

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
Tuesday, September 6, 2011  
TOWN HALL CHAMBERS  
7:00 p.m.**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, September 6, 2011. Chair Quinn opened the meeting at 7:05 p.m.**

**The following were in attendance:**

**Chair Bob Quinn  
Vice Chair Michael Tousignant  
Councilor Shawn O'Neill  
Councilor Robin Dayton  
Town Manager Jack Turcotte  
Assistant Town Manager V. Louise Reid**

**Absent: Councilor Sharri MacDonald**

**ACKNOWLEDGEMENTS:**

**PROCLAMATION READ INTO THE MINUTES  
BY ASSISTANT TOWN MANAGER V. LOUISE REID**

**WHEREAS, pain is one of our nation's most serious health problems and an estimated on in three Americans or 75 to 150 million people suffer from some type of chronic pain and is the number one cause of adult disability in the United States; and  
WHEREAS, there is no cure for chronic pain and can be a source of frustration for the health care professionals who seek to provide care and assistance, and  
WHEREAS, chronic pain can touch nearly every part of a person's daily life, as an impact on the entire family, and, because of its economic and social consequences, affects us all; and  
WHEREAS, Partners of Understanding Pain is a consortium of organizations that touch the lives of people with chronic, acute, and cancer pain; and  
WHEREAS, THE Maine Pain Initiative, a committee of the Maine Hospice Council, is a multidisciplinary group of health care professionals, consumers, and other interested people, serving as an advocate for people experiencing pain, and  
WHEREAS, THE Chronic Pain Support Group of Southern Maine has since 1993 offered a safe, welcoming place where people with chronic pain can support one another, develop friendships, and learn coping skills from others who understand and care; and  
WHEREAS, these groups seek to increase awareness of chronic pain in the State of Maine, to inspire people to work toward reducing barriers and increasing access to appropriate pain management, and to improve the quality of life of those suffering from pain,  
NOW, THEREFORE, I, PAUL R. LEPAGE, Governor of the State of Maine do hereby proclaim the month of September, 2011 as PAIN AWARENESS MONTH throughout the State of Maine, and urge all citizens to recognize this observance. In testimony whereof, I**

have caused the Great Seal of the State of Maine to be hereunto affixed GIVEN under my hand at Augusta, this eighteenth day of July, 2011.

**COUNCILOR DAYTON:** The Chamber of Commerce had their Beach Olympics in honor of Special Olympics. The Assistant Town Manager brought a welcome to the large audience who enjoyed the weekend including great music provided by George Szabo's band. Thanks to Bud Harmon and his staff and also to Tim Grant who, with Saco Biddeford Savings staff, saw the weekend go with not only good attendance but good funding for Special Olympics.

**VICE CHAIR TOUSIGNANT:** We would like to take this opportunity to thank Planner, Jeffrey Hinderliter, who acted as Secretary to the Council during the absence of the Town Manager. We are glad to have the Town Manager, Jack Turcotte, back in the saddle again after his recent surgery.

**CHAIR QUINN:** This is the time for us to acknowledge the excellent service provided to us by Chief John Glass, Chief Dana Kelley, Bill Robertson, Chris White and their staffs as well as our Town Clerk, Kim McLaughlin, and our Code Enforcement Officer, Mike Nugent, for their excellent service during the recent hurricane. Chief Glass acting as the Emergency Management Director was able to direct what was a very successful plan getting us by with little damage to the community properties. Mrs. Quinn and I also were able to attend the recognition barbecue provided by the Rock Church the Saturday before the hurricane hit. The members of the Church and particularly Ocean Park residents, Sue and Seth Davis and Reverend Samuelson, Pastor of the Church, provided great food and entertainment for all the first responders and it was greatly appreciated.

**COUNCILOR O'NEILL:** Nomination papers are available as of August 17, 2011 at Town Hall for two seats on the Town Council. They are two-year terms. Also, one seat on the Board of Directors for Regional School Unit #23. That is a three-year term. The papers can be obtained through the Town Clerk's Office and must be returned by September 26, 2011, at 4 p.m. Election Day is November 8, 2011.

**ACCEPTANCE OF MINUTES:** Town Council Minutes of August 16, 2011.

**PUBLIC HEARING:** Shall we Amend Chapter 26, Environment, Article 2, Sound Section 26-63 - Noise Level Standards to Create Noise Standards in the Contract Zone -1, the Residential Beachfront District and the Neighborhood Commercial Zoning Districts?

**MIKE NUGENT:** The following are the Neighborhood Commercial Districts that were created by the Town in 2001.

NC-1	The Ocean Park neighborhood commercial district
NC-2	The Union Avenue/West Grand Avenue neighborhood commercial district
NC-3	The Washington Avenue/campground neighborhood commercial district
NC-4	Cascade Road neighborhood commercial district

The Residential Beachfront District was created in 2005 and the CZ-1 for the Grand Victorian in 2004. The former “Noise” now “Sound” Ordinance was created in 1980 and rewritten in 2010. The Noise Ordinance was not updated to include new districts as they have been created by the Town. Last year and this summer we received two unrelated noise complaints in two of the NC that we were unable to adequately handle as there were no standards. If the Council chooses to pass the following proposed amended table, all zoning districts will have Sound Standards.

**Sec. 26-63. Noise level standards.**

Sound from any source controlled by this article shall not exceed the following limits at the lot line of the emitter:

**SOUND PRESSURE LEVEL LIMITS  
MEASURED IN dB(A)**

**TABLE INSET:**

	Day	Night
Industrial district (ID) and planned mixed use development (PMUD)	70	60
General business district 1 (GB-1) and general business district 2 (GB-2)	70	60
Downtown district (DD-1) <u>CZ-1 (Contract Zone 1</u>	80*	70*
Downtown district (DD-2)	70*	60*
Residential districts including R-1, R-2, R-3, R-4, R-5, RD, BRD, <u>RBD</u>	55	45
<u>Neighborhood Commercial Districts including NC-1, NC-2, NC-3 and NC-4</u>	<u>55</u>	<u>45</u>

\*Nighttime hours in the DD-1 and DD-2 zones shall commence at 1 AM and shall end as specified in section 26-56.

(1) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.

The underlined text is the proposed amendment. The proposed levels in the NC and RBD zones mirror the Residential Standards; the proposed CZ-1 Level mirrors the DD-1 standard. The Ordinance review committee reviewed the NC change in November of 2010 and recommended passage. Staff added the CZ-1 and RBD language after we discovered that the current ordinance did not include those zones later.

Discussion among the Council included a more definitive listing of zones by the Town Code Enforcement Officer. Mr. Harold \_\_\_\_\_, Attorney for the residents of the area of the Grand Beach Inn, attended to remind the Council of the group he represents; a residential group of citizens who recognize that this hotel is in a residential area and wanted to confirm that the changes would not affect them but rather enhance their concerns.

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

**CHAIR:** I open the Public Hearing at 7:30 p.m.

**Jeff Laughlin** (107-3-1-W26), 26 Kavanaugh Road, one year round rental; **Seagate Limited Partnership** (210-1-17)(T1025), 37 Mayflower Drive, one year round rental; **Steve Bailer** (302-6-9), 25 Puffin Street, one seasonal rental; **Toni Cinque dba/RE Salon & Wellness Spa** (306-1-2-A), 1 East Grand Avenue, Suite A, personal service; **Sonia Jace dba/Palm Reader** (307-2-1-C), 1 Old Orchard Street (Palace Playland), personal service; **Richard A. Meoli** (310-4-2), 5 Fourth Avenue, one year round rental; **Michael Kelley** (311-10-5), 6 Maplewood Avenue, one year round rental; **Mohammed Shamsul Alam dba/Friendly Market/Hi Bombay** (312-13-11), 31 Washington Avenue, Victualers with Preparation with Beer, Wine and/or Liquor off premise (take out); **Richard A. Meoli** (313-3-8), 2 Bay Avenue, one year round rental; and **Jon & Paul Hoch** (321-18-1), 50 Seaside Avenue, one year round rental.

**CHAIR:**I close this Public Hearing at 7:31 p.m.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to Approve the Business Licenses as read.

**VOTE:** Unanimous.

**PUBLIC HEARING SPECIAL AMUSEMENT PERMIT:**

**CHAIR:** I open this Public Hearing at 7:32 p.m.

Amend the Special Amusement Permit approved October 19, 2010 of **HFY Enterprises dba/Oceanside Grille at the Brunswick** (310-6-1), 39 West Grand Avenue, Music – Amplified, from Summer – Inside and Outside, 1:00 p.m. to 5:00 p.m. and 8:00 p.m. to 12:00 a.m.; and Off-Season Inside Only - 8:00 p.m. to 12:00 a.m.; changing to 11:00 a.m. to 1:00 a.m. year round – Inside and Outside.

There was a very lengthy discussion relative to the change in the Special Amusement Permit which originally was approved at the October 19, 2010. At that time the clerk at the Brunswick who completed the forms and delivered them to the Town's Licensing Department incorrectly listed 12:00 a.m. as the closing time. Historically the closing time inside and out has been 1:00 a.m. The agenda item was placed this evening to correct that error. However during the very lengthy discussion there were some concerns raised by citizens relative to noise issues. John Cloutier, owner of the Beachwood Motel spoke about the complaints that he receives from those who rent from him particularly as it gets toward the midnight hour and he would prefer a much earlier closing hour. Tom LaCasse, Manager of the Brunswick, spoke passionately about the need to stay open later to maintain the clientele that he has established over the years. Councilor O'Neill expressed conflict of the issue of fairness to all business; whereas some are limited to hours of operations and others are provided the opportunity to stay open late. Other comments were made by John Bird and Kay Mullin on the issue as well. Pat Brown who lives very close to the Brunswick said that she has no issues with the noise; she had more of an issue with the beach rake going up and down the beach at 5:30 in the morning. Councilor Dayton asked if there

C:\Documents and Settings\kmclaughlin\Local Settings\Temporary Internet Files\OLKE\9 6 11 town council meeting and executive sessions.doc Page 4 of 21

could be some coming together of the two sides of opinion. It was evident that there was a hesitancy to agreeing to the extension of hours but finally Tom LaCasse indicated that 12:30 would be acceptable outside; and 1:00 a.m. inside the establishment. Although Mr. Cloutier had continued reservations, the Council moved forward and called for a motion.

**CHAIR:** I close this Public Hearing at 8:30 p.m.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Amend the Special Amusement Permit to read; Amend the Special Amusement Permit approved October 19, 2010 of HFY Enterprises dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, Music – Amplified, from Summer – Inside and Outside, 1:00 p.m. to 5:00 p.m. and 8:00 p.m. to 12:00 a.m.; and Off-Season Inside Only - 8:00 p.m. to 12:00 a.m.; changing to 11:00 a.m. to 12:30 a.m. outside; and 11:00 a.m. to 1:00 a.m. year round inside.

**VOTE:** Unanimous.

**# 5479 Discussion with Action:** Approve the lease/purchase by the Public Works Department of a 2012 International single-axle dump/sander and plow truck from Portland North Truck Center, Falmouth, Maine, for a 60-month term beginning on December 30, 2011 through December 30, 2016 for \$2,387.33 per month. The amount will be taken from Account Number 20203-50835 - Public Work's Vehicles, anticipated total adopted budget of \$26,000 per year and from Account Number 20151-50336 - Equipment Rental, for \$220.67 per month with an anticipated adopted budget of \$23,000.00 per year.

Discussion on the question of purchase and lease purchasing was discussed by Council as this appears to be a change from the past purchasing policies. Councilor Dayton indicated that she appreciated the amount of money that the Public Works Director was saving in so many instances this past few months but that perhaps in the coming days a workshop should be held on the subject of leasing versus buying. Chair Quinn questioned the purchase at this time recognizing budgetary constraints.

**MOTION:** Vice Chair Tousignant motioned and Councilor Dayton seconded to Approve the lease/purchase by the Public Works Department of a 2012 International single-axle dump/sander and plow truck from Portland North Truck Center, Falmouth, Maine, for a 60-month term beginning on December 30, 2011 through December 30, 2016 for \$2,387.33 per month. The amount will be taken from Account Number 20203-50835 - Public Work's Vehicles, anticipated total adopted budget of \$26,000 per year and from Account Number 20151-50336 - Equipment Rental, for \$220.67 per month with an anticipated adopted budget of \$23,000.00 per year.

**VOTE:** Yea: Councilor Dayton; Vice Chair Tousignant and Chair Quinn.  
Nea: Councilor O'Neill

**# 5480 Discussion with Action:** Appoint Jerome Plante as an Alternate to the Ballpark Commission, term to expire December 31, 2013.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Appoint Jerome Plante  
C:\Documents and Settings\kmclaughlin\Local Settings\Temporary Internet Files\OLKE\9 6  
11 town council meeting and executive sessions.doc Page 5 of 21

as an Alternate to the Ballpark Commission, term to expire December 31, 2013.

**VOTE: Unanimous.**

**# 5481 Discussion with Action: Accept, with regret, the resignation of Tianna Higgins from the Planning Board, effective October 31, 2011.**

**MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Accept, with regret, the resignation of Tianna Higgins from the Planning Board, effective October 31, 2011.**

**VOTE: Unanimous.**

**# 5482 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold their evening program in the Square, in the area near the Pier, from 5 p.m. to 11 p.m. on Saturday, July 28, 2012 to Friday, August 3, 2012; and a request to place a banner in the Square from July 23, 2012 to August 3, 2012. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event; and a request to waive the fee.**

**MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5483 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold their annual parade at 3:50 p.m. on Sunday, July 29, 2012, from Saco & Biddeford Savings Bank to the Pier parking area. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event; a request to waive the fee.**

**MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5484 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold their evening program in the Square, in the area near the Pier, from 5 p.m. to 11 p.m. on Saturday, August 3, 2013 to Friday, August 9, 2013; and a request to place a banner in the Square from July 29, 2013 to August 9, 2013. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event; and a request to waive the fee.**

**MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5485 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold their annual parade at 3:50 p.m. on Sunday, August 4, 2013, from Saco & Biddeford Savings Bank to the Pier parking area. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event; a request to waive the fee.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5486 Discussion with Action: Approve the amendment to the Special Event Permit application for OOB365 to hold their Autumn Celebration Saturday, September 24<sup>th</sup>, 2011, that was approved by the Town Council on July 19<sup>th</sup>, 2011 to be held in Memorial Park, to now include a barbecue and bonfire on the beach in front of the carousel from 5 p.m. to 9 p.m.**

**MOTION: Councilor O'Neill motioned and Chair Quinn seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 5487 Discussion with Action: Approve the Special Event Permit application for The Pier to hold the Old Orchard Beach Bikefest on Saturday, September 10<sup>th</sup>, 2011 from 11 a.m. to 1 a.m. in the Square. Permission to hang a banner in the Square from September 8<sup>th</sup> to the 11<sup>th</sup> (if the Chamber of Commerce, who has prior Council approval, does not hang a banner in the square for their event at those times).**

**MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Special Event Permit as read and to waive the fee.**

**VOTE: Unanimous.**

**# 5488 Discussion with Action: Approve the Special Event Permit application for Dennis Welsh Photography to hold a photo shoot on the sidewalks and beach in the downtown area on Saturday, September 10<sup>th</sup> and Sunday, September 11<sup>th</sup>, 2011, from sunrise to sunset.**

**MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Special Event Permit as read and noting that the fee paid was for one day which is planned for the photo shoot and the other day scheduled in depending on the weather.**

**VOTE: Unanimous.**

**# 5489 Discussion with Action: Order to place four questions dealing with Charter modifications, specifically Referendum Question No. 1 – Number and terms of Town Councilors; Referendum Question No. 2 – Town Council term limits; Referendum Question No. 3 – Education; and Referendum Question No. 4 – All other changes on the November 8, 2011**

**ballot; and to approve summaries of questions No. 3 and No. 4; and to set a Public Hearing date thereon of October 4, 2011.**

**Referendum Question No. 1—Number and terms of Town Councilors**

**Shall the Town of Old Orchard Beach approve the charter modifications regarding changing the number of Town Councilors from five (5) to seven (7) and changing the terms of Town Councilors, as recommended by the Charter Commission and reprinted below?**

**Sec. 201.1. Town Council. The Town Council shall be composed of seven (7) members, with six three-year terms and one one-year term, each of whom shall be elected by the registered voters of the entire Town, and shall serve until a successor is elected and qualified. The six three-year terms of the Town Council shall be staggered, and expire at three year intervals. The one-year term shall expire annually. All terms shall expire on the third Monday in November of the term year. [No Councilor is eligible to serve more than seven years consecutively.\*]**

**[\*This part of Sec. 201.1 is not being voted on with Question One. It is part of Question Two.]**

**Sec. 1002.1. Transition to New Charter. The provisions of Section 202 notwithstanding, the terms of the Town Councilors elected in 2011 for 2-year terms shall expire normally in 2013 and the first regular municipal election in November 2012 shall elect two (2) Town Councilors for three-year terms and two (2) Town Councilors for two-year terms, and one (1) Town Councilor for a one-year term.**

**All succeeding elections under this Charter shall elect two (2) Town Councilors for three-year terms and one (1) Town Councilor for a one-year term, thereby providing elections for a Town Council composed of seven (7) members, with six (6) Town Councilors having three-year terms and one (1) Town Councilor having a one-year term by the year 2014.**

**The six three-year terms of the Town Council will be staggered, and expire at three year intervals. The one-year term will expire annually.**

**Candidates for Council shall specify on their nomination papers whether they are seeking election for a one-year term or a three-year term and may be elected only for the term so specified.**

**Sec. 1004. Terms of Current Officials. The terms of members of the Town Council, elected at the regular municipal election on November 8, 2011 shall expire on the third Monday in November, 2013.**

**Words of Explanation**

**These modifications change the number of members of the Town Council from five to seven, change the terms of the Town Councilors, and set forth the necessary transitional provisions for these modifications.**



## **Referendum Question No. 2—Town Council Term Limits**

**Shall the Town of Old Orchard Beach approve the charter modifications enacting term limits of not more than seven (7) consecutive years for Town Councilors and establishing when the term limits shall commence as recommended by the Charter Commission and reprinted below?**

**[The sentences in Section 201.1 in brackets are not included in this question. That part of Sec. 201.1 is not being voted on with Question Two. It is part of Question One.]**

**Sec. 201.1. Town Council. [The Town Council shall be composed of seven (7) members, with six three-year terms and one one-year term, each of whom shall be elected by the registered voters of the entire Town, and shall serve until a successor is elected and qualified. The six three-year terms of the Town Council shall be staggered, and expire at three year intervals. The one-year term shall expire annually. All terms shall expire on the third Monday in November of the term year.\*]**

**No Town Councilor is eligible to serve more than seven years consecutively.**

**[\*This part of Sec. 201.1 above, in brackets, is not being voted on with Question Two. It is part of Question One.]**

### **Sec. 1002.2 Term Limits.**

**Term limits shall go into effect with the 2012 election. Council seats elected prior to November, 2012 shall not calculate into the term limit formula.**

### **Words of Explanation**

**These modifications limit the terms of Town Councilors and establish when term limits commence.**

## **Referendum Question No. 3--Education**

**Shall the Town of Old Orchard Beach approve the charter modifications replacing the references to the School Board/Department of Education and reviving provisions in the July 1998 Charter to provide for the operation of public schools in Old Orchard Beach should Regional School Unit #23 cease to exist, all as recommended by the Charter Commission and partially reprinted and summarized below?**

### **ARTICLE VI. EDUCATION**

**In the event that Regional School Unit #23 should cease to exist and no other provisions have been made for the operation of public schools in Old Orchard Beach, then the provisions of the Old Orchard Beach Charter governing education in effect in July, 1998, shall be revived and shall apply to the same extent as if adopted as part of this Charter and shall remain in effect unless and until replaced or superseded by amendment to this Charter or by state law.**

### **Summary of additional changes**

- Article II, Secs. 201, 202 and 203. Deletes references to School Board.
- Article III, Sec. 305. Deletes references to School Board.
- Article IV, Secs. 409 and 414. Deletes references to Department of Education and School Board.
- Article V, Sec. 502.7. Deletes reference to Department of Education.
- Article VII, Secs. 702 and 706. Deletes references to Department of Education and School Board.
- Article IX, Sec. 904. Deletes reference to School Department, and changes from public school operated by Old Orchard Beach to public school operated in Old Orchard Beach.
- Article X, Secs. 1004, 1004.1 and 1005. Deletes reference to School Board.
- Article XI, Secs. 1102 and 1104. Deletes references to School Board.

### Words of Explanation

These modifications replace the existing language in Article VI referencing the School Board/Department of Education with language reviving the provisions in the July 1998 Charter to provide for the operation of public schools in Old Orchard Beach should Regional School Unit #23 cease to exist. These modifications are required by the recent changes in the law that require, with certain exceptions, the reorganization of schools into regional school units.

#### Referendum Question No. 4—All Other Changes

Shall the Town of Old Orchard Beach approve the charter modifications regarding all other changes as recommended by the Charter Commission and partially summarized below?

#### Summary of other changes:

- A uniform system of headings, catch-lines and citations to state statutes has been used. Sections and subsections have been added or deleted consistent with the recommendations of the Charter Commission. Grammar and phrasing changes have been made. Other changes have been made which are minor housekeeping changes. Explanatory language describing the makeup, functions and roles of various parts of the Town government and operation has been added to make it easier to understand how the Town government works. Major substantive changes are individually described below. Section number references are to the proposed new section numbers.

- Article I

- Renumbers current section 102, Powers of the Town, to 103, and creates new section 102, “Town Governance,” which identifies the three branches of town government, Legislative and Policy-making, Administrative, and Adjudicative and Advisory, and describes the makeup and roles of each.

- Article II

- **Sec. 201.2. Changes the Town Clerk’s term from two years to four years.**
- **Article III**
- **Sec. 301(C). Changes the issuance of most general obligation bonds of \$250,000 or more to be subject to overrule by referendum regardless of whether or not they are for capital improvements or capital equipment.**
- **Sec. 301(D). Changes the time to file a referendum from 20 days to 30 days, the requirement for petition signatures needed to file a referendum from 10% of the registered voters of the Town to 10% of the number of votes cast in the last gubernatorial election, and the time for the Council to revisit the results of a referendum vote from 180 days to 365 days.**
- **Sec. 302. Changes the number of voters who can petition for the enactment of an ordinance from 10% of the registered voters of the Town to 10% of the number of votes cast in the last gubernatorial election, and provides that the Council may not repeal a referendum vote for 365 days from the date of the referendum.**
- **Sec. 303. Changes the issuance of most general obligation bonds of \$500,000 or more to be voted upon by the voters in a referendum regardless of whether or not they are for capital improvements or equipment.**
- **Sec. 305.1. Changes the number of voters required to sign a recall petition from 20% of the qualified voters of the Town to 20% of the number of votes cast in the last gubernatorial election.**
- **Article IV**
- **Sec. 409.1. Changes the town manager’s contract after the probationary period from a term of two years to specify a term of not more than two years.**
- **Sec. 409.15. Requires property acquired by condemnation and to be sold by the Town to be first offered to the original owner.**
- **Sec. 412. Changes to include a prohibition on voting on contracts in circumstances where a councilor or a councilor’s relative has a financial interest and to include a more comprehensive definition of “relative”.**
- **Sec. 414.2. Sets the compensation of the Town Clerk as not less than an amount equal to the average of that of the top eight department heads.**
- **Article V**
- **Sec. 502.1. Adds an appeal to the Town Council from a disciplinary action of the Town Manager.**
- **Sec. 505. Moves current Sec. 505, “General Assistance,” to Sec. 507, adds new Sec. 505, “Town Clerk,” and outlines more comprehensively the Town Clerk’s role.**

- **Sec. 506.** Provides for the appointment of a Chief of Police and Fire Chief rather than Director of Public Safety, provides for an Emergency Management Director, and defines their roles.
- **Sec. 507.** Creates a Department of Finance, with the Town Treasurer as Director of Finance, and moves the Department of General Assistance and Tax Collector to the Department of Finance.
- **Sec. 511.** Creates a Waste Water Department.
- **Sec. 512.** Moves provisions regarding assessment, formerly found in Article VIII, to new Sec. 512.
- **Article VII**
  - **Sec. 701.** Specifies the fiscal year as July 1 to June 30, subject to the Council changing the fiscal year by ordinance.
  - **Sec. 702.** Adds language requiring the Town Council to notify the Town Manager and department heads of an expected budget limit figure six months prior to the beginning of the budget year, and requiring each department head to submit a budget, a projected work plan and an explanatory budget message to the Town Manager 120 days prior to the beginning of the budget year.
  - **Sec. 706.** Changes to require that the budgets for all departments include carryover dedicated accounts and to require the Town Council to make line-item appropriations rather than gross appropriations for each department.
  - **Sec. 710.** Creates a new section establishing a capital improvement program for the Town.
  - **Sec. 711.** Creates a new section authorizing the Town Council to create by ordinance dedicated expense accounts.
- **Article VIII**
  - Discusses more comprehensively the functions of the Planning Board, the Zoning Board of Appeals, the Conservation Commission and the Recreation Board, and establishes a Finance Committee, whose composition and responsibilities are established by the Town Council by ordinance.
- **Article IX**
  - **Sec. 914.** Establishes a procedure whereby voters may file a complaint against members of the town government who violates a provision of the Charter, and provides sanctions for such violation.
  - **Sec. 915.** Limits the Town's eminent domain powers.

- **Article XI**
- **Sets out necessary transitional provisions not contained in prior articles.**

**Words of Explanation**

**This question enacts all of the changes recommended by the Charter Commission not covered by Questions One, Two and Three.**

**It should be noted in the Minutes that Title 30-A, Section 2105(1)(A) reads – “The determination to submit the Charter revision in separate questions under this paragraph and the number and content of these questions must be made by a majority of the Charter Commission. The Town Council does need to approve the concept of summarizing questions under Section 2103(7).**

**Commissioners of the Charter Commission spoke and introduced a short description of the changes. Those participating included Chair Commissioner Bill Gombar, John Bird, and Jerome Begert. The Council also expressed appreciation for the dedicated service and hours of participation by members of the Charter Commission. The Commission members indicated that there would be a public relations effort to make citizens aware of the changes before they go to the polls in November. Vice Chair Mike Tousignant asked about publicizing the questions and the budget requirements to do so and the Town Clerk was to respond to his question.**

**MOTION: Councilor O’Neill motioned and Councilor Dayton seconded to Order to place four Questions dealing with Charter modifications, specifically Referendum Question No. 1 – Number and terms of Town Councilors; Referendum Question No. 2 – Town Council term limits; Referendum Question No. 3 – Education; and Referendum Question No. 4 – All Other changes on the November 8, 2011 ballot; and to approve summaries of questions No. 3 and No. 4; and to set a Public Hearing date thereon of October 4, 2011.**

**VOTE: Unanimous.**

**# 5490 Discussion with Action: Order to issue bonds for design, construction, furnishing and equipping of an addition to the Edith Belle Libby Memorial Library, to place the bond question on the November 8, 2011 ballot and to set a Public Hearing date thereon of October 4, 2011.**

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

<b>Construction of an addition to the Edith Belle Libby Memorial Library</b>	<b>\$ 2,000,000</b>
<b>Total Bond Amount</b>	<b>\$ 2,000,000</b>

**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 5724 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 an addition to the Edith Belle Libby Memorial Library is hereby approved; and**

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

**That to fund the bond proceeds portion of the project, the Treasurer and the Chairman 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 \$2,000,000; 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 therefor, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council; and**

**That to fund the balance of the construction of the project, the Treasurer and Chairman of the Town Council are hereby authorized to accept a donation of at least \$250,000 from the Old Orchard Beach Free Public Library Association, to accept other private donations, and to appropriate those donations to the project.**

## **TOWN OF OLD ORCHARD BEACH FINANCIAL STATEMENT**

### **1. Total Town Indebtedness**

<b>A. Bonds outstanding</b>	<b>\$ 10,170,000.00</b>
<b>B. Bonds authorized and unissued</b>	<b>\$ .00</b>
<b>C. Bonds to be issued if this vote is approved</b>	<b>\$ 2,000,000.00</b>
<b>Total:</b>	<b>\$ 12,170,000.00</b>

### **2. Costs**

**At an estimated interest rate of 4% percent, for a 20-year maturity, the estimated costs of this bond issue will be:**

<b>Principal:</b>	<b>\$ 2,000,000.00</b>
<b>Interest:</b>	<b>\$ 833,753.00</b>
<b>Total Debt Service:</b>	<b>\$ 2,833,753.00</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.

---

Treasurer, Town of Old Orchard Beach

BE IT FURTHER ORDERED, that the above order shall be submitted to the voters of the Town of Old Orchard Beach, Maine at the regular municipal election to be held November 8, 2011, and 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 \$2,000,000 TO FUND THE FOLLOWING CAPITAL IMPROVEMENT PROJECT:**

Construction of an addition to the Edith Belle Libby Memorial Library	\$ 2,000,000
Total Bond Amount	\$ 2,000,000

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 5724 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 an addition to the Edith Belle Libby Memorial Library is hereby approved; and

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

That to fund the bond proceeds portion of the project, the Treasurer and the Chairman 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 \$2,000,000; 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 therefor, and to provide for the sale thereof, is hereby delegated to the Treasurer and the Chairman of the Town Council; and

That to fund the balance of the construction of the project, the Treasurer and Chairman of the Town Council are hereby authorized to accept a donation of at least \$250,000 from the Old Orchard Beach Free Public Library Association, to accept other private donations, and to appropriate those donations to the project.

**TOWN OF OLD ORCHARD BEACH FINANCIAL STATEMENT**

**1. Total Town Indebtedness**

A. Bonds outstanding	\$ 10,170,000.00
B. Bonds authorized and unissued	\$ .00
C. Bonds to be issued if this vote is approved	<u>\$ 2,000,000.00</u>
Total:	<u>\$ 12,170,000.00</u>

**2. Costs**

At an estimated interest rate of 4% percent, for a 20-year maturity, the estimated costs of this bond issue will be:

Principal:	\$ 2,000,000.00
Interest:	<u>\$ 833,753.00</u>
Total Debt Service:	<u>\$ 2,833,753 .00</u>

**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.

\_\_\_\_\_  
Treasurer  
Town of Old Orchard Beach

**Words of Explanation**

This question authorizes the issuance of bonds not to exceed \$2,000,000 and the acceptance of donations from the Old Orchard Beach Free Public Library Association and other sources for the construction of an addition to the Edith Belle Libby Memorial Library

Town Council Recommends: \_\_\_\_\_



**BE IT FURTHER ORDERED**, that a public hearing on the subject of the above referendum question shall be conducted by the Town Council on October 4, 2011 at 7:00 p.m. at the Town Hall, and public notice of the hearing shall be given in the manner required by law.

There was a lengthy discussion by members of the Library Board of Directors including an outline of the needs for the library enhancements and the efforts to raise funding and continued emphasis on a full monetary effort in the coming months. Cathy McGucken spoke about the history of the library and the fact that for so many years nothing has been done to enhance the facility. Eileen McNally, Director of the Library, spoke about the fact that former Town selectman, Frank H. Libby, left property and cash in his will for the express purpose of building and equipping a public library to be named in honor of his wife. As a result of that gift, the Edith Belle Libby Memorial Library (known as the Libby Library) opened its doors to the public in February of 1956 and was the first space specifically designed and built to provide library services to the Old Orchard Beach community. She said that the expansion would provide a large and cheerful children's room; a quiet reading area with comfortable seating; and more accessible shelving for books including a section of material for the visually impaired. There was continued discussion about the need for the motion to include the amount of the bond which legal counsel had not included in the agenda item itself. It was noted that the library has raised \$250,000 for the project indicated they have paid about \$50,000 for preliminary expenses such as feasibility study and architectural renderings. It committed to raise \$500,000 toward the project. It was noted that the projected cost for the expansion project is \$2 million and the library will pay \$200,000 upfront. The anticipated interest on the proposed \$2 million is approximately \$834,000. Chair Quinn did express concern about the many infrastructure needs of the town but also said he has always supported the library. He felt that going out for bond for \$2 million and putting the money up front did not give any incentive for the library to raise more money. As well, if the Town went out to bond for a lower amount, it would save taxpayers money on interest. Cathy McGuckin, who works in the circulation department part time, said it took the library five years to raise the \$250,000. She said library officials tried to get federal money but were unable, and due to the economy, there is a decrease of money available from philanthropic foundations. She said that the library will be able to raise additional funds, but the library has needed this expansion for years, and \$2 million is needed to get the project started. Michael Coleman indicated that the library was a tremendous resource but he wasn't sure if the Town could afford a \$2.2 million project, as the Town had a very tight budget.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to Order to issue bonds in the amount of \$2,000,000.00 for design, construction, furnishing and equipping of an addition to the Edith Belle Libby Memorial Library, to place the bond question on the November 8, 2011 ballot and to set a Public Hearing date thereon of October 4, 2011.

**VOTE:** Unanimous.

# 5491 Discussion with Action: Order to issue bonds to refund bonds issued in 1998.

**TOWN MANAGER:** Back in 1998 the citizens approved an agreement between the Town of Old Orchard Beach and the Maine Municipal Bond Bank, to borrow the amount of \$955,000,  
C:\Documents and Settings\kmclaughlin\Local Settings\Temporary Internet Files\OLKE\9 6  
11 town council meeting and executive sessions.doc Page 17 of 21

to be purchased by the Bank in accordance with a loan agreement. This evening, under and pursuant to the provisions of the Maine Revised Statutes and the Charter of Old Orchard Beach, a \$955,000 bond shall be issued to refund bonds issued in 1998 in the form of a single registered bond under the loan agreement agreed to by the Council this evening. Within this agreement, the normal documentation and Bond Counsel's legal opinion has been received including verification that this project would not become a private activity issue, that all tax questions are resolved, and that all required legal actions by the voters or governing body of the Town have been either waived pursuant to law or have been complied with. No substantive change occurs in the financial condition. In addition no litigation is threatened or pending that may have material effect on the bond issue. The Town also agrees to submit annual audited financial reports, available prior to the sale and during the entire life of the bond issue. The Town also agrees that upon completion of the work, the Town will submit to the Bank a project cost form (supplied by the Bank.) It is also noted that no change in the laws occur that could affect the issue. The Town also agrees to indemnify and hold the Bank harmless from liability resulting from any subsequent withdrawal of the approval. This approval will expire one year after August 24, 2011. It should be noted that the Maine Municipal Bond Bank has presented the Town with the opportunity to save interest costs by refinancing bonds that were issued in 1998. The difference in interest costs is projected to be \$77,468.50; the costs of the refinancing are projected to be \$1,200 or less.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to issue bonds in the amount of \$955,000 to refund Bonds issued in 1998, with the original issue amount of \$5,975,000 and a current balance of \$955,000, with a projected savings of \$77,468.50 in interest costs due to a decrease in the interest rate.

**VOTE:** Unanimous.

# 5492 **Discussion with Action:** Authorize the Town Manager to Enter into an Agreement with the RSU 23 to Install Electrical Equipment at Old Orchard Beach High School permitting the use of a Municipal Generator resulting in the availability of specific areas of the High School to be available to the citizens of Old Orchard Beach as a temporary Warming/Cooling Shelter during long term power outages. The cost to retrofit the electrical panels will cost approximately \$12, 000 from Account Number 20201-50842, with a balance of 60,000.

**TOWN MANAGER:** Chief John Glass and the Town Manager have completed planning for partnership with the RSU23 in preparation for the use of the Old Orchard Beach High School as a Warming/Cooling Shelter, when necessary. The RSU has indicated that it will cost approximately \$11,670 to retrofit the electrical panels at the High School which will enable us to plug in our repaired generator that was once the primary generator for Public Work. The RSU will use Corey Electric, a contractor who is familiar with the High School facility. The Town Manager needs to advise the RSU a go ahead with a Letter of Intent so that the electrician can order the parts. This project has been a long time in preparation, however the initial investment is well worth the peace of mind for the citizens of Old Orchard Beach. Hurricane Irene only enhances our need for a shelter. Finally Old Orchard Beach will have a large space facility for people to go for comfort in long term power outages. Chair Quinn questioned where the money was coming from and that it should not impact the siding project for the Town Hall. The Town Manager assured him this would not. The Finance Director had

C:\Documents and Settings\kmclaughlin\Local Settings\Temporary Internet Files\OLKE\9 6 11 town council meeting and executive sessions.doc Page 18 of 21

told the Town Manager that she planned to find that \$12,000 from an account that had money left over from the 2010-2011 budget. She took the money from the Town Hall Maintenance Account as she didn't want to open another account and she plans to ask the council to transfer \$12,000 back into that account to restore that account to whole when she prepares for the Council's annual transfers. It was also noted that this shelter is not an overnight shelter and that should that be necessary, the Saco shelter would be used as it has in the past. It was noted that in order to function as a full-fledged overnight emergency shelter, facilities must meet requirements with the Red Cross such as having medical professionals on staff. The Town's emergency management Director, Fire Chief John Glass, would determine when the Town's temporary shelter would be open. Councilor Shawn O'Neill applauded the efforts of the officials who made this happen as it was long overdue for the citizens of Old Orchard Beach.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Authorize the Town Manager to Enter into an Agreement with the RSU 23 to Install Electrical Equipment at Old Orchard Beach High School permitting the use of a Municipal Generator resulting in the availability of specific areas of the High School to be available to the citizens of Old Orchard Beach as a temporary Warming/Cooling Shelter during long term power outages. The cost to retrofit the electrical panels will cost approximately \$12,000 from Account Number 20201-50842, with a balance of 60,000 and that the Agreement should contain a term limit.

**VOTE:** Unanimous.

**# 5493 Discussion with Action: Executive Session: To Consult with Town's Legal Counsel concerning the Town's Legal Rights and Duties and Contemplated Litigation Pursuant to 1 M.R.S.A. Section 405 (6)(E).**

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Enter into an Executive Session: To Consult with Town's Legal Counsel concerning the Town's Legal Rights and Duties and Contemplated Litigation Pursuant to 1 M.R.S.A. Section 405 (6)(E).

**VOTE:** Unanimous.

**# 5494 Discussion: Executive Session: For the purpose of discussing matters associated with the receipt of applications for employment of a new Town Manager in light of the resignation of the current Town Manager, Pursuant to 1 M.R.S.A. Section 405 (6)(A).**

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Enter into Executive Session for the purpose of discussing matters associated with the receipt of applications for employment of a new Town Manager in light of the resignation of the current Town Manager, Pursuant to 1 M.R.S.A. Section 405 (6)(A).

**VOTE:** Unanimous.

**GOOD AND WELFARE:**

C:\Documents and Settings\kmclaughlin\Local Settings\Temporary Internet Files\OLKE\9 6 11 town council meeting and executive sessions.doc Page 19 of 21

Dennis Robillard presented to the Town Council an update on the flag lowering ceremonies that have been held successfully this summer and with great admiration of many citizens and attendees. He thanks the many who attended, participated, and particularly mentioned Dusty Guarino who has attended all of them as well as Pat Holland. They will continue these ceremonies into the fall with special observance dates listed on our web site. It is their hope to consider these again all summer in 2012. The Council expressed their gratitude to those who have dedicated their time and energy to these events.

#### EXECUTIVE SESSION

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Enter into Executive Session to Consult with Town's Legal Counsel concerning the Town's Legal Rights and Duties and Contemplated Litigation Pursuant to 1 M.R.S.A. Section 405 (6)(E).

It should be noted for the Minutes that Attorney Jeffrey T. Piampinao of Drummond/Woodsum attended this Executive Session.

**VOTE:** Unanimous.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Adjourn the Executive Session at 9:45.

**VOTE:** Unanimous.

#### EXECUTIVE SESSION

**MOTION:** Councilor O'Neill motioned and Vice Chair Tousignant seconded to Enter into Executive Session for the purpose of discussing matters associated with the receipt of applications for employment of a new Town Manager in light of the resignation of the current Town Manager, Pursuant to 1 M.R.S.A. Section 405 (6)(A).

**VOTE:** Unanimous.

**MOTION:** Councilor O'Neill motioned and Councilor Dayton seconded to Adjourn the Executive Session.

**VOTE:** Unanimous.

**ADJOURNMENT:**

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Adjourn the Town Council Meeting at 10:38 p.m.

**VOTE:** Unanimous.

**Respectfully Submitted,**

**V. Louise Reid  
Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of twenty-one (21) pages is a true copy of the original Minutes of the Town Council Meeting of September 6, 2011.**

**V. Louise Reid**