

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
Tuesday, September 4, 2012  
TOWN HALL CHAMBERS  
7:00 p.m.**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, September 4, 2012. Chair Quinn opened the meeting at 7:03 p.m.**

**The following were in attendance:**

**Chair Bob Quinn  
Vice Chair Michael Tousignant  
Councilor Robin Dayton  
Councilor Michael Coleman  
Town Manager Mark Pearson  
Assistant Town Manager V. Louise Reid**

**Absent: Councilor Sharri MacDonald**

**Pledge to the Flag  
Roll Call**

**ACKNOWLEDGEMENT:**

**ASSISTANT TOWN MANAGER:** Obviously the complete success of the REV3 Triathlon is something we all will remember and look forward to again next year. Many comments were received through e-mail and through telephone conversations relative to the success of the event; the high caliber of visitors to the beach; and the appreciation by the athletes to many volunteers. There would be too many people to thank publicly for the success of this event but I would like to thank the Police, Fire, Emergency management, department heads, members of the Chamber of Commerce, OOB 365, Brass and the host of volunteers who gave hours of community service to get us to this weekend. Special thanks to Trish Driscoll, Pat Brown and Helene Whittaker who spearheaded the volunteer program.

**COUNCILOR DAYTON:** Please support the Community Animal Group at their Bottle and Tag Sale this coming Sunday, September 9, 2012 from 10:00 a.m. to 4:00 pm. All proceeds go to assist the care and feeding of Old Orchard Beach animals. They are accepting donations of goods to sell as well as being willing to pick p your bottles or cans. Just call 934-1677 or 776-9601 for pick up.

**VICE CHAIR TOUSIGNANT:** I would like to personally, and on behalf of the Town Council, thank Al Hill, a POW, for his donation of 6 POW/MIA flags to the Town for display at Town Hall, the Police Department, the Fire Department, Memorial Park, the Square and the Ballpark. We ask you all to put September 21 – 23 on your calendar for the PW/MIA Weekend at the Ballpark. Any questions, call Russ Warriner at 352-409-6969.

**CHAIR QUINN:** We invite all residents and visitors to come and enjoy the Tournament at the Petanque Courts this coming Saturday, September 8, 2012 at 1:00 p.m. in Memorial Park. Once you see the enjoyment in this event you may want to join the group. Call Al Hill at 937-2537 for more information.

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of August 21, 2012.

**MOTION:** Councilor Dayton motioned and Councilor Coleman seconded to Accept the Town Council Meeting Minutes of August 21, 2012.

**VOTE:** Unanimous.

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

**CHAIR:** I open this Public Hearing at 7:08 p.m.

Ann R. Robinson (201-1-8-50), 219 East Grand Avenue, Unit 5D, one year round rental; Matthew Mangels (206-29-24), 27 Adelaide Road, one year round rental; Hal & Carl Moskowitz (207-2-13), 161 Saco Avenue, Unit # 307, one year round rental; Jamie Bergeron (210-1-20-17), 39 Smithwheel Road, Unit # 17, one year round rental; Debra Moore (211-9-8), 7 Runnells Avenue, two year round rentals; Patricia L. Frisch, Trustee (301-6-1-407), 191 East Grand Avenue, #407, one year round rental; and LaBoca Corp. (308-1-1), 30 Washington Avenue, Unit 1A, one year round rental.

**CHAIR:** I close this Public Hearing at 7:09 p.m.

**MOTION:** Vice Chair Tousignant motioned and Councilor Dayton seconded to Approve the Business Licenses as read.

**VOTE:** Unanimous.

**TOWN MANAGER'S REPORT:** Attended department head meetings Met with Wright Pierce on both Wastewater and Public Works issues; Attended a meeting of the Conservation Commission and the Design Review Committee; Met with Finance Committee member, Larry Littlefield, regarding the budget process; Met with Will Watson our Animal Control Officer; Met with MMA Risk Manager, Lance Lemeux, on several matters of safety; Long conversation with television producer on a possible opportunity for the Town which will be discussed later in the meeting; Met with several carpenters working on bids for the extension of the Council tables in connection with the addition of two new members in November to the Town Council; Had negotiation meetings with the Public Works and Wastewater Departments, and Legal Counsel; Attended a meeting with OOB 365, BRASS, and the Chamber of Commerce at the Captain's Galley on the subject of the possible television promotion program; several discussions with our attorneys on the issues. Participated in Ballpark interviews; Meeting with Paquin & Carroll on insurance issues; Meeting with the Chair on Town Council issues; Meetings at the Fire Department, Ballpark, with the Finance Director; Participated on the Sunday in the Rev3 events; MRI – about a Finance Director position; and met with John Carter at Wells on County issues.

**TABLED ITEM: # 5719 Discussion with Action: Procedure for payment of unapproved invoices.**

Further discussion was needed on the procedures for payment of unapproved invoices. The Town Manager has made it clear to department heads, committee chairs, and all others involved in requesting payment for services performed, that a purchase order is required before any work can be done. Department Heads have been dedicated to following the process but there has been difficulty in getting adherence to the procedures from some others and the Town Manager is asking for direction in how to handle payment of invoices where the work was not approved but the work has been done and the invoice is waiting to be paid. John Bird addressed the Council on the issue of an invoice for \$500 received by the Town of Old Orchard Beach from FB Environmental Associates, LLC. He explained that the primary purpose of this testing was to help identify the sources of the high bacterial levels in tributaries to Goosefare Brook that have been documented for the past several years. Weather conditions leading up to this sample event were hot, dry and sunny, with no rain the prior two days and only 0.19 inches in the prior week. Mr. Bird explained that this type of weather condition was not perfect for the testing but the entrance of the canines at that time in our State only compounded the timeline to get this project done. Both of the canines confirmed high bacteria counts in the sampling locations and these results suggested human wastewater is present. The goal of the sampling was to identify the sources of bacteria to Goosefare Brook and its tributaries. The Waste Water Superintendent explained that last year it was determined that the Waste Water Department would facilitate the Maine Healthy Beaches program as prior to this the Fire Department performed the task. As part of the program, volunteers take samples every Tuesday at certain beach locations, drop them off at the Waste Water Department and then they are picked up by the courier to be brought to the lab. The Superintendent enters data taken at the time and the actual results are entered by the lab. If high counts are present he notifies the Public Work's Department who posts warnings at the test site. The issue driving Mr. Bird and other concerned citizens is not part of this testing program. The Maine Healthy Beach Program, along with the Department of Environmental Protection has been performing additional testing on the marsh and routinely finds high bacterial counts. When Mr. Bird came to see the Waste Water Superintendent about the idea of having the dogs come to Old Orchard Beach, both he and the Planner said they would send the information to the Town Manager and have a meeting to determine where the funding would come from and get back to Mr. Bird. That meeting never occurred. The results of the testing showed that the dogs detected pollution although the Superintendent explained to questions of the Council that this is nothing new and that the Maine Healthy Beach program had nothing to do with the dogs coming to town. Mr. Bird knew of the dogs being in town and intended to reconcile the invoice later. The Superintendent indicated that if the town would like to assign some sort of Conservation budget to the Wastewater Department, the Superintendent would be happy to administer it with clear direction. Councilor Dayton raised the issue of the date of the receipt of invoice and the Assistant Town Manager attempted to explain to the Council that the invoice was received after the fact and that the contract was signed and delivered to the Council only when it was requested by the Assistant Town Manager in order to address the issue. Councilor Coleman reminded everyone that it is not the responsibility, nor does anyone have the authority, to just go out and accept responsibility for the town for work done whether it is needed or not and that the authority of the Town Manager, who in this case did not approve, was not provided and therefore the invoice is not the responsibility of the town. John Bird explained that the invoice was sent to the Town prematurely and Councilor Coleman indicated that perhaps since

it was authorized by them, they should pay for the study. Mr. Bird asked the Council if they would wish to purchase the report which he had already provided to the Council. Councilor Coleman indicated that by presenting the report to the Council it was already freedom of information material.

**MOTION:** Councilor Coleman motioned and Vice Chair Tousignant seconded that the Town shall not be obligated to pay an invoice not previously approved by a competent authority as instituted by the Town Charter.

**VOTE:** Unanimous.

The Town Manager raised the question of whether to go back and further discuss an issue that was raised at a prior Council meeting but the Chair pointed out that should the Town Council wish to review the incident of payment for the recent televising of a Conservation Commission meeting which was denied two meetings ago, the Town Council would need to have a majority vote that night to suspend Council rules. Councilor Coleman indicated that the vote was previously taken and the issue needed not to be reviewed again as the decision had already been made to not pay for an unapproved invoice.

**# 5726 Discussion with Action:** Establish a fee of five cents per gallon for groundwater discharge and/or sanitary sewer system.

Council spent a great deal of time discussing this issue. The Waste Water Superintendent indicated that the cost to treat typical municipal wastewater is approximately one (1) cent per gallon. Septic waste, normally considered ten times the strength of typical municipal wastewater, is received at the OOBWWTF at a charge of ten (10) cents per gallon. The Superintendent spoke with the Kennebunk Sewer District Superintendent about dewatering project that was done in Kennebunk. They charged two (2) cents per gallon, but only received at total of 10,000 gallons of ground water for the entire project. It is expected that the ground water discharge associated with the project will be well below the strength of typical municipal wastewater. Neal Weinstein indicated he didn't care what Kennebunk or any other community did. We stand on our own policies and not on what others have done. The question was raised if passing this agenda item means that anyone asking for discharging over 25,000 a day will be charged this amount and whether that is a good idea considering the diversity of the fees that have been charged in the past. Concern was expressed by Councilor Dayton that the authority of approving such disposal would still remain in the hands of the Superintendent of Waste Water. Obviously this issue will come up again as it was pointed out there are five gas stations in the town that may or have needed such a process. It was suggested that this item be tabled for future consideration in a Workshop setting.

**MOTION:** Vice Chair Tousignant motioned and Councilor Coleman seconded to Table indefinitely the establishment of a fee of five cents per gallon for groundwater discharge and/or sanitary sewer system.

**VOTE:** Unanimous.

# 5727      **Discussion with Action: Request by 7-Eleven Inc., (located at 217 Saco Avenue, - 211-9-16) to discharge the ground water to the sanitary sewer system to facilitate the replacement of underground fuel tanks and the Town Council to set the fee; and the opportunity to discuss further options.**

While not contained in the Fee Rate section of the Code of Ordinances, this ordinance calls for Class II and Class III owners to pay a rate determined by the town council. Under this ordinance, it appears that the town council can set a charge for all tax exempt properties; and industrial or commercial users that use more than 25,000 gallons per day. The council may want to start thinking about setting charges based on actual and/or estimated usage for tax exempt properties and commercial/industrial owners than discharge more than 25,000 gallons per day. A list of tax exempt properties would be easy to obtain. A list of commercial/industrial property owners that use 25,000 gallons of water per day will take some time and funding. Information below was presented to the Council.

**Sec. 58-287. - Billing classes.**

The source of revenue required for the operation and maintenance of the public sewer works shall be charges assigned to owners of property located within the town limits. The owners will be divided into three classes as follows:

- (1) **Class I. Residential owners, including single-family and multifamily dwellings and small nonresidential owners, including nonresidential commercial and industrial owners, which introduce no more than the equivalent of 25,000 gallons per day of domestic sanitary wastes to the treatment works.**
- (2) **Class II. Large industrial and commercial owners. These owners shall include but not be limited to users who discharge a sanitary wastewater to the treatment works in excess of 25,000 gallons per day or a sanitary and/or process wastewater which is in excess of the equivalent to 25,000 gallons per day of sanitary waste.**
- (3) **Class III. Owners who pay no ad valorem taxes or receive substantial credits in paying such taxes, such as tax-exempt institutions, which discharge solely domestic wastes.**

(Ord. of 12-21-1978, art. II, § I)

**Sec. 58-288. - Billing basis.**

- (a) **The sewer charge for class I owners will be based on the ad valorem tax.**
- (b) **The sewer charge for class II and III owners will be based on the consumed amount of water, estimated or measured, as shown on the records of the Biddeford and Saco Water Company. Any class II or III consumer obtaining all or a portion of his water supply from sources other than the Biddeford and Saco Water Company will have his sewer charge computed from his total water consumption unless the consumer establishes to the satisfaction of**

the town manager that the water consumed from any source does not enter the sewer system.

- (c) The town manager may require or any Class II or III consumer may request the installation of meters to measure either water consumption or sewer outflow if such measurement is required to accurately determine the volume of water entering the sewer or if the consumer indicates that a more equitable sewer fee will result. The metering system installed must be acceptable to the town manager and must be installed and maintained at the user's expense.

(Ord. of 12-21-1978, art. II, § II)

**Sec. 58-289. - Determination of rates.**

The town council shall determine the sewer rates, including readiness to serve charges if used, on an equitable basis. The council reserves the right to change the sewer charges originally or previously assigned to any property owner. The council will review the operation and maintenance costs annually and will alter the sewer charge accordingly when necessary to reflect the current costs.

(Ord. of 12-21-1978, art. II, § III)

**Sec. 58-290. - Billing and collection.**

- (a) The sewer charges will be included as part of the ad valorem tax bill for class I and shall be committed by the town treasurer to the tax collector for collection with the tax bill. Sewer charges for class II and III, which are based on water use, shall be committed by the town treasurer to the tax collector on at least a quarterly basis and shall be due and payable within 30 days of receipt.
- (b) There shall be a lien on real estate to secure the payment of service charges duly established under this division, which shall take precedence over all other claims on such real estate excepting only claims for taxes. The town treasurer shall have the same authority and power to collect such service charges as are granted by 38 M.R.S.A. § 1208 to treasurers of sanitary sewer districts. In addition to the lien established by this section, the town may maintain a civil action against the party so charged for the amount of the sewer charge in any court competent to try the action and in such action may recover the amount of such charge with legal interest on the charge from the date of such charge and costs.

AECOM 978.905.2100 tel  
250 Apollo Drive 978.905.2101 fax  
Chelmsford, MA 01824

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Permit Request Memo\Memo to Town Council 8-29-12.docx  
Memorandum

Date: August 29, 2012

To: Robert Quinn, Chair

**Subject: 7-Eleven Store # 32542  
217 Saco Avenue  
Old Orchard Beach, Maine  
Lot 211-9-16**

**Distribution: Mike Tousignant, Vice Chair  
Robin M. Dayton, Councilor  
Sharri MacDonald, Councilor  
Michael Coleman, Councilor  
Christopher White, Superintendent OOB Wastewater Dept  
William Robertson, Director of Public Works  
Steven G. Brezinski, MEDEP  
Peter M. Eremita, MEDEP  
Matt Hight, MEDEP**

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**The 7-Eleven Store # 32542 located in Old Orchard Beach, Maine is planning to replace its existing three 8,000 gallon gasoline underground storage tanks (USTs) with a 20,000 gallon regular unleaded gasoline UST and a 20,000 gallon split diesel/premium unleaded gasoline UST (Figure 1).**

**Groundwater dewatering will be required to support the excavation/installation activities and AECOM, Inc (AECOM) on behalf of 7-Eleven, Inc. (7-Eleven) is seeking permission from the Town of Old Orchard Beach to discharge the groundwater to the sanitary sewer system to facilitate the replacement of the above-referenced USTs and work with Town Council to set the fee for discharge. AECOM will also be available to discuss any other options or questions that arise during the meeting.**

**Project Background:**

- A limited duration groundwater pump test was conducted in May 2012 to gather information on the aquifer properties. It is estimated that a discharge of approximately 100 gallons-per minute (gpm) will be required to provide a working excavation for the tank installation; however, AECOM is requesting a discharge permit for 200 gpm in the event a great flow is encountered.**
- Soil and groundwater samples have previously been collected in support of the pumping and discharge activities. Additional groundwater samples will be collected prior to and during the pumping operation in order to monitor and evaluate the discharge conditions during operations.**

**Proposed Plan**

- 7-Eleven would like to initiate work on the project by September 4, 2012;**
- It is anticipated that the dewatering will begin the week of September 10, 2012;**
- Dewatering is anticipated to take 5 days and generate approximately 720,000 gallons of water (100 gpm x 24 hours x 5 days);**

- Prior to and during dewatering operations, AECOM will collect discharge samples and submitting them for 24-hour turnaround to a Maine-certified laboratory for analyses of volatile petroleum hydrocarbons (VPH);
- AECOM staff will be present during all dewatering and sampling events to conduct a visual inspection of discharge quality;
- Prior to discharge to the sewer, the water will be contained in a 21,000 gallon Frac tank to allow for the settling of sand and silt, and the visual observation of water quality;
- Particulate filters will be used to treat water prior to discharge from the Frac tank into the sewer system;
- Total discharge to the sewer will be monitored using a flow indicator totalizer at the point of discharge;

The proposed dewatering activities are anticipated to last for 5 days; however, additional time may be required in the event of rain or other field activities. If additional time and/or discharge volume is anticipated, AECOM will notify the Old Orchard Beach Wastewater Department as soon as possible. 7-Eleven and AECOM appreciates your assistance with this work and will make ourselves available to address any questions or concerns that may arise. In the event additional data or information is required by the Council, please contact either of the undersigned and we will furnish the information immediately.

Jaime (Hussey) Taylor Robert M. Cataldo, PG

Project Manager Senior Hydrogeologist

978-905-2253 978-905-2154

[Jaime.hussey@aecom.com](mailto:Jaime.hussey@aecom.com) [Robert.cataldo@aecom.com](mailto:Robert.cataldo@aecom.com)

There was a great deal of discussion on this issue but Councilor Dayton asked what the verbiage “and the opportunity to discuss further options.” The Waste Water Superintendent indicated that if the Town Council had not approved discharging to the sewer system, 7-11 would have requested discharging to the storm drains. The storm drains discharge directly off shore and provide no additional treatment. Discharging to the sewer system allows for treatment at the Waste Water Treatment Facility and discharges the treated water one half mile off shore. It is considered a more environmentally friendly method. Being ‘business friendly’ and ‘environmentally responsible’ is a balance. The representative from the Department of Environmental Protection confirmed that the test results were acceptable. Assurance was given to the Council that the entire project will be closely monitored. In discussions relative to the fee structure, the Superintendent indicated that since there is no sewer user fee system in OOB; all the charges sewer charges in OOB are arbitrary and do not reflect usage or financial impact. That is the way it has always been. The fee language contained in the current ordinance is outdated. Regardless, the ordinance as read allows the Town Council to set the fee. Since this is a onetime project it is the only mechanism to set the fee. Questions by Neal Weinstein about how he would rather have sewer ‘leaking’ from the sanitary sewer system than having ground water entering the sewer system was answered by the Superintendent who said that ground water entering the sewer system is called inflow and infiltration (I&I). Sewer water leaking from

the sanitary sewer system is called exfiltration. Because of high ground water levels, fresh water inflow and potentially high sea levels Old Orchard Beach is especially prone to I&I. Ex-filtration is illegal and has the potential to contaminate waterways and to suggest we can save money by allowing sewerage to leak into our waterways is irresponsible. The Superintendent also addressed Mr. Weinstein's question about how the town shouldn't be conducting 'bad business' like other 'dysfunctional towns'. This happened during the discussion about the fee. The Superintendent defended the fee structure. The Annual Old Orchard Beach Waste Water Department budget = \$2,000,000 (includes \$1,300,000 operational budget and an estimated \$700,000 in annual bond debt). Annual average flow to the WWTF= 500,000,000 gallons. If you divide 2,000,000 by 500,000,000 you get 0.004. Converted to dollars and cents that would be approximately one half cent to treat a gallon of wastewater. At the meeting the Superintendent used one penny to treat a gallon of wastewater in an attempt to keep it simple. At five cents per gallon, the town is charging approximately ten times what it normally costs to treat a gallon of wastewater in OOB. Also remember that the ground water from the 7-11 project will be substantially cleaner than municipal wastewater. If 7-11 discharges a total of 750,000 gallons over the course of the project the town will gross \$37,500. Virtually the entire amount will be profit. Council had the opportunity to raise or lower the fee at the meeting. It was also pointed out by the Superintendent that the Division of Water Quality Management prefers that water from excavation for tank removals be disposed of at licensed treatment facilities, such as the Town of Old Orchard Beach Wastewater Treatment Facility. We believe this will provide a much higher level of protection for water quality than any on-site treatment system at an excavation site. The risk to a treatment plant the size of Old Orchard Beach's to be minimal but the decision to accept these flows are up to the license holder.

**MOTION:** Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve a Request by 7-Eleven Inc., (located at 217 Saco Avenue, - 211-9-16) to discharge the ground water to the sanitary sewer system to facilitate the replacement of underground fuel tanks and the Town Council to set the fee of five (5) cents per gallon.

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

# 5728 Discussion with Action: Amend Old Orchard Beach Free Public Library Association's (Edith Belle Libby Memorial Library) Budget to reflect hiring of a part-time bookkeeper/clerical position, with no benefits, in the amount of \$6,000 for the remaining ten (10) months, effective September 5, 2012.

**BACKGROUND:** The job description which has been developed by the Library Treasurer is detailed and descriptive of what they are asking for in this position, defining the items that this individual will address to move forward in a progressive way the workings of the Library operations. This position will require an Associate degree or equivalent preferred, High School Diploma, Computer Skills (QuickBooks, a plus) and background in business math and procedure required. That individual will prepare bills for payment, record, file and keep records of all financial transactions, prepare bi-weekly payroll, prepare end-of-year reports to governmental entities; assistant the Treasurer and Library Director in drafting a yearly budget proposed for consideration by the Library Board of Trustees; and any and all other

duties that may arise in conjunction with any of the above. The position will be twelve hours per week at \$12.50 per hour with no benefits. Doris Harris then also described in detail what each responsibility entails.

**From Doris Harris, Treasurer – Board of Trustees**

**Members of the Town Council – Submitted to you has been a request to reinstate the line item of a Bookkeeper/Clerical position, along with funding, for the Libby Memorial Library. During the budget process, which went by quickly and was somewhat chaotic due to the new Finance Director and her quest, in accordance with the amended Town Charter, to have everyone in a line item budget for the Fiscal Year 2013. The Library was also in a state of chaos following the alleged embezzlement from library funds. Following that news the Town withheld the fourth quarter appropriation of funds to run the library, due to the missing funds, which created concern that the Library might be closed. The change from the Library’s budget, as presented for many years, to a line item budget was an enormous challenge and in spite of several meetings and many e-mails with the Finance Director, items were missed, were left out, were zapped, if you will. It did not register with the Trustees or me that the bookkeeper position had been deleted as the bills were paid and the staff paid. I had volunteered to help out with the paperwork in February as our bookkeeper was gravely ill. This offer of helping out began on February 29, 2012 and is still on-going. So the work was getting done and the new system of payables and payroll were being actively pursued in order to comply, to get our bills and staff paid, by the library volunteer, albeit with much angst and with much time spent with the helpful staff at Town Hall. Inasmuch as I found myself deeply immersed in the working of the duties of the Treasurer of the Library Board of Trustees and also have failed to give my all to the Friends this summer due to my “job,” I hereby respectfully request that you cast your vote – yes – to reinstate the line item for the bookkeeper as “Bookkeeper/Clerical, with funding, for the balance of this fiscal year and the coming years. Thank you.”**

**There was a lengthy discussion on the need for the position. The questions of the need for the position and the differential in the salary compared to the former director were raised. Councilor Coleman raised the question several times about due diligence and the need for reasonable steps to satisfy a legal requirements and it serves to confirm all material facts in regard to issues raised in management of an organization. Discussion surrounding the use of the Quick Books and the need for those record keeping processes was raised. Several members of the Edith Belle Memorial Library Board of Directors spoke on behalf of the Library reminding the Council that everyone needs to recognize that Library is a separate legal entity, there are decisions that are made as to how funds are expended that may be contrary to Town policies and since the Town is funding 100% of the operating costs, the Town will be incurring these expenditures. Whether or not the actual budget is restricted by line item in terms of managing the budget or whether the budget is simply managed as a total amount, either way, given the circumstances of recent events, the Council will need a detailed line-item budget to have confidence in the total budget with respect to the Library operations. Councilor Coleman addressed some of his concerns as far as fiscal responsibility and the affairs of the Library. It was pointed out that the Library had originally asked for \$244,000; but with the changes the budget is \$184,267.49. This shows a reduction of \$4,735.49 for Podus funding; and \$6,858.78 cash-on-hand from the original amount of**

**\$195,861.76.** There was further discussion of the need to bring the Podus and the “over the counter change” money into the town budgeting process. Again the argument about the responsibility of the Library to determine their budget and where it goes was raised by members of the Board of Trustees. Several members of the Library Board agreed and praised the work Doris Harris has done and continues to do and it was also acknowledged by some members of the Town Council. Members of the Board of Trustees collectively spoke in support of the ongoing careful analysis of all funding issues going on at the Library on a daily basis. Several times the Council was reminded that it is not the Council’s responsibility to tell the Library how to spend their money. The Library Board suggested that the Library is being held hostage by the Council. Councilor Coleman said he was concerned about repetition of the past. The Town Manager assured the Library that they would soon have the ability to access their accounts and balances since it was brought forward that the Library had not had any updates since the end of June. The question of where the funding for this position was coming from, the Town Manager suggested the Contingency Account – Account Number 20118-0350 with a balance of \$290,178. James Verrier, a Library supporter spoke with passion about letting this position be approved. He said we have a volunteer who has given hours of free efforts on behalf of the Library and help is needed. He admonished the Council for the negativity shown on behalf of the Library. A mistake has been made – move on. Everyone should not be held accountable he said. Members of the Board of Trustees attended and spoke including Israel Collins, Neal Weinstein, and Mary Ann Kotros, President.

**MOTION:** Vice Chair Tousignant motioned and Chair Quinn seconded to Table the Amending of the Orchard Beach Free Public Library Association’s (Edith Belle Libby Memorial Library) Budget to reflect hiring of a part-time bookkeeper/clerical position, with no benefits, in the amount of \$6,000 for the remaining ten (10) months, effective September 5, 2012.

**VOTE:** Yea: Councilor Dayton and Chair Quinn  
Nea: Councilor Coleman and Vice Chair Tousignant

**MOTION:** Vice Chair Tousignant motioned and Councilor Dayton seconded to Amend the Orchard Beach Free Public Library Association’s (Edith Belle Libby Memorial Library) Budget to reflect hiring of a part-time bookkeeper/clerical position, with no benefits, in the amount of \$6,000 for the remaining ten (10) months, effective September 5, 2012.

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

**# 5729 Discussion:** Confer with Council on issues relative to accounting and payroll matters.

This being a discussion only matter it included concerns of the Library about some of the invoices that incurred late charges because of the handling of the payment of the bills by the Town. The Town Manager explained that because of the need for warrants to be signed by the Council and the limited number of opportunities to get signatures by the Council, it sometimes necessitate the invoices being paid late. It is an issue that the Council is trying to

address and the Town Manager is attempting to resolve the issues. It was acknowledged by Doris Harris that there is a good working relationship between her and the Accounts Payable staff member and appreciation by both parties as to the ability to work together on these important issues. The question was raised as to why the Library warrant needs to be signed by the Council but there were Council members that felt this was part of their fiduciary responsibility. The question of whether this was part of the Memorandum of Understanding between the Town and the Library was raised but disputed by the Library.

**# 5730 Discussion with Action: Approve total payment of \$6,563 to SMR Electric Company with the deduction of an estimated Efficiency Maine Incentive of \$1,050, paid to the municipality, with a net cost of \$5,513; from Account Number 20118-50350 - Contingency, with a balance of \$290,178, for six LED 110W down lights including labor and materials to be installed at the Amtrak Train Station.**

The Town Manager indicated that it was suggested by the Chair that he provide other bids for such products before bringing this back to the Council.

**MOTION: Councilor Dayton motioned and Chair Quinn seconded to Table indefinitely the Approval of a total payment of \$6,563 to SMR Electric Company with the deduction of an estimated Efficiency Maine Incentive of \$1,050, paid to the municipality, with a net cost of \$5,513; from Account Number 20118-50350 - Contingency, with a balance of \$290,178, for six LED 110W down lights including labor and materials to be installed at the Amtrak Train Station.**

**VOTE: Unanimous.**

**# 5731 Discussion with Action: Direct the Town Manager to issue a one (1) percent increase, retroactive to July 1, 2012, to all currently employed non-Union personnel who have been so employed for at least one year.**

**BACKGROUND: Vice Chair Tousignant requested that this be brought up on the agenda again for consideration.**

**Sec. 2-73. Reconsideration of vote.**

When a vote is passed by the town council, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same meeting or the next stated meeting, but not afterwards; when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next meeting unless an item to that effect is contained on the agenda for such next meeting. A petition once presented to and finally acted upon by the town council shall not again be presented to the council in the same or substantially the same form for a period of one year next succeeding the council's final action on the original petition. A member of the town council, voting with the majority on the original petition, shall be privileged to reintroduce such a petition as an item on the agenda for a subsequent council meeting.

Vice Chair Tousignant apologized to the town staff for his behavior at a previous meeting and asked for this item to be returned to the agenda. He has always supported the non-union staff and believed they deserved an increased since no pay increases have occurred since 2008. Last month the Council voted 3 -2 against a one percent increase for non-union employees who had been with the town for at least one year. Council Chair, Bob Quinn, Vice Chair Michael Tousignant and Councilor Sharri MacDonald voted against the increase. Vice Chair Tousignant indicated that some employees thought the one percent raise was a joke and that the buzz in the air disturbed him. He asked for the proposal to be returned to the agenda. In voting on the proposal again, it failed. With Councilor MacDonald absent from the meeting; Councilor Robin Dayton and Vice Chair Tousignant voted in favor of the raises but Chair Quinn and Councilor Michael Coleman voted against the raise. The Chair indicated that the proposed one percent raise would water down funding for a suggested merit rise system that would be in place by early 2013. The proposed raises would have taken up more than 25 percent of the funding set aside for non-union raises. Councilor Coleman, who had voted in favor of the proposed raise before said he didn't particularly care to reconsider the vote and in general once the Council takes a vote it needs to live with it. He said town employees should be getting merit raises in a few months.

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Direct the Town Manager to issue a one (1) percent increase, retroactive to July 1, 2012, to all currently employed non-Union personnel who have been so employed for at least one year.

**VOTE:**       Yea: Councilor Dayton and Vice Chair Tousignant  
              Nea: Councilor Coleman and Chair Quinn

# 5732       **Discussion with Action:** Approve monies collected in the water fountain at the square during the summer of 2013 and 2014 to be designated towards the Community Animal Watch Committee in their work with residents and their animals.

In Fiscal Year 2009 and 2010 the Council directed that the money raised in the square fountain be designated to General Assistance. In the Fiscal 2011 and Fiscal 2012 budget, the Council directed that the money raised in the fountain at the Square be designated for the two years to the Skateboard Park. The Vice Chair is requesting for the next two years, Fiscal Year, 2013 and 2014, the monies be designated to the Community Animal Watch for use in the care and keeping of Animals of the citizens of the municipality. The Council felt that the two year time frame was too much and that the next Council should decide this agenda item not the current Town Council.

**MOTION:** Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve Monies collected in the water fountain at the square during the summer of 2013 and 2014 to be designated towards the Community Animal Watch Committee in their work with residents and their animals.

**VOTE:**       Yea: Councilor Coleman and Vice Chair Tousignant  
              Nea: Councilor Dayton and Chair Quinn

**# 5733 Discussion with Action: Grant the authority to the Interim Finance Director/Treasurer to disburse payroll checks with only one Town Councilor's signature in accordance with M.R.S.A., Title 30-A, Section 5603 (2)(A)(1).**

**BACKGROUND:** The difficulty of getting warrants signed by three Councils as required by policy because of work travel schedules and other considerations, the following policy suggestion is being presented; which is to have the signature of one Town Councilor for the payroll warrants.

## **TOWN OF OLD ORCHARD BEACH**

### **POLICY ON TREASURER'S DISBURSEMENT WARRANTS FOR EMPLOYEE WAGES AND BENEFITS**

**Purpose.** This policy allows designated municipal officers (selectmen or councilors), acting on behalf of the full board of municipal officers, to review, approve, and sign municipal treasurer's disbursement warrants, for wages and benefits only.

**Policy is additional to, not in lieu of, majority power.** Nothing in this policy is intended to replace the authority of the full board of municipal officers, acting by majority vote, to act on any treasurer's warrant, including warrants for wages and benefits.

**Delegation of authority.** Pursuant to 30-A, M.R.S.A., Section 5603(2)(A)(1), the following authority is granted with respect to treasurer's disbursement warrants for municipal employee wages and benefits only:

Current municipal officers. The municipal officers in office at the time of execution of this policy are: Chair Robert Quinn, Vice-Chair Michael Tousignant, Councilor Michael Coleman, Councilor Robin Dayton, and Councilor Sharri MacDonald.

Any one of the municipal officers named above, acting alone, may review, approve, and sign such warrants.

**Effective date.** This policy becomes effective on the date indicated below.

**Copies.** The Chair of the municipal officers will furnish copies of this policy to the municipal clerk and to the municipal treasurer. If the clerk and the treasurer are the same person, a copy shall nonetheless be provided to that person in each capacity.

**Lapse.** This policy lapses one year after its effective date, if not sooner amended or canceled.

**Renewal.** This policy may be renewed at any time before its lapse. Thereafter, it may be readopted at any time. Any renewal is valid for one year from its effective date, unless a sooner date of expiration is specified.

**Reminder.** If the municipal treasurer is an appointed official, the treasurer shall remind the municipal officers to consider renewing this policy annually before it lapses. If the municipal treasurer is an elected official, the treasurer is requested to provide such an annual reminder.

**Original.** The Chair of the municipal officers will maintain the original of this policy on file unless the municipal clerk is an appointed official, in which case the clerk shall maintain it on file, if requested to do so by the Chair.

## **MUNICIPALITY OF OLD ORCHARD BEACH**

### **MUNICIPAL OFFICERS' POLICY ON DISBURSEMENT OF MUNICIPAL EDUCATION COSTS**

Pursuant to 20-A M.R.S.A. Section 15006(1) and 30-A M.R.S.A. Section 5603(2)(A), the municipal treasurer is hereby authorized to disburse funds to pay municipal education costs when the treasurer has been presented with a disbursement warrant signed by the school superintendent and approved by a majority of the school board, or by all of the members of any finance committee appointed or duly elected by the school board.

Before disbursing any funds on such a warrant, however, the municipal treasurer shall satisfy himself or herself that the warrant is indeed signed by at least a majority of the school board or by all of the members of any finance committee appointed or elected by the school board. The treasurer may accept as such satisfaction a written and signed certification of the pertinent fact from the school superintendent, or, if the warrant itself indicates the fact (as, for example, by bearing the statement "being at least a majority of the school board" or "being all of the members of the school board's finance committee" beneath the signatures appearing on the warrant), then the Treasurer may rely on the representation of the warrant without further inquiry. The Treasurer shall not, however, pay any item on a warrant if payment of that item would result in an overdraft, and shall report his refusal to honor the item in writing to the superintendent and to the municipal officers promptly.

The chair of the municipal officers/secretary to the municipal officers/town manager/administrative assistant [~~strike three of these~~] shall file a copy of this policy with the municipal clerk and provide a copy to the municipal treasurer, and shall ensure that this policy is brought to the attention of the municipal officers annually for consideration of renewal. The municipal clerk shall, after approval by the municipal officers of any meeting in which they have voted a renewal of this policy, attest to such renewal by endorsing the policy below, and shall then file a copy of that policy bearing that renewal endorsement in the clerk's files and shall deliver a copy to the municipal treasurer.

The Council failed to have a motion made and seconded so the Agenda item failed.

**# 5734 Discussion with Action: Approve Liquor License Renewal of Bua Thai LLC dba/Bua Thai (211-12-4), 194 Saco Avenue, m-v in a Restaurant.**

**MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Approve Liquor License Renewal of Bua Thai LLC dba/Bua Thai (211-12-4), 194 Saco Avenue, m-v in a Restaurant.**

**VOTE: Unanimous.**

**GOOD AND WELFARE:**

**PIERRE BOUTHILLER:** Responding to the denial of payment of a \$250 invoice relative to the taping of a previous Conservation Commission meeting, Mr. Bouthiller indicated to the Council that he will sue the Town should a legal invoice for work done in a timely and professional manner is not paid. He discussed in length the recognition of competent authority which he felt indicated that the Chair of the Conservation Commission had the responsibility and authority to authorize the work being done and the payment of the invoice.

**TOM ELLIS:** He updated the Town Council on an issue coming before the Council on September 18, 2012. He requested any further questions the Council might have on the issue so they will be fully prepared to speak to the Council at that time in preparation for the possible referendum question on the November ballot. He encouraged the Council to visit the site and provide any further information they might require.

**JEROME BEGART:** The issue of fiduciary responsibility in many areas discussed this evening including the Library issues, the suggestion of one signature on a warrant, the need for fiscal responsibility, current Charter revisions that need to be adhered to by the Council, concerns about the Council's concentration on issues at hand.

**# 5735 Discussion with Action: Personnel Matters. (Note: This item discussed personnel issues defined under Title 1 M.R.S.A., Section 405(6)(A), and the Council anticipates the discussion will occur in Executive Session.)**

**MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Enter into Executive Session pursuant to Personnel Matters. (Note: This item discussed Personnel issues defined under Title 1 M.R.S.A., Section 405(6)(A), and the Council anticipates the discussion will occur in Executive Session.)**

**VOTE: Unanimous**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to adjourn the Executive Session pursuant to Personnel Matters. (Note: This item discussed**

**personnel issues defined under Title 1 M.R.S.A., Section 405(6)(A), and the Council anticipates the discussion will occur in Executive Session.)**

**VOTE: Unanimous.**

**MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Approve the Agreement between the American Federation of State, County and Municipal Employees, AFL-CIO (the Union) and the Town of Old Orchard Beach in consideration of mutual promises and covenants contained therein.**

**ADJOURNMENT:**

**MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Adjourn the Town Council Meeting at 11:56 p.m.**

**VOTE: Unanimous.**

**Respectfully Submitted,**

**V. Louise Reid  
Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of seventeen pages (17) pages is a copy of the original Minutes of the Town Council Meeting of September 4, 2012.**

**V. Louise Reid**