

**TOWN OF OLD ORCHARD BEACH  
REGULAR TOWN COUNCIL MEETING  
TUESDAY, SEPTEMBER 15, 2009  
TOWN HALL CHAMBERS  
Minutes**

<b>Call to Order at 7:01 p.m.</b>	<u><b>Call to Order</b></u>				
<b>Pledge to the Flag</b>					
<b>Roll Call:</b> <b>Present: Chair Sharri MacDonald, Vice Chair Robin Dayton, Councilor Shawn O'Neill, Councilor Laura Bolduc Councilor Michael Tousignant, Acting Town Manager V. Louise Reid, Victoria Geaumont, Secretary.</b>	<u><b>Roll Call</b></u>				
<u><b>ACKNOWLEDGEMENTS:</b></u> <b>CHAIR MACDONALD: At the last Council Meeting, the Acting Town Manager read into the record the Proclamation of John E. Baldacci, Governor of the State of Maine, regarding Pain Awareness Month. This evening we have in attendance members of the Support Group from Ocean Park who are here in our Chamber and I wish for them to introduce themselves at the Podium.</b>	<u><b>Acknowledgements</b></u>				
<b>PRESENTATION: Presentation to the Ballpark Enterprise Fund from the Saco Bay Rotary President – Dennis Robillard.</b> <b>Mr. Robillard explained Saco Bay Rotary donates to different charities each month, and they have selected the Ballpark this month. They are donating 393.00 and will also be at the Ballpark this Saturday, 9/19/09 from 8:00 a.m. to 12:00 p.m. and would encourage anyone willing to donate time to join them. He then presented the check to Tom LaChance.</b>	<u><b>Presentation</b></u>				
<u><b>ACCEPTANCE OF MINUTES:</b></u> <b>MOTION: VICE CHAIR DAYTON motioned and COUNCILOR TOUSIGNANT seconded to approve the Town Council Meeting Minutes of September 1, 2009 and the Town Council Workshop Minutes of September 2, 2009</b>  <b>VOTE: Unanimous.</b>	<u><b>Acceptance of Minutes</b></u>  <b>Motion</b>  <b>Vote</b>				
<u><b>PUBLIC HEARINGS:</b></u> <b>CHAIR MACDONALD: Open public hearing at 7:09 p.m.</b>  <p style="text-align: center;"><u><b>PUBLIC HEARING NUMBER ONE</b></u></p> <b>AGENDA ITEM: Shall we issue bonds in the amount of \$2.5 million for the construction of a new Police Department building?</b>  <b>BACKGROUND: It is with the recognition of the need for a new Police Station Building that the Council is considering placing a referendum item on the November ballot to issue bonds for the construction of a new police department building. This evening and again on Tuesday, October 6, 2009 we will give citizens the opportunity to express their opinion on this issue.</b>  <b>EXHIBIT:</b> <p style="text-align: center;"><b>ORDER OF THE TOWN COUNCIL OF THE TOWN OF OLD ORCHARD BEACH TO ISSUE BONDS NOT TO EXCEED A TOTAL OF \$2,500,000 TO FUND THE FOLLOWING CAPITAL IMPROVEMENT PROJECT:</b></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">New Police Station Project</td> <td style="text-align: right;">\$ 2,500,000</td> </tr> <tr> <td>Total Bond Amount</td> <td style="text-align: right;">\$ 2,500,000</td> </tr> </table> <p style="text-align: center;"><b>BE IT ORDERED by the Town Council of the Town of Old Orchard Beach, Maine, in</b></p>	New Police Station Project	\$ 2,500,000	Total Bond Amount	\$ 2,500,000	<u><b>Public Hearings</b></u>  <u><b>Public Hearing #1</b></u>
New Police Station Project	\$ 2,500,000				
Total Bond Amount	\$ 2,500,000				

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**Minutes**

**Town Council assembled:**

**That under and pursuant to the provisions of Title 30-A, Sections 5723 and 5772 of the Maine Revised Statutes, as amended, and the Charter of the Town of Old Orchard Beach, Maine, a capital improvement project consisting of the design, construction, furnishing and equipping of a new police headquarters building to be located on town-owned land on E. Emerson Cummings Boulevard in the vicinity of the current public safety building is hereby approved; and**

**That a sum not to exceed \$2,500,000 is hereby appropriated to provide for the cost of this project; and**

**That to fund said appropriation, the Treasurer and the Chairperson of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities or other securities of the Town of Old Orchard Beach, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed \$2,500,000; and**

**That the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, form(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairperson of the Town Council.**

**TOWN OF OLD ORCHARD BEACH FINANCIAL STATEMENT**

**1. Total Town Indebtedness**

<b>A. Bonds outstanding</b>	<b>\$ 10,700,000.00</b>
<b>B. Bonds authorized and unissued</b>	<b>\$ .00</b>
<b>C. Bonds to be issued if this vote is approved</b>	<b><u>\$ 2,500,000.00</u></b>
<b>Total:</b>	<b>\$ 13,200,000.00</b>

**2. Costs**

**At an estimated interest rate of 4.8 percent, for a 20-year maturity, the estimated costs of this bond issue will be:**

<b>Principal:</b>	<b>\$ 2,500,000.00</b>
<b>Interest:</b>	<b><u>\$ 1,250,301.00</u></b>
<b>Total Debt Service:</b>	<b>\$ 3,750,301.00</b>

**3. Validity**

**The validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.**

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Treasurer, Town of Old Orchard Beach

**BE IT FURTHER ORDERED**, that the above order shall be submitted to the voters of the of Old Orchard Beach, Maine at the regular municipal election to be held November 3, 2009 the ballot question shall read:

**Question:** Shall the Order reproduced below be adopted?

**ORDER OF THE TOWN COUNCIL OF THE TOWN OF OLD ORCHARD BEACH TO  
ISSUE BONDS NOT TO EXCEED A TOTAL OF \$2,500,000 TO FUND THE  
FOLLOWING CAPITAL IMPROVEMENT PROJECT:**

New Police Station Project	\$ 2,500,000
Total Bond Amount	\$ 2,500,000

**BE IT ORDERED** by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled:

That under and pursuant to the provisions of Title 30-A, Sections 5723 and 5772 of the Maine Revised Statutes, as amended, and the Charter of the Town of Old Orchard Beach, Maine, a capital improvement project consisting of the design, construction, furnishing and equipping of a new police headquarters building to be located on town-owned land on E. Emerson Cummings Boulevard in the vicinity of the current public safety building is hereby approved; and

That a sum not to exceed \$2,500,000 is hereby appropriated to provide for the cost of this project; and

That to fund said appropriation, the Treasurer and the Chairperson of the Town Council are hereby authorized to issue, at one time or from time to time, general obligation securities or other securities of the Town of Old Orchard Beach, Maine, including temporary notes in anticipation of the sale thereof, in an aggregate principal amount not to exceed \$2,500,000; and

That the discretion to fix the date(s), maturity(ies), denomination(s), interest rate(s), place(s) of payment, call(s) for redemption, form(s), and other details of said securities, including execution and delivery of said securities against payment therefore, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairperson of the Town Council.

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**TOWN OF OLD ORCHARD BEACH FINANCIAL STATEMENT**

**1. Total Town Indebtedness**

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<b>C. Bonds to be issued if this vote is approved</b>	<b>\$ <u>2,500,000.00</u></b>
<b>Total:</b>	<b>\$ <u>13,200,000.00</u></b>

**2. Costs**

At an estimated interest rate of 4.8 percent, for a 20-year maturity, the estimated costs of this bond issue will be:

<b>Principal:</b>	<b>\$ 2,500,000.00</b>
<b>Interest:</b>	<b>\$ <u>1,250,301.00</u></b>
<b>Total Debt Service:</b>	<b>\$ 3,750,301.00</b>

**3. Validity**

The validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

**EXPLANATION:**

**Town Council Recommends: Approval.**

**BE IT FURTHER ORDERED,** that a public hearing on the subject of the above referendum question shall be conducted by the Town Council on September 15, 2009 at 7:00 p.m. at the Town Hall and public notice of the hearing shall be given in the manner required by law.

**CHAIR MACDONALD:** Chair MacDonald stated she has received many emails in support of this agenda item. She welcomes the input.

**HELEN WHITTAKER:** Expressed support for this to go on the ballot.

**WIN WINCH, 16 OCEANA AVE:** Mr. Winch stated he has toured the current Police Station and this really needs to be done.

**HOWARD EVANS, 8 KAVANAUGH:** Mr. Evans expressed his interest in the improvement of the Police Department.

**NEAL WEINSTEIN, SACO AVENUE:** Mr. Weinstein stated he felt a new Police Station was insane, wasteful, and ridiculous. He stated tax money would be used. He did not believe there was a feasibility study done and does not feel the need for a new Police Station. He felt the Town Council was being irresponsible and should cut taxes instead of building a new Police Station. He felt it was disrespectful to the town's people.

**RICH REDMOND, OLD ORCHARD BEACH:** Mr. Redmond feels the current Police Station is inadequate. From a business standpoint this is a great time to build and this will spur the local economy.

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**BUD HARMON, CHAMBER OF COMMERCE:** Mr. Harmon felt the need for the new Police Station, as the current one has many issues, including a privacy issue for victims and police officers. He believes the building is over 40 years old.

**CHIEF DANA KELLEY:** Chief Kelley thanked the council for working diligently on this and for just consideration of the new Police Department.

**RICKI LETOWT, EAST GRAND AVENUE:** Ms. Letowt stated she is in favor of the new facility, but is concerned it may be too large for the needs of the Police Department. Possibly spend a little more and make a combined Police Department and Town Hall, and to use Town Hall as the Community Center which the town has wanted for many years.

**NEAL WEINSTEIN, SACO AVENUE:** Asked to go back and see what Sanford has done, as they have a larger, new Police Department for he believes less money; approximately \$800,000.

**JOHN CHARETTE, PORT CITY ARCHITECTS:** Mr. Charette clarified that the Sanford Police Department was 5.4 million dollars for a 2300 sf building.

**COUNCILOR O'NEILL:** Councilor O'Neill stated he felt this was a council-driven initiative, but then this stopped. He feels the council was not involved enough in the process. He does not feel the town's only source of viable funding, the Rescue Billing Fund, should not be used. He is completely against bonding.

**COUNCILOR BOLDUC:** Councilor Bolduc explained that this was talked about extensively during the workshop that Councilor O'Neill was not present at.

**PUBLIC HEARING CLOSED AT 7:35 P.M.**

**PUBLIC HEARING OPENED AT 7:35 P.M.**

**PUBLIC HEARING NUMBER TWO**

**AGENDA ITEM:** Shall a Charter Commission be established for the Purpose of revising the Municipal Charter or establishing a new Municipal Charter?

**BACKGROUND: ORDER PROVIDING FOR THE ESTABLISHMENT OF A CHARTER COMMISSION**

Be it ordered, that subject to approval by the voters at the November 3, 2009 municipal election, a Charter Commission shall be established for the purpose of considering revision of the municipal charter or adoption of a new municipal charter.

Be it further ordered, that the Town Clerk is directed to submit the following question to the voters at the November 3, 2009 municipal election:

“Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?”

Be it further ordered, the Town Clerk is directed to place on the November 3, 2009 municipal ballot the election of six voter members to the Charter Commission in accordance with 30-A M.R.S.A. § 2103(1)(A) and to make nomination papers available therefore no later than August 12, 2009.

**CHAIRMAN MACDONALD** explained the need for changes in the charter. She stated 5-6 people have taken out papers to be the Charter Commission.

**Public  
Hearing #2**

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**NEAL WEINSTEIN:** Mr. Weinstein agreed.

**RICH REDMOND:** Mr. Redmond believes we should open the charter and have a committee. He stated the census in 2010 could change the demographics of the town if we have over 10,000 residents, and this should come under consideration. He stated it is start to start studying this.

**COUNCILOR BOLDUC:** Agreed.

**PUBLIC HEARING CLOSED AT 7:37 P.M.**

**PUBLIC HEARING OPENED AT 7:38 P.M.**

**PUBLIC HEARING NUMBER THREE**

**AGENDA ITEM:** Shall We Amend the Code of Ordinances, Section 54-187, Restrictions and Prohibitions, Jameson Hill Road, for safer parking for our schools?

**BACKGROUND:** The signs for parking indicate no parking on the right side of the street which is next to the School. So parking has been on the left side which means children have to walk across the street to get to the school when they are dropped off. This will permit the driver to pull up on the right side and drop off the children directly next to the school.

**NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH**

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on September 15, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that section 54-187, Restrictions and Prohibitions, of the Town of Old Orchard Beach Traffic Ordinance is amended by deleting the strikethrough language and adding the underscored language:

Jameson Hill Road. Vehicles shall be allowed to enter Jameson Hill Road from the right-hand side of Saco Avenue facing Half Way in a one-way-only direction and proceed in a southwesterly direction, which shall be posted by appropriate signs. Vehicles shall be allowed to be parked on the ~~southeasterly~~ northwesterly side (~~left~~ right side of the road facing Half-Way) of Jameson Hill Road for a distance of 1,200 feet. Vehicles entering Jameson Hill Road from the opposite direction may proceed in a northeasterly direction only for a distance of 500 feet, where Jameson Hill Road then ceases to be a two-way street. CHIEF KELLEY stated the ordinance currently does not allow parking on the right side. This needs to change for safe dropping off of children at the schools.

**GARY CURTIS, DUNEGRASS, RSU BOARD.** Mr. Curtis thanked the town for the work. This was precipitated because it is a one-way. The RSU is appreciative, as well as the staff at Jameson and Loranger Middle School.

**PUBLIC HEARING CLOSED AT 7:40 P.M.**

**Public  
Hearing #3**

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<p><b><u>BUSINESS LICENSES:</u></b>  <b><u>Steven &amp; Maureen Berry</u> (301-3-1-103), 198 East Grand Ave, #103, 1 year round rental;</b>  <b><u>Demetra Blanchard</u> (315-17-9), 46 Ocean Ave, 1 year round rental;</b>  <b><u>James N. Jannetti</u> (315-18-1), 51 Union Ave, 3 year round rentals.</b></p> <p><b><u>MOTION:</u> COUNCILOR BOLDUC motioned and VICE CHAIR DAYTON seconded to approve the Business Licenses as read.</b></p> <p><b><u>VOTE:</u> Unanimous</b></p>	<p style="text-align: center;"><b><u>Business Licenses</u></b></p> <p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p>
<p><b><u>ACTING TOWN MANAGER’S REPORT:</u></b>  <b>I would like to remind citizens that there will be another opportunity on Tuesday, October 6, 2009 in Public Hearings which are scheduled during this Council meeting to continue to give input into the two Referendum issues including the item of the new police station building and also the formation of a Charter Commission.</b></p> <p><b>I would like to also remind citizens that a Lobster Bake will be held at 5:00 p.m. on Saturday, September 26th down in the Square area of the Beach. Tickets if bought prior to that evening will be \$20 and at the event they will be \$25. Tickets are available in my office or in the office of the Town Clerk.</b></p>	<p style="text-align: center;"><b><u>Acting Town Manager’s Report</u></b></p>
<p><b><u>NEW BUSINESS:</u></b></p>	
<p><b><u>ITEM # 5310:</u> Discussion with Action: Order to issue bonds in the amount of \$2.5 million for the construction of a new police department building, and to place the bond question on the November 3, 2009 ballot.</b></p> <p><b><u>BACKGROUND:</u> There will be another Public Hearing on Tuesday, October 6<sup>th</sup> and citizens will have the opportunity to again indicate their support or ask questions that they feel are relevant to the Referendum Item. Funding for this will come in part from the Rescue Billing Fund in payment of General Obligation Bonds.</b></p> <p><b>COUNCILOR O’NEIL motions to table the item.</b></p> <p><b><u>MOTION:</u> COUNCILOR BOLDUC motioned and VICE CHAIR DAYTON seconded to Approve Order to issue bonds in the amount of \$2.5 million for the construction of a new Police Department building, and to place the bond question on the November 3, 2009 ballot.</b></p> <p><b>VICE CHAIR DAYTON explained she herself had the same question at the last Council meeting. Vice Chair Dayton was pleased that the Chair had since held a Workshop on the new Police Station. She then explained the need to vote on this tonight is appropriate given the administrative timeframe for placing the referendum on the ballot in November. There needs to be 45 days.</b></p> <p><b>NEAL WEINSTEIN stated this was inappropriate and would be misleading to voters. COUNCILOR BOLDUC felt this should be put to the people for a vote. COUNCILOR O’NEILL stated he was not challenging the motion, and he withdrew his prior motion to table.</b></p>	<p style="text-align: center;"><b><u>ITEM #5310</u></b></p> <p style="text-align: center;"><b>Motion</b></p>





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Also discussed was the improper disposal of leftover household products that contain corrosive, toxic, ignitable or reactive ingredients which can pollute the environment and pose a threat to human health. Industrial non-hazardous waste that can be recycled and reused are key to a successful resource conservation program. Some time was spent on the need for education of the community and the need to generate ideas for students and teachers including things such as solid waste and recycling science fairs as well as for all citizens providing basic facts about garbage and ideas to help reduce the amount of waste that is created every day. The Recycling Committee is very involved in the educational process include developing creative ways to not only reduce and recycle but also to manage municipal waste. This can be done through source reduction, recycling including composting, and disposal. The most environmentally sound management of MSW is achieved when these approaches are implemented according to the EPA's preferred order such as source reduction first, recycling and composing second and disposal in landfills or waste combustors last. Source reduction is the altering of the design, manufacture or use of products and materials to reduce the amount and toxicity of what gets thrown away; recycling is sorting, collecting, and processing materials to manufacture and sell them as new products; and composting is the decomposition of organic waste such as food scraps and yard trimmings, with microorganisms (mainly bacteria and fungi) to produce compost. Compost is organic, material that can be used as a soil amendment or as a medium to grow plants.

COUNCILOR O'NEILL asked the difference between this and the last meetings agenda item.

ACTING TOWN MANAGER REID stated this is to accept the contract where last meetings item was to approve the bids.

COUNCILOR O'NEILL stated we are over budget and does not know why.

CHAIR MACDONALD stated the council has not received budget numbers due to MUNIS being down.

COUNCILOR O'NEILL explained how much over budget we currently are and are already using funds that are not designated yet.

CHAIR MACDONALD asked for clarification from staff regarding the budget.

VICE CHAIR DAYTON wanted clarification that council can use money that is not allocated yet.

ACTING TOWN MANAGER REID answered she would find out if council can.

COUNCILOR BOLDUC inquired why this was not prorated.

**MOTION:** COUNCILOR TOUSIGNANT motioned and COUNCILOR O'NEILL Seconded with discussion to table item #5311.

**Motion**

ACTING TOWN MANAGER REID stated that October 6, 2009 the present contract is up. CHAIR MACDONALD stated this would be on the next agenda. She also commented this would incorporate weekly recycling.

COUNCILOR TOUSIGNANT stated that residents from condos have been emailing him regarding this. He wondered what the language in the new contract was. He wanted condo owners to know they have not been forgotten.

VICE CHAIR DAYTON invited either Mary Ann Conroy or Kenny Blow, who are both in attendance, to come and comment on this.

COUNCILOR O'NEILL stated this had nothing to do with condos.

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**VICE CHAIR DAYTON** explained it did because of the new contract included recycling for commercial real estate properties such as condominiums and she was concerned that misinformation was being provided to the public. Vice Chair Dayton wanted to be sure that the contract language was properly conveyed to the public.

**MARY ANN CONROY, PUBLIC WORKS.** Ms. Conroy clarified that \$81,000 was the annual contract and would go through July, August, and September of next year. The alternative for condominiums would be a dollar a unit fee, and this was to be worked out with BBI and condo associations.

**VICE CHAIR DAYTON** clarified this is not picked up by the town. It is a partnership.

**COUNCILOR TOUSIGNANT** thanked Vice Chair Dayton for the clarification.

**RICKI LETOWT, EAST GRAND AVE** suggested to make it a 6 year, 9 month contract.

**KENNY BLOW, BBI** stated the overlapping structure means you are okaying contracts not budgets.

**CHAIR MACDONALD** asked if this is a locked-in price.

**KENNY BLOW** stated yes. The amount to pick up trash could increase, and the town would in essence be paying less than they would without the contract. He clarified this is a contract not for businesses, but for residential.

**COUNCILOR BOLDOC** asked how complicated would it be to go through May 30<sup>th</sup>.

**VICE CHAIR DAYTON** stated this was a weird fiscal year, and it is because the contract is getting set up initially.

**PIERRE BOUTHILLER** expressed his opinion that the contract has been in the hands of the council for review and now should go forward since the bid was accepted. If there is no contract either BBI would need to continue services without a contract or the residents could have interruption of services.

**RICKI LETOWT** asked if this was done per annually would it work?

**VICE CHAIR DAYTON** stated she appreciated the public input but that she is very confident the Administration can correct the problem and find the appropriate funds in the current fiscal year. She stated that the Administration must stop asking Council to appropriate funds that were not yet authorized. It is a two step process that must be adhered to just like the Emerson Cummings Blvd. project. You cannot spend future year funds that have not been approved by Council.

Vote

**VOTE:** Yea; Councilor Tousignant, Councilor Dayton, Councilor O’Neill.  
Nea; Councilor Bolduc, Chair MacDonald

**Motion passes 3-2**

*Note: Agenda Item 5312 and 5313 deal with the same subject but requests from two different Councilors were received for alternative verbiage.*

**ITEM #5312**

**ITEM# 5312:** Discussion with Action: Consider entering into an agreement with the Biddeford and Saco Water Company concerning the installation of replacement water mains and appurtenances in Ocean Avenue and Seaview Avenue, and direct the Acting Town Manager and the Town Attorney to prepare a written agreement for final Council action.

**COUNCILOR TOUSIGNANT** made a request to find out the cost for replacing water lines and to work something out. The town is under the impression that there is a bigger problem.

**COUNCILOR O’NEILL** stated he knows how much the lines need to be changed. A complaint came to Biddeford & Saco Water Co. and the property ended up having only

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**4.75 lbs of pressure when there should be 10 lbs. There is a need.**

**MARY ANN CONROY, DPW did talk to Biddeford & Saco Water Co and has a meeting with them on 09/16/09. They feel that the water lines do need to be replaced, but they do not have the money for it. Water pressure is marginal in the area. DPW is concerned with maintaining the integrity of the new road construction. There is approximately 4,000 feet of water lines.**

**COUNCILOR BOLDUC questioned if BSW expressed the need to change the lines.**

**MARY ANN CONROY answered they did not give us an alternative.**

**COUNCILOR BOLDUC then asked if BSW had a long-term plan regarding changing lines, and could be coordinate with them. She felt this would have been prudent to do for this project.**

**ACTING TOWN MANAGER REID stated that the Superintendent of BSW was on vacation. She has sent a registered letter to him, as follows:**

Mr. Thomas Carr  
Superintendent  
Biddeford & Saco Water Company  
P.O. Box 304  
Biddeford, ME 04005-0304

Subject: Ocean and Seaview Avenue Sewer Rehabilitation Project  
Old Orchard Beach, Maine

Dear Mr. Carr:

As you are aware, the Town of Old Orchard Beach has a sewer rehabilitation project that is currently under construction on Ocean and Seaview Avenues. The Contractor is currently on Ocean Avenue and has had to cross and expose your utility in several locations in order to install new sewer services and sewer main. In doing so, we have been able to observe the condition of the water main at these locations. As you can see in the attached photos, the water main appears to be in very poor condition. We also assume that the water main on Seaview Avenue is in the same poor condition.

You had informed us at the Pre-Construction Meeting that Biddeford & Saco Water does not plan to replace any water main and services along these roadways. Due to the condition of the observed water main, we would like to ask you to reconsider replacing the water main and/or services along Seaview Avenue.

The Town is in the middle of a construction project worth nearly \$1 Million on these roadways, with over a quarter million going towards paving alone. This is the best opportunity to replace the water lines, as the roadways are opened or will be opened. Once final pavement is in-place, in May of 2010, a 5-year moratorium will be placed on the streets, prohibiting excavation of any kind within the roadway. Any construction activities after the moratorium that requires the roadway be excavated will be required to bear the full costs of replacing any pavement and base material.

We believe that it is in your best interest to replace the water lines at this time, and we implore you to reconsider.

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September 9, 2009

Mr. Jerry Mansfield  
President & Treasurer  
Biddeford Saco Water Company  
Post Office Box 304  
181 Elm Street  
Biddeford, ME 04005

Certified Mail/  
Return Receipt

Re: Notice Pursuant to 23 M.R.S.A. § 3351

Dear Mr. Mansfield:

Pursuant to 23 M.R.S.A. § 3351, you are hereby notified that the Town of Old Orchard Beach intends to pave Ocean Avenue and Seaview Avenue. You are directed to make any connections or undertake any needed work within those streets no later than 60 days from the date of this notice. At the expiration of that 60 days and after the streets have been paved, the Town will not issue permits to open the streets for a period of five years.

Sincerely,

V. Louise Reid  
Acting Town Manager

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TOWN HALL CHAMBERS  
Minutes**

**VICE CHAIR DAYTON stated she had a written statement regarding this item:**

**Statement of Abstention**

I am abstaining from this vote for the following reason.

The Biddeford Saco Water Company is a public utility and is regulated by the Public Utilities Commission. I work for the Public Utilities Commission. I work with the very lawyers that regulate this sort of thing. In the first week of September the Town Attorney raised a question of legality on the part of the Water Company and this agreement. In my mind and in my opinion the legal question has not been resolved sufficiently in order for me to move forward.

This is particularly difficult for me because I am very sensitive that my neighbors just a short distance from my house deserve to have better water pressure. I am aware that the lack of sufficient water pressure has been a problem for more than a decade.

I am in a position that I hope no one else ever has to grapple with. If I vote yes to serve my neighbors and friends, I run the risk of damaging my professional career. I can not serve both and choosing as I otherwise would, means taking a risk that I literally can not afford to take.

I hope that those in the audience and the viewing public tonight will understand the predicament. There are just too many questions raised by this item.

**NEAL WEINSTEIN stated that BSW is a public utility and doing this would violate the law. He felt this was a failure of Planning and Public Works. He stated it needed to go through the appropriate channels.**

**ACTING TOWN MANAGER REID explained that staff and administration was anxious to bring choices to the council as to how much farther staff should go and wanted to give the council options.**

**COUNCILOR TOUSIGNANT stated council does have the legal opinion of the town attorney. He then read an email as follows:**

**“Municipal expenditures must be for a public purpose. The public purpose here would be to protect the Town’s investment in the new roads against the possibility that the Company would have to make emergency repairs to either the mains or the lateral connections to its customers. That is a legally valid public purpose.”**

**“What the council is faced with is the policy decision as to whether the Town should advance the cost of installing the new water mains and lateral lines in order to protect the Town’s investment in the rebuilt roads.”**

**COUNCILOR TOUSIGNANT reiterated why he asked for the information initially. The Water Company did not expect to find what they did. He stated that he does not believe anyone did not do their jobs correctly. He is afraid the town will be digging up the road again in six months due to broken water lines. He also stated he is not in favor of giving money away, but water is a life necessity.**

**VICE CHAIR DAYTON appreciated comments from Councilor Tousignant. She feels the need for full transparency and reads further comments regarding the legality of the**

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agreement and the town attorney’s legal opinion. The email stated the agreement was in essence a rental agreement and also will be with a public utility which needs to be confirmed is a legal agreement. She stated the email Councilor Tousignant read was concerning policy, and this one was concerning the legal issues.  
**COUNCILOR TOUSIGNANT** questioned the date of that email.  
**VICE CHAIR DAYTON** stated 09/04/09.  
**COUNCILOR TOUSIGNANT** explained the email he read from was from a later date, that being 09/15/09.  
**NEAL WEINSTEIN** wanted to reiterate the legality. He is in favor of the water lines being replaced, but not this way. He feels this could not be done legally, and the water company may be able to get out of paying back the loan due to that.  
**COUNCILOR TOUSIGNANT** stated this was not a legal issue for him, and the town has found themselves in a bad situation. Something needs to be done. He feels this can be done legally, and it won’t go forth unless it is legal.  
**COUNCILOR BOLDUC** stated she wanted to see something from BSW saying that they do not have the money or that the pipes need to be replaced.  
**COUNCILOR TOUSIGNANT** responded that BSW is talking to us regarding this now.  
**CHAIR MACDONALD** expressed that tonight the council was to consider this. They were to authorize staff to come up with a solution to the problem with BSW. This is the first step in that process.  
**NEAL WEINSTEIN** again expressed his opinion.  
**CHAIR MACDONALD** stated that after their conversation with BSW this will come back to council.  
**VICE CHAIR DAYTON** explained the reason for the meeting was due to the PUC. When a public utility incurs any type of debt, typically rates will rise. We need to get in writing that this will not happen, or the residents will be paying for this twice.  
**RICKI LETOWT, EAST GRAND AVE** expressed her concerns for the solvency of BSW. She has no faith in a company who cannot fix their own equipment.  
**RON REGIS, UNION AVE** would like to look into the long run and the surrounding streets. There is not enough volume.  
**PIERRE BOUTHILLER** is concerned with solvency of BSW. He stated it is not inconceivable that they would not default on this loan. He stated the town needs full disclosure from them and could enter into a PPP.  
**CHAIR MACDONALD** stated we are going forward with this.

**Motion**

**MOTION:** Councilor O’Neill motioned and Councilor Bolduc seconded to consider entering into an agreement with the Biddeford and Saco Water Company concerning the installation of replacement water mains and appurtenances in Ocean Avenue and Seaview Avenue, and direct the Acting Town Manager and the Town Attorney to prepare a written agreement for final Council action.

**VOTE:** Yea; Councilor O’Neill, Councilor Tousignant, Councilor Bolduc, Chair MacDonald.  
 Abstained; Vice Chair Dayton

**Vote**

**Motion passes 4-1**

**ITEM #5313:** Discussion with Action: Consider entering into a loan agreement in the amount of \$200,000 dollars from the account number 10013-30100-Undesignated Account, with a balance of \$5,343,024 with the Biddeford and Saco Water Company for the

**Item #5313**

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<p>perchance and installation of replacement water mains and appurtenances in Ocean Avenue and Seaview Avenue, and direct the Acting Town Manager and the Town Attorney to prepare a written loan agreement for final Council action.</p> <p><b>MOTION:</b> COUNCILOR O'NEILL motioned and COUNCILOR BOLDUC seconded to remove item #5313 without prejudice.</p> <p><b>VOTE:</b> Unanimous</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><b>ITEM #5314:</b> Agenda Item: Discussion with Action: Appoint Robert Jolicoeur as a Regular Member of the Board of Assessment Review, term to expire 12/31/2011.</p> <p><b>MOTION:</b> COUNCILOR O'NEILL motion and VICE CHAIR DAYTON seconded to appoint Robert Jolicoeur as a Regular Member of the Board of Assessment Review, term to expire 12/31/2011.</p> <p><b>VOTE:</b> Unanimous</p>	<p style="text-align: center;"><u>Item #5314</u></p> <p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><b>ITEM #5314:</b> Agenda Item: Discussion with Action: Set a public hearing date of October 6, 2009 to amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, by adding Marina Performance Standards.</p> <p><b>BACKGROUND:</b> On October 6, 2009, the Town Council will hold a public hearing on whether to add marina standards to ordinance Chapter 78. The council and citizens will have the opportunity to review the suggested standards both of which fulfill LD1119 and allow the boundary to be moved.</p> <p><b>MOTION;</b> VICE CHAIR DAYTON motioned and COUNCILOR O'NEILL seconded to set a public hearing date of October 6, 2009 to amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, by adding Marina Performance Standards.</p> <p><b>VOTE:</b> Unanimous</p>	<p style="text-align: center;"><u>Item #5314</u></p> <p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><b>ITEM #5316:</b> Agenda Item: Discussion with Action: Set a public hearing date of October 6, 2009 to amend the Code of Ordinances, Chapter 14 (animals) and Chapter 42 (Parks and Recreation) concerning horses on the beach.</p> <p><b>MOTION:</b> COUNCILO O'NEILL motioned and VICE CHAIR DAYTON seconded to set a public hearing date of October 6, 2009 to amend the Code of Ordinances, Chapter 14 (animals) and Chapter 42 (Parks and Recreation) concerning horses on the beach.</p> <p><b>VOTE:</b> Unanimous</p>	<p style="text-align: center;"><u>Item #5316</u></p> <p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><b>ITEM #5317:</b> Agenda Item: Discussion with Action: Grant a Blanket Letter of Approval for Games of chance and Beano/Bingo to the C. Fayette Post American legion, 14 Imperial Street, to expire 12/31/2011.</p> <p><b>MOTION:</b> COUNCILOR O'NEILL motioned and VICE CHAIR DAYTON seconded to Grant a Blanket letter of Approval for Games of chance and Beano/Bingo to the C. Fayette Post American Legion, 14 Imperial Street, to expire 12/31/2011.</p> <p><b>VOTE:</b> Unanimous</p>	<p style="text-align: center;"><u>Item #5317</u></p> <p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p style="text-align: center;"><b><u>GOOD &amp; WELFARE:</u></b></p>	<p style="text-align: center;"><b><u>Good</u></b></p>

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<p><b>HELEN WHITTAKER</b> wished to compliment the Recycling Committee for the brochure that was recently mailed out.</p> <p><b>CHAIR MACDONALD</b> wanted to announce a workshop directly after the meeting regarding the transfer station.</p> <p><b>VICE CHAIR DAYTON</b> wanted to thank John Weaver for all his work as Chair of the Recycling Committee.</p> <p><b>COUNCILOR O'NEILL</b> has concerned with BBI and the need for extension. He also requests staff to find out the costs of BBI in the Ballpark. He also inquired about DPW tasks at the Ballpark and how much time they have spent there. He also wanted staff to give him some information regarding increase in taxes for waterfront properties in town, as some residents have contacted him regarding the process.</p> <p><b>VICE CHAIR DAYTON</b> asked what the status on flood maps were, and if any new information could be forwarded to council.</p> <p><b>ACTING TOWN MANAGER REID</b> stated she would get the information to the council.</p>	<p><b><u>And Welfare</u></b></p>
<p><b><u>ADJOURNMENT</u></b></p> <p><b><u>MOTION:</u></b> <b>COUNCILOR O'NEILL</b> motioned and <b>COUNCILOR BOLDUC</b> seconded to adjourn at 9:03 p.m.</p> <p><b><u>VOTE:</u></b> Unanimous.</p>	<p><b><u>Adjournment</u></b></p> <p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>Meeting adjourned 9:03 pm</b></p>	<p><b><u>Adjournment</u></b></p>

*I, Victoria Geaumont, Secretary to the Town Council of the Town of Old Orchard Beach, Maine do hereby certify that the foregoing document consisting of sixteen (16) pages is a true copy of the original minutes of the Town Council Meeting on September 15, 2009*