

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL WORKSHOP  
WEDNESDAY, JULY 28, 2010  
TOWN HALL CHAMBERS**

**A Town Council Workshop of the Old Orchard Beach Town Council was held on Wednesday, July 28, 2010. Discussion was to include the Edith Belle Memorial Library Building Project; followed by discussion of the sewer appeal of Moshe Agam, 26 Old Orchard Street (206-4-3), pursuant to Section 58-124 of the Utilities Ordinance; followed by discussion on the Transfer Station. The discussion of the Edith Belle Memorial Library was removed without prejudice at the request of the Library Director, Eileen McNally. Chair MacDonald opened the meeting at 7:02 p.m.**

**The following were in attendance:**

**Chair Sharri MacDonald  
Vice Chair Michael Tousignant  
Councilor Robin Dayton  
Councilor Laura Bolduc  
Town Manager Jack Turcotte  
Assistant Town Manager Louise Reid  
Public Works Director Bill Robertson  
Planner Gary Lamb  
Code Enforcement Officer Mike Nugent**

**Absent: Councilor Shawn O'Neill**

**With the Removal Without Prejudice of the presentation of the Edith Belle Memorial Library, the first agenda item was the Sewer Appeal of Moshe Agam, 26 Old Orchard Street (206-4-3) Pursuant to Section 58-124 of the Utilities Ordinance.**

**Over the past year Moshe Agam has presented to the Council his written understanding of what he believes has occurred. He indicated, "When I originally decided to rebuild the building on my property, I decided that I would make it only 1 floor instead of the previous two. I was strongly encouraged and even persuaded by the Board of Directors of the town of Old Orchard Beach to invest even more money into the project and make the new building two floors because it would enhance the "look" of the town. I was reassured that there would be no further fees other than standard replacement costs because I was merely replacing the current structure. I was out of town during the November meeting which took place. It was decided in that meeting that I was required to pay \$8,000+ for additional costs due to the bathrooms on the second floor allegedly not being used. I did not build any additional bathrooms than the previous structure because I was reassured that I would not pay anything extra aside from replacement costs which are \$382.50 per unit (4 units total). You can imagine my shock and surprise when I was hit with this new fee to pay while I am still paying off the construction of the building which has set me behind financially a considerable amount. I really believe that what is fair is for me is to be required to only pay the**

replacement costs per unit. I was reassured this would be the case when I first decided to build a new building on my property and it was a major factor in that decision.”

His next letter to the Council indicated: “To start off I want to give a brief recap of the entire issue to clear up any misunderstandings. In October of 2008, the Town Council approved and completely agreed to reimburse me in the entire amount of \$5,100 (this amount covers half of the payments required for the sewer system under Imperial Street). This amount is in no way related to me. Above all, every member of the Town Council approved to reimburse me with the \$5,100. Since October of 2008, I have YET to receive the \$5,100. I have spoken REPEATEDLY to Jack, the Town Manager, about my reimbursement, (only because he wasn’t involved in this situation). I also want to clarify that I paid another \$12,000 for the amount due for the sewer system that runs under my building. That sewer system connects the sewer system from under my building to the sewer system of the city. All I am concerned with is to receive your approval to reimburse me with the amount of \$5,100, (which was approved by you, the Town Council, in October of 2008). To clarify the matter further, the reimbursement of the \$5,100 has in no way whatsoever a connection to the meeting that took place in June of 2010. To this letter is attached the receipt of \$10,200, which covers the cost of the sewer system connecting my building to that of Imperial Street. Aside from this amount of \$10,200, I paid another \$5,100 to the city, which covers the cost of the sewer system from the top to the bottom of Imperial Street. If there was a misunderstanding in the matter, I have attached a detailed diagram explaining the situation (In total, below I attached the receipt and the diagram).”

In preparation for the Workshop he sent another letter to the Council which indicated: “Upon the construction of my new building in 2008, I was supposed to connect my sewer system to that of Old Orchard Street’s, as it was before I constructed my new building. When the construction company was rebuilding and connecting the sewer, they discovered a damaged pipeline, (the damage was done by the Old Orchard Beach Public Work Company.). The manager of the O.O.B. Public Work Company (Mary-Ann) advised me to connect my sewer system to Imperial Street’s sewer system, out of fear of impede traffic on Old Orchard Street. Due to this decision, I had to pay with my own money \$10,200. Later, when everything was finished with my construction, a damaged pipeline was discovered at the top of the hill under Imperial Street. This damage is completely irrelevant to my new sewer line. The town hired a different contracting company to replace that damaged pipeline. The total amount for that repair, from the contracting company was \$10,900. Later, the contracting company gave a discount and reduced the price to \$10,200. Now, Mary-Ann is forcing me to pay half of that price, \$5,100, (which is completely irrelevant to the construction of my new building). Upon speaking to Town Manager Steve, he told me to write to the Town Council, to explain to them the situation. After the meeting with the Town Council on the issue concerning this situation, they (the Town Council) discovered that in fact the two issues are completely irrelevant and beside the point, (and they both coincided to repay me the \$5,100). (Now I want to go over a new issue that ensued afterwards). For the second floor of my building, the building inspector asked me to pay \$13,200 for the new sewer line. In the building there are a total of 4 units, 12 rooms (the old building had 21 rooms). I was told to pay a one-time-fee for the replacement, \$385, (for the second floor), and not \$13,200. Attached is all the paperwork (the two invoice and the layout of the city). Thank you very much for your patience.”

In response to the issues presented by Moshe Agam, the Planner, Gary Lamb presented the Planning and Code comments on this issue.

#### Issue #1 – Validity of sewer connection fee

- In November 2007, the Planning Board approved Moshe's new building with four new second floor apartments. Per our fee schedule, each new dwelling unit should be charged a \$3,300.00 new discharge sewer connection fee. For justification, Sewer Ordinance section #58-151 reads in part as follows: *New discharge includes but is not limited to the following: (1) Construction of any new building or structure; (2) Replacement of any existing building with a new building on the same lot...etc.*
- In addition, Ordinance section #58-154 *Costs borne by owner* states: *All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.*
- Four units times \$3,300.00 each equals \$13,200.00 owed at that time for just the second floor apartments. None of this amount has been paid to date by Moshe...see below for Town Council waivers granted to date to Moshe
- Research conducted since July 20 Council meeting shows the new commercial building sewer connection fee should have been \$6,325.00 for just the first floor commercial space. This should have been collected prior to the issuance of the building permit but was not. There is no record as to why it was not collected. Then the \$13,200 fee for new second floor units would have been collected prior to issuance of a building permit to complete the apartments (which are still unfinished). Suffice to say Moshe has paid much less than he should have.

#### Issue #2 - Excavation cost history

- As of the date of this memo, staff is uncertain how much Moshe paid to connect his building to the Imperial Street town-owned sewer line. However, this cost is irrelevant to a Town Council discussion because property owners are responsible for 100% of connection costs out to the town sewer main, and beyond if directly attributable to an individual project. If Moshe had chosen to repair/replace his Old Orchard Street connection, he would have paid for all this excavation, pipe replacement, sidewalk repair and re-paving costs. For some reason, Moshe feels the Old Orchard Street repair would have cost him nothing but that is not what the DPW director told him in writing at that time (see attached Mary Ann Conroy letter to Moshe dated 3/21/08).
- The \$10,200.00 bill (see Gobeil Enterprises Inc. document attached) in question is for a new sewer manhole excavation and approximately 100 feet of eight inch pipe installed in Imperial Street because an old clay line needed to be replaced. Half this bill (\$5,100.00) was what Moshe paid per Memo of Understanding dated April 15 2008 and signed by Steve Gunty and Moshe (see attached document and cancelled check). This is the old clay pipe that the DPW Director required to be replaced in addition to Moshe's connection to his building.

### Issue #3 – Town Council action to date

- Oct 7, 2008 Council voted 5-0 to credit Moshe \$5,100 towards his \$13,200 sewer connection balance due, leaving a balance due of \$8100. Moshe has paid nothing towards this \$8100 balance due.
- Nov 17, 2009 Council voted 3-1 to collect the remaining \$8100 balance due after discussing the length of time since the old Sandbar Inn rooms had used town sewer. Moshe has paid nothing towards this \$8100 balance due.
- June 1, 2010 Council reconsidered the matter along with new information from Mike Nugent and state plumbing code re: Sandbar Inn prior sewer usage. Council voted a \$7717.50 waiver towards the \$8,100 balance due, leaving a balance due of \$382.50 which has not been paid as of this memo date.

If Council thinks the \$13,200.00 sewer connection fee should be waived, then Council could waive it entirely retroactive to 2008. Even if Council does this, the \$5100 paid for Imperial Street excavation is a separate issue and should not be reimbursed. To reimburse this would be effectively charging taxpayers for this sewer work that occurred because of one owner's new sewer connection.

The Council's consensus was that this was an issue that neither further discussion and that more investigation is requested.

### Transfer Station:

A few months ago Patrick Coughlin, Kenny Blow, Archie St. Hilaire and the Assistant Town Manager, V. Louise Reid, met with Randy McMullin of the Department of Environmental Protection and discussed the existing and proposed possible Transfer Station responsibilities being taken over by BBI. It should also be stated that the Town would retain its permit to run the Transfer Station should this arrangement not be in the best interests of the citizens of the Town. The Council gave its indication that an October 1, 2010 date would be a reasonable starting date for such an agreement to be in force and the item will be on the August 17<sup>th</sup> agenda. The Applicant BBI Waste Industries ("BBI") has applied for approval to modify the existing transfer station to accept municipal solid waste ("MSW") from residential customers. The existing transfer station facility is licensed to accept construction and demolition debris ("CSDD") from commercial and residential users, but accepts municipal solid waste from only commercial accounts. The facility is located at 1 Vallee Lane in Old orchard Beach. This license amendment request is to expand the "customers" using the facility to include residential customers dropping off MSW at the facility. The Town of Old orchard Beach is proposing to close the Old Orchard Beach Transfer Station currently operating under Department Order #S-08464-10-C-R. Local changes have been made in Old Orchard Beach community to increase curbside pick up of more MSW and curbside pickup of single sort recycling, which has dramatically reduced the amounts of MSW disposed of at the Old Orchard Beach facility to approximately 400 tons per year. The BBI waste facility is located approximately 1/2 mile from the Old Orchard Beach facility and proposes changes in the BBI facility to facilitate the acceptance of the MSW from residential customers. Leaf and yard

waste will still be accepted at the Town of Old Orchard Beach facility on a reduced schedule. The 1 Vallee Lane site contains the offices of BBI Waste Industries, a maintenance facility for vehicles and containers, and is the site of the transfer station. BBI further proposed amending the permitted transfer station to install a MSW compactor for the acceptance of MSW for residential customers. Traffic control at the facility will be regulated remotely by the operator to prevent residential customers from interacting with commercial customers and to allow for safe entrance and egress by all users of the transfer station. The Town has considered this change in part because of the cost of replacing a compactor that is no longer able to be used and the cost is in the \$60,000 or \$70,000 range to repair. Traffic flow into and out of the transfer facility has generated approximately 250 passenger car equivalents per day according to facility records since the transfer station was constructed in 2001. This amendment is expected to add an addition 32 per day to the total facility traffic flow and this expanded volume does not trigger a traffic study. Peak afternoon traffic flow is estimated to be 50 at the facility entrance. Intersection sight distances where the access drive intersects with Vallee Lane and Smithwheel Road are adequate. The Department of Environmental Protection finds that the facility has been designed to allow for adequate traffic movement into, out of, and within the facility.

Solid Waste Management Rules were addressed. Wastes delivered to the site will be inspected by the attendant and directed to the appropriate unloading area. Mixed loads will be sorted by facility personnel to separate reusable, recyclable and process able materials. The facility is gated and monitored during and after business hours. The facility will continue to accept only construction/demolition materials (wood, gypsum board, shingles, concrete, brick, glass, etc.) land clearing debris, while metal goods, universal and e-waste, and a part of this agreement, municipal solid waste. The following materials will not be accepted at the facility: Hazardous and special wastes as defined in statute and rule; waste oil and antifreeze; car/truck tires and batteries; and ash and composted materials. There will be no open burning or disposal of waste materials at the facility. BBI will provide for MSW disposal at one or more of the following approved facilities and in accordance with the Solid Waste Management Regulations: Maine Energy in Biddeford (contract dated February 23, 2004); Mt. Carberry Landfill in Success, NH (contract dated July 28, 2006); and Coventry Energy in Haverhill, MA (contract dated July 21, 2006).

The Town of Old Orchard Beach will continue to maintain its ability to operate its own Transfer Station should that ever be another consideration in the future.

Further discussion will be ongoing regarding what will be accepted at the Old Orchard Beach Transfer Station such as recommendations being considered such as brush, grass and leaves, free to residents, with commercial entities at \$6 per yard. It is suggested for discussion purposes that the Old Orchard Beach Transfer Station might be open from 7:15 a.m. to noon on Wednesdays and 7:15 a.m. to 2:00 on Saturdays but closed for the months of December through February; closed for snow removal operations. It has also been recommended that all persons transporting material to the transfer station are subject to proof of residency or proof of real estate ownership requirements if not required to pay a fee. It was also suggested that the Transfer Station might be open other dates as determined by the Town Manager or his designee and also closed on various dates as deemed necessary by the Town Manger. Again, these are discussions that have been held with suggestions being made.

**Discussion on the current permits that have been issued will be addressed by a mailing to those who purchased permits indicating they must be used by September 30, 2010. The Town Clerk is being asked to provide a document to be signed by anyone buying a current permit.**

**The Chair closed the meeting at 9:30 p.m.**

**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 six (6) pages is a true copy of the original Minutes of the Town Council Workshop on July 28, 2010.**

**V. Louise Reid**