

**TOWN OF OLD ORCHARD BEACH
RESCHEDULED TOWN COUNCIL MEETING
MONDAY, AUGUST 6, 2007
TOWN HALL CHAMBERS**

A rescheduled Town Council Meeting of the Old Orchard Beach Town Council was held on Monday, August 6, 2007. Chairman Joseph Kline opened the meeting at 5:00 p.m.

Pledge of Allegiance and Roll Call:

Present were:

**Councilor Robin Dayton
Councilor Roxanne Frenette
Councilor James Long
Chairman Joseph Kline
Vice Chairman Shawn O'Neill**

ACKNOWLEDGEMENTS:

CHAIRMAN KLINE: We had our meeting a day early this week because Councilor Roxanne Frenette would not be able to be here tomorrow evening as she is taking her son, Specialist John Michael Frenette to Rhode Island where he will be leaving for a year in Iraq. John and Jenalee Barrett were married this past weekend and we wish them much joy and we pray Godspeed to John in his service to his country.

Presentation by Chief of Police – Dana Kelley

On Sunday July 08, 2007, Officer Jeffrey Regan and Robert Simmons were both instrumental in the apprehension and arrest of an individual suspected of committing three armed robberies in Falmouth, Yarmouth and Topsham Maine. What began as a routine report of a vehicle operating erratically on the Ocean Park road, ended with the identification and arrest of a suspect wanted by three communities for armed robbery. Materials seized from the vehicle were related specifically to an armed robbery in Yarmouth, Maine as well as other armed robberies in several surrounding communities. Officer Regan and Sgt. Simmons, working in conjunction with Officers from the targeted communities, identified evidence recovered from the vehicle and through interrogation of the suspect were able to secure a confession which resulted in three armed robberies being solved and the removal of a dangerous felon from our streets. Officer Regan and Sgt. Simmons proper use of police procedure and alertness resulted in the apprehension of a very dangerous felon who was living in Old Orchard Beach. Their attention to detail almost certainly prevented additional robberies from occurring perhaps in Old Orchard Beach. Therefore, for outstanding performance to your community, it is with great pride and honor that as Chief of Police, I have the privilege of awarding to Sgt. Robert Simmons and Officer Jeffrey Regan letters of commendation for a job well done.

I would like to take this opportunity to acknowledge Major Walter Douglas for his years of service to the Town of Old Orchard Beach and the men and women of the Old Orchard Beach Police Department. Major Douglas, as a retired Salvation Army Officer who moved to Old Orchard Beach many years ago has served not only as a parking enforcement officer but also he has served as the fire and police department Chaplin and served in that capacity for years, retiring last fall. On behalf of the entire department, I want Major Douglas to know that we sincerely appreciate his willingness over the years to sacrifice his personal time to be there not only for the officers of this department but members of the community as well. I would also like to thank Major Douglas for the compassion and guidance that he has shown and offered to me personally. It is sincerely appreciated.

The importance of the partnership between the community and police is in the Old Orchard Beach Police Department's mission statement and quickly acknowledged by members of the force. The OOB Police Department will be properly recognized for the strong ties it has formed within the community as it is presented with the prestigious 2005 Trojanowicz Community Policing Award. The award, named after Professor Robert Trojanowicz of Michigan State University, considered in many circles as the Father of Community Policing, is given each year to an outstanding community policing agency in New England for its commitment to excellence in community policing and partnership developments within its community. Our thanks this evening to citizens Karen Wade and Councilor Robin Dayton, former Chairperson of the Campground Community Watch who did all the leg work in applying for this honor for our police and we salute them for their hard work and commitment as well. We want this evening to especially recognize and honor Chet Wancewicz, one of OOB's own, for his being honored with the Trojanowicz Individual Community Policing Award for his role in breaking up the prostitution ring in Old Orchard Beach.

Presentation by Superintendent of Waste Water - Chris White

To Larry Thomas – 35 years of service to the Town of Old Orchard Beach

CHAIRMAN KLINE: Because of illness this presentation will be done at the August 21, 2007 Town Council meeting.

ASSISTANT TOWN MANAGER: We congratulate Nance Kelley who has been honored to be one of 24 Hospice volunteers at the new Hospice Home in Scarborough. Nance has volunteered there since September of 2001. This is a home setting for terminally ill patients in need of comfort care and surrounded by love and support for the patient and the entire family. It opened on August 1st and Nance's first today was today. We wish her Godspeed in her efforts for those needing hospice care.

COUNCILOR FRENETTE: We extend to Councilor Jim Long and his family our deepest sympathy at the passing of his sister, Kathleen. He has spoken often of her positive spirit during the many months of her illness. We extend our support to him at this most difficult time.

COUNCILOR O'NEILL: We express our condolences to Chairman Kline and his family in the passing of his father, Michael Kline. At times like these words are inadequate but our thoughts and prayers have been with you and your family. We also express to the Lariviere family our deepest sympathy at the passing of George Lariviere, a member of our Public Works Department for over twenty-five years and a dear friend to many of us. His love of

life, his beautiful sketches and carvings of reminders of nature and the outdoors were admired by us all. He will be missed and to his wife, Debra, and daughter, Emily, our prayerful support.

ACCEPTANCE OF MINUTES: Town Council Minutes of July 17, 2007.

MOTION: Councilor O'Neill motioned and Councilor Kline seconded to accept the Town Council Minutes of July 17, 2007.

COUNCILOR DAYTON: I have several changes to the Minutes. (She then lists several changes made to the Minutes.)

MOTION: Councilor O'Neill motioned and Councilor Kline seconded to accept the changes made and amend the Minutes of July 17, 2007.

VOTE: Unanimous.

PUBLIC HEARING: Shall We Amend Chapter 18 (Businesses), Article II (Licenses), Section 18-34, of the Code of Ordinances, Town of Old Orchard Beach, ME.?

CHAIRMAN KLINE: As a result of us needing to reschedule this Town Council Meeting we will provide an opportunity for anyone who came this evening to speak about this Amendment and if there is no one I will ask this be removed without prejudice until the August 21, 2007 meeting.

BACKGROUND: This is being proposed by the Town Council Chairman in consultation with the Vice Chair and the Town Manager. The purpose of this change is to strengthen the business license intent of requiring that all businesses are fully inspected and Design Review Committee actions have been completed prior to being brought forward for business license approval.

**AMENDMENT TO CHAPTER 18 (BUSINESSES),
ARTICLE II (LICENSES)
OF THE CODE OF ORDINANCES,
TOWN OF OLD ORCHARD BEACH, MAINE**

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

Section 18-34 of the Old Orchard Beach Code is amended by adding the underscored text and deleting the text in strikeover type, as shown below:

Sec. 18-34. Notice of new applications; public hearing.

(a) The license administrator shall give notice of all new license applications by posting a list of the applicants and the licenses applied for in the town hall at least seven days prior to the license hearing.

(b) In order to afford adequate opportunity for staff review and comment, an application for a new license shall not be placed on a council agenda for at least ___ days after the application is received by the license administrator. In addition, an application for a license shall not be placed on the town council agenda for a hearing until the license administrator has found the application complete and has advised the council in writing either that the business and premises are in compliance with all local codes and ordinances or that the business or premises are not in compliance with all local codes and ordinances and that the license administrator therefore recommends denial of the application.

(c) The town council shall conduct a license hearing at which it shall announce the pending license applications, although it may incorporate by reference a previously published list thereof. Any applicant and member of the public shall be permitted to speak with regard to a specific license or applicant; provided, however, that if no one desires to speak in favor of or in opposition to a license application, the town council is authorized to act upon such application without hearing any testimony. The town council is authorized to inquire of any municipal employee, including without limitation the tax assessor, the building inspector, the electrical inspector, the town manager or any representative of the police or fire department regarding any matter within their expertise and pertaining to any such license application.

MOTION: Councilor Frenette motioned and Councilor Long seconded to remove without prejudice and include the Public Hearing on the August 21, 2007 agenda.

VOTE: Unanimous.

BUSINESS LICENSES: Benjamin S. Lemieux, Gabriele Terrano, Vanessa Perkins, Frank Dufner (306-1-2-A), Massage Therapists at RE Salon & Spa, 1 East Grand Avenue; Steven W. Nielsen (309-3-3), 14 Westland Avenue, one year round rental; Amanda Erickson dba/Amanda's Little Wonders Daycare (211-7-50), 13 MacArthur Avenue, Daycare; Patricia Tracy (323-7-1), 51 Randall Avenue, one year round rental; Conrad Caldwell (104-1-2), 26 Cascade Road, one year round rental; Eva Mai (309-10-8), 4 Carlton Avenue, one year round rental; Julie Dykstra dba/Julie's Happy Tails Dog Grooming, (105-4-31), 6 Pond View Drive, personal service; James Dye dba/Absolute Beach Rental and Property Management (312-17-1), 80 First Street, personal service; Elizabeth Goodwin (210-3-1-204 & 205), 5 Oregon Square, Units 204 and 205, two year round rentals; Paul & Joanne Campbell (104-2-9-25), 42 Walnut Street, Unit 25, one year round rental; Carmen Giancotti (316-13-3), 7 Pearl Avenue, one year round rental; Guy & Cindy Blais (305-6-3) 40 East Grand Avenue, four year round rentals; and Michael Dickinson dba/Dickinsons Candy II (206-32-3-B), 11 First Street, Candy Store.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to approve the Business licenses as read.

VOTE: Unanimous.

NEW BUSINESS:

2085 Discussion with Action: Approve the Employment Agreement for the Planner for the Town of Old Orchard Beach, effective August 6, 2007, with a salary of \$60,000.

CHAIRMAN KLINE: I will turn this over to the Town Manager.

TOWN MANAGER: In searching for the position Director of Community Development and Planner, there were sixteen individuals who applied for the position. The Town Manager and the Planning Board Chairman, Win Winch interviewed three candidates and have made their recommended choice which is being presented to the Town Council this evening.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to approve the Employment Agreement for Gary Lamb for the position of Planner and Director of Community Development for the Town of Old Orchard Beach, effective August 6, 2007, with a salary of \$60,000.

VOTE: Unanimous.

2086 Discussion with Action: Appoint Councilor Roxanne Frenette as Council Representative, and Sharri MacDonald as School Representative, to the Regional Planning Committee in conjunction with School Consolidation.

CHAIRMAN KLINE: The State has requested representations on the Regional Planning Committee in consideration and in conjunction with School Consolidation. The Council has been requested to appoint three positions, Council Representatives, School Representative and Representative-at-Large.

MOTION: Councilor O'Neill motioned and Councilor Long seconded to appoint Councilor Roxanne Frenette as Council Representative and Sharri MacDonald as School Representative to the Regional Planning Committee in conjunction with School Consolidation."

**VOTE: Yea: Councilors Long, Dayton, O'Neill and Chairman Kline
Abstain: Councilor Frenette**

2087 Discussion with Action: Approve the Liquor License Renewal for Oceanic Inn, Inc. dba/One Soho Square (310-6-3), 43 West Grand Avenue, s-m-v in a Hotel-Optional Food.

MOTION: Councilor Long motioned and Councilor Frenette seconded to approve the Liquor License Renewal for Oceanic Inn, Inc. dba/One Soho Square (310-6-3), 43 West Grand Avenue, s-m-v in a Hotel-Optional Food.

VOTE: Unanimous.

2088 Discussion with Action: Approve the Special Event Permit Application for the Old Orchard Beach Recreation Department to host the 2007 World Tour Tops in Blue – “The Fly-By” on August 18, 2007 at 8:00 p.m. in Memorial Park; and a request to waive the fee.

MOTION: Councilor Long motioned and Councilor Dayton seconded to approve the Special Event Permit Application for the Old Orchard Beach Recreation Department to host the 2007 World Tour Tops in Blue – “The Fly-By” on August 18, 2007 at 8:00 p.m. in Memorial Park; and waive the fee.

VOTE: Unanimous.

2089 Discussion with Action: Approve the Special Event Permit Application of Old Orchard Beach Police Department and Patrolman’s Association for a Law Enforcement Officers Appreciation and Safety Awareness Day scheduled for September 27, 2008 at First Street and Memorial Park to include all areas of the Park and a Parade down Old Orchard Street to Memorial Park; and a request to waive the fee.

CHAIRMAN KLINE: This will be an enormously important family event sponsored by the Old Orchard Beach Police Department and Patrolman’s Association for Law Enforcement Officers Appreciation and Safety Awareness Day including a parade, fingerprinting for children, correct use of children’s car seats, games, food and a time of family fun.

MOTION: Councilor Dayton motioned and Councilor Long seconded to approve the Special Event Permit Application of Old Orchard Beach Police Department and Patrolman’s Association for a Law Enforcement Officers Appreciation and Safety Awareness Day scheduled for September 27, 2008 at First Street and Memorial Park to include all areas of the Park and a Parade down Old Orchard Street to Memorial Park; and waive the fee.

VOTE: Unanimous.

2090 Discussion with Action: Approve the Special Event Permit Application for Benjamin Simmons to perform as a single musician in the Square on August 9, 2007 (rain date August 24, 2007), August 12, 2007 (rain date August 26, 2007), and August 16, 2007 (rain date August 23, 2007).

MOTION: Councilor O’Neill motioned and Councilor Dayton seconded to Approve the Special Event Permit Application for Benjamin Simmons to perform as a single musician in the Square on August 9, 2007 (rain date August 24, 2007), August 12, 2007 (rain date August 26, 2007), and August 16, 2007 (rain date August 23, 2007).

VOTE: Unanimous.

2091 Discussion with Action: Approve the Application for the 2007 Edward Byrne Memorial Justice Assistance Grant in the amount of \$13,360 for the purpose of Gang Activity, Tracking and Enforcement, fully funded by the Department of Justice with no matching funds from the Town of Old Orchard Beach.

CHAIRMAN KLINE: The Old Orchard Beach Police Department is applying for the 2007 Edward Byrne Memorial Justice Assistance Grant through the Department of Justice. The award of the grant is \$13,360 and would be used for the purpose of Gang Activity, Tracking and Enforcement. If awarded, this grant would be fully funded by the Department of Justice and requires no matching funds from the Town of Old Orchard Beach. We are asking for the Council's support and approval of this grant application being submitted by the Old Orchard Beach Police Department to the Department of Justice.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Application for the 2007 Edward Byrne Memorial Justice Assistance Grant in the amount of \$13,360 for the purpose of Gang Activity, Tracking and Enforcement, fully funded by the Department of Justice with no matching funds from the Town of Old Orchard Beach.

VOTE: Unanimous.

2092 Discussion with Action: Approve the purchase of a discounted 2007 Vac Truck from HP Fairfield for a total cost of \$208,000 using the Municipal Lease Rate of 5% for seven years; payments being \$34,234.78 per year for seven payments; \$134,500 from Account Number 21003-50885.

TOWN MANAGER: Due to a cancelled order from another community, DPW has an opportunity to purchase a discounted 2007 Vac Truck from HP Fairfield for a total cost of \$208,000. The community had ordered four and only purchased two; their discounted price was approximately \$50,000 per unit. A demo of this equipment was completed on July 12th with the Town Manager and the DPW crew present. We are very impressed with the capability of this slightly smaller unit than we had originally budgeted. DPW has put together a package for a possible lease for this unit using the municipal lease rate of 5% for a seven years. The payments are \$34,234.78 per year for seven payments (the exact amortization chart is attached). We currently have \$134,500 in an existing account to purchase this vehicle (PWD Vac All, Account #21003-50885). We can use this account to pay the next three years payments, and budget annual payments thereafter or pay it off next year. Municipal Lease Agreements have no prepayment penalty (can pay it off at any time) and a non-appropriation clause (if the budget does not pass for the payment one year, the truck is given back with no fees). The DPW has been waiting to purchase this vehicle for three years. This unit will be utilized for jetting and vacuuming out sewer and storm lines, vacuuming leaves in the ditches, and vacuuming up the grindings when we are paving patches on our roadways. This unit will provide the tool we need to better maintain our aging infrastructure in the most cost effective and efficient manner. The original Vac Truck we proposed ran the vacuum equipment off a separate motor. This unit runs the vacuum off the truck motor. We feel with the low miles

this vehicle will accumulate, we are okay with the dual use of the motor. The other unit also had greater capacity for water storage (bigger unit is 1500gal and this unit is 1000 gal). We will need to empty out and fill up more often, but again are in town and near hydrants. Lastly, the more expensive unit has camera capabilities and we now have the Tri-Community camera to utilize (which is only for a week every five weeks). As for the lease, it is not a direct lease from HP Fairfield. The payment has been estimated by Gorham Savings Bank which is offering a Straight Municipal Lease with a \$1.00 buyout at the end of the seven years. The Town of OOB is the owner on the title paperwork and the bank is a lien holder. The Vac All is a year round piece of equipment for DPW. This equipment will vacuum out the 626 catch basins we have in town (which was contracted out to BBI and ESI in the past). The catch basin maintenance will take one employee 7-10 days once or twice a year. Sewer mains, open ditch maintenance and assistance with paving grinding projects are also uses for this vehicle. We had approached BBI for a joint purchase last year and they are not interested. Saco, Biddeford and Scarborough were approached two years ago for a shared arrangement. They were all not interested due to the volume of work they have in their own towns. Each one of those towns has more than one of these units. Our Tri-Community Camera arrangement has been very successful and Saco crews have come to OOB twice in the past four months to help for emergencies with their Vac All.

COUNCILOR DAYTON: If I recollect correctly this item was removed from the 2008 budget why is it here and what are we doing so we have to buy it or need it? What budget is it coming out of the 2007 or the 2008? What are we not doing in spending the money to purchase this piece of equipment?

COUNCILOR FRENETTE: You are correct but what you don't realize is that we already had money budgeted from a year ago. This way we are going to do a lease agreement and then we will have to put money into this account in the future. It doesn't take all the money from the account.

CHAIRMAN KLINE: If you will recall Councilor Long suggested some time ago that we investigate the possibility of lease purchasing. That was an excellent suggestion and he request that we explore this option has some value.

COUNCILOR DAYTON: There is not enough money in this budget. Is the Washington Avenue work still going to be done? What isn't being done to cover this cost?

MARY ANN CONROY: Yes, Washington Avenue work is going to be done..

COUNCILOR DAYTON: How do we currently perform this work?

MARY ANN CONROY: We contract with ESI and pay \$15,000 twice a year as a service contract.

COUNCILOR DAYTON: We spend \$15,000 and you are asking us to spend \$208,000? How long with this equipment last?

MARY ANN CONROY: About ten to twelve years.

TOWN MANAGER: This piece of equipment would have multi use. The Public Works Director feels it would be a valuable tool I think it is a reasonable request and will meet the

needs of the department. I think this is a reasonable request and will meet the needs of our community in the future.

CHAIRMAN KLINE: The recent storms confirm our need for this equipment.

COUNCILOR O'NEILL; When do they come in to perform the service?

MARY ANN CONROY: They come in for seven to ten days.

COUNCILOR O'NEILL: I understand your request but I cannot support this. I think we should contract out for the time that we need to have its use. It doesn't make sense. I support going out for a contract rather than purchasing the piece of equipment.

MARY ANN CONROY: This piece of equipment is used to vacuum and net out our sewer lines – what we contract is just to clean the sands out of the basins but if we had this equipment would could use it as a leaf vacuum and grinding out the patches. It would be more efficient in the cleaning up process. It is more multi use. We have also had emergency response from other communities.

COUNCILOR O'NEILL: I believe that we have many other far greater needs than this.

COUNCILOR FRENETTE: We put a \$130,000 to buy this equipment. We have removed it because of needs. This Council has not supported leasing. This is the first time that I support leasing and we can wait more years to put money aside.

MOTION: Councilor Frenette motioned and Councilor Kline seconded to Approve the purchase of a discounted 2007 Vac Truck from HP Fairfield for a total cost of \$208,000 using the Municipal Lease Rate of 5% for seven years; payments being \$34,234.78 per year for seven payments; \$134,500 from Account Number 21003-50885.

CHAIRMAN KLINE: I support this because we are getting more value for our dollars. We can patch our own roads. We can help do multi jobs. It is more efficient and it was designated for the purpose in the past but there have been other pressing interests.

COUNCILOR LONG: I support this because she has been active in getting grants. When you accept those federal grants you are expected to keep those areas clean. We have had discussions over five years for repairing of our sewer system. I believe this is a step in the right direction and I support the leasing of it as well. It makes sense and helps in budgeting. When the rented material was made available to us it was when they did not use it. I think we need this and it will keep our roads and sewer systems in working

VOTE: Yea: Councilors Long, Frenette and Chairman Kline
Nea: Councilor Dayton and O'Neill

2093 Discussion with Action: Approve the purchase from Messer Truck Equipment of a 7 Yard Dump Body for Truck #14 in the amount of \$11,300.00 from Account Number 20203-50835 - PWD Vehicles Capital Expense with a balance of \$118,700.00.

TOWN MANAGER: Public Works Department would like to replace only the dump body on Truck # 14. When the Department needs to replace the Truck itself, the dump body can be transferred to the new truck, lowering the cost of a new 7 yard dump truck. Currently this 1993 Dump Truck is programmed to be replaced within the next two years.

The following bids were received from the following equipment companies:

Messer Truck Equipment	\$11,300.00
Hew Company	12,010.00
HP Fairfield (does not include transportation cost)	9,985.00

Public Works Department is recommending purchasing the 7 yard dump body from Messer Truck Equipment for a total of \$11,300, Account Number 20203-50835 – PWD Vehicles Capital Expense leaving a balance of \$118,700 in this account.

MOTION: Councilor Frenette motioned and Councilor Long seconded to approve the purchase from Messer Truck Equipment of a 7 Yard Dump Body for Truck # 14 in the amount of \$11,300 from Account Number 20203-50835 – PWD Vehicles Capital Expense with a balance of \$118,700.00.

VOTE: Unanimous.

2094 **Discussion with Action:** Approve the purchase from Hew Truck Bodies and Equipment of a 7 Yard Dump Body with a Heat Box for Truck # 17 in the amount of \$13,315.00 from Account Number 20203-50835 - PWD Vehicles Capital Expense with a balance of \$105,385.00.

MARY ANN CONROY: Public Works Department would like to only replace the dump body on Truck #17. For this truck we added a heat box for transporting pavement. When the Department needs to replace the Truck itself, the dump body can be transferred to the new truck, lowering the cost of a new 7 yard Dump Truck. Currently this 1997 Dump Truck is programmed to be replaced within the next five years.

The following bids were received:

Hews Truck	\$13,315.00
Messer Truck Equipment	14,800.00
HP Fairfield (does not include transportation costs)	11,500.00

Public Works is recommending purchasing the 7 yard dump body with heat box from Hews Truck Bodies and Equipment in the amount of \$13,315.00 from Account Number 20203-50835 – PWD Vehicles Capital Expense, leaving a balance of 105,385.00.

MOTION: Councilor Frenette motioned and Councilor Long seconded to Approve the purchase from Hew Truck Bodies and Equipment of a 7 Yard Dump Body with a Heat Box for Truck # 17 in the amount of \$13,315.00 from Account Number 20203-50835 - PWD Vehicles Capital Expense with a balance of \$105,385.00.

VOTE: Unanimous.

2095 Discussion with Action: Approve the purchase from Rowe Ford of a 2008 Ford F250 truck in the amount of \$28,639.00 from Account Number 20203-50835 - PWD Vehicles Capital Expense with a balance of \$76,746.00.

CHAIRMAN KLINE: This is a fleet replacement and it is the lowest bid.

TOWN MANAGER: Public Works Department Lead Mechanic is currently using a 1984 Service Truck. The Department would like to replace this vehicle with a 2008 Ford 250. This vehicle has been through numerous repairs and needs to be replaced to ensure the dependability of maintenance respond to all of our fleet.

The following bids were received:

Rowe Ford	\$ 28,639.00
Weirs GMC	36,000.00
Bill Dodge	No response
Clair Ford	No response

Public Works is recommending the purchase of the 2008 Ford 250 from Rowe Ford in the amount of \$28,639.00 from Account Number 20203-50835 – PWD Vehicles Capital Expense, leaving a balance of \$76,746.00.

COUNCILOR DAYTON: I am under the assumption that the appropriate logos will be on this vehicle – like all the others? It is not going to be an unmarked vehicle?

MARY ANN CONROY: Yes.

COUNCILOR DAYTON: Is that a “Yes?”

MARY ANN CONROY: The appropriate logo and identification would be put on the new truck just as any new truck in the Department of Public Works. If the Town Manager would like something different or more identification on the truck, we would act accordingly.

COUNCILOR O’NEILL: How many vehicles do they have? Is it three?

TOWN MANAGER: This is a vehicle fleet replacement.

COUNCILOR O’NEILL: I understand that but how many trucks does the Public Works Department have?

MARY ANN CONROY: We actually have another pickup truck that we bought used for Park maintenance. It tows a trailer but does not plow. It is a 150 not a 250. Mike and my truck plow. Vehicle maintenance truck does not plow but carries equipment such as welder and other equipment. So we have four trucks in all and they are all necessary. The truck that we will be retiring is the Vehicle Maintenance Service Truck.

COUNCILOR DAYTON: I have requested from the Town Manager several times for mileage logs and never received them and am asking again and am going on the record to request that I receive them shortly.

MOTION: Councilor Long motioned and Councilor Frenette seconded to approve the purchase for the Public Works Department of a 2008 Ford 250 from Rowe Ford in the amount of \$28,639 from Account Number 20203-50835 – PWD Vehicles Capital Expense, leaving a balance of \$76,746.”

VOTE: Yea: Councilor Long, Frenette and Chairman Kline.
Nea: Councilors Dayton and O’Neill

2096 Discussion with Action: Authorize the sale of 14 Passenger Type A-II – Non-Yellow School Bus to Scrap Metal as a Result of no Bids being received during the two bidding processes.

TOWN MANAGER: On two separate advertising for bids has resulted in no takers including two bus companies. We would like to sell for scrap metal.

MOTION: Councilor Frenette motioned and Councilor Long seconded to sell for Scrap Metal the 1984 Blue School Bus– VIN – 1GBJ6P1B1EV137443 – Mileage - 95,464 – with no guarantee that it will pass inspection.

VOTE: Unanimous.

2097 Discussion with Action: Accept the bid for a 14-passenger bus from W. C. Cressy & Son, Inc. in the amount of \$42,520 using the Municipal Lease with a rate of 4.96% for five years; payments being \$9,471.62 per year for five payments; with the \$30,000 in Account Number 20205/50801 – Recreation Vehicle.

TOWN MANAGER: Bid specifications were sent out on July 6, 2007 and opened on July 20, 2007 for a 14 passenger Type A-II Non-Yellow Bus. On Friday July 20, 2007 the bids for a 14-passenger bus were open. The reasoning behind going from a passenger van to a bus is after having a conversation with Harvey Boatman from the State of Maine Department of Education School Facilities and Transportation. He stated that In Maine, it is illegal to use a vehicle having a design capacity of 10 or more passengers to transport school age children to and from school and home and to and from school related events unless that vehicle meets the strict Federal Motor Vehicle Safety Standards for a school bus. 10-15 passenger vans do not even come close to meeting these standards. This by itself creates a powerful standard of care for liability purposes when the decision is being made on what vehicle to purchase by other organizations. After reviewing the bid with my

staff and the Town Manager our recommendation is to go with Cressy & Son. Frank Galos did not meet specs we advertised so it was not considered. O' Conner's bid was very similar to Cressy & Son but the price and interest rate were higher. It should be noted that at a recent Mystery Ride for Seniors we had so many Seniors sign up that we had to borrow a 14 passenger bus from another municipality and those Seniors and more have already signed up for our next trip. We had considered a van but with the increase in those requesting to be part of the Recreation Program this is a more sensible option.

MOTION: Councilor Frenette motioned and Councilor Long seconded to Accept the bid for a 14-passenger bus from W. C. Cressy & Son, Inc. in the amount of \$42,520, using the Municipal Lease rate of 4.96% for five years; payments being \$9,471.62 per year for five payments; with the \$30,000 in Account Number 20205-50801 – Recreation Vehicle.

VOTE: Unanimous.

2098 Discussion with Action: Direct the Town Manager to petition the State of Maine Public Utility Commission to assign the Old Orchard Beach 911 Emergency Call Service to the State Police Facility at Gray, Maine.

COUNCILOR LONG: We are four years in discussion and we are coming up to a crisis time when we must make our decision. During the discussions we had with York County it failed to produce a decision on the E911 or the dispatch issue. Saco and Biddeford have made the decision that Old Orchard Beach is not welcome in that group. So we are facing a crisis. We can go to the Police Department in Gray or have discussions with any other community willing to take us. Gray is handling fifteen Municipalities in York County (Acton, Alfred, Cornish, Dayton, Hiram, Lebanon, Limerick, Limington, Lyman, Newfield, North Berwick, Parsonsfield, Porter, Shapleigh and Waterboro) which have currently contracted with the State Police Facility at Gray. Three additional communities are joining beginning October 1, 2007. Arundel, Kennebunk and Wells all using the same contract. The estimated cost for service is \$22,140 (rate is 2.5 per capita). This option provides for E911 service at an up-to-date facility, which is expandable as needed. This option also provides sufficient time for the further discussion and development of possible repair, expansion or replacement of the current Community Safety Building. This option provides Old Orchard Beach with the most flexibility as E911...dispatch...and CSB costs and benefits are expanded. The rate being offered is cheaper than we have been offered by anyone else. This gives us the opportunity to give us time to research other options. We are mindful that when we call on a cell phone it goes to Gray anyway. It is important to realize the cell phone has a built in operation to know where you are. I believe this option provides for the public safety in Old Orchard Beach and it is adequately staffed and it is important to get this settled. We are less than two months away to be mandated to do something and that might not be the best interest of the citizens if we wait.

COUNCILOR DAYTON: What is the duration of the contract?

COUNCILOR LONG: We are buying a service so we can do it for a year or for more.

COUNCILOR O'NEILL: I applaud Councilor Long for bringing this forward but this is the first I have seen this proposal. Why are we not going out for RFP so that we set our needs and they respond accordingly?

COUNCILOR FRENETTE: I agree with Councilor O'Neill and I believe that we should put this out for an RFP.

COUNCILOR LONG: What we had in Scarborough was just a draft contract and there are a lot of control issues that we lose. That contract is not in the interest of the citizens of Old Orchard Beach. As far as the RFP – you are either in a system or have been asked to be part of a system and we have an October date and we have nothing firm at this moment. At this particular time, the eleventh hour, if we don't make this step we may be assigned to a PSAP that doesn't protect the citizens of Old Orchard Beach because we have lack of control and costs.

COUNCILOR FRENETTE: Whether we go out to RFP we should have a contract but before I do anything I want to see and review and research the contract.

COUNCILOR LONG: The motion is not to sign a contract. Obviously if the Council would support this the Manager would need to negotiate with Gray.

TOWN MANAGER: We have two draft contracts; one for PSAP and one Consolidated Dispatch from Scarborough; a second draft report just to do 911 – Hollis, Buxton, \$1.00 per capita. Chief Kelley and Chief Glass and I have talked about this and we do not feel comfortable in sending our 911 calls to Gray. Scarborough understands they have been designated as a PSAP. This State Police \$2.50 per capita that they are charging smaller communities was negotiated. Provide contracts and proposals but the Chiefs feel they would be better served going to Scarborough and they are a back up for our system. We have a natural relationship there.

COUNCILOR LONG: I have never heard of the second contract. The first contract has a lot of detrimental issues. If there is a second contract the Council would have benefited by seeing it. At a meeting when the Town Manager prior to having any conversation with any council member told the Public Utilities Commission that we were going to Scarborough – thinking that the Council had approved this, I was concerned. My concern is that we need to maintain our options; we need not to sign an open-ended contract. If we are going to sign a contract for someone to provide service to us – we need to know that the amounts suggested are firm. The most prudent option is to follow my suggestion. All State Police agencies go this way as well. That is a huge plus for us. It is unfortunate that we wait till that last hour to make this decision.

COUNCILOR O'NEILL: Pubic Utilities had assigned us to Scarborough? PUC has not assigned all the PSAP's?

TOWN MANAGER – Sanford is a PSAP location – Town of York – Biddeford – stay in York County. The other PSAP is Scarborough – let me emphasize – Chief Kelley and I sat down with Scarborough – talking about a one year, three year contract. I sat down in good faith with the request by the Council to research the option.

POLICE CHIEF KELLEY: I thank Councilor Long for bringing this forward. Councilor Long is correct that this issue needs to be addressed sooner rather than later. I am more comfortable with Scarborough – it is a similar, smaller agency, closer to us, we have a previous history with them, a personal relationship with the Police Chief. There is

more of a chain of command at the Gray facility. I think we would have a better opportunity in Scarborough. I did have a meeting last week regarding Gray – there have been some issues – I am concerned that we would be lost in the shuffle. I do believe there needs to be a workshop soon on this – how are we going to deal with the decision soon.

CHAIRMAN KLINE: I would like to set a workshop for the 14th of August. Madam Secretary, is that date acceptable?

COUNCILOR LONG: I appreciate the direction being given by our Chief and I appreciate and have confidence in Chief Kelley. I still fail that the language offered by Scarborough was terrible, but we need to remember that bills are paid based on the contract and it needs to be for the benefit of the citizens – no one else. I believe the contract is not in the best interest of our community.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to remove this item without prejudice and set a Workshop for August 14, 2007.

VOTE: Unanimous.

GOOD AND WELFARE

CHAIRMAN KLINE: The question has been raised about a possible lawsuit. Be advised it is a Notice of Claim only and not a lawsuit but a prerequisite to a lawsuit under the Maine Tort Claims Act. The Town has 120 days to approve or deny the claim. Only at the end of 120 days could a suit be filed. This has been referred to our Insurance Carrier. This is a personnel matter and will be treated accordingly as 30-A. M.R.S.A. Section 2702 1B(5) (Complaints against municipal employees) and it is there note a public record. I know that a lot of people want to speak but this is a personnel matter and it would be unethical, unlawful and unhealthy for the community to discuss such issues this evening. Once a formal action is taken we need to follow procedure.

COUNCILOR FRENETTE: I apologize but I must leave as I have only 24 hours with my son who leaves for Iraq tomorrow.

SONIA SIMPSON GARDINER: I am a 56 year resident and I want to offer my condolences to Councilor Long and Chairman Kline in their loss and thank Councilor Long who gave me support when my Johnnie died and I wish I could have been there to help him as well. We also offer our prayers to John Frenette as he leaves for Iraq. Our prayers go out to George Lavariere's family as well. My father worked with him and he was an awesome guy. I am sorry that Councilor Frenette had to leave. Some of you have been known as one of the best council members but the little disputes on camera is destroying that reputation; it is sickening. The faces that are made and the cutting off of Councilor Robin Dayton as long as she is following directions are not acceptable. You are falling apart. Keep your battles off camera. Keep your feuds out of the council meetings. I go to the Pier a lot and there are no prostitutes or whores who work there. They are fine people, college young people and others who are trying to make a living.

SAM ZAITLAN: As someone who lives over on East Grand I have some difficulties getting to work and leaving my residence. There is a greater level of chaos in terms of traffic and pedestrian traffic. I recently spent the last 7 ½ years with the Maine Turnpike.

It seems that sheer uncontrolled activities on behalf of the pedestrians. Traffic is backed up past Walnut Street – the inconvenience is not acceptable and there has to be a solution. Other resort communities have this issue and deal with it; we need to do something. Whatever deemed necessary can and should be done. The motorcycle noise is unacceptable. I am a motorcycle rider but I am offended by the noise makers. Anyone who knows motorcycles knows what I am talking about. It is about noise that does affect people and I do look at other communities – you know you have to watch your speeding Biddeford – we should have the same thing here in Old Orchard when individuals are breaking the laws. I would ask your consideration and action to this issue.

JAMES ALBERT: I respect your decision about personnel an issue following due process but my question is what is the protocol to consider this personnel matter?

CHRIS VANIoTIS – It has to be understood that this is a personnel matter and protected under the State statutes. This is a dual issue, one of due process and a fair hearing. Respecting that, this issue was not on the agenda. It needs to be put on the agenda for consideration. Our insurance company is a component of this as well and they will investigate the claim. Usually personnel items are considered in executive sessions but that is the decision of the individual on whom the personnel issue is being addressed. Once the Council sets up an executive session to listen to anyone who has made a formal complaints, this meeting would be private or if that individual being the center of the personnel issue requests it could be public. Again, under 30-A M.R.S.A. Section 2702(2), complaint, charges or accusations of misconduct against a municipal employee are part of the employee’s personnel file, and the employee has the right to see them.

COUNCILOR LONG: I have received numerous complaints by people who are very aggrieved. Why can’t they be allowed to petition the Council? I’m troubled that people can’t come up and say something bad has happened and ask, ‘What is my government going to do about it?’

CHRIS VANIoTIS - The question of our insurance company’s participation determines the question of coverage and whether defense will be provided by the Town. That is all part of the process as it unfolds. The question of the claim against the town – the town is the object of that complaint.

COUNCILOR LONG: While I have you on the stand – and I am not making light of the situation we are facing. I understand the Tort – in addition to that I have received many complaints from individuals not listed in that complaint – why can’t we respond to the issues of the complaints from numerous individuals, recognizing the gravity of this situation and the need for due process. This may wither on the vine for a long period of time.

JAMES ALBERT: I would ask the Council to expedite the process because of the seasonal nature of my business and the fact that many of my employees will be leaving at the end of the month.

CHAIRMAN KLINE: I am cognizant of that fact. Hearings of the Town Council, however, shall be conducted with the procedures adopted by the Town Council governing hearings. The Town Attorney at the request of the Chairman attends specific meetings of the Council to give us either oral or written opinions to decide any question of law.

CHRIS VANIoTOS: They are two different issues. Again I note that this has not been advertised. It is important for the Council to focus the hearing on specific written complaints and it must be treated as a personnel proceeding and it will probably not be a public hearing. If the procedures are followed properly the Council follows procedures listed in the Charter.

COUNCILOR LONG: I understand due process. If I am hearing you right you are locking out the citizen's right to stand before them to say "this happened." How does the Council act as I am troubled that the citizens are somewhat trumpeted and citizens are asking that if something happened that was wrong will something be done?

CHRIS VANITOSI: Good and welfare is not the appropriate place to do this. Citizens can respond and would be given notice of a public session.

COUNCILOR LONG: If no name is given –are they are able to go to the press?

CHAIRMAN KLINE: We can provide an agenda.

COUNCILOR DAYTON: If that is the rules then let's go into executive session now and deal with this. You have indicated that we can go into executive session anytime.

CHRIS VANIoTIS: There was no agenda item requiring the action to go into Executive session. Good and Welfare is not an agenda item to call for Executive Session.

PAUL GOLDZBEIN: (Inaudible.) This is pretty serious.

SONIA GARDNER: It is my understanding that this information and e-mails once issued are public knowledge, is that not true?

CHRIS VANIoTIS – As with any personnel issue, the employee has a right to due process. In terms of public records – personnel issue – deal with discipline of an employee as far as what people on the outside of the council – those are public to the extent that they have seen.

SONIA GARDINER: Then let us air our complaints without names. You have been put in those seats to listen to us. You should at least give us the opportunity to speak and for you to listen. That is our right as citizens.

BILL DANTON: Speaking to the Sam Zaitlan comment about the need for a traffic study. I could not agree with him more. If you watched the previous meeting you would understand the error in not taking the money to conduct a pedestrian and vehicle study. Things have changed in our town. Unfortunately you can sit on East Grand Avenue for a long period of time because of the vehicle traffic and the pedestrians walking across the streets. In 1969 Surf Six was a bar room – today it is a 95% food and 5% alcohol - 95% are family with strollers. The Grand Victorian is a huge success – look at it as a new city. Expectations are more than ever and appreciation for the developments and upgrades. Tourists are delighted with the shops, etc. We have to keep in mind the community is fundamentally changing and if you don't change with it you will get lost in the shuffle.

COUNCILOR DAYTON: Kim McLaughlin, the Town Clerk, shared with me that a vehicle study is done every three years– did you notice those cables across side walks and roads counting them so that adds to the argument that the State provides that and why would we spend additional funding.

NAT GOLDZBEIN: I came here 60 years – fell in love. The town has prospered with the surf, sun and fun. Now I want to know why we can't say something about an employee – when he can call me a squatter – he doesn't even live here or pay taxes here. I don't appreciate that kind of identification. I have done more things for this town out of my own pocket. This is the reason we came here and the Town Manager is off the charts. Why shouldn't I name names? The lawyer is not the judge here. We are the jury here. We have been offended by the words and the actions of the Town Manager. I would like my sidewalks taken care of. Suddenly I am having my sprinkler system investigated today by the Town and the State. Interesting. This man is off the charts for the things he says. We have been offended by the words and actions of the Town Manager.

RICH REDMOND: Long time residents here. I am concerned how everything becomes secret – can't have conversations with staff members anymore– I don't think that is a healthy way to run this town. We would not be in this situation if there were more communication. I want to be able to be free about addressing issues. I speak my piece. I want to be able to come up as a citizen and speak. I have councilors afraid to coming to my business because something is going to happen and they are going to be accused of something. I am not afraid. I have been there for 12 years. I believe we have turned around to a family environment. I don't want to be afraid to speak my position.

MARK POLLARD: I do believe we have the freedom of speech in this community – and I believe that has been taken away tonight.

PAT BROWN: The fact that the automobiles were counted is true but the automobiles are not the problem but the pedestrians are the problem. We need something to get people form the train station to the downtown. I don't know anything about what is going on here tonight – I removed myself for the past nine months because I have been disappointed in the Council. I had such hope and pride that we were moving in the right direction, that we had a Council that was in concert. That is no longer the case. This is a beautiful town – a beautiful place – I bring family and friend here – maybe retiring here. I think it is important to note that I do not stand here alone – it is about the Council. They need to think before they speak. It is my understanding the question is not whether Council can speak to staff but rather that they fail to go through the Town Manager which is what the Charter requires.

CHRIS NADEU: I have lived here since the age of 5; attended school here; and for one of the first times I am ashamed of Old Orchard Beach. The public wants to speak and we are not being provided that opportunity. I had an 86 year old man at Staples tell me that Old Orchard is not a good place to live. If you are going to operate like this and not permit us to be heard, you are taking away our rights as citizens.

TOM LEMEAU: I have a job and this has been a waste of my time for obviously accomplishing nothing. I cam here tonight to get something off my chest; in fact all these people came to get something off their chests and I don't think any of us feel better than when we came.

CHAIRMAN KLINE: We have to follow due process – we need to find out if these issues are true or false and we will provide an opportunity for them to be aired. Our Council’s rules and orders are defined for us and we follow them.

PAUL GOLDZBEIN: Last Council meeting you took away the right for the Council to talk to the citizens, in essence putting a gag order in place. You are letting the Town Manager telling people who can speak and who cannot.

CHRIS LODGE: I am insulted and I was prepared for us to have the opportunity as citizens to express our opinions about but here we are not to do anything about the situation.

NAT GOLDZBEIN – This has nothing to do with the Council – it has to do with the Town Manager.

SONIA GARDNER: I frequent that Pier – I drink at the Pier – and I can tell you in no certain manner that no one there is a whore or a prostitute.

CHAIRMAN KLINE: I would appreciate no applause.

COUNCILOR DAYTON: I would like to thank Sonia for her kind words and support and it meant a great deal to me. I am aware of the incidents we are not talking about tonight – I have spent a lot of time thinking about it – I have tried several times to write a statement; excuse me if I am a little long winded. I have similar feelings as expressed here tonight. I, as an elected official will not be told to whom I can talk, when, how or where and what to say. I don’t believe the people in Old Orchard Beach elected me to be silent. I hope you don’t stop pressing the issues tonight and hope you stay in it for the whole process. Earlier this year I myself put in a written complaint to the Chair about an individual. I did that as an elected official – I was not happy with the result – first there was going to be an investigation and then no investigation – and the Chair told us to trust the process. My complaint has never been addressed but I was supposed to trust the process. I think I have the right to get answers when I ask for them. I have been unsuccessful and keep on asking for information and still don’t get the material and I am an elected official.

CHAIRMAN KLINE: There will be an open opportunity to vent. Councilor Dayton had separate issues not relating to this issue. Your process is a little different than her issue. We will come up with a date and you will be notified. I thank you for coming and being part of this evening. I know you are disappointed and think we have not heard you but that is not true. We will follow due process and you will have a chance to express yourself publicly.

ADJOURNMENT

MOTION: Councilor Long motioned and Councilor O’Neill seconded to adjourn the 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 twenty (20) pages is a true copy of the original Minutes of the Town Council Meeting of August 6, 2007.

V. Louise Reid