

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, July 22, 2014
TOWN HALL CHAMBERS
6:30 p.m.**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Tuesday, July 22, 2014. Chair O'Neill opened the meeting at 6:35 p.m.

The following were in attendance:

Chair Shawn O'Neill
Vice Chair Bob Quinn
Councilor Malorie Pastor
Councilor Joseph Thornton
Councilor Michael Tousignant
Councilor Jay Kelley
Councilor Kenneth Blow
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid
Laurie Lord, General Assistance Director
Daniel Feeney, Code Enforcement Officer

The Chair indicated that this Workshop would include discussion on General Assistance issues; Consideration of fees including Ambulance Billing Fees, Building, Electrical Permits, License Ordinance Categories, Miscellaneous (photocopying), Plumbing Permits, Sewers, and Zoning; and Painting and Upgrades to Town Hall.

General Assistance Issues

Governor Paul LePage has threatened to cut off all State funding for General Assistance to cities and towns that continue to provide general assistance to undocumented immigrants. The Governor indicated: "We believe this is a common sense measure to ensure that State funds are going to U.S. citizens or those people who are in Maine with documented status." Portland and Westbrook have indicated they will not enforce the mandate. Late last month the Maine Department of Health & Human Services released new guidelines regarding people who are not "lawfully" present in the United State citing a federal law from 1996 that states those who are not in the country lawfully should be denied general assistance. If general assistance funding is withheld from cities and towns that provide the money to immigrants who cannot show they are living in the United States legally, a great burden will be placed on individual municipalities. While people who are not legally in the United States should not be able to claim such benefits, the definition of "lawful" and the rules around who makes such determinations can become quite complex. This sudden change is also an issue because there is no plan in place to assist those who would be impacted by it, which could lead to serious issues for cities and towns. There would be hundreds of thousands of people homeless and without food and shelter. People don't evaporate because the rules are changed. Cities and Towns that have an influx of illegal immigrants have to face the possibility of losing their general assistance support from the State which would leave them with no other option than to suddenly put the

major burden on other sources such as religious, service organizations and food banks to help people who are in desperate situations. Homelessness in communities would increase. Maine Attorney General Janet Mills has now said that the Governor is overstepping his authority and that municipalities should ignore his directive. Mills said that the Governor cannot circumvent the Legislature and the change also creates other legal problems, among them turning municipality clerks into “mini immigration officials.” DHHS website states: “Municipalities shall provide general assistance to all eligible persons at the expense of that municipality. A municipality may not deny an applicant general assistance based upon residency. Whether a resident or not, if a person presents himself to make application for assistance, he or she shall be allowed to apply and, if eligible, assistance shall be provided.” The Website goes on to say that “A resident of the municipality means a person who is physically present in the municipality with the intention of remaining in that municipality to maintain or establish a home and who has no other residency. Eligible persons who apply to the municipality for assistance and who are not residents of that or any other municipality are a consideration. “ If a person does not have a residence, job or photo ID, it seems like it would be difficult for a municipal official to determine whether that person is in the country legally – not to mention the time it would take already over-burdened workers to look into a person’s residence status. According to federal law, the Governor and DHHS are citing “qualified aliens” including asylees and refugees – are eligible for general assistance. But what about those who haven’t been able to secure that status yet but are already in the United States? Seeking asylum is a lengthy process. About 1,000 people in Maine will be affected by this directive, many of whom are seeking asylum and will be left with little to no options for help while they work to gain “lawful” status in the country. It’s not always possible for people to get here the legal way. Sometimes when their lives are threatened, they must move first and think second. It needs to be remembered that it takes many months for a newly arrived asylum seeker to receive a permit to work. You may be on the waiting list for a permit but the individual cannot work until that permit is in hand.

The Town Manager had prepared a memo to the Town Council in which he reminded that his desire was to provide to the Council information regarding the ongoing controversy over Governor LePage’s directive to municipalities to discontinue providing general assistance to a category of non-citizens which includes the following: expired visa holders; pending asylum and pending refugee non-citizens; expired form 1-94 holders (travel visas); and individuals who are in United States without documentation. The Maine Attorney General has stated in writing that the Administration’s directive lacks authority and does not comply with the law. Municipalities are left squarely in the middle of these two positions and face legal challenges and costs regardless of how they act with respect to the administration of general assistance for this category of non-citizens. Currently no one receiving general assistance from the Town fits within the category of non-citizens. However it is always possible on any given day that an individual whose status is within the category of non-citizen could come to Town Hall seeking general assistance. Also provided to the Council was an e-mail dated June 30, 2014 from Chris Lockwood, Executive Director of Maine Municipal Association that details the steps that MMA is taking to assist municipalities in responding. One: legal action seeking a ruling from the Superior Court regarding whether the Governor has authority to issue the directive; Two: commissioning a legal opinion from Bernstein Shur on the authority of the Governor and the obligations of municipalities under existing state and federal law. Also provided to the Council was a Memorandum dated July 14, 2014 from Bernstein & Shur providing to MMA assessing the risks and legal issues faced by municipalities in light of the Governor’s directive. This includes a ten-page analysis and six attached exhibits. The exhibits include: DHHS guidance to municipalities on the topic (June 13, 2014); LePage letter to

municipalities on this topic (June 20, 2014); Opinion memo to DHHS from State Attorney General's (June 24, 2014); Revised DHHS monthly municipality General Assistance Report; and Instructions for monthly municipal GA report.

Municipalities are placed in jeopardy however they respond. Several of the State's largest municipalities have gone on record that they will continue to operate under the program guidelines in place prior to June of this year. At this time I have directed the General Assistance Administrator to ask all applicants for evidence of immigration status as suggested in the Bernstein Shur memorandum and to complete the monthly municipal report fully and completely including the section on immigration status.

The Town Manager's recommendation to the Council is that the General assistance Administrator continues to address each application on a case-to-case basis, in consultation with the State DHHS. The General Assistance Director will notify the Town Manager should a case arise that fits within the identified non-citizen category and the Town Manager will consult with the Town Council before rendering a decision. This approach may allow time for some of the pending legal issues to be clarified with respect to the Town's legal obligations.

Painting and Upgrades to Town Hall

Recently the Town went out to bid for the painting and upgrades to Town Hall.

**INVITATION TO BID
TOWN HALL PAINTING AND REPAIRS
for
OLD ORCHARD BEACH, MAINE**

Bids for the Town Hall Painting and Repairs will be received at the Town Manager's office located at the Town Hall, 1 Portland Ave. in Old Orchard Beach, Maine until 3:30 p.m. on June 17, 2014. Bids will be opened directly after that time. Work must be completed between July 7th and September 19, 2014. Bids must be submitted in a sealed envelope; the outside clearly marked "Bid for the Town Hall Painting and Repairs Project", and shall be addressed to Larry Mead, Town Manager. The work involves the preparation and painting the exterior of the Town Hall including replacement of a limited amount of wood siding and trim and other work to complete the project as specified. Copies of the Contract Documents will be distributed by the Town Of Old Orchard Beach. The Bidder should familiarize themselves with the work areas and can schedule a visit by contacting V. Louise Reid at 207-934-5714, ext. 1526. The bid packet can be found on our website - www.oobmaine.com The Town of Old Orchard Beach reserves the right to reject any or all Bids, to waive any technical or legal deficiencies and to accept any bid that it may deem to be in the best interest of the District. The following Bids were opened on June 17, 2014 by the Assistant Town Manager and Tax Clerk.

Clarke Painting, Inc.	\$48,000.00
Biddeford Painting, Inc.	61,840.00
Certa Pro Painters	65,420.00

Bids included a Lump sum total which included work as described in the documents for preparing and painting the building exterior with the exception of the unit price work noted below.

Clarke Painting, Inc.	\$44,000.00
Biddeford Painting, Inc.	59,640.00
Certa Pro Painters	62,500.00

200sf - Replace Missing or Damaged Siding.

Clarke Painting, Inc.	\$1,600.00
Biddeford Painting, Inc.	1,000.00
Certa Pro Painters	1,000.00

Replace the Wood Fascia Trim at the Entrance Canopy

Clarke Painting, Inc.	\$2,400.00
Biddeford Painting, Inc.	1,200.00
Certa Pro Painters	1,250.00

During the bidding process the Town Manager spoke with a local painting contractor who told him that the shingles on Town Hall were not dipped or coated on the inside and therefore have no protection from moisture on the inside. This individual spent several hours at Town Hall in preparation for the bid. In the end he declined to bid because he believes that the lack of coating allows moisture to absorb through the wood from the inside causing the outside surface to peel prematurely. He lives in Old Orchard Beach and did not want to have his reputation questioned in the years ahead when, as he believes, the peeling would take place again. He also pointed out that the windows when installed did not include any water shields beyond the frames, which he says is the reason that the sills are rotting. In light of that information the Town Manager is bring forward to the Council the option of replacing all windows at the Town Office now and then next year appropriating funds to replace the shingle siding with a composite material that will not require painting. His rationale is that all the windows will need to be replaced soon given the evident structural issues visible from rotting sills. The FY15 budget includes \$70,000 for the replacement of the third floor windows and he is anticipating requesting additional funds in FY16 to continue the work. In considering the alternative of total window replacement he used the estimate provided for the FY15 work on a per window cost and applied it to the 93 windows throughout the building.

Cost estimate 93 windows	\$147,500
Contingency of 15%	22,100
Total Estimate	\$169,600

The Contingency would be applied towards replacing wood rot around the existing windows. Funds in hand at this time include the FY15 \$70,000 and prior allocation for Town Hall of \$120,000, or a total of \$190,000.

Looking ahead to FY16 the next step would be to replace the existing wood shingles with cement board shingle siding or vinyl "cedar impressions" siding. The Town Manager has a preliminary estimate from Wright Pierce for this work of \$125,000. This amount does not include the cost of replacing wood trim as needed. This material would not need to be repainted.

Councilor Blow suggested that the wood trim could be replaced with plastic board that does not rot and requires less painting in the future. He said he has no problem with replacing all the windows that need to be replaced now. He has an issue with looking at the Town Hall with peeling stain/paint, it looks blighted. Also cement board at the Grand Victorian has become an issue where any moisture has gotten behind it causing damage to the siding. Councilor Blow is recommending vinyl shingles that actually look like real cedar shakes. He is hoping that this could be possibly done all at the same time this year.

Vice Chair Quinn indicated that a couple of years ago there was an estimate for vinyl that would mimic what is there now in keeping with the historic preservation aspects. It was considerably more than stain as you would imagine. Cement board is supposed to have a fifteen year life before it needs painting.

The Town Manager indicated that Wright Pierce gave him a preliminary estimate for vinyl of \$125,000 plus 15% to account for encountered repair work. He felt that was low and needs a more in-depth estimate. Councilor Blow said he would like to see a projected cost to reside it with vinyl so everyone could at least look into the possibility of finding the needed funds to do both the windows and the building at the same time. He said he did not want to look at the stain peeling another year. He also wondered when they replace the windows are they going to put the cedar shingles back or leave them off the building until they reside it?

It appeared to be the consensus of the Town Council that they would prefer to have an RFP including all aspects of the building repair including the installation of new windows and the siding of the Town Hall. The general feeling was that this would be the most economical way to go as well as moving forward on a project long overdue.

FEES

After discussions with the Town Council at a recent Town Council meeting, the following revisions were suggested by the Town Manager:

Proposed Rescue Service Fee:

Proposed fee increase has been modified to reflect 130% of the established Medicare reimbursement rate. Per the discussion during budget workshops the Council would establish the fee for all three billing categories (ALS1, ALS2 and BLS2) and 130% of the established Medicare reimbursement rate. The Town's fees would automatically adjust upward or downward as the Medicare reimbursement rate is adjusted by the Federal Government.

Proposed Business License Fees:

The fee for outdoor displays is eliminated. There were only a handful of licenses issued in FY14. Going forward the ordinance regulations for outdoor displays remains in effect.

Proposed Fee increases other than business license and rescue:

- a. The proposed fee for issuance of certificate of occupancy is eliminated as was discussed at the budget workshop.*

- b. The cost of a non-certified copy of a vital record is proposed to increase from \$.25 (twenty five cents) to \$4.00. The Town Clerk has provided information showing that this proposal fee is in line with that charged by other municipalities, including Saco, Biddeford and Kennebunk.*

Sidewalk Café Business License and Sign Permit Fee:

Vice Chair Quinn has asked to review these two items. There are more than three outdoor display licenses but the ordinance indicates that at least two would/should not qualify. The Code Officer is about to notify the owners that they will not be renewed for next year. In order to have an outside display the building has to be setback 35 feet from the edge of the road and no display further than five feet from the building so frontage setback in Town so it appears the Ordinances was specifically written not to allow them. There are a few shops on East Grand Avenue – Moose County Surf and Michelle Trahan’s Sidewalk displays of surf boards, cottage rentals “Little Miss” rentals. The question continues to be raised – what qualifies for outdoor display and whether we should require a license or not. In the list of fees the only one that was eliminated was the outdoor display.

The Council reviewed the detailed list of the fees and also agreed for the items to be moved to a Council vote in a Special Town Council Meeting following this Workshop. It was agreed to set the Rescue Service fee to equal 130% of the established Medicare reimbursement rate for all three billing categories (ALS1, ALS2 and BLS2); the Town’s fee automatically adjusting upward or downward as the Medicare reimbursement rate is adjusted by the Federal government. It was also agreed to Amend the Code of Ordinances, Appendix A, Schedule of License, Permit and Application Fees by amending the following sections: Ambulance Billing Fees, Building, Electrical Permits, License Ordinance Categories, Miscellaneous (photocopying), Plumbing Permits, Sewers and Zoning, per the schedule of fees dated July 18, 2014.

It was agreed that municipal services are the basic services that residents of the Town of Old Orchard Beach receive in exchange for the taxes that they pay. These may include sanitation, both sewer and refuse, water, streets, schools, food inspection, fire department, police, ambulance, health department issues, transportation, etc. The available municipal services for any individual municipality will depend on many factors and may vary from municipality to municipality. The fees presented to the Council this evening took into full discussion the costs involved; what could be cut if anything in the reduction of services if the fees were not raised; under what circumstances should the fees be increased or decreased; could there be some more efficiency in the deliverance of services to the citizen? The Council has been diligent in looking at the cost of all resources and proactive in analyzing the changes that were necessary.

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 six (6) pages is a copy of the original Minutes of the Town Council Workshop of July 22, 2014.

V. Louise Reid

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