

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL WORKSHOP
Tuesday, May 8, 2012
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Tuesday, May 9, 2012. Chair Quinn opened the meeting at 7:02p.m.

The following were in attendance:

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

Absent: Councilor Michael Coleman (provided written statement)

As a result of concerns regarding the possible closing of the library for lack of funds and several press releases as to controversy regarding issues between the Town and the Library, the Chair called for a Workshop to discuss financial concerns related to the Edith Belle Libby Memorial Library (the "Library.")

It was indicated to the Secretary that the Board of Trustees for the Edith Belle Libby Memorial Library consist of the following, some who spoke during the meeting:

Norman Audit, Paulette Belanger, Wendy Brown, Israel Collins, Peter Flaherty, Beverly Hall, Doris Harris (non member but serving as Treasurer following the resignation of Alice Langdon), Mary Ann Kotros, Adele Millette, Jerome Plante (Chair), Don Radley, Moira Rascati, and Neal Weinstein. Attending also were members of the Library staff including Lee Koenigs, Interim Director, Eileen McNally, former Director, Kim McLaughlin, Juvenile Services, and Sheila Lauzon. Also in attendance was Mamie Anthoine Ney, Consultant – Southern Maine Library District.

The Town Manager, Mark Pearson, reported that on March 23, 2012 a matter of financial concerns to the Town was brought to his attention along with the Interim Library Director. The Town's Finance Director, the Town Manager and the Interim Library Director took immediate action to preserve the Library bank accounts. He explained that the Library's bank accounts are separate from the Town's bank accounts and that the Library has an account that is the operating account for the Library which includes an annual budget of \$225,880 which the Town sends quarterly payments to the Library for employees payroll, reading materials, programs and classes, repairs and maintenance, electric, heat and supplies. The Town Manager indicated that he notified the Library Interim Director and Board of Trustees through the Interim Director that the Town will not be forwarding quarterly operation funds to the Library but instead will administer the appropriate funds for payroll

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and operational expenses as part of the normal financial process that is in place at the Town where it is overseen by the Finance Director and Human Resource Departments. This financial control, he said, is necessary to ensure the public that no further public funds are in jeopardy and there will be a full accounting of the past finances at the Library and he anticipated no interruptions of service at the Library from his point of view. He pointed out that it is now six weeks later and no payroll records and only a small folder of invoices have been turned over to the Town. He also reported that the Library Trustees were in the process of turning over the remaining fundraising money to the Town for the Library Building project in order to move forward with the preliminary design and conceptual plans in order to go out to Request for Proposals but that no fundraising money has been received by the Town at this time. He also indicated that the bank records of the Library are the subject of a preliminary investigation to determine if any funds are missing, if they were inappropriately transferred, and to where the funds, if missing, are now. There has been no official determination at this point in time of the investigation by the Office of the Maine State Attorney General. The Town Manager also indicated that on April 17, 2012 a Library update was provided to the Town Council from the Finance Director regarding a meeting with the former Treasurer and the Interim Library Director at which time she requested copies of all past invoices which she was told they were in the process of getting; current invoices, including the health insurance invoice; and a copy of QuickBooks files of all accounting/cash records. Again, as of this date, they have not been received in the Finance Director's office. The Town Manager expressed concern that when the impropriety of the missing funds was raised, the Interim Library Director went to the bank and put her name on the Library's accounts which does not conform to rules of checks and balances.

It should be noted that several times during the meeting members of the Library's Board of Directors indicated that Libby Library is a free public library and they do not want political oversight as to what they purchase. The Council assured the Library Board that there is no desire to control the schedule of the Library, what books they buy, decisions made reflecting business decisions of the Library, etc. It was noted and the Library addressed the issue of the revocation by the IRS of the 501(c)(3) status of the Old Orchard Beach Free Public Library Association, Inc. on August 15, 2012. These revocations appear to be due to the fact that both organizations failed to file the proper Form 990 as required by law with the IRS for three consecutive years which means that neither organization is recognized by the IRS as a legitimate non-profit organization and indicated that this matter had been settled.

Discussion continued on the issue of the signing of a Memorandum of Understanding requested by the Library's Board of Trustees. The Memorandum outlined an agreement that would have the Town administer the payroll and payment of bills and has the Board of Trustees run the Library. Again it was indicated that the Library is a "quasi-municipal corporation" with a Board and Trustees and Bylaws and thus needs an agreement like the Memorandum suggests assuring its ability to administer its own policies and procedures. The Town Council Chair and Council members indicated that a Memorandum of Agreement is a good suggestion but there were some suggestions for revision made by the Town Manager which should be addressed.

There was a lengthy discussion on the risks of non-compliance for employers who fail to fully comply with Internal Revenue Services requirements for filing of employment forms relative to their legal right to be employed. Discussion on the need for the Form I-9 (Immigration Reform and Control Act (IRCA) was lengthy. The Form I-9 is a three-part document. The C:\Documents and Settings\kmclaughlin\Local Settings\Temporary Internet Files\OLKE\5 8 12 workshop on library finances.doc Page 2 of 4

law requires that the employee complete Section 1 at the time of hire or when the employee begins work. The employer must complete Section 2 within three business days of hire and certify that the employee's documents of identity and work authorization appear to be genuine and belong to the employee. Section 3 is completed by the employer when it is necessary to update or re-verify an employee's work authorization document. The passage of the Sarbanes-Oxley Act and increased public exposure of troubled companies in the past have heightened employers' awareness of legal compliance issues to new levels. It is prompting many to decide that it's in their best interest to retain an independent, non-governmental entity to conduct I-9 audits as a preventative practice. The Town Manager explained all this in detail because there seemed to be some reluctance on the part of the Library administration to provide these documents. The Board of Directors at this meeting agreed that the documents would be provided the next day. The Town Manager reminded everyone that non-compliance, whether intentional or simply caused by oversight, has severe consequences imposed by the Department of Human Resources as well as the potential of public image tarnished by negative publicity. There are specific and hefty fines related to non-compliance. During the discussion it became evident that scenarios presented by the Library were not factual on the record keeping of the I-9'.

Although there was unanimous agreement that there is a great need for the community Library and that the staff has done good work for the community and such work is acknowledged by all in attendance this evening, it was generally the consensus that additional constraints are needed assuring accountability and accuracy both in financial considerations and in the issue of the management of the payroll.

Several in the audience spoke and expressed their opinions of issues relative to the discussions including members of the Library's Board of Trustees who supported the Library but concurred that more financial control would be good and acceptable. Others including Jerome Begart applauded the Library's work but reminded them that in some of these discussions it appeared that "...the lady doth protest too much, methinks ([Shakespeare's Hamlet](#), Act III, Scene II.) Paul Ladakakos spoke to the issue of doing what is asked and moving on with the work of the Library. Dusty Guarino encouraged the Council to keep the Library open and move on with this. Several of the Library's Board of Trustee's indicated their great concern over what has happened and the unfortunate situation but reminded the Town Council that the value of the work of the Library and its staff is vital to the community and those who use its facilities. Laura Bolduc gave the Council an understanding as an employer and the owner of an employment agency requirements for filing of reports and also encouraged the Council to support the Library. Robin Dube also encouraged the Council and the Board of Trustees to come to a solution quickly on this issue.

A Petition – KEEP OUR LIBRARY OPEN – as presented to the Town Council with sixty-six names on it and was given to the Town Council Secretary to be attached to these Minutes.

An e-mail from Councilor Michael Coleman was sent to the Secretary for inclusion in the Minutes:

To the Citizens and Taxpayers of Old Orchard Beach: Unfortunately Councilor Coleman is unable to be present here at this important meeting due to a prior appointment with Governor LePage tonight. Earlier today Councilor Coleman met with Attorney General Schneider regarding the matter of the missing funds from the library to personally
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express his concerns on this case. He has full confidence that the investigative agencies within our state will bring this case to a conclusion based solely upon the evidence. Councilor Coleman would like to express his unqualified support in this matter for the actions of the Town Treasurer, Catherine Saltz and Mark Pearson, our Town Manager. They have acted appropriately and with integrity. They have offered ways to ensure the continued operation of the Libby Library while also performing their fiduciary duty to the taxpayers of our town that our tax money be used only for the purposes for which it has been appropriated. Essentially their position is that any tax dollars expended must be legitimate expenses and backed up with proper documentation of the legitimacy and legality of those expenses. Councilor Coleman additionally has heard from many people in town expressing their support for the new manager and treasurer. It is painfully obvious that the Libby Library did not have adequate internal controls in place to safeguard the people's money. We should all be saddened that the Trustees failed in their oversight duty to protect those taxpayer dollars from being diverted from the library. We should be angry that the board and management did not care enough about the library to institute those internal controls that would have at the very least mitigated the losses suffered by the library. The fact that the Old Orchard Beach Free Public Library Association had its 501(c)(3) status revoked by the IRS in 2010 for failure to file the required 990-series form should also be of grave concern. These failures have endangered the very existence of the library. That is not an acceptable outcome. The Libby Library Board of Directors is requesting that the town sign a Memorandum of Understanding with the library. Before we as a Council agree to this we should have a Public Hearing on this matter and then it should appear as an Agenda Item for a regularly scheduled Town Council meeting. Full compliance with the reasonable request for documentation from the library's management, to the satisfaction of our Town's Administration must be a prerequisite to any such agreement. The institution and verification of adequate internal controls must also be prerequisites as well as a full forensic audit of library finances. It is Councilor Coleman's hope that we can come to a reasonable conclusion of this matter that maintains the services of the Libby Memorial Library and protects the funds that come from the taxpayers of our town. Thank you for taking the time to listen to this statement.”

At the end of the meeting there was consensus with the Library's Board of Trustees that the employees would come in the next day and deliver payroll information and forms to the Human Resource Directors and that at an upcoming Council Meeting scheduled for May 16, 2012 there would be further discussion on the Memorandum of Understanding.

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 four (4) pages is a copy of the original Minutes of the Town Council Workshop Meeting of May 8, 2012.

V. Louise Reid0

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