

**TOWN OF OLD ORCHARD BEACH
REGULAR TOWN COUNCIL MEETING
TUESDAY, JANUARY 15, 2013
TOWN HALL CHAMBERS
7:00 P.M.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 15, 2013. Chair MacDonald opened the meeting at 7:04 p.m.

The following were in attendance:

**Councilor Sharri MacDonald
Vice Chair Laura Bolduc
Councilor Michael Coleman
Councilor Robin Dayton
Councilor Dana Furtado
Councilor Linda Mailhot
Councilor Bob Quinn
Town Manager Mark Pearson
Assistant Town Manager V. Louise Reid**

ACKNOWLEDGEMENTS:

COUNCILOR COLEMAN: He acknowledged with thanks and appreciation the employees and owner of the Brunswick for supporting the Special Olympics Polar Plunge on New Year's Day and although he participated, he acknowledge it was cold, but was pleased that Special Olympics raised approximately \$110,000 that day for such a good cause.

PRESENTATION: Recognition by the Town Manager of
Certifications received by staff members:
Jim Butler and Officer Will Watson

TOWN MANAGER: It is a pleasure for me to announce that two members of our staff have received acknowledgeable certifications and I wish to congratulate them for their personal efforts on behalf of bettering themselves in their educational pursuits. Jim Butler, our Code Enforcement Officer, and Will Watson, our Animal Control Officer and Police Officer received their exam results from taking the NFPA Fire Inspector I Certified course. It was a four hour exam which required the use of code books to answer scenario questions. This certification is verification of their skills in knowing and using the codes in life real life scenarios. The next phase in the certification process is the practicum phase exercises. To complete this phase they will have to do seven field inspections and have the property owners sign off that they have completed them. In this phase they will visit seven different types of occupancies to put their skills to work. Once completed they will be issued their certifications. Local delivery of this program is very rare and they pursued this course to be put on and helped the instructor find enough students willing to attempt the course. This is allowing us to serve the citizens of Old Orchard Beach. In addition, we wish to congratulate Jim Butler in passing his Licenses

Plumbing Inspector's exam. We give these two young men a lot of credit for their personal work ethic and desire to improve themselves in their work responsibilities.

ACCEPTANCE OF MINUTES:

Special Town Council Meeting Minutes of December 12, 2012; Town Council Meeting Minutes of December 18, 2012; Special Town Council Meeting Minutes of January 9, 2013; and Town Council Workshop Minutes of January 9, 2013.

MOTION: Councilor Mailhot motioned and Councilor Dayton seconded to Accept the Special Town Council Meeting Minutes of December 12, 2012; Town Council Meeting Minutes of December 18, 2012; Special Town Council Meeting Minutes of January 9, 2013; and Town Council Workshop Minutes of January 9, 2013.

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:12 p.m.

Dr. Reza Namin (107-3-6-8), 1 Stanley Street, one year round rental; Edward D. Radley III dba Radley's Hometown Hardware LLC (205-15-1), 2 Cascade Road, Retail; Brian & Katherine Trapani (301-7-4), 186 East Grand Avenue, one year round rental; and Jeffrey & Patricia Carruthers (313-4-1), 3 Atlantic Avenue, one year round rental.

CHAIR: I close this Public Hearing at 7:13 p.m.

MOTION: Councilor Coleman motioned and Councilor Quinn seconded to approve the Business License as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT: The Finance Director and I continue to work on an action plan with respect to the cash management processes, line item transfer forms, internal controls, town staff changes, working with Key Bank on efficiencies, and reconciling the 2008 Bonds for town projects. The 7-Eleven dewatering project has resulted in the invoice billing of \$26,180 and we are waiting for the payment. I am following the Governor's budget proposals that would eliminate or suspend revenue sharing to the local communities and other cuts that would be noticed in Old Orchard Beach. There is a "Beach RAID" event scheduled for next September that creates an obstacle course on the beach and attracts several hundred participants and several hundred spectators as a family event. Staff met with the event organizers and we are working on scheduling a date that does not conflict with other events in September. The "Tide Gate" has been turned over to the Wastewater Department who will be responsible for the operation. Chris White and I met with and visited a resident in Ocean Park who alleges that his basement is flooding as a result of the settings at the tide gate. I have

correspondence from this resident and will forward his concerns back to Wright-Pierce in order to confirm that the tide gate is or is not causing flooding in his basement. There are a number of RFP's that we have drafted over the last few weeks. In addition to the Legal, Payroll, and Time Clock ones, Public Works is reissuing RFP's for paving, electrical, plumbing and tree cutting. Police are drafting RFP's for parking kiosks authorized and appropriated in the fY2013 budget. The Police have also drafted a RFP for a storage garage that we talked about on January 10, 2013 at the Finance and Council meeting. We are also working on a Town Hall RFP. I have conducted several meetings with the Interim Public Works Director and met with the staff at Public Works and several meetings with personnel of the Police, Recreation, Assessing, Community Development and Code. I met with Archie St. Helaire who gave the Town a written letter stating that BBI (Casella) will not charge for the trucking to Westbrook. Louise and I attended the funeral services for Lucian Huot on Saturday, January 5, 2013. Louise attended the funeral services for the stepson of Tax Clerk, Gidgette Thompson, as well. Our condolences go out to both families. I also met with the Chairman of the Finance Committee in preparation for the Finance Committee to meet with the Finance Director on January 9, 2013 when I was meeting with the Town Council. The Finance Director and I have been meeting with staff as it relates to payroll and MUNIS computer programming issues and working to solve the applications and quirks. I have set up January 29, 2013 as Principals of Management and Leadership training to be held at the Police Community Room and lectured by Mr. William O'Brien who teaches for International City Managers Association (ICMA). All department heads and the next managers in line will be attending this training. I continue to meet with the managers from York County on a weekly basis to keep current with matters that affect our communities.

TABLED ITEMS:

5794 Discussion with Action: Adopt an Ordinance to ensure the adequate long-term operation and maintenance of post-construction best management practices (BMPs).

This item had been tabled at the last Council Meeting until language was added to reflect the area of town that applies to this ordinance. Also, Councilor Coleman questioned if the town can increase the time frame between inspection from annually to possibly 2 or 3 years. The Planner presented this evening new ordinance language. The following language is added to reflect the area of town that applies to this ordinance: Sec. 71-4 Applicability (a): "Regulated Area (2000 + 2010 Urbanized Area) of the Municipality identified on the EPA map titled "NPDES Phase II Stormwater Program Automatically Designated MS4 Area" for Old Orchard Beach, ME." The Council continued their discussion on this items but felt that over the past several times it has been brought to Council the issues raised have been answered and law prohibits it not being adopted.

MOTION: Councilor Mailhot motioned and Vice Chair Bolduc seconded to Adopt as amended an Ordinance to ensure the adequate long-term operation and maintenance of post-construction best management practices (BMPs).

VOTE: Yea: Councilors Quinn, Mailhot, Furtado, Dayton (with reservations), Vice Chair Bolduc and Chair MacDonald.

Nea: Councilor Coleman.

5800 Discussion with Action: Approve the Town Manager's RFP for Legal Services.

The Council and members of the audience reviewed the RFP for a length of time and made the following suggestions as a result of their discussions including the information in the motion below:

MOTION: Councilor Coleman motioned and Councilor Quinn seconded to issue the Maine Municipal form RFP (large print) with the addition of the Appendix A from the 2001 document (small print) and the Appendix A from the MMA form marked Appendix B with a return date of February 15, 2013.

**VOTE: Yea: Councilors Furtado, Quinn, Coleman and Dayton
Nea: Councilor Mailhot, Vice Chair Bolduc and Chair MacDonald**

5801 Discussion with Action: Approve the Town Manager's RFP for Payroll Services.

The Town Council had requested a RFP for payroll services be prepared so that the Town could explore using a payroll service to see if it could save the town money. Maria Turner spoke on this issue at length requesting information on the audit being conducted at this time.

MOTION: Councilor Mailhot motioned and Councilor Furtado seconded to Approve the Town Manager's RFP for Payroll Services due by February 15, 2013.

**VOTE: Yea: Councilors Coleman, Mailhot, Furtado, Vice Chair Bolduc, Chair MacDonald
Nea: Councilors Quinn and Dayton**

5802 Discussion with Action: Town Manager to provide information pertaining to Time Clock cost and execution for Town Council review and approval.

The Council suggested that they were just looking for costs of time clocks and record keeping equipment and not seeking to go out for RFP and asked the Town Manager to bring back to the Council at the next meeting information relative to this. Maria Turner spoke at length again on this issue as did Kathy Smith who indicated the recordkeeping of her hours as an employee and asked where this issue was coming from. Mark Jervus and Phil Follansvee also gave his opinion on the issue as well.

MOTION: Councilor Furtado motioned and Councilor Dayton seconded to Remove without Prejudice Agenda Item Number 5802 and return to Council with possible suggestions and costs for time clocks and record keeping equipment.

**VOTE: Yea: Councilors Dayton, Mailhot, Furtado, Coleman, Vice Chair Bolduc & Chair MacDonald.
Nea: Councilor Quinn**

NEW BUSINESS:

5808 Discussion with Action: Appoint Interim Town Council Secretary.

This agenda item was discussed for a lengthy time during this meeting with many in the audience and the Council making their own opinions made clear including whether they would as someone in the community to do this; a temporary agency; or someone within the Town Hall. After long discussions the Council decided on the following motion:

MOTION: Councilor Mailhot motioned and Vice Chair Bolduc seconded to advertise through the Town Clerk's office for an Interim Town Council Secretary position at a pay rate of \$10 per hour with applications due January 29, 2013 at the latest.

**VOTE: Yea: Councilors Mailhot, Vice Chair Bolduc, Chair MacDonald
Nea: Councilors Coleman, Quinn, Furtado, Dayton**

Reconsideration of the vote was taken:

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to reconsider Agenda Item 5808.

VOTE: Unanimous.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to advertise through the Town Clerk's office for an Interim Town Council Secretary position at a pay rate not to exceed \$15 per hour with applications due January 29, 2013 at the latest.

**VOTE: Yea: Councilors Dayton, Coleman, Quinn, Furtado, Mailhot, Chair MacDonald
Nea: Vice Chair Bolduc**

5809 Discussion with Action: Accept the bid from Penta Corporation in the amount of \$158,900 for the installation of three (3) hybrid blowers and process building electrical improvements from Account Number 53002-50846 – with a balance of \$364,790.45.

MOTION: Councilor Coleman motioned and Councilor Quinn seconded to Accept the bid from Penta Corporation in the amount of \$158,900 for the installation of three (3) hybrid blowers and process building electrical improvements from Account Number 53002-50846 – with a balance of \$364,790.45.

VOTE: Unanimous.

5810 Discussion with Action: Accept bid from Superior Crushing for crushing hot top, concrete, and ledge, to reclaim. approximately 5,000cy @ \$7.10/cy is \$35,500.00, from Account Number 50002-50506 – Capital Road Maintenance/Improvement, with a balance of \$494,337.00. Material to be used for shoulder work, patch work needed before paving, and dressing up any graveled roads in town.

MOTION: Councilor Coleman motioned and Councilor Furtado seconded to Accept bid from Superior Crushing for crushing hot top, concrete, and ledge, to reclaim approximately 5,000cy @ \$7.10/cy is \$35,500.00, from Account Number 50002-50506 – Capital Road Maintenance/Improvement, with a balance of \$494,337.00. Material to be used for shoulder work, patch work needed before paving, and dressing up any graveled roads in town.

VOTE: Unanimous.

5811 Discussion with Action: Approve the purchase of four (4) sets of fire fighting gear from Bergeron Protective Clothing in the amount of approximately \$6,400 from Account Number 20138-50501 – Operational Supplies/Equipment, with a balance of \$15,750.

MOTION: Councilor Mailhot motioned and Councilor Dayton seconded to Approve the purchase of four (4) sets of fire fighting gear from Bergeron Protective Clothing in the amount of approximately \$6,400 from Account Number 20138-50501 – Operational Supplies/Equipment, with a balance of \$15,750.

VOTE: Unanimous.

5812 Discussion with Action: Accept, with regret, the resignation of Ginger McMullin from the Conservation Commission.

MOTION: Councilor Furtado motioned and Councilor Quinn seconded to Accept, with regret, the resignation of Ginger McMullin from the Conservation Commission.

VOTE: Unanimous.

5813 Discussion with Action: Appoint Kimbark Smith as a regular member of the Conservation Commission, term to expire 12/31/15.

MOTION: Vice Chair Bolduc motioned and Councilor Furtado seconded to Appoint Kimbark Smith as a regular member of the Conservation Commission, term to expire 12/31/15.

VOTE: Unanimous.

5814 Discussion with Action: Appoint Carl D'Agostino as a regular member of the Design Review Committee, term to expire 12/31/2014.

MOTION: Councilor Dayton motioned and Councilor Furtado seconded to Appoint Carl D'Agostino as a regular member of the Design Review Committee, term to expire 12/31/2014

VOTE: Unanimous.

5815 Discussion with Action: Re-appoint James Duclos to the Finance Committee, and move from an alternate to a regular position, term to expire 12/31/2014.

MOTION: Councilor Quinn motioned and Councilor Furtado seconded to Re-appoint James Duclos to the Finance Committee, and move from an alternate to a regular position, term to expire 12/31/2014.

VOTE: Unanimous.

5816 Discussion with Action: Appoint Jerome Begert as an alternate member of the Finance Committee, term to expire 12/31/14.

MOTION: Councilor Furtado motioned and Vice Chair Bolduc seconded to Appoint Jerome Begert as an alternate member of the Finance Committee, term to expire 12/31/14.

VOTE: Unanimous.

5817 Discussion with Action: Amend Section 2-80, Executive Sessions, of the Town Council Rules and Procedures.

The Council reviewed the contradiction between the Town Council Rules and Procedures on Executive Sessions and the State Law that was amended in 2009 on Executive Sessions. The Town Council's Rules have it as a majority vote; however, State law requires a 3/5 vote. Since State Law supercedes the Council Rules and Procedures, we need to amend that section of their Rules and Procedures to match State Law. If not, it will be very confusing for anyone who reads the Rules and Procedures. Since it is just an amendment to the Rules and Procedures it does not require a public hearing process. It can be amended at this meeting.

MOTION: Councilor Coleman motioned and Councilor Mailhot seconded to Amend Section 2-80, Executive Sessions, of the Town Council Rules and Procedures.

VOTE: Unanimous.

5818 Discussion with Action: Approve the process of issuing the remaining Employee Performance Based Merit Evaluations to non- union employee(s) and department head(s).

MOTION: Councilor Dayton motioned and Councilor Quinn seconded to Approve the process of issuing the remaining Employee Performance Based Merit Evaluations to non- union employee(s) and department head(s).

VOTE: Unanimous.

5819 Discussion with Action: Appropriate, not to exceed \$46,178.14, within the FY2013 annual appropriations, from the Contingency Expense Account Number 20118-50350, with a

balance of \$256,645.39, to the appropriate line items for wages, FICA and mandatory contributions.

MOTION: Vice Chair Bolduc motioned and Councilor Furtado seconded to Appropriate, not to exceed \$46,178.14, within the FY2013 annual appropriations, from the Contingency Expense Account Number 20118-50350, with a balance of \$256,645.39, to the appropriate line items for wages, FICA and mandatory contributions.

VOTE: Unanimous.

5820 Discussion with Action: Increase the non-union employee(s) and department head(s) employee contribution for health insurance from 12% to 15% retroactive to January 1, 2013, once the process of issuing the remaining Employee Performance Based Merit Evaluations to non- union employee(s) and department head(s) has been completed.

MOTION: Vice Chair Bolduc motioned and Councilor Coleman seconded, to Increase the non-union employee(s) and department head(s) employee contribution for health insurance from 12% to 15% retroactive to January 1, 2013.

VOTE: Yea: Councilors Coleman, Quinn, Mailhot, Furtado, Vice Chair Bolduc, Chair MacDonald
Nea: Councilor Dayton

During the above three items, discussion related to policy also was raised. It was noted by Vice Chair Bolduc that the primary responsibility of the Council is to propose and approve policy, principles and rules to guide decisions and achieve rational outcomes. The Chair requested the approval of the Employee Performance Based Merit Policy be on the next agenda. Maria Turner presented to the Council a request under the Freedom of Information Act regarding information relative to the raises that were given to staff, particularly police department and a number of e-mails between Council, Town Manager and Assistant Town Manager.

GOOD AND WELFARE:

MARIA TURNER: She brought up the fact that some Councilors have had some issues with the Town Manager and wondered if a conversation has taken place and if not it needed to be held. She said she has documented issues about her daughter and that an investigation is forthcoming. She brought up the lost funds that were found and the books have not been balanced for months, it appears there are potential investigations like the Library.

JEROME BEGERT: He raised the issue of the suspension of revenue in the next two years. He also brought up the last three agenda items and the fact that the Town Manager understands the issues but he realizes that he needs to assure that laws and charter provisions are maintained. He now realizes that he needs to have firm direction from the Council in the form of motions. He commended the Town Manager for his following of the Charter.

MARK JERVUS: He reminded about the lights in the Milliken Street Parking lot and why they are still on. He said the Assistant Town Manager immediately sent the question to the right source but they never got back to him. He would like some attention paid to the matter.

COUNCILOR MAILHOT: She asked if this was an appropriate time to ask the status of the Public Works Director's position.

ASSISTANT TOWN MANAGER: She indicated that the Town Manager could not answer the question and it is not an appropriate time to discuss a personnel item.

ADJOURNMENT:

MOTION: Councilor Mailhot motioned and Vice Chair Bolduc seconded to adjourn the meeting.

VOTE: Unanimous.

Respectfully yours,

V. Louise Reid

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of nine (9) pages is a copy of the original Minutes of the Town Council Meeting of January 15, 2013.

V. Louise Reid