

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

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, February 7, 2012. Chair Quinn opened the meeting at 7:04 p.m.

The following were in attendance:

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

CHAIR QUINN: We are pleased to have with us this evening members of the Cub Scout Pact 350 with their Leader, Mr. Paul Bock. They had a tour of the Town Hall this evening and given a booklet on the history of government prepared by the Assistant Town Manager and then informed by the Town Clerk about how this evening's Council meeting is televised. We welcome them, their leaders and their parents to the Council meeting this evening. They will now lead us in the Pledge to the Flag.

**Pledge to the Flag
Roll Call**

**Cub Scout Troop 350
Mr. Paul Bock, Scoutmaster**

**Presentation to Town Manager, Jack Turcotte,
by Assistant Town Manager, V. Louise Reid**

It is my pleasure this evening to bring words of appreciation to our Town Manager, Jack Turcotte, on his last appearance at our Town Council Meeting at least in his present position. When he arrived over two-and-a-half years ago in an overnight appointment as Town Manager, there were those who thought that perhaps we might not appreciate each other. Quite the opposite-there has been a real respect and friendship that has developed between Jack and me over these years. We have been a real team and our work for the community has always been directed as a team-approach; such has been his working relationship with the department heads as well. Jack is a person with a determined spirit, fired by unquenchable faith in the mission of productivity in his work. He sees beyond the obvious, recognizes that not all trees are green; that the sky is not always blue – but rather that each blend of colors and tones, darkness and light, made him focus beyond a problem to a valued solution. Jack always saw opportunities beyond what everyone else saw – possibilities beyond what was already there. He was superb in controlling the content of the media message. His words were never taken out of context and we

seldom received negative press. A man is a product of his thoughts. When we realize all that he has accomplished over the past two-and-a-half year (too many things to be mentioned) including the Ballpark, enormous infrastructure improvements in our town, development of employee staff, a working relationship with all facets of town organizations, and on and on, we are amazed. It is not the critic who counts, not the man who point out how the strong man stumbles, or where the doer of deeds could have them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes short again and again; because there is not effort without error and shortcomings; but who does actually strive to do the deed; who knows the great enthusiasm, the great devotion, who spends himself in a worthy cause, who at the best knows in the end the triumph of high achievement and who at the worst, if he fails, at least he fails while daring greatly so that his place shall never be with those cold and timid souls who know neither victory nor defeat. Jack will you join me please? When a man retires and time no longer matters, his colleagues generally present him a watch. Jack doesn't need a watch. Time is of no relevance to him. He lives every day to the fullest and extends minutes into hours and hours in productive activity and the rest of us try to keep up. We think you will enjoy this gift more than a watch. May it be a reminder of your many friends in Old Orchard Beach who considered you a friend and a citizen of our community. A citizen always remains in OOB – so although one door is closing we are confident there will be many doors that will open and we all hope that one of them is always open to you in OOB. Blessings to you and Chris in the days ahead.

**Presentation by the Edith Belle Memorial Library
Board of Trustees on the Library Building Project.**

The Chairman of the Edith Belle Memorial Library Board of Trustees, Jerome Plante, spoke passionately about their appreciation to the citizens of Old Orchard Beach for voting to permit the expansion of the library; something that has been in the planning for years and well know by everyone to be a great need of the community. He listed a long list of individuals who specifically needed to be acknowledged for their contribution of time, effort and commitment and recognized each of those in attendance. The future of the library is exciting he said and the project will now come under the direction of the Town but he expressed appreciation that the Town has acknowledged the need and desire for constant detail input by the Board of Trustees. Along with the host of individuals mentioned for their work, he thanked the Town Council and the Town Administration for their support and efforts as well. 72% support of the referendum during these difficult economic times was a well spoken ultimatum. He thanked the Board of Trustees, past and present; Dean Lions, Alice Langdon, the Building Committee including Beth Richardson, Friends of the Library, Doris Harris, Sandy Reilley, Eileen McNally, Lee Koenig, Kathy Lee and Cathy McGukin, the Town Council, the Administration, the Town Attorney, Jeffrey Hole and the Town Staff but most of all the citizens, the taxpayers and voters of our community.

ACKNOWLEDGEMENT:

COUNCILOR DAYTON: James (Bud) E. Harmon was recently honored at the 2012 Governor's Conference on Tourism held at Sunday River Resort. Bud was the unanimous choice to be the recipient of the Governor's Award for Tourism Excellence, not only an honor for him but for the Town of Old Orchard Beach. This prestigious award is the top award given for tourism excellence in the state and is based on a balanced combination of all the general

award categories: innovation, customer service, commitment to tourism growth and community. He was presented the award at a Governor's Conference luncheon on January 26th, 2012. He has served as President and CEO of the Old Orchard Beach Chamber of Commerce for 15 years. He is the past recipient of the Maine State Chamber of Commerce "Chamber Executive of the Year", and is the recipient of the Maine Tourism Association's Regional Award for "his outstanding contributions that have resulted in the advancement of the tourism industry in Maine." He has been appointed by past Governor, John Baldacci and current Governor, Paul LePage to serve on the State Tourism Commission representing the Southern ME Coast.

COUNCILOR COLEMAN: Congratulation to Cub Scout Troop 350 for their successful Cub Scout Breakfast held at the Methodist Church. They raised over \$700 for their efforts and the community supported them and their hard work. We so appreciated them being here this evening and participating in our Town Council meeting. We thank the American Legion who was kind enough to provide their facility and use for this very special occasion.

COUNCILOR DAYTON: I would like to express congratulation to Mr. Chester Wancewicz, a citizen of Old orchard Beach for receiving the James Durant Civilian Recognition Award of 2011. For many years Chet has been an active volunteer within our community as it relates to Police Services. Since its inception, Chet has been a dedicated member of Neighborhood Watch taking a "hands on" and "zero tolerance" approach to any disorder in our community. For years Chet has taken daily foot patrols reporting suspicious observations often leading to arrests or finding a resolution to community concerns. Chet has been a member of our VIPS volunteer organization since its inception and continues to be diligent and his dedication often leads the way for others to follow. As of October Chet has volunteered over 305 hours since February.

ACCEPTANCE OF MINUTES: Town Council Meeting Minutes of January 17, 2012; Town Council Workshop of January 24, 2012; Special Town Council Meeting of January 25, 2012; and Town Council Workshop of January 31, 2012.

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Table the Town Council Workshop Minutes of January 24, 2012.

VOTE: Unanimous.

MOTION: Councilor MacDonald motioned and Councilor Dayton seconded to Table the Town Council Workshop Minutes of January 31, 2012.

VOTE: Unanimous.

MOTION: Councilor Coleman motion and Councilor Dayton second to Accept the January 17, 2012 Town Council Minutes and the Special Town Council Meeting Minutes of January 25, 2012.

VOTE: Unanimous.

CHAIR QUINN: I open this Public Hearing at 7:22 p.m.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

Jeff & Candace Verreault (206-9-6), 2 Wildwood Lane, one year round rental; Golan Inc. dba/Coastal Convenience Store (206-26-4-A), 34 A Saco Avenue, Victualers with Preparation with Beer; Wine & or Liquor (take out); two (2) gas pumps; Town of Old Orchard Beach (Old Orchard Beach Free Public Library/Libby Memorial Library) (206-27-1X), 27 Staples Street, Parking Lot – non-profit – to park motorized vehicles up to ten (10) days maximum for a fee; asking for fees to be waived – fees total \$275.); Tahoe at the Beach Inc. dba/Amato's Sandwich Shop (307-3-1-C), 8 West Grand Avenue, Victualers with Preparation & No Alcohol; David Colfer & Stephen Colfer (312-3-10), 11 Fern Avenue, one year round rental; and Janet Thurston (323-14-6), 43 Colby Avenue, one year round rental.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman to consider the Business License of Town of Old Orchard Beach (Old Orchard Beach Free Public Library/Libby Memorial Library) (206-27-1X), 27 Staples Street, Parking Lot – non-profit – to park motor vehicles up to ten (10) days maximum for a fee; asking for fees to be waived – fees total \$275. separately from the other Business Licenses.

VOTE: Unanimous.

There was a rather lengthy discussion on the question of the request of the Edith Belle Memorial Library to allow parking for at the Library grounds this coming summer. It was noted that there were Site Plan questions that were raised by the former Code Enforcement Officer, Michael Nugent indicating that non-library use cannot go beyond the ten days. When you change the permitted existing use of the parking, you are changing the use of the parking lot according to the Town's zoning ordinances. Whenever you deal with a use change, especially if the use is non-residential, Site Plan Review typically applies. Members of the Library Trustees indicated to the Council that last summer international students who use the library on a continual basis felt they could pay back the library with their service by opening the library parking lot for parking and returning the funds to the Library. They did that for a day-and-a-half and brought in a sizeable amount of funding until it was pointed out they needed a business license, thus bringing it forward this year for consideration. It was indicated to the Library Board of Trustees that beyond the ten days would require some form of Site Plan Review and a business license either through the Planning Board or administratively. The Library halted the project and it is being brought forward this year so that this summer it can be implemented. Alice Langley spoke about using the funding toward their expansion project and the commitment of the youth to the program. Pam Golarz who lives next door to the Library and who will supervise the students assured the Council that money would only be handled by the adult supervisor and all funding would go to the Library. Some of the concerns raised by members of Council included interference with the parking lot businesses already licensed within the community to which the Library staff indicated that the ten days would most likely be when all other lots are filled. The other concern was the parking on the grass at the back of the cemented parking area of the Library and the fact that there was no definitive number of parking spaces. The Council requested that the Code Enforcement or Planning Office determine the number of legitimate parking spots and bring that back to the Council so that this project can be discussed and possibly be moved forward. Members of the Trustees again encouraged the Council to consider this proposal as a means of fundraising for the expansion of the Library.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Table Indefinitely the Business License for Town of Old Orchard Beach (Old Orchard Beach

Free Public Library/Libby Memorial Library) (206-27-1X), 27 Staples Street, Parking Lot – non-profit – to park motor vehicles up to ten (10) days maximum for a fee; asking for fees to be waived – fees total \$275.

VOTE: Unanimous.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve the Jeff & Candace Verreault (206-9-6), 2 Wildwood Lane, one year round rental; Golan Inc. dba/Coastal Convenience Store (206-26-4-A), 34 A Saco Avenue, Victualers with Preparation with Beer; Wine & or Liquor (take out); two (2) gas pumps; Tahoe at the Beach Inc. dba/Amato’s Sandwich Shop (307-3-1-C), 8 West Grand Avenue, Victualers with Preparation & No Alcohol; David Colfer & Stephen Colfer (312-3-10), 11 Fern Avenue, one year round rental; and Janet Thurston (323-14-6), 43 Colby Avenue, one year round rental.

VOTE: Unanimous

CHAIR QUINN: I close this Public Hearing at 7:50 p.m.

TOWN MANAGER’S REPORT:

The Town Manager, Jack Turcotte, during his last Town Council meeting as Manager will present a summary of the issues that he feels will continue to be addressed by the new Town Manager. My report tonight is the mother of all Town Manager’s Reports. The page count could actually be close to 15 pages plus. I will spare reporting on the pages that require little or no explanation. However, since this is my summary report to you as the outgoing Town Manager and my last Town Council meeting, I can only suggest you sit back, relax, and allow me to review what’s been happening in “my world.” This report is obviously designed not to focus on my accomplishment as I am afraid they have been too few in numbers. Instead the report is designed to assist in the transition of out-going to incoming in hopes this document will be helpful in the weeks ahead. Before I begin I would like to thank the past and current Town Council, staff, past and present, and citizens of Old Orchard Beach for the unique opportunity to be the leader of their School department and the leader of the Town. It has been an honor and privilege and a memory I will cherish the rest of my life. His report continued with the following information:

1. **Audit Bid**
Louise has sent out RFP’s which are due back on Friday, February 24, 2012 at 12:00 noon.
2. **Ballpark**
Ballpark Cement Repair Project
80% ready to send out on an RFP. Waiting for Council direction – perhaps during the budget process – estimated cost - \$300,000+
 - A. **Ballpark Ordinance – Commission**
*It has been two years after initial document; it should be reviewed and redone.
Note: The Commission should only be the Advisory organization for the Stadium.
The development of the land adjacent to the Stadium should be the responsibility of the Council.*
 - B. **Ballpark Budget**

Jen DeRice and Catherine Saltz (Jack) are working on a budget proposal for the FY-2012-2013 budget (operational only.)

C. Future League Contract

Not signed yet. Awaiting on clarification of language regarding reimbursement for ticket sales over 500 tickets.

Also waiting on documentation providing someone to be the authorized signing person.

Last I knew they were waiting on paperwork from the State identifying the LLC.

X – Note: Very important not to have contract signed without authorization from a legal entity.

3. Beach and Downtown Cleaning Bid

RFP was sent out and bids were opened. We received two bids; one from Extreme Clean and one from a Bangor Company (BA Services). I intended to place the awarding of the bid on the February 7th Council agenda; however there were major discrepancies in the bids and the alternate bids. I have decided to meet individually with each bidder in an attempt to clarify the understanding of the bid requests. This item should be on the next Council meeting scheduled for February 21, 2012 and Bill Robertson, Louise and I, if needed, will help with the discussion.

4. Conflict of Interest

File ongoing. The Council is as informed as I am on this subject. Outside of the Conflict of Interest relating to issues with the Council, Louise, Kim and I remodeled Louise's press releases. The only change is Louise will not be sending out pure advertisements and all information distributed will now be processed through the Town's Virtual Town Hall system.

5. Cell Phone Project

I reviewed, collected and streamlined all Town cell phones when I arrived two years ago. It needs to be done again and Catherine will be conducting this review. More documentation of individual arrangements needs to be developed.

6. Discrimination Case

No longer at the Human Rights level. Withdrawn by complainant. Town Lawyer has turned the case over to the Attorney for our Insurance Company with a possible minor financial impact to the Town under \$3,000.

7. Fireworks Ordinance

At Council level with a Public Hearing being set for February 21st.

8. New Library Project

Working weekly with the Edith Belle Memorial Library Trustee's Board. Geoff Hole, Attorney at Bernstein & Shur has been assigned to the project. Turning library funds over to the Town.

Turning over the architects contract and control procedures to the Town.

1. Have only concept drawings;

2. Need a new contract for construction drawings;

3. All arrangements between Town and Library Board will be released to writing and given to the Council.

4. Catherine is seeking funding sources and will receive PFP quotes on a \$2 million, 10 year loan.

5. Need a Town Employee to manage this project.

9. Negotiations – Public Works and Waste Water

The Town has received the official request to negotiate new contracts both with the AFSCME, Council 93 – Lee Libby – State Union Representative. There is a time limit to start the process – open receipt of letter which was reviewed February 3, 2012. (Need to check on that time limit.)

10. **Police Personnel**
A Police personnel issue has been presented to an Arbitrator for a final decision – not to be expected for three or four weeks from now.
11. **Purchasing Policy**
*Made very minor changes in the Town Manager's Policy to be more manageable by the Department Heads.
The Policy needs to address Munis training in order to be fully implemented.
It is my belief the Council, in time, needs to raise the limit to allow purchasing to be less cumbersome. For now, until Department Heads get accustomed to the added responsibility for their individual budgets, the policy is fine for now.*
12. **Plumbing/Electrical, Brick Work, Tree Work and small paying projects**
*The items were bid with bids opened. Bill Robertson had some clarifying work to do and the electrical bid had to be rebid because not everyone bid on all aspects of the required information.
Bill will present these bids for Council action at a future Council meeting.*
13. **Police Station Garage**
Perfect world – Town storage including Police Department needs should be incorporated in a remodeling of the existing Fire Department in order to avoid building a separate building, etc. Town and Police storage is desperately needed and the Fire Stations should be brought up to today's standards.
14. **Raging Tide**
*File is not completely closed regarding the departure of the Ayotte family.
Outstanding finances (security deposit) remains. Question on uniform ownership still needs to be researched.
Jen DeRice keeps in contact with the family and as of this date there is no reason to be concerned as the Town is not in any negative position. Jen continues to be on top of any need to take actions. Contact person is Jen DeRice.*
15. **School Budget - FY 2012-2013**
No figures available. Recent news that the RSU will not suffer a State subsidy loss should help. Although there are problems in the RSU and current budget and predicted hardships for next year I am predicting the RSU budget increase will be somewhere between \$300,000 to \$500,000 increase over last year; \$400,000 would be a good early estimate.
16. **Skatepark Including Tree Removal**
*Jason received a new Conservation grant of approximately \$18,000. Bill Robertson has investigated the tree removal portion of the project which should be accomplished as soon as possible. There is \$15,000 in the existing budget which was never removed by a full Council declaration. The Council may or may not choose to allocate it to the project. There was mixed views during the budget presentation.
This project needs a leader to move forward. Jason and Bill should accept that responsibility as an item along with guidance from the new Town Manager.*
17. **Trident Insurance Claim by Property Owner**
Was scheduled for small claims court but the insurance company is offering a resolution – possible cost to the Town under \$1,000.
18. **Town Hall Rail Project**
The Town needs to design and install safety rails on top of the concrete walls in the upper parking lot. I worked on a simple pipe design rail but found out that due to the historic nature of the building the design needed a Historical Society review. Mike Nugent was helping with this project and nothing much has happened since he left. Should be in the CIP budget.

19. **Town Hall – Television Policy**
This clarification of which organization has TV coverage and who is live and who is taped and who has the Council Chambers and who has the Police Community Room (winter only) has been a project that Louise and Kim and others have drafted. It is now up to the Council to make the decision (check on the new charter.)

20. **Town Hall Exterior Bids**
*RFP was sent and bids were opened for new siding that resembled the color and current wooden shingled look. Consideration was also reviewed for repair of all windows and building trim. The two primary bids were Citritien Construction, out of Saco, and Custom Design and Building – owner John Moody.
The project needs one more contribution from the CIP budget of approximately \$75,000 to be able to fully address the project including wood repairs and insulation wrap.
One of the bidders was unable to procure a bond which was required after the bid process due to the extent of the project.
I would suggest this project be started as soon as the Council approves the money – re-bidding the project would not be a bad idea.*

21. **Web page – Louise and E-mail Press Releases**
Project just completed and operating with the assistance of Kim. E-mails are now municipal announcements and following all principles of Town government and web page regulations.

22. **Waste Water Grievance**
Along project nearing conclusion related to the use of substitute personnel filling in for absent employees. Resolutions has been exchanged and the outcome is now in the hands of the Union. Attorney Glen Israel from Bernstein & Shur has been assisting in this case. Outcome unknown – financial impact unknown. Possible settlement unknown.

23. **Woodridge Condo Drainage Challenge**
*A challenge by the owner that originated prior to my arrival. The previous Public Works Director fixed Beaver Brook culvert under DEP permit by rule due to the urgency of the culvert condition. Follow a big storm. Property owner claims the Town directed water towards his property and wants the Town to repair his personal property (including a new asphalt parking lot.).
The previous Town Manager and Public Works Director, along with the current Town Manager and Public Works Director, do not agree the Town caused the problem beyond what the property was already experiencing. Current situation is a stalemate. Bill Robertson knows the case.*

24. **Wages – Non-Union**
Non-Union employee’s wages have not been addressed. The current Town Manger recommended a 2[^] increase retroactive to July 1, 2011. Most employees other than the new hires have not had a wage increase in four years and have been asked to contribute more money to their insurance plan. Although the Finance Department is currently reviewing payroll concerns and current review should not distract from the need to address the non-employees raise.

25. **Winter Train Station**
The project is on the slow burner with Stephanie at Wright Pierce. Jeffrey Hinderliter recently took over this project from me. There is no doubt the train could stop in Old Orchard Beach in the winter with modifications to the station platform at a cost. The ticket machine would need to find an accessible location from 5:00/5:30 a.m. to late into evening before the last train.

All these challenges will cost OOB money and the question remains on how many people will use the train in the winter from OOB and is it worth the money.

There is a concept that due to the congestion at the Portland Train Station – Scarborough, Buxton, Western communities may choose to use the OOB station rather than fight the parking challenges in Portland. But again, if that would be true, would offering that service to surrounding communities be cost effective for OOB

Details of cost for the platform according to Jeffrey will soon be presented to Council.

Conclusion:

This concludes active project which I keep on my desk for frequent attention from me. Construction and Infrastructure Needs are listed below:

1. **Little River Dredging**
Still waiting for DEP permit. Likely not going to receive one for this winter season due to the open winter and no hard freeze conditions. Should be ready to go for next winter. Contact person is Bill Robertson.
2. **Intersection – Saco Avenue and E. Emerson Cummings Boulevard**
All set to go – funding secure – DOT is handling the project – Contact person is Bill Robertson.
3. **Industrial District Road – Out Valley Lane**
An idea at this point. Contact people – undecided – this idea was a Mary Ann Conroy hand me down from the past.
4. **E. Emerson Cummings Boulevard – Safe Route to School Project**
All but completed. Still needs final coat of finished asphalt and minor odds and ends. Contact person is Bill Robertson.
5. **Fire Department Museum**
A dream/future project – a nice asset for the Town. Contact person is Arthur Guerin.
6. **Parking and Sidewalk Workshop Information**
7. **Halfway Rotary File**
8. **Rail Repair along Beach Side of Palace Playland**
This project needs to reviewed and designed from scratch. I actually forgot about it. Maybe Bill and Jimmy should estimate a repair/replacement solution and it should be added to the CIP budget.
9. **West Grand Project (5 Files)**
Phase I – Mostly completed. Sewer line replacement – will need landscaping. Finish work to be accomplished in the spring.
Phase II – Tide Gate – underground conduit installed. Wright Pierce working heavily with the DEP on Tide Gate and the Saltwater Marsh (not Jordan Marsha). Need more work to be accomplished between DEP and Wright Pierce on the Tide Gate and Saltwater Marsh. Contact person is Ryan Wingard of Wright Pierce and Bill Robertson.
10. **Waste Water Project (Future)**
11. **Wright Pierce Construction Progress Report (all Wright Pierce Projects)**

The Council expressed their appreciation to Jack Turcotte for his exemplary service to the Community of Old Orchard Beach.

NEW BUSINESS:

555 AGENDA ITEM: Discussion with Action: Appointment and Confirmation of Mark Pearson as Town Manager for a six-month probationary period, anticipating a further two year contract upon confirmation by the Town Council at the conclusion of the probationary period; at a salary of \$89,400; \$5,000 in lieu of health benefits; and a \$4,470 contribution to ICMA.

CHAIR QUINN: Chairman Quinn welcomed the new Town Manager, Mark Pearson, and his lovely wife, Laurie, to the meeting this year and gave some detail on the hiring process and acknowledged the talent and professionalism that Mr. Pearson will bring to our community.

COUNCILOR DAYTON: She explained her concern about one word in the contract of Mr. Pearson and had discussed this with the new Town Manager before the meeting and he did not object to the change being made. The concern was in the verbiage: “The Town Manager may engage in outside activities such as, but not limited to, speech writing professional consulting property development and property management with prior notice to the Town Council without violating the provisions of this paragraph.” Councilor Dayton recommended it be reworded to indicate “The Town Manager may engage in ~~outside~~ activities outside such as, but not limited to, speech writing professional consulting property development and property management with prior notice to the Town Council without violating the provisions of this paragraph.”

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve the Appointment and Confirmation of Mark Pearson as Town Manager for a six-month probationary period, anticipating a further two year contract upon confirmation by the Town Council at the conclusion of the probationary period; at a salary of \$89,400; \$5,000 in lieu of health benefits; and a \$4,470 contribution to ICMA with a change in the contract wording under I. A - Duties to read: “The Town Manager may engage in ~~outside~~ activities outside the Town of Old Orchard Beach such as, but not limited to, speech writing professional consulting property development and property management with prior notice to the Town Council without violating the provisions of this paragraph.”

VOTE: Unanimous.

MARK PEARSON: Mr. Pearson expressed his delight in coming to Old Orchard Beach and that he and his wife, Laurie, look forward to becoming engrained in the community and getting to know the staff and the citizens. He looks forward to “chipping away” at the list provided by Town Manager Turcotte and expressed appreciation to him and the Assistant Town Manager for their willingness to provide assistance in this transition period.

5556 Discussion with Action: Set a Public Hearing Date of February 21st, 2012 to Adopt an Ordinance Prohibiting the Sale and Use of Consumer Fireworks.

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

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on February 21st, 2012, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Article IX, Sale and Use of Consumer Fireworks Prohibited, Section 38-290 through 38-296 is hereby added to the Town of Old Orchard Beach Code of Ordinances:

Sec. 38-290. PURPOSE AND AUTHORITY.

A. Purpose. This Ordinance governs and prohibits the sale and use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Old Orchard Beach and of the general public.

B. Title and authority. This Ordinance shall be known as the "Town of Old Orchard Beach Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, the provisions of 8 M.R.S. § 223-A, and Section 410.1 of the Old Orchard Beach Town Charter.

Sec. 38-291. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

A. Missile-type rockets, as defined by the State Fire Marshal by rule;

B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Sec. 38-292. USE AND SALE OF CONSUMER FIREWORKS PROHIBITED.

No person shall use, sell, or offer for sale consumer fireworks within the Town of Old Orchard Beach.

Sec. 38-293. EXCEPTIONS.

This Ordinance does not apply to a person issued a fireworks display permit by the Town of Old Orchard Beach and/or the State of Maine pursuant to 8 M.R.S. § 227-A.

Sec. 38-294. VIOLATION PENALTIES AND ENFORCEMENT.

A. Penalty for Violation. For each violation of a provision of this Ordinance or other failure to comply with any of the requirements thereof, the person shall be subject to a fine of not less than \$100 and not more than \$2,500, plus attorney's fees and costs, to be recovered by the Town for its use.

B. Enforcement. This Ordinance shall be enforced by the Town of Old Orchard Beach Police Department.

C. Injunction. In addition to any other remedies available at law or equity, the Town of Old Orchard Beach, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

D. Seizure & Disposal. The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

Sec. 38-295. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption.

Sec. 38-296. SEVERABILITY.

Should any section, subsection or portion of this Ordinance be declared by any court of competent jurisdiction to be invalid for any reason, such a decision shall not be deemed to invalidate any other section, subsection or portion of this Ordinance.

Councilor Coleman recommended and motioned to table this item since February 21, 2011 is the week of school vacation and this is an important issue of relevance to many and it would be beneficial to postpone this public hearing until the March meeting. He felt that it would give all citizens an opportunity to participate in the public hearing.

There was no second to Councilor Coleman's motion.

MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded Set a Public Hearing Date of February 21st, 2012 to Adopt an Ordinance Prohibiting the Sale and Use of Consumer Fireworks.

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

5557 Discussion with Action: Amend Town Council Policy 07-01, Parking Permits, by changing the fees and structure for Non-Resident Parking Permits.

TOWN OF OLD ORCHARD BEACH

**Town Council Policy 07-01
Parking Permits**

The Town Council has established the following policy for the issuance of and charges for Municipal Parking permits.

Resident Parking Permits: Permits for parking in Municipal Parking lots may be issued only to Town residents. The cost for a Municipal Parking Permit for the Milliken Street and Memorial Park Municipal Lots, inclusive, will cost \$50.00 per permit. There will be a limit of two (2) Municipal Parking Permits per Household. Permits for individual lots may not be purchased separately.

Resident Eligibility: Only the following shall be considered residents who are eligible for Municipal Parking permits:

- (1) Individuals who register their car in Old Orchard Beach, who presently live in Town.
- (2) Individuals who register their car in Old Orchard Beach and who pay real estate taxes.
- (3) Individuals who pay real estate taxes, and who live in their homes for the summer season.

Non-Resident Parking Permits: All individuals who do not qualify for a municipal resident parking permit may purchase a non-resident parking permit for ~~\$300.~~ \$150. There will be a maximum of 100 Non-Resident Parking Permits, and they will be available at a first-come, first-served basis. These permits will authorize parking in the Milliken Street Municipal Parking Lot only, and are not valid for July 3rd, July 4th or July 5th.

Employee and Staff Permits: Staff permits may be issued, at no cost, to Town employees, Staff and Town Councilors for parking in the Employees parking area and Veterans Square area.

Visitor Parking: No permit will be required for parking in the upper Town Hall Parking lot. Temporary permits for parking in Veterans Square may be issued by the Town Manager's office.

Permits: Permits shall be in the form of hang tags to be affixed to the rear view mirror. All stickers for which a fee is charged shall be issued by the Town Clerk's Office. The Municipal Parking Permits and Non-Resident Parking Permits are valid through Labor Day of each year. Colors of the stickers are to be determined by the Town Clerk. Stickers shall be numbered consecutively. Staff parking stickers shall be issued by the Town Manager's office and shall be valid only while the individual is employed.

Permits Not Transferable: Permits issued under this policy are personal and not transferable. If the Town Clerk determines that a permit has been sold or otherwise transferred, the Clerk shall immediately void the permit and the permit fee shall be forfeited to the Town. This provision does not prevent the temporary use of a permit by a

member of the permit holder's household or a guest of the permit holder [with the written permission of the permit holder]. (Amended by adding this section 9/18/07).

General Information: Stickers/permits do not allow overnight parking in any location.

Adopted: February 6, 2007

Amended: September 18, 2007

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Amend Town Council Policy 07-01, Parking Permits, by changing the fees and structure for Non-Resident Parking Permits.

VOTE: Unanimous.

5558 Discussion with Action: Re-appoint Neal Weinstein as a Regular Member of the Finance Committee, term to expire 12/31/13; appoint John Bird as an Alternate member of the Finance Committee, term to expire 12/31/12.

Vice Chair Tousignant did indicate that in the case of Mr. Bird who has applied for many committees, and he appreciates that commitment, he is, however, not in favor of an individual serving on a several committees.

MOTION: Councilor MacDonald motioned and Councilor Dayton seconded to Re-appoint Neal Weinstein as a Regular Member of the Finance Committee, term to expire 12/31/13; appoint John Bird as an Alternate member of the Finance Committee, term to expire 12/31/12.

VOTE: Unanimous.

5559 Discussion with Action: Approve the Special Event Permit application for the Town of Old Orchard Beach to hold the annual Memorial Day Parade on Monday, May 28th, 2012 from 8 a.m. (set up in Memorial Park) to 3 p.m. (takedown); line-up on E. Emerson Cummings Blvd at Noon, parade to begin at 1 p.m. Request to waive the fee.

CHAIR: Chief Kelley and Chief Glass indicated that in the case of Memorial Day there are extra police officers on duty because of the long weekend. The Fire-Police personnel who assist the Police Department during this event are given credit for their attendance towards their required number of fifty "assists" for the year. The on-duty shift rides in the parade and attends the program at Memorial Park. There really is no additional cost. The Public Works Director indicates that he uses Truck 8 in the Memorial Day parade to haul the "Red Hat Ladies" and Tommy Dupuis drives the truck on his own time as a volunteer. Only cost is for fuel which is minimal.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to Approve the Special Event Permit application for the Town of Old Orchard Beach to hold the annual Memorial Day Parade on Monday, May 28th, 2012 from 8 a.m. (set up in Memorial Park) to 3 p.m. (takedown); line-up on E. Emerson Cummings Blvd. at

Noon, parade to begin at 1 p.m. Request to waive the fee.

VOTE: Unanimous.

5560 Discussion with Action: Review and adopt the Current Personnel Policy Manual as required by Charter Section 502.8.

CHAIR QUINN: Under Section 502.8 in the Charter, referring to the Town Manager and his powers and duties, it says – “Prepare a Personnel Policy to be submitted annually to the Town Council and be responsible for its administration after adoption.” It should be noted that just recently at a Department Head meeting discussion involved the need for updating this Policy with overview in subjects that have been recently discussed in Executive Session.

COUNCILOR DAYTON: The Councilor brought forward this agenda item based on the Charter requirements and encourages the new Town Manager to make a priority updating the Personnel Policy Manual based on financial considerations already discussed by the Council.

CHAIR QUINN: He expressed concern as to why this is being brought up since there have been no changes since 2006 when the policy was approved.

TOWN MANAGER: The Department Heads have already discussed the need for updating of this policy and it will be addressed quickly in the weeks ahead. He indicated that this would set the policy that in the future this is to be reviewed, per ordinance, at least once a year.

MOTION: Councilor Dayton motioned and Councilor Coleman seconded to Review and adopt the Current Personnel Policy Manual as required by Charter Section 502.8.

VOTE: Unanimous.

5561 Discussion with Action: Approve the Special Event Permit for OOB365 to hold “Winter Carnival 2012” on Old Orchard Street on Friday, February 24th, from noon to 8 p.m. and Saturday, February 25th, from 10 a.m. to 5 p.m., to include a giant snow hill down Old Orchard Street, horse drawn carriage rides, games, etc.; and a request to waive the fee.

COUNCILOR MACDONALD: She acknowledged being the President of OOB365 and that there will be no cost to the Town in this event. It was also noted that in the past this has been a very successful event enjoyed by our residents as well as visitors.

VICE CHAIR TOUSIGNANT: He acknowledged that he is a member of OOB365.

MOTION: Councilor Dayton motioned and Chair Quinn seconded to Approve the Special Event Permit for OOB365 to hold “Winter Carnival 2012” on Old Orchard Street on Friday, February 24th, from noon to 8 p.m. and Saturday, February 25th, from 10 a.m.

to 5 p.m., to include a giant snow hill down Old Orchard Street, horse drawn carriage rides, games, etc.; and a request to waive the fee.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Vice Chair Tousignant motioned and Councilor Dayton seconded to Adjourn the Town Council Meeting at 9:40 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 sixteen (16) pages is a copy of the original Minutes of the Town Council Meeting of February 7, 2012.
V. Louise Reid**