material already presented, but is based on a thorough review of all of the source material. The Town Manager has consulted with the WWTF Superintendent Chris White and consulting engineers Wright-Pierce for assistance with this analysis and recommendation (see attached Spreadsheet Proposal to fund the WWTF by EDU method).

### **Recommendation**

While the Water Use based system was deemed most equitable and generated a varied level of support from some Town Councilors and some citizens, and gained solid support on the part of the business community due to its numerous advantages, it also presented several extreme challenges. While content with the existing Ad Valorem method and concerned that any user fee system might cause community divisiveness over changing the billing basis especially if perceived to be unfair, the Chamber of Commerce weighed heavily on the side of Water Use due to its inherent across the board fairness, if additional information could be provided to make a more informed decision – particularly, specific rate information. Unfortunately, specific rates could not be determined without purchasing the water usage records at a cost of \$6,000 and a \$50,000 software program to interpret it. Fluctuations in seasonal water usage could be problematic for Town Capital Investment planning and could lead to erratic rate fluctuations to compensate.

The most compelling advantage of the Water Use method was that it allocated charges based on actual use of the wastewater system by a measurement tied to water usage. While expensive at first, the costs of securing water usage data could be recaptured based on the rate charged and perhaps future Grants received would justify its initial cost. There would be additional complications in billing because of the irregularity of the meter reading cycle that the Saco-Biddeford Water Company uses. Customers are billed either monthly, quarterly or seasonal and the Town would have to incorporate those nuances into its billing system, including the need to estimate readings when access to homes was denied. Readings occur on a different cycle than the billing which could lead to further complications in the process for Old Orchard Beach. At a minimum, the coordination effort at the Staff level would be tremendous and we estimate that a dedicated full-time employee for this task would be required, pushing the total annual administrative cost in the \$80,000 range (\$50k wage/benefit, \$24k data purchase, \$6k training/computer support) with a one-time software cost of \$50,000.

Another advantage of the Water Use method is the incentive to conserve water, which could have a positive effect of increasing the WWTF's capacity and reducing operating/maintenance costs if water use was reduced. However, the cost savings of this type of clean water reduction into the system would not be on par with savings generated from reduced loadings. It is also thought that water bills themselves provide the needed incentive to conserve.

The maxim cited in the previous 1997 study seems to ring true here as evidenced by our findings on the Water Use method: that generally the more equity that you want to achieve, the more expensive it is to implement and monitor. While this Water Use system may deserve future attention, if the Council is intent upon implementing a system by the July 1, 2009 timeframe, this system is not recommended.

Instead, the recommendation is to implement an EDU based system. While lacking the complete equity of the Water Use system, there are compelling reasons for consideration of this approach as explained below:

- The Town would insure its eligibility for certain types of State Grants (same as Water Use system) per Wright-Pierce memo (attached). This could be significant but is difficult to measure.
- Easiest to start up (no need for purchase & analysis of water bills).
- Less expensive to start up and maintain. Initial setup could be handled by a ¾ time employee with future duties reduced to ½ time. Software is less expensive pushing the total annual administrative cost in the \$27,000-\$39,000 range (\$25-37k wage/benefit, \$-0-data purchase, \$2k training/computer support) with a one-time software cost of \$15,000.
- Provides fewer unknowns: a flat fee and consistent billing for all users.
- Consistent Revenue to the WWTF (not subject to water usage). Also helps to create a Reserve Fund within the Budget for use as Pay-As-You-Go funding as needed to offset the need for Bonding.
- Can switch to Water Use or Hybrid system if desired in the future without complication, utilizing newly trained staff developed for this purpose.
- Can Credit Seasonal Users to further enhance system fairness.
- Spreads cost over a relatively high number of EDU's in OOB resulting in a low projected EDU rate of \$240, which is well below other communities average resident sewer user fee that range from \$288 to \$509.
- The equity achieved is legally defensible (as in the Water Use system) but is based on an easier to calculate Design Flow of an Equivalent Dwelling Unit – i.e. one house. Field inspections will verify calculations on certain commercial properties.
- Impacts to many property owners are less extreme than the Water Use method.
- No additional impact to Year-Round Single-Family Homeowners

### Next Steps

Upon Town Council concept approval to decide which specific type of sewer user fee system it deems most appropriate overall for the Town, we will follow the detailed timeline outlined in the September 9 Wright-Pierce memo (attached) that shows the steps and length of time necessary to enact the ordinance and to implement the system.

Discussion throughout the audience continued for the next hours.

**KING WEINSTEIN:** Mr. Weinstein suggested the following: Setup a Committee to study whether to change to a user fee system.

**TOWN MANAGER:** The town has hired Wright Pierce to evaluate the merits of a sewer user fee. They have extensive experience in this field and information gathering at both public hearings and the ensuing discussions are being taken into consideration.

**KING WEINSTEIN:** The Ad Valorem method is the simplest way to raise the \$ needed for the Waste Water Treatment Facility.

**TOWN MANAGER:** That point has never been disputed. The issue with the current system is that it does not address equity and will grow even more inequitable as the O&M budget increases and capital improvements take place.

**KING WEINSTEIN:** This is trying to raise \$12 million in additional taxes (this misconception was later clarified by the Town Manager as \$465,600 of additional revenue raised through the EDU method).

**TOWN MANAGER:** Taxpayers would see an 8% reduction in their property tax base and the average single family home would not see an increase, providing property taxes are not raised in the FY10 budget, compared to what they pay under the current system. The reason for the \$465,000 increase is due to the fact that the user charge is based on equal charge for equal usage and is based on an estimated projected three year budget.

**KING WEINSTEIN:** \$80,000 of Administrative cost is too much (this misconception was later clarified by the Town Manager as \$27-39,000 annual Admin cost of the EDU method).

**TOWN MANAGER:** Administrative fees would be part of any sewer user charge.

**NEAL WEINSTEIN:** The Town needs to control expenses and spend appropriation. No grants will be available in future years due to the State Economy and National economic crisis and the Town should use its Undesignated Fund Balance of \$5 million.

**TOWN MANAGER:** Grants have been around for the last 20 years and there are many communities that use/need them for capital upgrades. The town is currently available for up to a 40% grant through USDA. I do not have any information regarding the availability of grants years from now. As far as the Undesignated Fund, I spoke with our Finance Director this morning and the Town only has access to about 1.6 million of the 5 million. The town must keep 12% (2.9 million) of its annual budget in reserve and there are "ear marked" expenditures for the year coming out of the Undesignated Fund equal about \$500,000. The facility and pump stations are in need of substantial capital improvements and a 10 million dollar investment could be subsidized by a maximum of 4 million dollars in grants if the user charge system was put in place.

**NEAL WEINSTEIN:** The Town could give credits for low-flow toilets as an incentive to increase plant capacity. The Town could reduce downspout connections to the sanitary system to increase Plant capacity

**TOWN MANAGER:** There would be no credit for low flow toilets under an EDU system. These types of improvements would benefit the user under a sewer charge system partially based on actual flow. The Town has serious issues with inflow (roof drains, sump pumps, etc.) and infiltration (broken and leaky underground sewer lines). Self maintained sewer systems such as campgrounds are also a big source of I&I. All of these issues should be addressed, but will not have a significant impact on design criteria and change the fact that the pump stations and facility are in need of serious capital improvements.

**PAUL GOLZBEIN:** No one at BRASS favors the EDU method. Don't keep passing costs onto the Taxpayer. I am owner of the Pier and the proposed equivalent dwelling system would charge business owners too much. Why should businesses have to pay again; it's only a 90 day season.

**TOWN MANAGER:** The current system puts a disproportionate amount of cost on the single family homeowners. The sewer user charge is not about passing the costs to any specific consumer. It is about a fee system that has charges based on equal usage. The fixed and variable costs for this department are split on a 50/50 basis. Under a sewer user charge, all users pay the fixed charges regardless of occupancy. The variable charges would be based on estimated or actual usage and seasonal users would receive a "credit" on this portion of the budget.

**MIKE TOUSIGNANT:** I would remind everyone that the town must keep 12% (2.9 million) of its annual budget in reserve and there are "ear marked" expenditures for the year coming out of the Undesignated Fund equal about \$500,000.

**JOE MOKARZEL:** I am owner of the Atlantis Motel and the Sea Drift Motel and I rent out 80 rooms. Under the proposed formula, this would equal 20 households and yet my motel is occupied only 60 days out of the year. Do you really think I occupy the equivalent of 20 homes? I don't think so.

**MIKE TOUSIGNANT:** Again I would encourage the Chair and Council to explain the ramifications to not understanding the Undesignated Fund and maintaining its protection for future funding.

**TOWN MANAGER:** The hybrid system is an option, but would take more time and money to set up since we would base it on EDU's as well as on Water Use, which would necessitate purchasing water records - in effect having two systems running side by side. It could be structured several different ways; e.g. - billing residential by EDU and billing commercial by Water Usage. Or billing a minimum EDU charge to everyone with a Water Usage charge over a certain number of cubic feet used. OOB always has the option to modify whatever usage based system is chosen at any time, i.e. - we could start out with an EDU system and migrate to a Hybrid system in time after the essential elements are in place to accommodate a change. Hotels, motels and campgrounds are not "broken out" on the assessor's sheet. They are under the "commercial" property type, but we will get a count at a later date. The amount of parcels does not have any relationship to the sewer user charge. Under the EDU system we would calculate usage for restaurant and lounges based on the amount of seats that would be verified either in the field or by Town business license records (if this is accurately recorded). Commercial and mixed use in town accounts for about 2.7 million in property tax dollars. Of this about 1.6 million is paid by hotels, motels and campgrounds...this leaves 1.1 million attributed to the "unknowns". The 400 EDU's contained within the "unknowns" is an estimate. The Capital Reserve is one proposed use of the revenue generated by the EDU (or

by any method), which would dedicate a certain amount annually into a fund for capital improvements or debt service. We currently have a carry-forward amount annually (currently in the \$500k range to be used for SCADA & Facilities Study) that gets labeled as “designated” for the WWTF but that stays within the General Fund Balance. Under a User Fee System, funds raised would be utilized for WWTF uses only and go into an Enterprise Fund (not the General Fund). Of additional note from an accounting standpoint is that any leftover (unspent) operating funds at the end of the year, would stay within the WWTF Enterprise Fund, whereas now they revert back to the General Fund. In the question regarding homes that do not have sewers, those 350 homes are on septic and cannot be charged unless they have access to the sewer system, in which case a “ready to serve” fee for a portion of the WWTF’s fixed costs could be charged. The Existing WWTF Bond Debt Service is 2.7% of the WWTF’s Property Tax Bill, or approximately \$500,000....this would continue to be paid under the Ad Valorem Tax system (kept on the Tax Bill). Whereas, any new WWTF Bond Debt Service (projected at \$100,000 for FY10) will be payable out of the EDU Sewer User Fee.

Attached to the Minutes are other documents related to the presentation:

**GOOD AND WELFARE:**

**RICKI LETEWT:** I want to talk about crumbling sidewalks on Washington Avenue which are a safety hazard and should be fixed. I own a multi-unit building at 28 Washington Avenue and here are photographs of an exposed underside of the sidewalk in front of my building, taken earlier this year when I was renovating my property. There is absolutely nothing under the sidewalk besides air if you see the gap between the ground and the sidewalk. I laid gravel down on my property and put some underneath to help support it but you can see it will not be a permanent fix. The sidewalk has settled at uneven angles and are crumbling and deteriorating in some parts. People in the neighborhood walk in the street because the sidewalks are so bad. I filed a complaint last summer with the Town after stepping on a piece of sidewalk that broke off under my foot and caused me to lose balance and injure my ankle.

**KING WEINSTEIN:** It is extremely dangerous. I have sent a letter to the Town earlier this year stating that due to water infiltration, the sidewalk lifted and was causing an unsafe condition.

**TOWN MANAGER:** The project on Washington Avenue is more comprehensive than the other sidewalk projects in our community and would require drainage work and the moving of utility poles and we have had many discussions on this matter. Estimates for that project range from about \$280,000 to \$400,000.

**VICE CHAIRMAN O’NEILL:** I regret having to bring this up under Good and Welfare but I am considering a public censure in the next two weeks of a fellow Councilor in a consistent interference with the Town’s staff and the singling out of certain staff members.

**CHAIRMAN LONG:** There being no further comment from the citizens I ask for a motion to adjourn.

**ADJOURNMENT:**

**MOTION: Councilor Frenette 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 seventeen (17) pages is a true copy of the original Minutes of the Town Council Meeting of October 7, 2008.**

**V. Louise Reid**

