

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, April 17, 2012
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, April 17, 2012. Chair Quinn opened the meeting at 7:03p.m.

The following were in attendance:

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

**Pledge to the Flag
Roll Call**

**PRESENTATION: Update by the Planner on the
Train Platform and Shoreland Zoning**

The Planner, Jeffrey Hinderliter, will present to the Council this evening an update on the Town's options to create a year-round train stop and to receive guidance from them on the direction the Town Council would like him to take. As a part of one of the tasks, there are two primary options to create a year-round station. One is of a more mechanical, long term solution; another more of a manual long or short-term solution. His presentation is based on meetings and discussions with Stephanie Hubbard of Wright Pierce Engineering, Pan-Am Railroad, Amtrak, and the New England Passenger Rail Association. (NERPA.)

JEFFREY HINDERLITER:

The purpose of this agenda item is to present the town's options to create a year-round train stop and to receive guidance on what direction we should explore more thoroughly. There are three primary tasks the town must plan for to offer year-round train service. As part of one of the tasks, there are two primary options to create a year-round station- one is a more of a mechanical, long term solution another more of a manual long or short-term solution. The information in this memo is the result of discussions and assistance from Stephanie Hubbard of Wright Pierce Engineering, Pan-Am Railroad, Amtrak, and New England Passenger Rail Association (NERPA).

Three Primary Tasks

There are three primary tasks that are required of the town to qualify our station for year-round service:

1. The entire platform must be cleaned of ice and snow during all times the train is scheduled to drop off or pick up passengers. See mechanical and manual solutions below in Task 1 below.
2. The quick ticket machine must be accessible to Amtrak customers at least one half hour before the first train arrives in the morning through the last train at the night. This machine must be in a climate controlled, protected location due to the electronics. Currently, the machine is located in the Chamber of Commerce but this is seasonal- the machine is removed during the winter months. It is my understanding it cannot be place in the chamber during the fall/winter months because of the limited hours the chamber is open.
3. A designated parking area for Amtrak customers must be cleared of ice and snow at all times the train arrives and departs the station.

Task 1: Clearing Snow and Ice

The organizations focused around the station include Pan-Am, NERPA and Amtrak. The concern with winter maintenance is making sure that passengers entering and exiting the trains and the facilities that support trains are safe; the areas passengers utilize are free from ice and snow; and the town follows maintenance policies provided by Pan-Am. The town will need to develop a work and safety plan in coordination with Pan-Am, NERPA and Amtrak which includes training of all employees who will conduct winter maintenance activities. The work and safety plan will include communication with those mentioned above, protective equipment, maintenance procedures, training, etc. This is applicable for both mechanical and manual options.

A. Mechanical Option. Mechanical heating would include glycol systems (this would require replacement of the upper platform and installation of a boiler system), radiant heating (which would also require a boiler system and evaluation of the canopy). The preferred option (which other stations use) would be the installation of a heating mat beneath the detectable warning device. This would require the existing detectable warning devices (yellow exclusionary zone) removed, concrete in this area to be removed, and tracer wire embedded in concrete and replacement of the warning devices. The concern with this installation is the construction of the existing concrete platforms and depth to rebar (which would need to be determined to finalize cross section installation of heating mats/wire). The mechanical option still includes manual labor to clear locations (e.g., sidewalks, steps, ramps) where the mechanical equipment is not in place. Initial construction and materials costs are expected to exceed \$25,000. In addition there will be ongoing costs for items such as labor and energy supply.

B. Manual Solution. The intent would be to utilize Town employees to maintain and keep up with Winter Maintenance and snow removal activities. The major concern expressed by NEPRA was maintenance in the exclusion zone of the station (in general, maintenance activities could not extend into this zone). While mechanical heating was preferred (as discussed with NEPRA), Pan-Am representative indicated a number of stations utilize maintenance activities, such as salt and sanding of the exclusion zone, and even the potential use of portable heaters at stations (i.e. activities that do not require equipment or personnel to be in and work within the exclusion zone). There is little if any mechanical equipment (except portable heater, if the council chooses) needed; therefore ongoing energy supply costs will be much less with the manual option. Although, this option will be more labor intensive (so labor costs will increase), it will not require a significant up-front monetary investment as will be needed with the mechanical option.

It is important to note that we have upper and lower platforms. I have not received a definitive answer whether the entire upper and lower platforms must be clear of snow and ice. But, I am sure the entire upper platform must be clear and at least some of the lower platform to provide safe access to the upper and to possibly meet ADA accessibility requirements.

Task 2: Quick Ticket Machine

The quick ticket machine must be accessible to Amtrak passengers everyday at least one half hour before the first train arrives (which means 5:30 AM) and until the last train departs (1:00 AM). Since the chamber most likely could not provide the service, the town will need to commit to a different location which is close to the station. Wherever this location is, it must be in a temperature controlled area due to the electronic equipment associated with the machine. This means that we will either need to retrofit an existing location or construct one that meets Amtrak and NERPA requirements. In addition, this area should include some sort of tamper/theft proofing unless we have someone who can open the facility at 5:30 AM and close at 1:00 AM.

Task 3: Parking Area Maintenance

A designated parking area for Amtrak passengers will need to be established and this area must be free of ice and snow. I see this task as the easiest of the three to resolve because the plow truck drivers could make this part of their route.

Additional Items the Council may choose to consider

- Utilize the manual option for snow and ice removal for a ‘test’ period of 2-3 years to determine if a year-round station is needed and economically feasible. Doing this will not require the initial upfront construction and material costs associated with the mechanical option. In addition, it will allow time for more thorough planning to address long term needs.
- The first train comes around 6 AM and last train at 1 AM and they run at various times between those hours- someone will need to be at the station, check and/or perform the work to be sure the station is clear of ice and snow before the train arrives. This means winter maintenance of the Amtrak station will need to be a to-be-determined municipal department’s priority during storm events.
- If we violate the maintenance agreement once, we may be ok. A second time will most likely mean fall/winter service will be indefinitely cancelled; therefore, it must be a priority the winter maintenance plan followed.
- Slip and falls can cost the town a lot of money.
- Is the rider ship there to justify the initial and long term investment the town will be required to commit to? Discussions with NERPA indicate we have 5 commuters who reside in OOB and use the train. Is it worth the amount of money and labor the town will be required to invest when compared to the amount of money we can bring into the town? Most of the economic benefit is from the passenger drop offs so a legitimate question is what makes OOB a worthwhile destination for train riders in the winter.
- Construction of an enclosure at the existing station should be considered to create a more inviting and comfortable environment.

- **Public works is the department that seems most appropriate to do this work- do they have the manpower, time and finances to commit to this? If not Public Works, who?**
- **A winter such as the one we just had would not create much of an economic and labor hardship but we can't expect this to happen each year.**
- **Although it appears Amtrak is safe from federal transportation budget cuts now, will this always be so? In other words, if we choose the mechanical option with the initial costs projected to exceed \$25,000 will it all be for naught at some time in the future if Amtrak funding is cut.**
- **This will be an item to budget every year that we currently do not have.**
- **As much as I am in favor of a year-round station, I still believe the council must look at how realistic it is, including a cost/benefit comparison.**

In conclusion, it is my hope the council will offer some direction to me so I can move forward with preparations to make the train station a year-round stop beginning in the fall of 2012. Once the Council chooses which option they prefer or a direction, I can provide more specific information related to costs and feasibility. Please let me know if I can provide any additional information or help. Thank you."

Town officials considered making Old Orchard Beach a year-round train stop but must first weight the costs. Currently the Town has a seasonal stop on the Downeaster from April through October. Officials have been working on the steps the Town must take should it desire to make the Downeaster a year-round stop. The Council took this opportunity to provide the Planner with recommendations and feedback to move forward. Keeping the platform free of snow is a priority. The Town's train platform is equipped for radiant heat, "everywhere except where you absolutely must have it," at the exclusionary zone," the two-foot yellow strip at the edge of the platform. The town could look at two options; the first would be to install heating at the exclusionary strip which would have an upfront cost of about \$25,000; and long-term costs of heating and labor to make sure the heat has melted off all the snow and ice. The Town could also opt to have Public Works department staff clean off the strip. The strip is monitored by train officials and anyone cleaning it would have to have specific training. The Town could use salt-brine mixture to help keep snow and ice melted. If the Town opted for the manual option, cleaning the platform would, like snow removal on streets has to be a high priority for the Public Works department. Should the Town decide to have a year-round stop it would need to have a climate-controlled ticket machine accessible from 5:00 a.m. to 1:00 a.m. which could be located in a nearby retail store or restaurant, or the Town could build a location for it. The Town would also have to keep a parking area cleared. Should the Town commit to having a year-round stop, it would need to comply with all the requirements and may be able to make a mistake once, but the second time the Town would be denied the year-round service. Train officials have said there are five people from Old Orchard Beach who ride the train daily in the winter. Councilors indicated that they needed to consider whether Old Orchard Beach is a destination that would draw travelers in the winter. Should the Town move forward with providing a year-round train stop, the thought was to have it open for the 2012 season. Chair Quinn indicated that we should see whether we could negotiate fewer hours for the ticket machine. Councilor Dayton asked for concrete figures on how much it would cost for the manual operation for snow removal including the training. Vice Chair Tousignant indicated that he would like to move forward as it has been part of a plan Council has discussed for several years. He said that if the Town could

opt to install a glass enclosure on the platform, the exclusionary zone could not be enclosed. Councilor Dayton indicated that the Town needs to determine whether to enclose the platform but also could putting an overhang on the roof above the exclusionary zone be an option? Councilor Coleman spoke of the \$5,000 cost per each of the five people taking the train in the winter and then consider the possible federal funding for trains in the future. John Bird mentioned that no where in the brochure put out by the Downeaster is their mention of Old Orchard Beach; in addition in Haverhill, Massachusetts it was noted that they have no ticket machine and depend on the phone and internet. The suggestion was made that perhaps an addition to the Chamber of Commerce could be used in planning for the extension of the train season.

JEFFREY HINDERLITER:

The Planner will also be updating the Town Council on issues relative to Shoreline Zoning. He will give an historical and date compilation of the Shoreline Zoning plan and inform the Council of the DEP Conditional Approval and discuss where to go from here with the request for the Council to advise the Planner of their direction in this issue.

The purpose of this agenda item is to update the Council on last years OOB and Department of Environmental Protection (DEP) adoption of the Shoreland Zoning Ordinance and to recommend the Council allow staff to include the conditions within DEP's conditional approval order to the appropriate places in the Shoreland Ordinance.

A. What happened?

- 5/17/2011: Council approves amended Shoreland Zoning Ordinance.
- 7/1/2011: DEP conditionally approves OOB Shoreland Zoning Ordinance.
- June/July, 2011: It is brought to the town's attention the 5/17 council approval included an incorrect reference associate with adoption of the Shoreland Zoning Ordinance.
- 7/13/2011: Council reconsiders 5/17/2011 approval due to incorrect reference on the 5/17 agenda. Council approves Shoreland Zoning Ordinance.

B. DEP Conditional Approval

- DEP approved OOB's Shoreland Zoning Ordinance with conditions. These conditions are changes to the Ordinance language the town is required to adopt (see below).
- The OOB Shoreland Zoning Ordinance language has not been changed to reflect DEP's conditions; although, these conditions have been adopted by the town by inclusion of the order in letter format within the ordinance.
- DEP does not require we insert the language in the ordinance because inclusion of the letter still means the language is officially adopted.
- DEP's Conditions (this is the ordinance language DEP required the town to adopt as part of our Shoreland Zoning Ordinance):

1. Section 78-1185 of the Ordinance shall be amended to include the following provisions:

“1) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

2) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

3) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

4) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.”

2. Section 78-1203(5) shall be amended in its entirety to read as follows:

“Except for piers existing on May 17, 2011 in the DD-1 and DD-2 Districts, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.”

3. Section 78-1203(8) shall be amended in its entirety to read as follows:

“Except for piers existing on May 17, 2011 in the DD-1 and DD-2 Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure. In the DD-1 and DD-2 Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland in existence on May 17, 2011, shall not exceed 35 feet in height above the pier, wharf, dock or other structure.”

C. Where do we go from here?

- Currently, DEP’s conditional approval order has been included with the ordinance through adoption of the order itself in a letter format. Sound confusing? Well it is. The conditions (cited above) of the order should have been included within the body of the ordinance and placed in the appropriate sections, not by adopting the order letter as part of the ordinance.
- If you were trying to find ordinance standards for your project, would you think that a letter includes language that is officially part of the ordinance? I expect you would think that all the applicable language is right there within the ordinance itself and not within a letter somewhere else in the ordinance.
- I am recommending we simply insert the adopted language (the conditions mentioned above) from the order letter into the appropriate locations in the ordinance. This way, all adopted Ordinance language will be where it should be.

Please note this action does not change any language in the Shoreland Ordinance, it simply removes the already adopted language from DEP's conditional approval order and places it in its rightful place- the ordinance. Since we are not changing ordinance language, a public hearing is not necessary. We simply need to place this already adopted language where it should be and that is within the ordinance, not in a separate letter.

The Town Council used this opportunity to readdress the Shoreline history issue. The issues were the incorporation or revisions from the Maine Department of Environmental Protection. The State Shoreland Zoning law requires municipalities to protect Shoreland areas by adopting Shoreland zoning maps and ordinances. In 2006 the Maine DEP changed its guidelines and Old Orchard Beach, like other municipalities, was required to make updates to its Shoreland zoning. Last year the Town passed a new Shoreline Zoning ordinance which was then sent to the DEP for review and the DEP sent the Town a letter outlining provisions the Town needed to make. Instead of applying the changes throughout the ordinance in the corresponding places, the letter was attached to the end of the ordinance. Some of the language in the letter directly applies to the ordinance and some of it doesn't. It was suggested the Town incorporate the necessary changes throughout the ordinance and put the language in its rightful place. Councilor Dayton said she believed the Council understood this last year and the provisions would be inserted in the corresponding places. She indicated that it appears they just tagged it onto the back of the ordinance and she felt the DEP changes should be applied where it made sense. The Town Clerk indicated she had brought the issues to the attention of the prior administration last year after receiving the letter from them and was told that the DEP did not require the provisions in the letter to be incorporated throughout the ordinance. It was felt by the Planner, however, that the changes should be made throughout the ordinance as someone reading the ordinance might not know to look in the back for the letter. Chair Quinn agreed that this would make it a clean document. Again the question of the Shoreline mapping was raised by John Bird. The Council said that the issue being considered here this evening is the six issues addressed in the discussion tonight. Councilor MacDonald raised the question of the usual procedure for changes to an ordinance and although there was discussion about what was included before in amending the ordinance, the process usually includes setting a public hearing, have the public hearing under new business approve by the Council. The Council's direction to the Planner was to go back and work out the best procedure in seeing that the ordinance is clear.

ACKNOWLEDGEMENT:

COUNCILOR DAYTON: The Community Garden Committee wishes to thank Joy and Richard Couturier (and their horses) as well as the Department of Public Works in delivering to the garden well seasoned horse manure and to the Waste Water Department for their willingness to till plots the first week in May.

COUNCILOR COLEMAN: I would remind citizens that on Tuesday, May 16, 2012 at 6:00 p.m. at the Old Orchard Beach High School you are invited to listen to the presentation of the RSU Budget and to cast your vote for or against the budget as proposed. As a parent and a tax payer I encourage each of you to attend and be part of the process.

ACCEPTANCE OF MINUTES: Special Town Council Meeting Minutes of March 29, 2012; Town Council Workshop of April 2, 2012; and Town Council Meeting Minutes of April 3, 2012.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Accept the Special Town Council Meeting Minutes of March 29, 2012; Town Council Workshop of April 2, 2012; and Town Council Meeting Minutes of April 3, 2012.

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:55 p.m.

Alfred T. Simpson, Downtown Area, Street Musician, requesting to waive the fee; Ronald Medlock dba/3 Peaks Café (202-3-50A), 198 East Grand Avenue, Victualers with Preparation; Peter Mourmouras dba/Surf's Upscale Artisans (206-24-34), 30 Saco Avenue, Retail – Inside Only; Margot Pelletier (206-31-13), 32 Staples Street, three year round rentals; Equity Trust IRA – Margaret Pearson & Wright Pearson dba/Wright by the Sea (302-7-3), 160 East Grand Avenue, five year round rental units; and Mark Malomay dba/Yard Sale Maine (308-3-11-A), 20 Washington Avenue, retail.

CHAIR: I close this Public Hearing at 7:58 p.m.

MOTION: Councilor Coleman motioned and councilor MacDonald seconded to Approve the Business Licenses as read.

VOTE: Unanimous.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT:

CHAIR: I open this Public Hearing at 7:58 p.m.

Vacancy Pub Inc., dba/Vacancy Pub Inc. (210-10-4), 17 Ocean Park Road, Karaoke Inside – 9:00 p.m. – 12:45 a.m.

CHAIR: I close this Public Hearing at 7:59 p.m.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to Approve the Special Amusement Permits as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT:

Over the past two weeks we have had several meetings with department heads on a number of important municipal issues. I had the opportunity to address the Chamber of Commerce Board of Directors and also some time personally spent with the Director himself. Meeting was held with Wright Pierce on the issues being addressed on the agenda this evening. I met with several residents on a variety of different issues. Attended the Workshop on Wastewater and Public Works. Met several times with the General Manager, Jen DeRice, Ballpark issues. The Finance

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Director and I have continually met on matters related to the budget and preparation for the ongoing workshops. I have had several meetings with our Human Resource Director, Tammy Lambert, on matters related to personnel issues and also updating several policies regarding Human Resource area.

NEW BUSINESS:

5994 Discussion with Action: Approve Engineering Services with Wright Pierce for an Aeration Blower Upgrade in the amount of \$245,000 from Account Number 20204-50846 – Waste Water CIP – Treatment Plant Equipment, with a balance of \$418,916.09. This project includes Engineering Services with Wright Pierce in the amount of \$32,000.

CHRIS WHITE AND EDWARD LEONARD:

Edward Leonard, Project Manager for Wright Pierce, will present a proposal to provide engineering services related to the Aeration Blower Upgrade project. The upgrade will be funded in part by an Efficiency Maine grant which was recently received as a result of the services of Wright Pierce. The Town of Old Orchard Beach owns and operates a conventional activated sludge wastewater treatment facility (WWTF) with a design average flow of 3.50-mgd. The WWTF has three existing dual-lobe positive displacement aeration blowers (200HP). Due to inadequate turndown in the winter months, these blowers are relatively inefficient. The Town intends to replace these three existing blowers with three new hybrid positive displacement aeration blowers (125HP). The existing blowers consume approximately 840,000 kw-hrs. per year while the new blowers are expected to consume approximately 525,000 kw-hrs. per year. This represents a substantial reduction in electrical use and electrical cost in the operating budget. The Town applied for and secured an efficiency Maine custom incentive grant to replace these blowers (35% of construction cost.) The town will fund the project from its Wastewater Capital Improvement Plan account and will receive Efficiency Maine grant funds at the end of the project. The estimated project cost is approximately \$245,000 and the estimated Efficiency Maine grant is approximately \$71,000.

Subject: Wastewater Treatment Facilities Plan - Supplemental Evaluations

Engineering Services for Aeration Blower Upgrade

As a follow-up to our recent discussions, we are pleased to provide the Town with this proposal to provide engineering services related to the Aeration Blower Upgrade project. This upgrade will be funded in part by an Efficiency Maine grant which we recently helped the Town secure. Our proposed scope of service, schedule and fee are summarized herein.

The Town of Old Orchard Beach owns and operates a conventional activated sludge wastewater treatment facility (WWTF) with a design average flow of 3.50-mgd. The WWTF has three existing dual-lobe positive displacement aeration blowers (200HP). Due to inadequate turndown in the winter months, these blowers are relatively inefficient. The Town intends to replace these three existing blowers with three new hybrid positive displacement aeration blowers (125HP). The existing blowers consume approximately 840,000 kw-hrs per year, while the new blowers are expected to consume approximately 525,000 kw-hrs per year. This represents a substantial reduction in electrical use and

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electrical cost in the operating budget. The Town applied for and secured an Efficiency Maine custom incentive grant to replace these blowers (35% of construction cost). The Town will fund the project from its Wastewater Capital Improvement Plan account and will receive Efficiency Maine grant funds at the end of the project. The estimated project cost is approximately \$245,000 and the estimated Efficiency Maine grant is approximately \$71,000.

The key project delivery assumptions are identified as follows:

- Demolition will be by the Town and mechanical installation will be by a Contractor.
- A competitive procurement package will be developed for the purposes of bidding between short listed Contractors. The procurement package will be sufficient for the Town and Efficiency Maine procurement requirements but will not be publicly advertised. The project will not be funded by Maine DEP.
- No project permits are required prior to construction as all work is inside the Process Building. It is anticipated that the Contractor will have to pull construction permits prior to construction.
- Our design efforts will not include any efforts associated with the electrical elements of the project.

As documented in the Wastewater Facilities Plan (Wright-Pierce, 2009) and in separate correspondence (2005), there are numerous issues associated with National Electric Code violations. We are not able to provide design engineering services on these elements of the project without correcting the problem. As per our discussion, we will provide you a proposal to address this issue under separate cover.

SCOPE OF SERVICES

We have developed a streamlined engineering scope of services to address the requirements identified by the Town. Our scope of services is outlined below.

Task 1 - Design

Prepare a preliminary design memorandum to document the following items

- Finalize and confirm aeration calculations.
- Prepare a Blower Room layout for 3 blowers (current conditions) and 4 to 5 blowers (future conditions) per the Wastewater Facilities Plan. The layout will minimize process piping modifications to the maximum extent possible.
- Review control panel on-site and identify control panel modifications necessary to control the new blowers.
- Confirm estimated construction and project cost. Track Efficiency Maine eligible and ineligible costs separately.

Meet with the Town to discuss preliminary design memorandum. Send a copy of the preliminary design memorandum to the DEP Inspector. Address review comments. On the basis of the approved preliminary design memorandum, prepare procurement documents (drawings and specifications) and other contract documents for bidding and constructing the project. Provide copies of 90% procurement documents and cost estimate to the Town for review and comment.

Meet with the Town staff to discuss comments, review implications of changes and to incorporate review comments as appropriate. Provide 100% procurement documents to the Town and DEP for approval.

Task 2 - Bidding & Procurement

- Print and distribute Procurement Documents.**
- Respond to bidders' questions.**
- Prepare addenda to the contract documents, as appropriate.**
- Attend one bid opening and prepare a bid tabulation.**
- Review the qualifications of the apparent low bidder and compliance with other contract requirements. Report the results of the reviews and issue a recommendation for award to the Town.**
- Prepare the required number of sets of construction contract documents for execution**

Task 3 - Construction Administration

- Prepare for and attend one pre-construction conference.**
- Make visits to the site at appropriate intervals to observe the progress of the work.**
- Review up to 4 shop drawings and other contractor submittals for compliance with construction contract documents.**
- Review up to 2 operation and maintenance manuals for equipment supplied for the project.**
- Review up to 3 contractors' payment requests.**
- Review changes in the scope of work, price and/or completion time and prepare change orders which become necessary due to factors discovered during the progress of the work resulting from interpretations and clarifications of the contract documents.**
- Issue instructions and other communications from and on behalf of Town to the contractor.**
- Monitor work progress for conformance with established schedules and budget.**
- Provide qualified personnel as necessary to observe and assist in the startup of equipment and systems at the facility.**
- Conduct a substantial completion inspection. Prepare a Certificate of Substantial Completion and a punch list of uncompleted or unacceptable work.**

Task 4 - Resident Project Representation (None)

Task 5 - Operations & Maintenance Manual

- Prepare revised pages to the existing WWTF O&M Manual to address the process and control modifications.**
- Provide two sets of draft modifications to the Town and one set to the DEP Inspector. Incorporate changes required by reviewers. Provide finalized pages and insert into the WWTF O&M Manual.**

Task 6 - Record Drawings

- Prepare reproducible record drawings showing those deviations from the original drawings made during the construction phase based on marked-up prints, drawings and other data furnished by the contractor and which are significant or notable.**
- Provide one set of 11"x17" draft record drawings for review. Incorporate changes required by reviewers. Provide two sets of black-line prints and one electronic (pdf) file.**

Task 7 - Warranty Period Assistance (on an as requested basis)

- Make up to 3 visits to the site during the first year of operation to check on the operation of the new construction. Assist the operator(s) in trouble-shooting operational problems and recommend any necessary post-startup changes to the facilities during the one-year warranty period.**

SCHEDULE

The Efficiency Maine grant funds must be distributed within 1 year from grant award date (i.e., completed construction by February 2013). This requirement is feasible but requires a prompt authorization to proceed. We are prepared to begin work immediately upon receipt of authorization to proceed. Our proposed project schedule is provided below.

Task Description Milestone

- 1 Design April - May 2012**
- 2 Bidding May - June 2012**
- 3 Construction**
 - Notice to Proceed**
 - Shop Drawings**
 - Equipment Delivery**
 - Installation & Start-up**
 - Substantial Completion**
 - June 2012**
 - July 2012**
 - December 2012**
 - January 2013**
 - February 2013**
- 4 Resident Representation n/a**
- 5 O&M Manual January 2013**
- 6 Record Drawings February - March 2013**
- 7 Warranty Period February 2013 - February 2014**

FEE

We estimate that the scope of services described above will require 295 hours by Wright-Pierce personnel with total billings up to \$32,000 (salary costs times a factor of 2.2 plus reimbursable expenses). Billings will be on a time charge basis and will not exceed the budget without prior approval by the Town. The breakdown by task is provided below.

Task Description Budget Hours

- 1 Design \$10,100 95**
- 2 Bidding \$3,800 35**
- 3 Construction Administration \$12,000 110**
- 4 Resident Representation \$0 0**
- 5 O&M Manual \$2,500 25**
- 6 Record Drawings \$1,500 15**
- 7 Warranty Period \$2,100 15**
- TOTAL \$32,000 295**

We propose to provide these services under the provisions of our existing Agreement for the Wastewater Facilities Plan. All terms and conditions of the Agreement will remain in effect for this project.

If this proposal is acceptable, please sign and return one copy. If you have any questions or need any additional information, please contact us. We appreciate the opportunity to continue to work with the Town.

Very truly yours,

WRIGHT-PIERCE

Edward J. Leonard, P.E.

Project Manager

The Council discussed the project which was noted they had discussed in a Workshop setting before. The question of whether this had gone out to bid was raised and the Superintendent indicated it had not. This proposal addresses the engineering services needed to evaluate the Many NEC code violations and would identify and analyze three alternatives to correct the NEC code violations and provide backup power to the secondary treatment facilities. These issues were noted in the 2009 Wright Pierce Comprehensive Facilities Study. It was noted that unless the issues surrounding the NEC code violations were corrected it would not be possible for any kind of electrical engineer to be involved in the blower replacement. The Town Manager indicated that he had met with Wright Pierce on the above issues and had been taken to all areas of the Waste Water system. John Bird asked if we were putting the cart before the horse in addressing Agenda Item Number 5594 before 5595 to which Mr. Leonard explained the process. In discussions about whether this had gone out to RFP, the Town Manager said that the other engineering firm that could have been approached would have been one other firm located in New Hampshire.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve Engineering Services with Wright Pierce for an Aeration Blower Upgrade in the amount of \$245,000 from Account Number 20204-50846 – Waste Water CIP – Treatment Plant Equipment, with a balance of \$418,916.09. This project includes Engineering Services with Wright Pierce in the amount of \$32,000.

VOTE: Unanimous.

5595 Discussion with Action: Approve Engineering Services with Wright Pierce for Evaluation of Electrical Services Options not to exceed \$8,400 from Account Number 20204-50846 - Waste Water CIP – Treatment Plant Equipment, with a balance of \$418,916.09.

CHRIS WHITE AND EDWARD LEONARD:

Edward Leonard, Project Manager for Wright Pierce, is presenting to the Council the project to provide engineering services related to the Evaluation of Electrical Service Options project. The proposed scope of service, schedule and fee are summarized herein. The Town of Old Orchard Beach owns and operates a conventional activated sludge wastewater treatment facility (WWTF) with a design average flow of 3.50-mgd. The WWTF has five active buildings, one “semi-abandoned” building (1972 Pump Room), two utility electrical services and two standby generators on-site. There are numerous National Electric Code violations associated with the Process Building electrical service. These issues represent safety concerns, especially for Town personnel who are unfamiliar with the facility (e.g., first responders).

The estimated scope of services will require 60 hours by Wright-Pierce personnel with total billings up to \$8,4000 (salary costs times a factor of 2.2 plus reimbursable expenses). Billings will be on a one time charge basis and will not exceed the budget without prior approval of the Council.

Wright Pierce provided the following information:

As a follow-up to our recent discussions, we are pleased to provide the Town with this proposal to provide engineering services related to the Evaluation of Electrical Service Options project. Our proposed scope of service, schedule and fee are summarized herein.

The Town of Old Orchard Beach owns and operates a conventional activated sludge wastewater treatment facility (WWTF) with a design average flow of 3.50-mgd. The WWTF has five active buildings, one "semi-abandoned" building (1972 Pump Room), two utility electrical services and two standby generators on-site. As previously identified in the Wastewater Facilities Plan (Wright-Pierce, 2009) and in separate correspondence to the Town (2005), there are numerous National Electric Code violations associated with the Process Building electrical service. These issues represent safety concerns, especially for Town personnel who are unfamiliar with the facility (e.g., first responders), and include:

- Three separate feeds of 480V power to the Process Building from two different CMP transformers with power disconnects at multiple different locations.**
- Feed #1 is from the utility power pole (1600A to MCC-4) and can be disconnected in the Process Building Electrical Room. This feed was installed in 1985 and has no standby power provisions.**
- Feed #2 is from the Primary Pump Room (100A to MCC-3) and can not be disconnected in the Process Building at all. This feed was installed in 1985 and has standby power provisions, however, it can only run lighting and heat (not treatment equipment).**
- Feed #3 is from the Effluent Pump Station (350A to Aeration Blowers No. 2 and No. 3) and can not be disconnected in the Process Building at all. This feed was installed sometime between 1995 and 2005 and has standby power provisions (i.e. generator). This generator is intended to service the Effluent Pump Station only.**
- The facility was not designed to have standby power for the secondary treatment process. While standby power provisions for secondary treatment is not required by code or minimum regulatory requirements, the Town's discharge permit requires compliance at all times. Loss of power to the secondary treatment process will create compliance problems for the treatment plant during extended power outages (i.e. greater than 6 to 12 hours).**

The Wastewater Facilities Plan identified these issues for resolution during Implementation Phase 1 with a target date for construction in 2010 to 2012. However, to date, there is no funding for this project.

The Town desires to perform conceptual design of alternatives to address the NEC violations and to provide standby power for the secondary treatment facilities.

SCOPE OF SERVICES

Our scope of services is outlined below.

Task 1 - Conceptual Design

A. Develop preliminary equipment list for current and future facilities. Identify utility and standby power requirements for current and future facilities. Meet with the Town to discuss and review standby power requirements.

B. Identify and analyze up to three potential alternatives to address NEC issues and provide standby power for the secondary facilities. Develop the following for each alternative: single-line diagram; electrical site plan; and conceptual construction and project cost estimates. Summarize the alternatives in a technical memorandum. One alternative will be to address the NEC issue only (i.e., no additional standby power provisions) which would be the least cost approach.

C. Meet with the Town to discuss preliminary design memorandum and to select the preferred alternative.

D. Finalize the memorandum to address the Town's review comments and to provide implementation recommendations.

E. Present the findings of the analysis to the Town Council, as requested.

SCHEDULE

We are prepared to begin work immediately upon receipt of authorization to proceed and will complete the draft technical memorandum within 8 weeks of that date. We will present our findings to the Town Council at the Town's convenience.

FEE

We estimate that the scope of services described above will require 60 hours by Wright-Pierce personnel with total billings up to \$8,400 (salary costs times a factor of 2.2 plus reimbursable expenses). Billings will be on a time charge basis and will not exceed the budget without prior approval by the Town. We propose to provide these services under the provisions of our existing Agreement for the Wastewater Facilities Plan. All terms and conditions of the Agreement will remain in effect for this project.

Ed Leonard informed the Town Council to question asked about timing, that it would be six months to build and this will provide the opportunity to do the survey providing valuable historical information. Time span of equipment was discussed as well and it was noted by Councilor Coleman that the useful life of this equipment is about 32 years but new equipment will provide less energy demand thereby a savings.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Approve Engineering Services with Wright Pierce for Evaluation of Electrical Services Options not to exceed \$8,400 from Account Number 20204-50846 - Waste Water CIP – Treatment Plant Equipment, with a balance of \$418,916.09.

VOTE: Unanimous.

5596 Discussion with Action: Accept as a Town Way, Trotter Lane Warranty Deed with Warranty Covenants.

PLANNER: At the 6 March Council Meeting, Trotter Lane is proposed to be accepted by the town as a public street. Basically, it appears the road is constructed in accordance with applicable standards and can be conditionally accepted if it was based on this alone; although, the town attorney believes there are questions concerning clear title that should be considered by the Council before a decision is made. Below is a brief summary and pertinent information concerning the proposal that I hope will assist the Council with their decision.

- Trotter Lane was approved by the Planning Board during 1996 as part of a subdivision proposal. Currently, Trotter Lane provides access to 5 built-upon lots and 5 vacant lot
- Trotter Lane was approved as a private way, to be built in conformance with the Subdivision Ordinance Street Design and Construction Standards.
- During the later part of 1996, supporting documentation shows Trotter Lane was constructed in accordance with applicable road design and construction ordinance standards.
- Private way's can be proposed to be accepted by the town (even if approved Planning Board related documents state it's a private way) as long as they are constructed in conformance with the Subdivision Ordinance Street Design and Construction Standards and original approved plans and supporting documentation do not state the way shall remain private.
- Supporting documentation appears to show the road was built according to applicable design and construction standards at the time the road was originally constructed (1996-98). Although, I'd like to note a few items:
 1. Public Works Director, Bill Robertson, has verbally stated Trotter Lane is up to town standards and I expect this in writing by the time of your 6 March meeting. Bill mentioned if the town accepts Trotter Lane, the Council may not wish to include streetlights and sidewalks.
 2. The current town engineer, Wright-Pierce, reviewed the record drawings (the same plans included within your packet), in order to determine if there are any issues as they relate to the Subdivision Ordinance Street Design and Constructions Standards. The town engineer notes some discrepancies in the plan and profile information (see email dated February 28, 2012). Please note: Wright-Pierce did not inspect the road during construction- they were not the town engineers at that time.
- The town attorney provides feedback concerning this proposal and I'd like to point out two important items:
 1. The 23 September 2011 memo states the Council retains discretion to accept streets in cases where there are no construction costs that need to be apportioned among the benefited properties. Any such acceptance would remain conditional upon satisfaction of any applicable conditions outlined in the Streets, Sidewalks and Other Public Places Ordinances, Conditions standards (50-211) and the acceptance must also comply with statutory provisions outlined in 23 MRSA § 3021-3035 (Both 50-211 and 23 MRSA § 3021-3035 are attached to this memo). One note about 23 MRSA § 3021-3035, most of these statute provisions are not applicable to the type of street acceptance proposed, but I thought I'd include because of the attorneys use of this reference.
 2. The 20 December 2011 letter provides additional background information but most importantly, raises the question concerning clear title to the land primarily due to the significant number of conveyances and mortgage encumbrances to the land area surrounding and likely included in part within the Trotter Lane parcel. In my opinion this is very important and I recommend a careful read of this letter.
- It has been confirmed that the deed descriptions match those in the plan and the metes and bounds description closes. Trotter Lane has been plotted according to the deed by our assessor and the town attorney's title abstractor examined the metes and bounds description in the deed against the plan.
- The town traditionally has not accepted streetlight maintenance and construction when accepting public streets. The town has accepted streetlights on Old Orchard Street,

Memorial Park and Dunegrass. The submitted material (specifically, the warranty deed) does not obligate the town to accept these. It does allow an easement for construction, maintenance, etc. of such infrastructure but it does not name the town as the party responsible for performing such work.

- **Recommendations:** I believe the primary issue, as discussed in the town attorneys 20 December letter, is the element of title risk to the town. Before the Council decides on the acceptance of Trotter Lane as a public street, I believe the Council should consider three options:
 1. Accept Trotter Lane without further title research;
 2. Table acceptance until the applicant and/or owner provides acceptable documentation representing the town will have clear title; or
 3. Table acceptance and the town will incur the responsibilities and costs associated with research and representing clear title.

Additional issues for Council consideration:

1. If the Council feels construction and maintenance of streetlights and sidewalks should not be included with Trotter Lane's acceptance, these items should be specifically identified to be excluded (applying a condition to acceptance is appropriate).
2. Discrepancies mentioned in the Wright-Pierce email (28 February). This may be resolved before our meeting. If not, the Council may choose to request the applicant find resolution before acceptance or attach a condition of acceptance, noting a specific time or date for compliance.

Attorney David Ordway will speak this evening on the request for acceptance as a Town Way, Trotter Lane Warranty Deed with Warranty Covenants.

ATTORNEY ORDWAY: He indicated that he “represents Ron and Blanche Patoine who have petitioned the Town to accept Trotter Lane as a Town Way. Trotter Lane is an improved private way that runs between Patoine Place and Pond View Road, both public ways. There are five or six lots that depend upon Trotter Lane for access, and several other lots whose side yard runs along trotter Lane. Ever since he first created a lot for his son some ten or twelve years ago, Mr. Patoine has maintained the road and plowed it in the winter. There is no maintenance agreement and the people who live along the road do not pay him for this service. As Mr. Patoine is getting up in years, however, he is not sure how long he will be able to continue his volunteer work and he would like to see Trotter Lane become a Town Way. At his meeting on March 6, 2012, the Council was presented with some background information concerning the road and given a set of recommendations which included the following accept Trotter Lane without further title research; table acceptance until the owner provides “acceptable” documentation representing that the Town will have clear title; or table acceptance and have the Town incur the responsibility associated with research the title. After some discussion, the particulars of which do not appear in the minutes of the meeting, the Council determined that “with many issues still unresolved, the motion was to table indefinitely. He said that while he was uncertain which issues of particular concern to the Council he would like the opportunity to address these issues and see if they can be resolved. Over the years he has done a number of deeds to the Town to create public ways. In some instances, including the roads in Dunegrass, the Town has required only a release deed. In other cases, the owner has given the Town a warranty deed. In none of these cases has the Town required a title search or title insurance. Indeed, in 2004, when Mr. Patoine conveyed Pond View Road, and then Pacer Avenue, to the Town, there were no such requirements. The reason, as pointed out by the Town Attorney, is that seldom, if ever, would a property owner or mortgage holder object to a private way being

accepted as a public way, and if that ever were to occur, the Town has the power to take the street by eminent domain. Moreover, at least in the case of Trotter Lane, the five or six owners along the street do not have an ownership interest in the street itself, but merely a right of way for ingress and egress, and for the installation of utilities. In addition, four of the deeds contain an express provision that makes the right of way and easement subordinate to a deed from the Patoines to the Town as follows:

The above-described premises are also conveyed together the right in common with the Grantors, their heirs and assigns, and others, in and to the use of Trotter Lane, so-call shown on said Plan, for the purposes of ingress and egress, by foot or vehicle, and the use, introduction, placement, maintenance, repair and replacement of all utility services customarily placed over, on or under such street or way for service to the within conveyed premises, subject, however, to such terms and conditions as may be provided in any deed of grant to the Inhabitants of the Town of Old Orchard Beach, including the dedication and acceptance of such road as a public way.

Nevertheless, if the Town decides to change the way it deals with requests to accept a private way as a Town way, and now wants a title search or title insurance policy, I can set in motion. On the other hand, I don't want to spend time and money on a title search if the Council has other questions or issues that are standing in the way of acceptance. I have had several conversations with the Town Attorney, and have reviewed his letter of December 20, 2011, and do not understand him to be saying that a title search is a prerequisite to the acceptance of Trotter Lane, or that the Town is at risk if it does so without a title certification. If that is a policy or practice the Council now wants to follow, however, I will do what I can to accommodate the request. In any event, the starting point for that discussion is to have the item taken off the table and placed back on the council's agenda. As always, thank you for your help."

Attorney Ordway was asking for some marching orders from the Council in order to move this item forward. He indicated that he has never run into the situation in dealing with the Town in many acceptances of roads as he has in this particular one. Jerome Begart raised the issue that we are making exceptions for some and yet the condominium owners in Old Orchard get none of these considerations and they are tax payers. It was again noted that this road had been built to the standards of the Town and that the subject of lights and sidewalks had not been raised in previous acceptance. Vice Chair Tousignant gave a historical account of other roads that we have accepted such as Wild Dunes Way, Birch Lane, Homeward Park, etc. Finally the Council instructed the Attorney and the Planner to work together to move this forward and the suggestion that it be tabled indefinitely.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Table Indefinitely the Acceptance as a Town Way, Trotter Lane Warranty Deed with Warranty Covenants and that the Planner and the Attorney for the residents work together to bring this back to the Council at a later date.

VOTE: Unanimous.

5597 Discussion with Action: Public Works Mower: Approve the Purchase of a new 26hp Walker EFI unit, from Chad Little Outdoor Power Equipment, South Portland, Maine, in the amount of \$10,000.00, for use in Memorial Park only. The amount will be taken

from Account Number 20151-50511 – Grounds Maintenance Improvement, with a balance of \$10,363.03, as of April 6, 2012 financials.

BILL ROBERTSON: The Public Works Department went out for bids and received the following three bids:

Chad Little Outdoor Power Equipment
\$10,000 which includes an \$800 trade-in

Abbott's Power Equipment - \$10,805.40 which includes a \$1,150

Union Farm Equipment - \$11,295 which does not include a trade-in.

The Council in their discussion of the cost for the new mower noted that its use was for only for one specific location and discussed the possible hiring of an outside firm, such as was done a few years ago. The Council recommended that the Public Works Director obtain bids from companies that could do the mowing and bring them back to Council for discussion with action at the next meeting.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Table Approving the Purchase of a new 26hp Walker MOWER unit, from Chad Little Outdoor Power Equipment, South Portland, Maine, in the amount of \$10,000.00, for use in Memorial Park only. The amount will be taken from Account # 20151-50511 – Grounds Maintenance Improvement, with a balance of \$10,363.03, as of April 6, 2012 financials; and as instructed by Council come back with costs for outside maintenance services.

VOTE: Unanimous.

5598 Discussion with Action: Accept bid from Superior Crushing for crushing hot top, concrete, and Ledge, to reclaim 2,600cy @ \$6.95/yd. in the Amount of \$18,070, from Account Number 20203-50506 – Road Maintenance & Improvements, with a balance of \$137,765.90.

BILL ROBERTSON: Yearly the Public Works Department crushes old hot top taken from construction projects and utilizes it as backfill material in ongoing Capital projects. Also crushed is concrete slab material and ledge. If we were to buy reclaim, it would cost between \$12.00 and \$15.00 per cubic yard to crush it whereas this will cost us \$6.95 per cubic yard. This is a sole business dealing with concrete crushing and an opportunity for the Town to save a substantial savings.

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Accept bid from Superior Crushing for crushing hot top, concrete, and Ledge, to reclaim 2,600cy @ \$6.95/yd. in the Amount of \$18,070, from Account Number 20203-50506 – Road Maintenance & Improvements, with a balance of \$137,765.90.

VOTE: Unanimous.

5599 Discussion with Action: Sign the York County Emergency Management Hazard Mitigation Plan.

CHIEF GLASS: The Town Council is being asked to sign the Resolution for Option of the York County Hazard Mitigation Plan. Whereas natural and man-made disasters may occur at any time, we recognize that to lessen the impacts of these disasters we will save resources, property and lives in York County. The creation of a Hazard Mitigation Plan is necessary for the development of a risk assessment and effective mitigation strategy. Therefore, the Town of Old Orchard Beach hereby adopts the 2011 York County Hazard Mitigation Plan.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Sign the York County Emergency Management Hazard Mitigation Plan.

VOTE: Unanimous.

5600 Discussion with Action: Approve the Special Event Permit Application for Thornton Academy to hold a Beach Picnic, to include a Campfire, for their Student Ambassador Program on the beach at the end of Randall Avenue on Friday, May 11, 2012, with a rain date of Saturday, May 12, 2012, from 5:00 p.m. to 8:00 p.m.; and a request to waive the fee.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve the Special Event Permit Application for Thornton Academy to hold a Beach Picnic, to include a Campfire, for their Student Ambassador Program on the beach at the end of Randall Avenue on Friday, May 11, 2012, with a rain date of Saturday, May 12, 2012, from 5:00 p.m. to 8:00 p.m.; and a request to waive the fee.

VOTE: Unanimous.

5601 Discussion with Action: Approve the Special Event Permit application for Jackie Carpenter to hold the “Howard Wedding” on the beach in front of the Skylark Inn on Saturday, June 16th, 2012, from 7 p.m. to 8 p.m.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Approve the Special Event Permit application for Jackie Carpenter to hold the “Howard Wedding” on the beach in front of the Skylark Inn on Saturday, June 16th, 2012, from 7 p.m. to 8 p.m.

VOTE: Unanimous.

5602 Discussion with Action: Approve the Special Event Permit application for the Libby Memorial Library to hold “Libby Memorial Library Art in the Park” on Saturday, July 28th, 2012—set up from 10 a.m. to noon, event noon to 6 p.m., break down from 6 p.m. to 7 p.m. Request to place a banner on the Gazebo and in the Square; however, the Salvation Army already has prior permission for the Square.

MOTION: Councilor Coleman motioned and Councilor MacDonald seconded to Approve the Special Event Permit application for the Libby Memorial Library to hold “Libby Memorial Library Art in the Park” on Saturday, July 28th, 2012—set up from 10 a.m. to noon, event noon to 6 p.m., break down from 6 p.m. to 7 p.m. Request to place a banner on the Gazebo but no banner in the Square.

VOTE: Unanimous.

5603 Discussion with Action: Accept, with regret, the resignation of Alan Graves from the Ballpark Commission.

MOTION: Councilor MacDonald motioned and Councilor Dayton seconded and to Accept, with regret, the resignation of Alan Graves from the Ballpark Commission.

VOTE: Unanimous.

5604 Discussion with Action: Move Patricia Holland from an Alternate Member to a Regular Member of the Conservation Commission, term to expire December 31, 2014; and move Ronald Regis from an Associate member to a Regular Member of the Zoning Board of Appeals, term to expire December 31, 2014.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to Move Patricia Holland from an Alternate Member to a Regular Member of the Conservation Commission, term to expire December 31, 2014; and move Ronald Regis from an Associate member to a Regular Member of the Zoning Board of Appeals, term to expire December 31, 2014.

VOTE: Unanimous.

5605 Discussion with Action: Consider the Acceptance and Approval of a one-year contract for Accounting Services from Account Number 20101/50303 – Auditing Services.

TOWN MANAGER: At the March 20, 2012 Town Council Meeting there was a discussion on a three year Auditing Services Contract and the Council requested the Town Manager to go out for a re-bid for a one year contract.

Requests for bids were sent to:

**Berry, Talbot & Royer
6 Fundy RD, Suite 100
Falmouth, ME 04105**

**Cummings Lamont & McNamee PA
PO Box 328
305 Lafayette Center
Kennebunk, ME 04043**

**Joel F. Patterson & Associates
819 Main ST
Sanford, ME 04073-3520
Mowry & Associates
PO Box 360
Limington, ME 04049-0360**

Ouellette & Associates

**1111 Lisbon St
Lewiston, Maine 04240**

**Purdy Powers & Company
130 Middle Street
Portland, ME 04101**

**RHR Smith & Company
3 Old Orchard RD
Buxton, ME 04093**

**Runyon Kersteen Ouellette CPA, PA
20 Long Creek DR
S. Portland, ME 04106-2425**

**Smith and Associates, CPAs
50 Forest Falls Drive, Suite 3
Yarmouth, ME 04096**

**MacDonald Page & Co. LLC
30 Long Creek Drive
South Portland, Maine 04106**

**Stephen T. Hopkins
215 Holmes Road
Scarborough, Maine 04074**

The following letter was sent to each of those listed above:

Dear Sirs:

In discussions with our Town Council it has been requested that we contact Auditing firms and ask for consideration of providing us with a one year contract for the 2012/2013 year (auditing of records for July 1, 2011 to June 30, 2012). As of July 1, 2012 the new requirements of the Old Orchard Beach Town Charter will be in effect and it requires confirmation of the Auditor each year in future years.

We would ask that if you wish to provide a quote for a one year contract that we receive it by 9:00 a.m. on Wednesday, April 4, 2012, so that consideration of the selection of an Auditing firm can be discussed with action at the April 17, 2012 Town Council Meeting.

Please address your one year bid quote to:

**Mark Pearson
Town Manager
1 Portland Avenue
Old Orchard Beach, Maine 04064**

Bids can be faxed or sent U.S. mail or via e-mail as follows:

The following bids were received:

Stephen T. Hopkins	\$15,000
RHR Smith & Company	\$17,000
Runyon Kersteen Ouellette	\$18,750
Ouellette & Associates, P.A.	\$35,000

The decision on the choice of Auditing firms will be discussed by the Council during the meeting to determine whom they will select for the coming Auditing season. It was decided to go with a new accounting firm, RHR Smith & Company in the amount of \$17,000. Chair Quinn indicated he felt that their specialization in municipal government is an important feature considering the issues facing us at this time.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Accept and Approve a one-year contract for Accounting Services from RHR Smith & Company in the amount of \$17,000 from Account Number 20101/50303 – Auditing Services.

VOTE: Yea: Councilors Dayton, Coleman, Vice Chair Tousignant and Chair Quinn
Nea: Councilor MacDonald

5606 Discussion with Action: Accept the bid for clearing the timber and thinning and removing hazard trees from the Skateboard Park site from Account Number 20171-50509 – Recreation – Other Facilities Maintenance - with a balance of \$1,770.

After lengthy discussions and going out to bid for tree removal at the Ballpark the following bids were received:

Douglas W. Jones, Inc. \$3,000
Clear trees and brush at the site of the proposed Skateboard Park.

Southern Maine Forestry Services No expense but trade
Can likely clear at no expense by trading the clearing service for the timber.

Parker Forestry Associates (Recommended Bid) Miscellaneous
\$85 per our with an expected total of five ours of time - \$425
Any income realized from the loggers who may offer to purchase the standing trees would pass directly to the Town.

A great deal of discussion revolved around whether the proper steps had been taken in moving this issue forward and whether the Department of Environmental Protection had given their approval to the project. Recreation Director indicated that the process is now going forward.

Another concern was whether the abutters had been notified and it was the consensus of the Town Council that informing them through the process of the Planning Board is important as well as the need to seek Planning Board approval. The recommendation was made for the Recreation Director to work with the Town Planner in providing the proper process for moving this effort forward.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Table Indefinitely the bid for clearing the timber and thinning and removing hazard trees from the Skateboard Park site from Account Number 20171-50509 – Recreation – Other Facilities Maintenance - with a balance of \$1,770; with the understanding that the Recreation Director and the Planner would work together to move the process forward as it involves the Planning Board and the contacting of the abutters for their input into the process.

VOTE: Unanimous.

5607 Discussion with Action: Consider upgrades and repairs to the Ballpark including lighting, cribbings, plumbing, electrical, doors, etc. and determining account from which these will be funded.

TOWN MANAGER: “The 2012 baseball season is upon us. This weekend the Old Orchard Beach Ballpark will commence with play. Over the last two (2) months I have visited the Ballpark with Jen DeRice (General Manager for the Ballpark) and others and met several times with Jen DeRice, Jason Webber and Catherine Saltz to discuss the FY2013 budget. In the recent past, the Town executed an Agreement for a baseball team to lease the Ballpark facility whereby the Town received a lease payment of \$15,000 and an additional \$5,000, or a total of \$20,000. The Ballpark is a municipal facility consisting of approximately 49 acres of land improved with a stadium, playing fields, and parking area. The intent of the Ballpark Ordinance is to operate this facility as a sports/entertainment/ events and recreation area.” I have incorporated recommendations from the Ballpark Commission as well as the General Manager (Jen DeRice.) I also have included my overall recommendation(s) in order to make this facility useable and safe for members of the public and occupants of the buildings and structures. Overall, I have asked for improvements totaling \$7,160. In addition we have included in the packet Proposed Capital Improvements, Proposed Budget and Proposed Revenues. Also we just received an e-mail from Girard Plumbing which we have attached as well suggesting a more economical rate for services. I will be prepared to discuss this with the Town Council on Tuesday night at the Council meeting.”

The Council was being asked to approve money for repairs at the Ballpark as well as expressing appreciation to the donations of community members. The Town Manager indicated that the Ballpark needed over \$13,000 worth of improvements to ready it for the upcoming season and to fix code violations. The work as he explained included electrical and plumbing repairs, structural support improvements and landscaping services. The repairs were recommended by the Ballpark Commission and the Ballpark General Manager, Jen Rice. At first the Town Manager indicated that \$7,000 would help cover improvement costs and give about \$1,000 for contingency for any upcoming emergencies. The appropriation amount decreased about \$2,000 after Councilor Sharri MacDonald announced she had negotiated a lower cost for the plumbing repairs and received

donations from community members. She indicated that she had already raised approximately \$900. She said that when she realized there was an estimate of \$2,670 for plumbing costs she talked to the Plumber who is serviced by her garage and got the cost down to \$1,710. She put a piggy bank at her store and a sign asking for community support and since Friday she had collected about \$900 toward the plumbing repairs. She reminded everyone that when the Ballpark revitalization started many projects were made possible through volunteer efforts and donations and hoped that we would get back to this type of endeavor so it is not a burden to the taxpayers. Chairman Quinn indicated that the Town had a contract with a baseball team, the Raging Tide, and had obligations to make any necessary repairs. John Gallo, owner of the Raging Tide indicate his concern of really knowing what it costs to run the Ballpark. Paul Ladakakos indicated that there is no money in baseball and everyone is aware of this from past history. Councilor Coleman concurred with Chair Quinn and said he wanted to clear any code violations. He indicated that as the Town is responsible for enforcing the municipal code, we had to keep our own house in order. Vice Chair Tousignant cast the opposing vote because he didn't want to move forward with improvements for the Ballpark until there is a comprehensive study on what the facility needs are instead of doing a "piece-meal – hodge-podge" approach. He also indicated there are some high priced ticketed items that the Town can't afford.

OUTLINE AND BULLET POINTS

- Organizational Chart
- Ordinance creating Ballpark Commission (Adopted 3-16-2010)
 - Sec. 4 Powers and duties.
 - “appropriation of funds by the Town Council and subject to the Town’s established purchasing and procurement procedures”
 - “With approval of the Town Manager, obtaining assistance of Town Employees in connection with the improvement, maintenance and operation of the Ballpark”
- Ballpark Field Committee Recommendations (March 2012)
- Ballpark Projects:
 1. Marketing
 2. Field/Stadium
 3. Facility/Clubhouse
 4. Concessions
- Emails - Updates on Ballpark (April 9, 2012)
 1. Start of season
 2. Plumbing in building (\$ costs)
 3. Website (\$ costs)
 4. Turf management (\$ costs)
 5. Mosquito control
 6. Drink agreement
 7. Electrical room code violations (\$ costs)
 8. Cribbing rental (\$ costs)
- Role of “Manager of the Facility” and “Authority”
 1. Workshop needed between Council and Commission
 2. Lighting and concrete work
 3. RFP for stadium concrete

**Ballpark Field Committee Recommendations
March 2012**

Suggested Expenditures

Field Mix	\$1000
Fertilizer/Mowing	\$4000
Striping Machine	\$100
Cocoa Mat Drag	\$180
Wagon/Balloon Tires(tarps)	\$130
20foot Alum. Ladder	\$150
2) 24" Brooms(braces)	\$60
1)18" broom(braces)	\$20
1 Large wheelbarrow	\$120
2) Lute rakes(field)	\$60
Home Plate Template	\$180
Total	\$5998

Projects

Turn on Water

Repair Batting Cages

Seal Seams on Skybox Roofs

Remove Plywood From Skyboxes

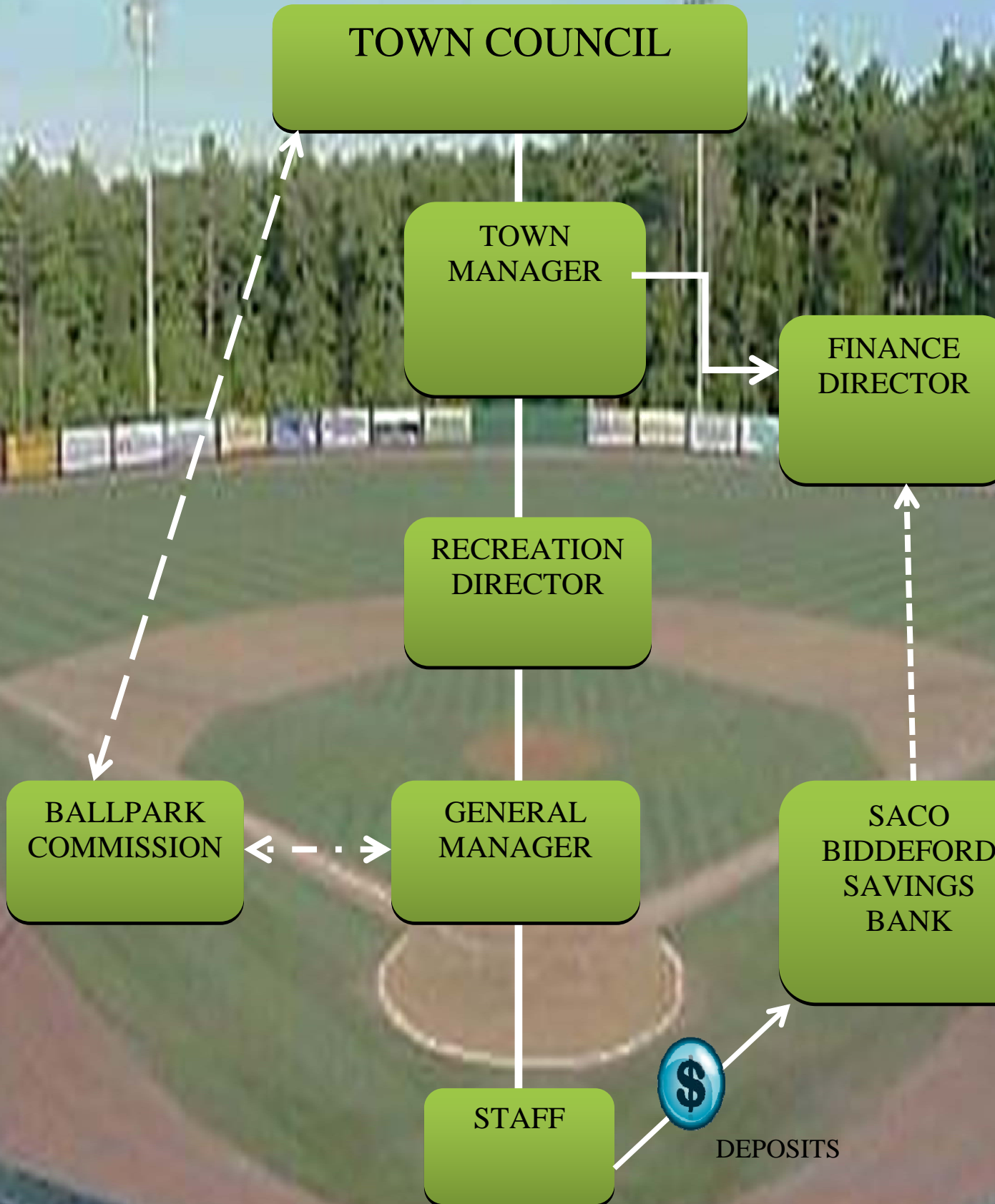
General Policing of Stands, Parking Lot, Under Stands, Grounds

Scoreboard: Set-up, Test

Signage on Scoreboard: Jon Apte(make up for mixup last year) and older signs until spaces are sold this season

Clubhouse Cleaned

OOB CHARTER 409.4



MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Consider upgrades and repairs to the Ballpark including lighting, cribbings, plumbing, electrical, doors, etc. in the amount of \$4,000 from Account Number 30515/50804 – Ballpark Account.

VOTE: Yea: Councilors Dayton, MacDonald, Coleman and Chair Quinn
Nea: Vice Chair Tousignant

5608 Discussion with Action: Set preliminary Fees for Use of the Ballpark Fields for the 2012 season.

The fees for the 2010 and 2011 were the following and the suggestion is to keep them the same with the exception of the two double header fees:

Day Game – no stadium lighting needed - \$125
Night Game – stadium lighting needed - \$225
Double Header – day game – no lighting - \$175
Double Header – night game – lighting needed - \$325

BACKGROUND: The fees for the 2010 and 2011 were the following and the suggestion is to keep them the same with the exception of the two double header fees:

Day Game – no stadium lighting needed - \$125
Night Game – stadium lighting needed - \$225
Double Header – day game – no lighting - \$175
Double Header – night game – lighting needed - \$325

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Set preliminary Fees for Use of the Ballpark Fields for the 2012 season as:

Day Game – no stadium lighting needed - \$125
Night Game – stadium lighting needed - \$225
Double Header – day game – no lighting - \$175
Double Header – night game – lighting needed - \$325

VOTE: Unanimous.

5609 Discussion with Action: Approve Liquor License Renewal for Vacancy Pub Inc., dba/Vacancy Pub Inc., (210-10-4), 17 Ocean Park Road, s-m-v in a Class A Lounge.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to Approve Liquor License Renewal for Vacancy Pub Inc., dba/Vacancy Pub Inc., (210-10-4), 17 Ocean Park Road, s-m-v in a Class A Lounge.

VOTE: Unanimous.

5610 Discussion with Action: Cancel the Tuesday, May 15, 2012 Town Council Meeting and Reschedule for Wednesday, May 16, 2012.

MOTION: Councilor Dayton motioned and Councilor MacDonald seconded to Cancel the Tuesday, May 15, 2012 Town Council Meeting and Reschedule for Wednesday, May 16, 2012.

VOTE: Unanimous.

5611 Discussion with Action: Act on Warrant and Notice of Election calling a Regional School Unit No. 23 Budget Validation Referendum for June 12th, 2012.

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Act on Warrant and Notice of Election calling a Regional School Unit No. 23 Budget Validation Referendum for June 12th, 2012.

VOTE: Unanimous.

5612 Discussion with Action: Approve hours of Voter Registration office to be open in connection with the Regional School Unit Budget Validation Referendum to be held on June 12, 2012 as follows: Tuesday, June 5th, from 8:00 a.m. to 6:00 p.m.; Wednesday, Thursday and Friday, June 6th, 7th and 8th, 2012, from 8:00 a.m. to 4:00 p.m.; and Monday, June 11th, 2012, from 8:00 a.m. to 4:00 p.m.

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to Approve hours of Voter Registration office to be open in connection with the Regional School Unit Budget Validation Referendum to be held on June 12, 2012 as follows: Tuesday, June 5th, from 8:00 a.m. to 6:00 p.m.; Wednesday, Thursday and Friday, June 6th, 7th and 8th, 2012, from 8:00 a.m. to 4:00 p.m.; and Monday, June 11th, 2012, from 8:00 a.m. to 4:00 p.m.

VOTE: Unanimous.

5613 Discussion with Action: Appoint James Butler as a Code Enforcement Officer, Building Inspector, and Licenses Plumbing Inspector.

The Town Manager gave the background of James Butler and also the need for enhancement to the staff in the area of Code. There was consideration by the Town Council as to whether this should be a full time position and that issue was up for the possible of readdressing in the future.

MOTION: Councilor Coleman motioned and Councilor MacDonald seconded to Appoint James Butler as a Code Enforcement Officer, Building Inspector, and Licenses Plumbing Inspector.

**VOTE: Yea: Councilors Dayton, MacDonald, Coleman and Chair Quinn
Nea: Vice Chair Tousignant**

GOOD AND WELFARE:

DORIS HARRIS: She indicated she was not an employee of the Library and expressed her concern to the Town Council of what is happening to the Library. It was her opinion that the Library staff was being bullied, harassed and manipulated. She recognized there was a problem
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regarding the embezzlement claim but the work of the library needs to continue. She spoke of the staff's desire to implement new policies, checks and balances and that it is the responsibility of the Town to provide the funding that was approved so that the Library does not need to close its doors. She expressed herself and others as patrons of the Library and as such they do not want the doors closed because of the Library being out of funds. She also asked the Town Council if what the administration was doing was legal? Her concern was that taxpayers don't know what is going on and that there is a need for a library both in the summer and the winter.

COUNCILOR COLEMAN: He explained that there is a real concern that it is the fiduciary responsibility of the Town Council to move forward with accountability in the handling of the finances and there is no desire to bully but to assure that the taxpayer's money is being handled in an appropriate manner.

MARK KOENIGS: Thank you, Chairman Quinn, for allowing me to speak tonight under Good & Welfare. Good evening to the Town Council and the citizens of Old Orchard beach. I come before you to speak on three items of Town business. (1). RSU 23 property boundary; (2) the Free Public Library of Old Orchard Beach – The Edith Belle Memorial Library; and (3) Public trails. Most Councilors should know my involvement in the Town of Old Orchard Beach but for the listening public's benefit, I'd like to preface my comments tonight. I have been a resident of Old Orchard Beach since 1999. I have been active as a Town volunteer in various capacities since moving to Old Orchard Beach. I am currently a regular member of the Planning Board serving for the past five years and on the Conservation Commission. I have also served as a volunteer on the Library's Building Expansion Committee since 2006. My wife is Lee Koenigs who is an employee of the Library. She has been a Library employee for eight plus years. She started as a part time library clerk and in January of 2012 is the Interim Library Director. I'm a registered professional civil engineer with over 25 years of construction and project management experience on heavy civil construction projects and subdivision site work and commercial site work in various States. I currently work outside of Old Orchard Beach as a Project Manager for a specialty construction company at their corporate offices in Portsmouth, New Hampshire. I want good things to happen in and for Old Orchard Beach and see the potential for positive change and improvement in the Town's services, capital infrastructure and well-being. Given dedicated work I applaud you as Town Councilor's for stepping up to serve as leaders. I respect the office you hold and the authority and responsibilities we the voters have entrusted to you to lead the community. It has been stated many times, "These are not easy times." Economically they may get worse before they get better. But nonetheless, it is up to you the Town Council to lead. In some cases there may have been neglect of infrastructure due to limited resources or possibly worse acts of inaction. I come before the Town Council tonight to support and encourage you to be timely in our leadership and to work together to find the positive path forward on many of the challenging issues we face. I am not looking for any immediate response tonight but would appreciate your actions in a timely matter. I would ask that as Councilors you ask critical questions to get to the appropriate amount of facts so to make informed decisions. In absence of all the facts you may need to make decisions and take decisive actions that are timely and visionary.

ADJOURNMENT:

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to Adjourn the Town Council Meeting at 11:00 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 thirty-two (32) pages is a copy of the original Minutes of the Town Council Meeting of April 17, 2012.

V. Louise Reid