

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, January 20, 2015
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 20, 2015. Vice Chair Thornton opened the meeting at 7:01 p.m.

The following were in attendance:

**Vice Chair Joseph Thornton
Councilor Kenneth Blow
Councilor Jay Kelley
Councilor Michael Tousignant
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid
Finance Director Diana Asanza**

Absent: Chair Shawn O'Neill

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENTS:

COUNCILOR TOUSIGNANT: We honor, Ms. Ruth Sullivan, this evening as she celebrates her 100th birthday on January 25th. Ruth was born on January 25, 1915 in Lowell, Massachusetts. She was a Supervisor in the Lowell Mills and the last decade worked at Raytheon in Waltham, Massachusetts. She was a dedicated caregiver to her sick father, mother and sister, Pearl. She moved to Ocean Park in 1952 and still lives in her home there and proud of it. Ruth was very involved in Ocean Park religious community; singing in the choir; helped to clean the large organ pipes; participated and volunteered at the Education Center. She is a member of The Salvation Army and very involved in activities there. In July of 1927 she and her sister were on the beach with Lindberg landed his plane and they ran over and despite security touched it even though it said "Hands Off." She has a picture of that in her home in Ocean Park. Ms. Sullivan just renewed her driver's license at 100 years of age and will continue to be seen driving her Cadillac through Ocean Park and Old Orchard. It has been said, "The quality, not the longevity, of one's life is what is important." We congratulate Ms. Sullivan because she has successfully had both. Happy Birthday, Ruth, and a hundred more.

ACCEPTANCE OF MINUTES: Town Council Minutes of January 6, 2015.

MOTION: Councilor Kelley motioned and Councilor Tousignant seconded to Accept the Minutes as read.

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:06 p.m.

Ray & Colette Gagnon (316-8-4), 111 West Grand Avenue, one year round rental.

CHAIR: I close this Public Hearing at 7:07 p.m.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the business license as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT:

The Town Manager reported that he reviewed capital budget requests to be submitted to the Finance Committee with their meeting in February. Municipal storm water requirements – Met with the Public Works Director and Town Planner to discuss the Town's compliance with federal storm water management requirements. We are anticipating an audit of our program. There will be a presentation to the Town Council at an upcoming Workshop from the Wright Pierce consulting engineer. We have advertised the request for bids on the two tax acquired mobile homes – one in Atlantic Village and the other in Old Orchard Village. Bids are due on February 12th and will go to the Town Council on March 3rd. Met by telephone with members of the York County legislative delegation on broadband and county jail issues. The State will advertise the intersection signalization project on March 18th and perhaps be done in two phases, due to delivery of the signal arms. The transfer of our Dispatch services from Sanford to Scarborough will be effective on Monday, February 2nd.

6347 Presentation of the Fiscal Year 2015 Audit and by Ron Smith, CPA, CFE, of RHR Smith & Company.

BACKGROUND:

Presenting the report to the Council is the partner, Ron Smith and the Auditor – Gregg Chabot. RHR Smith & Company has been conducting the audit for the past two years and will present the 2015 Audit in this evening's Council meeting. The Town Manager acknowledges the excellent work of the Finance Director, Diana Asanza and her staff.

Auditor Gregg Chabot started out by defining the work of an auditor. Internal controls are a process of assuring achievement of an organization's objectives in operational effectiveness and efficiency, reliable financial reporting, and compliance with laws, regulations and policies. A broad concept, internal control involves everything that controls risks to an organization. It is a means by which a municipality's resources are directed, monitored and measured.

There were some minor matters referred to as "management letter comments" that offered the opportunity for strengthening internal control and improving operating procedure of the Town of Old Orchard Beach. It was noted that general ledger

reconciliations should be done on a monthly basis. Attention will be given to uncollectable personal property accounts and approval of the Town Council to write them off for fiscal year 2015. The Enterprise Fund (Ballpark) is included within the governmental funds as special revenues, thereby leaving the enterprise fund in a continual deficit position, with no way to reimburse the general fund for funds that are due to it. To ensure the accuracy of financial reporting the Town should consider the elimination of the enterprise fund or combination of the enterprise with the special revenue fund. Management has agreed to consider recording allowance for doubtful accounts on rescue receivable. During the audit to post the Town's budget to financial accounting software it was noted that the Town's fiscal software did not have all budgeted revenues and expenditures properly posted and the recommendation is being made that budget adjustments be posted subsequent to tax commitment based on its certificate of assessment and ensure the posted budget the posted budget is in balance and agrees with the certificate of assessment. Some minor adjustments were needed in payroll withholding and should be adjusted monthly. He reported that old personal properties – non collected need to be written off. Eliminate the Ballpark as an Enterprise and make it a General Capital Fund. Recommended the posting of budget overlay and work with the Assessor on adjustments. He reviewed the unassigned compared to policy goal and the unassigned as a percentage of the budget. He indicated that the town was in a good financial position. The Council expressed their appreciation to the Finance Director and her staff and to the auditing firm as well. The following questions were posted by the Council.

6348 Discussion with Action: Amend the current Downtown and Beachfront Cleaning Contract between the Town of Old Orchard Beach and Extreme Clean, Inc., for the remainder of the 2014 contract and extend the Contract an additional two year period through 2015 and 2016.

BACKGROUND:

At the January 6, 2015 Town Council meeting this agenda item was Removed without Prejudice until a Workshop was held on Thursday, January 15, 2015. One of the major considerations of discussion was the base of operations which is currently located on Town property behind the West Grand Comfort Station. Access to the rear of the Comfort Station is by way of a discontinued portion of Staples Street. The Town retained an easement on this property that allows for specified municipal activities, including use by "municipal maintenance vehicles." Objections to the use of the area behind the Comfort Station for Downtown maintenance services have been received from abutters. Out of consideration the Council asked at that time for staff to examine alternative locations for staging of maintenance operation by Extreme Clean. The Town Manager has met with Ms. Paula Pouravelis to discuss thoroughly the cleaning and maintenance operations, potential alternative locations to operate from, and the pros and cons of different alternatives. Also discussion was the provisions of the easement the Town has on the former Staples Street and whether the current use by the Town is permissible under the terms of the easement. Participants in the discussions included Liz Copeland, from Extreme Clean; Waster Water Superintendent, Chris White; and Public Works Director, Bill Robertson; along with the Town Manager. During the discussions the following alternative locations were discussed and examined:

Milliken Street Parking Lot
Staples Street Extension (next to Palace Playland)
The end of the Square near the Pier
Town Hall parking lot
Memorial Park parking lot
The middle section of Old Orchard Street past the railroad crossing
Land adjacent to the Ballpark or near the High School.

Three of the alternatives have previously been tried for Downtown maintenance operations and found to be unsatisfactory: Milliken Street parking lot, Staple Street Extension, and the area at the end of the Square near the Pier. In addition to these three locations, maintenance operations previously have used various curbside locations in the downtown for temporary “stacking” of trash bags awaiting pick-up. For various reasons all of these options have been inefficient and have caused significant problems for visitors or businesses. The other locations considered are not acceptable either because maintenance operations would be incompatible with the existing use (Town Hall, Memorial Park, Old Orchard Street), or the distance from Downtown makes them unsuitable (Ballpark, High School area.) Liz Copeland, at the Town Manager’s request presented a Power Point Document which the Council received and provides information about the volume of trash collected and handled Downtown as well as some of the problems experienced in the past at several of the alternative locations that were considered (Milliken Street, end of the Square, and Staples Street Extension).

The Town Manager reported that he had spoken to Attorney Chris Vaniotis from Bernstein Shur about the easement language. Attorney Vaniotis was the Town’s legal counsel at the time the easement was developed. He stated that in his opinion the language in the easement referencing municipal maintenance vehicles is sufficiently broad to include downtown cleaning operations. He also stated that vehicles owned and operated by Extreme Clean are considered municipal maintenance vehicles since the service is programed as a municipal service under contract to the Town. The Town Manager recommended to the Council the extension of the two year contract and that with respect to the location of operations that the current location, while not ideal, is preferable to the alternatives examined. Its proximity to the Downtown center allows for the use of handcarts to remove trash from barrels. This is the safest and least obtrusive method as it related to downtown visitors and patrons. Because the area behind the Comfort Station abuts the railroad tracks, there are very few businesses affected and no residences affected. He also said that moving forward staff will endeavor to minimize the aspects of the operation that are problematic to abutting property owner and will keep communications open in order to solve problems as they come up.

Information already provided relative to the history of the easement included that in 1993, the Town of Old Orchard Beach and the two abutters consented to a legally binding agreement which created a Public Easement on the section of Staples Street between the railroad track and West Grand Avenue. The Town discontinued this portion of Staples Street. The abutters granted a public easement within the

discontinued street. This easement grants to the Town specific legal rights on this section of Staples Street for public benefit. These rights include: right to create and maintain a pedestrian way; right to allow pedestrian and non-motorized vehicular use. Municipal maintenance vehicles for the Pump Station and emergency vehicles are excluded; right to install or permit public utility facilities for the functioning of a pedestrian walkway to link Memorial Park, Amtrak Station, Chamber of Commerce, Libby Memorial Library and Saco Avenue with beach and downtown area. This easement was created for specific purposes of public land uses. The agreement specifically excludes motorized vehicular use on this land with specified exceptions. The abutters feel that the use of this portion of Staples Street by Extreme Clean to access their current operational base with their trucks and personal vehicles is contrary to the terms of this agreement. Parking Extreme Clean vehicles in this area is contrary to the posted "no parking signs," according to the abutters. The question has been asked: "How can the Town enforce the terms of the easement and no parking if their own vendor is in violation?" Another concern deals with obstructed access as evidenced by the emergency vehicles and OOB Wastewater Department vehicles possibly get any access to the rear of the Pump Station in an emergency situation. Extreme Clean trucks and their personal cars are parking on the easement itself and behind the building at 8 West Grand Avenue. The abutters believe that the discontinuance of a portion of Staples Street and the granting of the retained public easement were established and approved by a public process in compliance with State Statues and municipal procedures. The steps in the process included: Town officials, attorney, and abutters attended meetings to discuss this section of Staples Street; All parties consented to the terms of the Discontinuance Order; Public hearings were advertised in local newspapers (January 25, 1993) and in Town Hall; a Public hearing was held during the Regular Town Council Meeting on February 2, 1993; legal documents were executed by the Attorneys and signed by Town Officials and Abutters; The Order of Discontinuance was signed by the Town Council Chair; the Order was filed with and certified by the Town Clerk; and the Order was filed and registered with the York County Registry of Deeds. Once again the abutters are asking that the Town Council consider the relocation of Extreme Clean. At no time was the quality of their work questioned but rather the location of their work. The Town and the abutters have all acted in good faith when creating the easement agreement and it is important to know and remember that the land for a public walkway is there on Staples Street Easement. The railroad fence currently obstructs access. An at grade railroad crossing could open it again. In the interim she is asking that the Town keep the area clean, safe and free from trash and vehicular traffic.

The Town Manager noted that he had spoken with Randy McMullin from DEP regarding the downtown cleaning process and whether the current process meets DEP regulations. Based on our discussions the Town Manager indicated that OOB's situation is unique in the state because of both the volume of bagged rubbish in one location and because of the large throngs of people present. The Town Manager will be speaking again in the coming week with Mr. McMullin (who lives in OOB) and his boss, Paula Clark and he urges the Council to approve the contract with Extreme Clean because of their excellent record of quality work. If we have to make changes in the process he is confident that Extreme Clean will do a great job in adapting as needed.

MOTION: Vice Chair Thornton motioned and Councilor Kelley seconded to Amend the current Downtown and Beachfront Cleaning Contract between the Town of Old Orchard Beach and Extreme Clean, Inc., for the remainder of the 2014 contract and extend the Contract an additional two year period through 2015 and 2016.

VOTE: Unanimous.

6349 Discussion with Action: Approve the purchase of book shelving and installation services from Tucker Library Interiors, LLC at the Edith Belle Memorial Library at a cost of \$45,000 from Account Number 31144-50397 – Library Expansion Furnishings, with a balance of \$50,000.

BACKGROUND:

The Council is being asked to approve the purchase of shelving and installation services for the Edith Belle Memorial Library renovations from Tucker Library Interiors of Manchester, New Hampshire, at a cost of \$41,016.01. The shelving allocation in the renovation budget is \$50,000. This project cost was removed from the general contractor bid because of concerns over whether the base bid would exceed the project funds available and as a result is not part of the Benchmark contract. The project architect, Scott Tease, developed the design standards related to the library shelving and has been working with Tucker on the specifications and product detail. The purchase is time-sensitive because of the production and delivery schedule and the need to coordinate with the library move from the temporary quarters to the renovated building, which is scheduled to begin in early March. The total cost is well within budget and savings were achieved by removing it from the base bid and avoiding general contractor profit mark-up. At the suggestion of the architect the final cost incorporates discounted pricing through the current Massachusetts statewide contract pricing program for library shelving and furniture, resulting in savings of \$5,000. The shelving product itself is a good basic quality product which incorporates veneer end panels and wood strips to provide an attractive finished look in the renovated library.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the purchase of book shelving and installation services from Tucker Library Interiors, LLC at the Edith Belle Memorial Library at a cost of \$41,016.01 from Account Number 31144-50397 – Library Expansion Furnishings, with a balance of \$50,000.

VOTE: Unanimous.

6350 Discussion with Action: Order authorizing the Town Manager to enter into a contract agreement with the Niagara Professional Baseball Groups Ltd. for the use of The Ballpark at Old Orchard Beach for professional minor league baseball for the 2015 through 2017 season.

BACKGROUND:

The newly formed East Coast Baseball League is proposing to use The Ballpark in 2015 for a professional baseball team that the League would own. The League Commissioner, Colin Cummins, has met with the Town Manager and with

representatives of the Ballpark Commission to discuss the league, the Ballpark, and general terms related to its use, which would include user fees that were at least equal to the terms contained in the use agreement between the Town and the Raging Tide baseball team last year. The League would own the team initially and will work to identify local ownership. The ECBL currently consists of four other franchises in Niagara, ON, Waterloo, ON, Watertown, NY, and Newburgh, NY. It will begin its season in June. Teams will play a schedule that includes 30 to 35 home games. The Ballpark Commission at its January 8 meeting supported entering into a contract with the ECBL.

Colin Cummins of the Niagara Professional Baseball Groups, Ltd. introduced through a letter the desires to bring a professional baseball team to the Town of Old Orchard Beach. The potential team would be called the "Old Orchard Beach Surge" or we could run a community related five day "Name the Team Contest." The East Coast Baseball League has been in operation for ten months. Our goal is to offer professional baseball to outstanding communities throughout North America. The ECBL consists of the Waterloo Wiskey Jacks (Waterloo, Ontario), Niagara Wild (Niagara, Ontario), Newburgh Newts (Newburgh, New York) and Watertown Bucks (Watertown, New York.) We play a 60 game session from May to September. We believe that our field product will play at the High "A" classification. Old Orchard Beach is steeped in baseball history and currently has a great baseball community. We believe this professional baseball venture would help to integrate itself into the OOB community. We offer the following as a league and team to each community. He goes on to say that they could help create jobs (paid, commission-based and volunteer jobs), create a tourist and community attraction, impact to the local businesses, as well as the regional attractions and businesses. Offer intern and volunteer opportunities for the local high schools and colleges. They would offer value, fun family entertainment and mentorship programs for youth. Community and regional growth will occur through our involvement with different groups, businesses and charities. There would be a renewed sense of vitality and optimism with cultural impact. There will be opportunities for companies to see value in the region and Old Orchard Beach and open businesses within. There will be community involvement with the local and regional youth baseball associations, through camps, clinics, and programs. The Old Orchard Beach team will help launch "Hit the Books Reading Program." We will recognize top students, teachers, school and business leaders each month during the season. We will look to engage the Old Orchard Beach community with specialty nights such as fireworks, business integration days, Saturday family day and Sunday community day. Every home game will have giveaways and special in-game promotions. All afternoon games the kids will have the opportunity to run the bases and get autographs with our players. At this time the ECBL will hold ownership of the potential team. We, as the league, have a contingency plan that can sustain a franchise for up to three years. In the meantime, we will continue to seek ownership from the local Old Orchard Beach area. As founder and CEO of the East Coast Baseball League, this baseball team will not just be an investment; it will be a business for which there is deep passing and one which is intended on being a "hands-on owner." He has already met with the Town Manager and members of the Ballpark. He indicated that he regretted that he could

not attend the meeting this evening but looks forward to hearing favorably from the Town Council.

Councilor Tousignant was concerned that he did not have before him the tentative agreement with the Ballpark and felt that the item should be removed until such a document was presented to the Council. Vice Chair Thornton reminded everyone, as did the Town Manager, of the time constraints of this contract and the necessity to move forward this evening. John Gallo also indicated he understood the issue of time tables and scheduling. He also reminded the Town Manager of the need consider field maintenance charges as that was in addition to the \$17,500 paid by the Raging Tide. The Town Manager acknowledged that important bit of information. Jerome Begart thanked publicly the work of the Gallo's and their superior administration of the team.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to authorizing the Town Manager to enter into a contract agreement with the Niagara Professional Baseball Groups Ltd. for the use of The Ballpark at Old Orchard Beach for professional minor league baseball for the 2015 through 2017 season.

VOTE: Yea: Councilor Blow, Kelley and Vice Chair Thornton
Nea: Councilor Tousignant

6351 Discussion with Action: Re-appoint Mark Koenigs as a regular member of the Planning Board, term to expire 12/31/2016; Move Eileen Payette from an Alternate Member of the Conservation Commission to a Regular Member of the Conservation Commission, term to expire 12/31/2017; Re-appoint Anita Anderson as Health Officer for the Town of Old Orchard Beach, term to expire 12/31/2017; and Appoint Clifford Kenney as an Alternate Member of the Conservation Commission, term to expire 12/31/2016.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Re-appoint and Appoint as read.

VOTE: Unanimous.

6352 Discussion with Action: Approval of the AFSCME Council 93, Local 481-06, Old Orchard Beach Public Works Department Union Contract, effective July 1, 2014 to June 30, 2017.

BACKGROUND: The Town Council was presented with a copy of the Union Contract for approval after several meetings with the Public Works Union.

The Public Works employee union has accepted a revised wage scale which provides a 5.5% increase over the next three years (1.8/2/1.7). This wage proposal is equal to the most recent guidance from the Council. Under the terms of the agreement employees will not move immediately into the step that corresponds to years of service, but will instead move incrementally towards the correct wage step and most employees will not yet have reached the corresponding step at the end of this three year contract. The new wage scale reduces the spread from entry to the end of the

scale from the current 32 years of service to 20 years of service. The proposed contract removes existing language that requires management to obtain agreement from the Union in order to employ a temporary employee for more than 30 days. The proposed agreement modifies the language pertaining to vacation accruals so that the Public Works contract would be consistent with all of the other contracts. Going forward accruals will be reflected based on the employees anniversary date rather than on January 1 of each year. The proposed agreement eliminates from the contract a provision that provided for an additional bereavement day if services were located more than 250 miles from Old Orchard Beach. The proposed agreement is retroactive to July 1, 2014 and is for three years.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the AFSCME Council 93, Local 481-06, Old Orchard Beach Public Works Department Union Contract, effective July 1, 2014 to June 30, 2017.

VOTE: Unanimous.

GOOD AND WELFARE:

PIERRE BOUTILLER: He expressed his appreciation for the work of the Gallo's over the past few years and their dedication to their young people and to the community as a whole.

MIKE COLEMAN: He invited everyone to join in supporting the fundraised for Kris Fish, a fireman with serious health issues and from 6 to 9 p.m. on Thursday, January 29th at the Brunswick there will be a fundraiser. He also thanked everyone who has provided items for the event and anyone else interesting in donating and item could call 423-4848.

JEROME BEGART: He reminded everyone that on the Ballpark Committee there are openings for two regular members and two alternate members and that those chairman serving on committees who haven't gone to the Town Clerk's office should do so immediately to meet Charter requirements.

ADJOURNMENT:

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Adjourn the Town Council Meeting at 8:28 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 nine (9) pages is a copy of the original Minutes of the Town Council Meeting of January 20, 2015.

V. Louise Reid