

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, July 21, 2015
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, July 21, 2015. Chair O'Neill opened the meeting at 7:01 p.m.

The following were in attendance:

**Chair Shawn O'Neill
Vice Chair Joseph Thornton
Councilor Kenneth Blow
Councilor Jay Kelley
Councilor Michael Tousignant
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid**

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENTS:

VICE CHAIR THORNTON: I have been asked this evening by the Assistant Town Manager and the Community Animal Watch to acknowledge our thanks and appreciation to Arlene Dolgan, and of course her other half, Fred Dolgan, for their years of service on the Community Watch Committee. Their work with the animals and owners is well known and recognized. For medical reasons they will be stepping down from the Committee but continuing in their own way to take care of animal needs. Young at heart – some medical problems have raised concern – and we will miss them from the Committee but know that their efforts will still be in support of us all. Thank you Arlene and Fred for all you have done for the community of Old Orchard Beach. We wish to acknowledge this evening the excellent community efforts of members of the Golden Sands Condominium who removed garbage and invasive plants and applied over sixteen loads of seaweed mulch to the dune; planted 96 plugs of dune grass; and another 18 assorted plants native to the Maine dune. We also express appreciation to Roger Stevens, Rick Reny and Melissa Hutchins for assisting with the project and also to Sue Schaller of Bar Mills Ecological for her knowledge and guidance. Great job – well done.

COUNCILOR BLOW: I would like on behalf of the Town Council and the citizens of Old Orchard Beach express publicly to the staff of the Biddeford Free Clinic who have, over the past 22 years, offered free services to our citizens who could not afford medical care. With the closing of the Clinic, it is a great loss to all the communities. Their work is irreplaceable and our best wishes to each of the employees and our thanks for the years given in service to our community.

ASSISTANT TOWN MANAGER: I have been asked to read the following to the Council and the citizens of OOB in appreciation of their assistance during the Corvette Community Program. "We would like to take this time to sincerely thank the Town of Old Orchard Beach for all of your support through the years in helping make our "Back to the Beach" Corvette Weekend a huge success. This event is now one of the top Corvette events in the North-East and it wouldn't have happened without you. As you know events of this magnitude takes a lot of coordination and support from the host community. All of us at "Back to the Beach" would like to thank the Town of Old Orchard Beach. And especially the following organizations for their dedication and help in making it all happen: The Old Orchard Town Council; OOB 365 – Sharri MacDonald, Mike Tousignant, and Jimmy the Greek's for helping to bring more to the evening through their old fashioned "Lobster or Steak Bake" and downtown support. And a special thanks to Lt. Tim Deluca and the officers of the Old Orchard Beach Police Department, for all your support and dedication of time organizing the downtown Corvette Display and parade. A great big thank you. It was a real pleasure to work with all of you for this great event. Signed Ralph and Sandie.

ACCEPTANCE OF MINUTES:

Accept the Town Council Meeting Minutes of June 16, 2015.

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

VOTE: Unanimous.

PUBLIC HEARING:

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

Shall We Set a Public Hearing date of July 21st, 2015 to add Chapter 7, Sections 26-33, entitled "Sex Offender Residency Restrictions" to the Old Orchard Beach Code of Ordinances?

**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 July 21, 2015, 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 Chapter 7, sections 26-33, entitled "Sex Offender Residency Restrictions", is being created by adding the underscored language below to the Old Orchard Beach Code of Ordinances:

CHAPTER 7: SEX OFFENDER RESIDENCY RESTRICTIONS

Sec. 7-26. Title.

This Chapter shall be known as the "Town of Old Orchard Beach Sex Offender Residency Restriction Ordinance."

Sec. 7-27. Findings and purpose.

The Town promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. The Town recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding the fact that certain persons convicted of sex offenses or sexually violent offenses are required to register pursuant to the Maine Sex Offender Registration and Notification Act of 1999, 34-A M.R.S.A. § 11201 et seq., as may be amended from time to time, the Town finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of this ordinance is to provide such further protective measures while balancing the interests and residential needs of sex offenders.

Sec. 7-28. Authority.

This ordinance is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time.

Sec. 7-29. Definitions.

Setback - A 750 foot radius surrounding "Restricted Property."

Designated Sex Offender(s) - Person(s) convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense, regardless of whether the offense was committed in the State of Maine or another jurisdiction.

Residence – The temporary or permanent occupation or use of a place, including, but not limited to a domicile, for the purpose of living, residing or dwelling.

Restricted Property – (i) The real property comprising a public or private elementary, middle or secondary school; and (ii) the real property comprising a municipally owned property or State-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreation facility that is open to the public where children are the primary users.

Sec. 7-30. Restricted Property map; restrictions.

(a) The Planning Department, with the assistance of the Police Department, shall prepare and file with the Town Clerk and Police Department an official map showing Restricted Property as defined by this ordinance. Said map is hereby incorporated herein and made a part of this ordinance. The Planning Department, with the assistance of the Police Department, shall by July 1 of each year recommend updates to the map to the Town Council to reflect any changes in the locations of any Restricted Property and Setbacks. The Town Council may amend the Restricted Property official map by Council Order, and any amended official map shall be filed with the Town Clerk and the Police Department.

(b) No Designated Sex Offender shall reside within the Setback of any Restricted Property.

Sec. 7-31. Exceptions.

A Designated Sex Offender maintaining a residence within the Setback of a Restricted Property is not in violation of this ordinance if the residence was established and consistently maintained as a residence prior to August 4th, 2015, the date of adoption of this ordinance. A Designated Sex Offender is not in violation of this ordinance if the Restricted Property is created, moved or enlarged and such creation, movement or enlargement results in a Designated Sex Offender residing within the Setback of a Restricted Property, as long as the residence was in place and consistently maintained prior thereto.

Sec. 7-32. Violations and penalties.

(a) A Designated Sex Offender who, thirty (30) days after actual receipt of written notice sent by regular mail or hand-delivered from the Town, acting by and through its Police Department, is in violation of this ordinance shall be subject to an action brought by the Town to enforce the requirements of this ordinance. The Town may file a legal action against the violator seeking any and all remedies to which it is entitled pursuant to State and local laws, including, without limitation, declaratory and injunctive relief.

(b) The Town may also seek a penalty in the minimum amount of \$500.00 per day. Each day of violation shall constitute a separate violation. In the event the Town is the prevailing party in any action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town. All civil penalties shall inure to the benefit of the Town of Old Orchard Beach.

Sec. 7-33. Severability.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

The Chair noted that this ordinance relates to limiting where sex offenders can live and the neighborhoods along the Town's popular seven mile long sandy beach which would be off-limits. It was noted that both Biddeford and South Portland have implemented such similar restrictions. Chief Kelley who was not present had indicated that restrictions are needed to safeguard places where children congregate. In addition to the area next to the beach, neighborhoods surrounding the parks and schools would also be restricted. In order to enforce the 750-foot (restrictions allowed under) state law, communities have to create their own ordinance. It is another tool that can be used if necessary, according to the Chief. Local ordinances are allowed under a 2009 Maine law that permits municipalities to prohibit certain sex offenders from living within 750 feet of a school, park or other public facility where children are the primary users. The ordinance can apply only to sex offenders who have been convicted of crimes against children younger than fourteen. The residential restrictions and similar laws in some other Maine communities and around the country have seen broad public support from those who say they are a measure to protect the children. Opponents, however, say the restrictions are not based on evidence and could possibly even make communities less safe by driving sex offenders underground or into homelessness. It was noted in the paper that there are approximately 3,100 sex offenders living in Maine, a number that fluctuates as people come off or are added to the list, or move in or out of the area. The ordinance does not apply to visitors. There are, according to the paper, approximately fourteen sex offenders in Old Orchard Beach.

Deputy Chief Keith Babin responded to some questions stating that the Chief wanted to be proactive and in order to have the 750 foot distances one needed to adopt an ordinance. Jerome Begart had asked why it wasn't more than 750 feet and the state law was being followed and as such the 750 foot distance was included. This always could be changed in the future if needed. Councilor Blow asked how people are notified if a sex offender is living in their area and the Deputy Chief responded that for class ABC felonies abutters are notified by receiving a visit from the Police Department; anything less than the ABC would be sent a letter.

CHAIR: I close the Public Hearing at 7:15 pm.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:15 p.m.

Louis Domingue (104-3-5-A1), 26 Walnut Street, Unit A1, one year round rental; Cary Seaman (105-A1-B9), 18 Cherry Hills Road, one year round rental; Cary Seaman (105-A1-B12), 24 Cherry Hills Road, one year round rental; Cary Seaman (105-A1-H44), 91 Wild Dunes Way, one year round rental; Douglas A. Marks (106-5-20), 10 Birch Lane, one year round rental; Mystic Pine LLC (201-1-7-7E), 221 East Grand Avenue, Unit 7E, one year round rental; Sally Baillargeon dba/Bigal's Smoke Shop (205-3-4C), 50 Old Orchard Street, Suite #5, Victualers without Preparation, with Beer, Wine and/or Liquor Take Out; April Nelson (206-9-7-5), 90 Saco Avenue, Unit 2, one year round rental; Ike Naim dba/A.I.J. Shoe Warehouse (206-31-5), 29 Old Orchard Street, Retail; Michael Kaplan (302-4-3), 12 Puffin Street, one year round rental; Richard & Cindy Meoli dba/Mr. OOB Rental (302-6-3), 4-6 Wavelet Street, three year round rentals; Melissa Mantini (307-1-7-35), 2 Fernald Street, Unit #35, one year round rental; Cary Seaman's (309-9-1-18), 7 Heath Street, Unit #18, one year round rental; Ryan Saucier, Ken & Kathy Grisley (310-6-1-50), 39 West Grand Avenue, Unit #510, one year round rental; Jane Beth C. Smith (311-1-2), 18 Pleasant Street, one year round rental; Catherine Taggart (312-10-4), 9 Cedar Avenue, one year round rental; Gregory & Bradley Sawyer (315-13-13), 6 Seaview Avenue, one year round House & two seasonal cottage rentals; Jacklyn Tierney (315-14-5), 20 Sea Cliff Avenue, four year round rentals; Rich Meoli (316-13-3), 7 Pearl Avenue, two year round rentals; Kathleen Moglia & Christopher Girardin (318-8-6-39), 146 West Grand Avenue, Unit #39, one year round rental; Todd & Shelby Gauvin (318-8-6-82), 146 West Grand Avenue, Unit #82, one year round rental; 255 Seaside Avenue LLC (319-16-3), 138 West Grand Avenue, one year round rental; Robert C. Stevenson (321-14-2), 178 West Grand Avenue, pt. #1, one year round rental; and Nicole Boutet (401-3-7), 39 Date Street, one year round rental.

CHAIR: I close this Public Hearing at 7:18 p.m.

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to approve the business licenses as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT

The Town Manager reported that he was continuing to work with the State Inland Fisheries and Wildlife and the Maine Audubon on monitoring the status of the piping plover nests, chicks and fledglings. We have 19 plovers that have hatched, the most in the State of Maine. This has presented challenges with picking up trash at both ends of the beach, Ocean Park and beyond Walnut towards Pine Point. There are large financial penalties for harming plovers and driving a vehicle on the beach presents risks. Now we are able to collect trash on the west end to Ocean Park because the chicks have relocated beyond Goosefare Brook. It is expected that the birds will be leaving the east end of the beach in the next week or two and we will resume regular trash collection beyond Walnut at that point. Attended a Stormwater management meeting on Town's compliance. Audits are underway by State and Federal agencies. Reducing pollution of our rivers, streams and beaches is a priority

including enhanced code enforcement. Work on the Town Hall is underway and although some inconveniences will be experienced, we are happy to see the work start and move forward. We have interviewed for a replacement for the Finance Clerk upon the hiring and promoting of Fran Beaulieu to the position of Human Resource Manager. The Finance Director and I have met with the MMA Health Trust Administrator to discuss our claim experience and to make sure that we are doing everything to keep these low. Prepared for the Department of Labor inspection and thanks to the Assistant Town Manager for the work she did preparing for this visit. Volleyball at the Brunswick has been implemented with some negativity and some positivity in its location. Again, this is a trial experience for one year. Quiet zones for trains are being studied by the Planner and the Interim Public Works Director and the next step is the hiring of an engineering consultant. Have attended the PACTS Executive Committee Meeting and the confirming of funding of the Cascade Road improvement, a 50/50 split; and the Saco Avenue intersection project. Met with the Interim Public Works Director to talk about a Boardwalk grant through the State. Attended a conference on Broadband availability.

6456 Discussion with Action: Set a Public Hearing date of August 4, 2015 to Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Seaside Avenue.

BACKGROUND:

Ch. 54, Parking Restrictions and Prohibitions Ordinance Amendments: Seaside Ave. from Seacliff to Odessa (21 July 2015)

Amendment to Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Seaside Avenue

1. Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Seaside Avenue shall be amended by adding the underscore language and deleting the strikethrough language as follows:

Parking is allowed on both sides of Seaside Avenue from Tunis Avenue to Odessa Seacliff Avenue. No vehicle shall be parked on both either sides of Seaside Avenue from Odessa Seacliff Avenue to Union Avenue.

Resident Philomena O'Connor has for some time been discussing this issue with the Police Chief and Planner who agree with her that some adjustments need to be made.

In addition to the two letters received below, we also received an e-mail from Theresa Rivard from the Ocean Waves Guest House indicating: "I would like the Town Council to consider extending the NOPARKING on Seaside Avenue to Odessa Avenue. It currently does not allow parking from Union Avenue to Sea Cliff Avenue and it would be only an additional block. There is a lot of foot traffic, bicycles, skate boarders, etc., which makes it difficult for oncoming traffic to see between these parked cars and vice versa. There is no room for two cars to meet along those parked cars. It would be a safer situation, all around. Thank you for your consideration.

Theresa Rivard
(Ocean Waves Guest House)
5 Sea Cliff Avenue
Old Orchard Beach, Maine 04064

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Set a Public Hearing date of August 4, 2015 to Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Seaside Avenue.

VOTE: Unanimous.

6457 Discussion with Action: Confirm the appointment and two year contract for Diana Asanza, Town Treasurer/Finance Director, effective June 10, 2015 to June 17, 2017, at a current salary of \$77,691.

BACKGROUND:

EMPLOYMENT AGREEMENT

This AGREEMENT is made between the Town of Old Orchard Beach, Maine (OOB) and Diana H. Asanza (Employee).

WITNESSETH:

WHEREAS, OOB desires to continue the services of Employee and Employee desires to make her services available to Old Orchard Beach upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the agreements herein contained, OOB and Employee (the parties) hereto agree as follows:

1. EMPLOYMENT SERVICES

(a) Duties: Employee hereby agrees to fulfill the responsibilities of Treasurer/Finance Director as set forth in the Code of Ordinances, including Town Charter Sec. 507, and adopted policies and procedures of the Town, and to perform such other Treasurer/Finance Director related duties as the Town Manager may assign to the Employee.

(b) Loyalty: Employee further agrees to use best efforts during the performance of services described in Section 1(a) to promote the interests of OOB and to devote herself on a full-time basis to the business and affairs of OOB during the term of this Contract.

2. TERM OF EMPLOYMENT

(a) Contract Term: Upon confirmation by the OOB Town Council this Contract shall be in effect for a two year period that shall commence on July 1, 2015 and terminates on July 1, 2017, unless said contract is terminated under conditions defined below.

(b) Termination of Contract: This Contract shall terminate upon death of Employee, or; by OOB Town Council for cause after notice and hearing in accordance with OOB Charter, or; by OOB Town Council without cause. In the event of such termination OOB agrees to pay Employee a lump sum cash payment equal to three months total salary, plus any accrued but unused vacation time, and one-half of any accrued but unused sick time or; by Employee for any reason by written notice.

3. NOTICE TO TERMINATE

(a) Notice by Employee: The Employee shall give written notice to OOB at least thirty (30) calendar days prior to the termination of this contract.

(b) Notice by OOB: OOB shall give written notice to Employee at least sixty (60) calendar days prior to the termination of this Contract unless said contract is terminated under conditions defined in Section 2.

4. CONTRACT RENEWAL

(a) Non-Renewal: OOB may, prior to the end of the Contract term specified in Section 3(a), elect not to renew this Contract. OOB may take such election for any reason, with or without cause, and Employee shall not be entitled to any hearing on such election not to renew the Contract.

(b) Notice of Non-Renewal: OOB, acting by and through the Town Manager, shall give written notice to Employee at least sixty (60) calendar days prior to July 1, 2017 if OOB intends not to renew this Contract.

5. COMPENSATION

(a) Rate of Compensation: As compensation for services hereunder during the term of this Contract, OOB shall pay Employee an annual salary of \$77,675 (seventy seven thousand six hundred seventy five dollars). The employee may receive annual performance evaluations and raises as the budget may allow.

(b) Retirement: OOB will contribute either; (i) five percent of Employee's salary to the ICMA-RC retirement fund, or; (ii) the employer's stipulated contribution if Employee chooses to participate in the Maine Public Employees Retirement System

(c) Benefits: Holidays, sick days and other fringe benefits including health insurance will be provided to the Employee by the OOB in accordance with the schedule of benefits outlined in the OOB Personnel Policy.

(d) Vacation Days: The Town shall provide to the employee four (4) weeks' vacation which will accrue proportionately on a weekly basis.

6. REIMBURSEMENT OF EXPENSES

(a) Travel: The Employee shall be reimbursed for reasonable travel expenses for travel approved in advance by the Town Manager, properly accounted for, and incurred in connection with services provided to OOB pursuant to and during the term of this Contract.

(b) **Professional Licenses and Continuing Education Credits (CEU):** The Employee shall be entitled to be reimbursed for Professional Licenses expense for the State of Maine, and for reimbursement for professional seminars upon approval of the Town Manager.

7. EVALUATION

(a) **Evaluation Schedule:** Employee shall be evaluated by the Town Manager annually.

8. ASSIGNMENT

This Contract is a personal contract and, except as specifically set forth herein, the rights and interests of Employee herein may not be sold, transferred, assigned, pledged or hypothecated. In the event of any attempted assignment or transfer of rights hereunder contrary to the provisions hereof, OOB shall have no further liability for payments hereunder.

9. GOVERNING LAWS

This Contract contains the entire agreement between OOB and the Employee and shall be governed by the laws of the State of Maine. It may not be changed orally, but only by agreement in writing signed by OOB and the Employee.

10. PRIOR AGREEMENTS

This agreement supersedes and terminates all prior agreements, verbal or written, between OOB and Employee relating to the subject matter herein addressed.

IN WITNESS WHEREOF, OOB has by its appropriate officer signed this Contract, and the Employee has signed this Agreement.

TOWN OF OLD ORCHARD BEACH

MOTION: Vice Chair Thornton motioned and Councilor Blow seconded to Confirm the appointment and two year contract for Diana Asanza, Town Treasurer/Finance Director, effective June 10, 2015 to June 17, 2017, at a current salary of \$77,691.

VOTE: Unanimous.

6458 Discussion with Action: Approve the purchase of two Decatur Radar units in the amount of \$3,600, from Account Number 20131-50333 – Equipment Replacement, with a balance of \$14,600.00; with the State of Maine reimbursing 75% of the purchase after the radar units are purchased.

BACKGROUND: This is an order as needed with the State of Maine reimbursing.

MOTION: Vice Chair Thornton motioned and Councilor Blow seconded to Approve the purchase of two Decatur Radar units in the amount of \$3,600, from Account Number 20131-50333 - Equipment Replacement, with a balance of \$14,600.00; with the State of Maine reimbursing 75% of the purchase after the radar units are purchased.

VOTE: Unanimous.

6459 Discussion with Action: Approve the Liquor License Renewal for Bua Thai LLC dba/Bua Thai (211-12-4), 194 Saco Avenue, m-v in a Restaurant.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Approve the Liquor License Renewal for Bua Thai LLC dba/Bua Thai (211-12-4), 194 Saco Avenue, m-v in a Restaurant.

VOTE: Unanimous.

6460 Discussion with Action: Approve the purchase of one 2015 Ford Police Interceptor Vehicle from Quirk Ford in the amount of \$27,597, from Account Number 52002-50849 – CIP – Police Vehicle, with a balance of \$47,879.90.

BACKGROUND:

In the 2016 Fiscal Year budget process the purchase of another Police Vehicle was approved. The Maine Division of Purchases for use by the State Department includes the opportunity for municipalities to be included in RFP bids for many items. The State went out to bid for vehicles and the bid was approved for Quirk Ford of Augusta; thus the request for approval of the purchase of the 2015 Ford Police Interceptor Vehicle in the amount of \$27,597 from Account Number 52002-50849 – CIP – Police Vehicle, with a balance of \$47,879.90.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the purchase of one 2015 Ford Police Interceptor Vehicle from Quirk Ford in the amount of \$27,597, from Account Number 52002-50849 – CIP – Police Vehicle, with a balance of \$47,879.90.

The Chair reminded the citizens that these issues were discussed at length during the budget process.

VOTE: Unanimous.

6461 Discussion with Action: Approve the purchase of a Vehicle for the Police Department at a cost not to exceed \$7,000, from Account Number 30167-50311 - Drug Seizure Program Expenses, with a balance of \$14,216.64.

BACKGROUND:

Currently the Department has an unmarked non-police vehicle that is used for drug investigation, surveillance, and other times when there is a need for an unmarked vehicle. The vehicle we now have is a 1996 model and in need of about six thousand dollars' worth of repairs (rust, front end work, etc.) in order to get an inspection sticker. Making these repairs does not make sense. The Police Chief is requesting approval from the Council to authorize an amount, not to exceed \$7000, for the purchase of a vehicle to replace the 1996 model we now have. Funding would come from money that has been seized in drug related crimes and awarded to the Town by the courts. The Police Chief is also requesting that we not be required to solicit bids and return to Council for approval. Unless we purchase a vehicle

from a dealership (which is always going to more costly than a private sale) it isn't possible to obtain bids from private sellers, and he believes we could get a better price from private sales.

MOTION: Vice Chair Thornton motioned and Councilor Blow seconded to Approve the purchase of a Vehicle for the Police Department at a cost not to exceed \$7,000, from Account Number 30167-50311 - Drug Seizure Program Expenses, with a balance of \$14,216.64; solicited bids not necessary to come back to Council.

VOTE: Unanimous.

6462 Discussion with Action: Approve the purchase of vehicle equipment for the Old Orchard Beach Police Department from Radio Communications Management, Inc., in the amount of \$7,838.64 from Account Number 52002-50849 – CIP – Police Vehicle, with a balance 47,879.90.

BACKGROUND:

The Police Department send the RFP to the following:

Radio Communication MGMT, Inc. – Portland, Maine
Adams Emergency Vehicles – Westbrook, Maine
Adamson Industries Corp. – Haverhill, MA
Maine Radio – Scarborough, Maine

Bid responses were secured from the following:

Maine Radio	Will enter no bid
Shawn E. Adams	8,430
Adamson Industries	\$6,462 – this did not include the Kenwood Radio
Radio Communications Mgmt.	\$7, 838.64

The Police Department is requesting acceptance of the Bid from Radio Communications Management in the amount of in the amount of \$7,838.64 from Account Number 52002-50849 – CIP – Police Vehicle, with a balance 47,879.90.

MOTION: Vice Chair Thornton motioned and Councilor Tousignant seconded to Approve the purchase of vehicle equipment for the Old Orchard Beach Police Department from Radio Communications Management, Inc., in the amount of \$7,838.64 from Account Number 52002-50849 – CIP – Police Vehicle, with a balance 47,879.90

VOTE: Unanimous.

6463 Discussion with Action: Approve the purchase of One Police Interceptor SUV/Utility Vehicle for the Old Orchard Beach Fire Department from Quirk Auto Group in the amount of \$27,023, from Account Number 52002-50897 – Capital Fire Vehicle Expense, with a balance of \$30,000.

BACKGROUND: The State went out to bid for the Police Interceptor SUV/Utility vehicle which was included in the FY16 Capital Budget. The Fire Chief has provided a bid from Quirk Auto Group which is lower than the State bid as it is a left-over 2015 vehicle at a cost of \$27,023 from Account Number 52002-50897 – Capital Fire Vehicle Expense, with a balance of \$30,000. The Chief is requesting that the balance be used for purchase of emergency warning lights.

MOTION: Vice Chair Thornton motioned and Councilor Kelley seconded to Approve the purchase of One Police Interceptor SUV/Utility Vehicle for the Old Orchard Beach Fire Department from Quirk Auto Group in the amount of \$27,023, from Account Number 52002-50897 – Capital Fire Department Vehicle Expense, with a balance of \$30,000.

VOTE: Unanimous.

6464 Discussion with Action: Approve the purchase of a Physio Control Lifepak 15V4 Cardiac Monitor/Defibulator in the amount of \$30,976, from Account Number 52002-50895- Fire Equipment/Gear, with a balance of \$114,000.

BACKGROUND:

The Fire Chief is requesting the purchase of a new Physio Control Lifepak 15 V4 Cardiac Monitor/Defibrillator as approved in the fY16 Capital Budget. The quote is from the only source of supply in order for us to match other equipment in the ambulance made by Physio Control. This is the only manufacturer that we currently use and we have two others that we have had to match pads, cords and other equipment that matches our current units. There are no dealers and this is factory direct. The cost is \$30,976.74 from Account Number 52002-50895 – Fire Equipment, with a balance of \$114,000.

MOTION: Vice Chair Thornton motioned and Councilor Kelley seconded to Approve the purchase of a Physio Control Lifepak 15V4 Cardiac Monitor/Defibulator in the amount of \$30,976, from Account Number 52002-50895- Fire Equipment/Gear, with a balance of \$114,000.

VOTE: Unanimous.

6465 Discussion with Action: Consider abatement of taxes and accumulated interest and penalties as requested by the Assessor, for 42 Walnut Street, units 11 and 12, for the tax years 2013 and 2014.

BACKGROUND:

During the discussion by the Town Council many questions were asked and answer relative to information provided by the Town Attorney.

The Town Attorney provided written commentary as follows: “We reviewed the recent Order in the litigation between the Acorn Village Condominium Association and Mr. Swenson’s company, Acorn Village, LLC, the original developer of the condominium project in light of the Assessors questions and request for advice regarding the current 2015-2016 taxes and how or if the Order impacts previous assessments and the options related to the previous years.

A. Background.

Please recall that the Condominium Declaration placed of record in April of 2004 originally authorized development of units 9, 10 and 17-32. The Declaration allowed the developer to designate and exercise additional development rights for additional units, which the developer did several times, but the developer had only seven years, or up until April 14, 2011, to formally declare any new units. The Assessor picked up that improvements were under construction at Units 2, 11 and 12 sometime in 2008. He separately assessed taxes on the partially completed improvements, and consistent with condominium law and assessment practices, assigned the three new units each a separate land assessment. The new units were assessed to the then owner of record, the developer, in tax year 2009-2010. Since that time, The Assessor, after discussing things with us, has continued to assess the units each year to Acorn Village.

The 2009/2010 taxes assessed to Units 2, 11 and 12 were not timely paid and liens were then timely filed by the Town to secure collection of the 2009-2010 taxes. The tax lien records indicate that Town followed the customary statutory tax lien process to secure collection of these taxes, the required notices were sent, etc. The taxes and related charges were not timely paid so the lien then ripened to foreclosure in January of 2012.

B. The Updated Legal Status of the Condominiums and Units.

In the recent litigation the Condominium Association convinced the Superior Court that for Units 2, 11 and 12 the developer failed to declare these three units as additional units within the seven year declaration period in the Declaration and that the period was not extended by the parties. The court therefor found that since the right to declare the units, even though they were acted on as separate interests and then partially developed before the seven year period ran, expired, the units defaulted to become part of the common elements of the Condominium on the April 14, 2011 expiration date. (Curiously, even though the three units were also referenced and part of mortgages given by Acorn to Lavalley Lumber in 2207 and specifically referenced in the related mortgage documents, and although separate lots can be created by mortgage, the court never mentioned the impact of the mortgages.)

C. Assessment and Tax Lien Issues.

Of initial import is the limited application of the Order of the Superior Court. Because the town is not a party the related action and announcements technically addressed the relationship of the developer and the association but do not include the Town. As a result, there is not at this time an adjudication or clarification of the Town's interests in the units received under the foreclosed lien certificate.

As to the lien interests, Maine law directs assessors to each year identify and tax all taxable realty and personally in their jurisdiction. Taxes can be assessed to the owner or person in possession of the property interests taxed. The law also presumes that assessing and tax lien procedures followed by a municipality in administering the taxation and collection process are presumed valid. Thus, the liens securing payment of the taxes assessed against units 2, 11 and 12 for the 2009/2010 tax year were and remain presumptively valid, and ripened into foreclosure on January 27, 2012.

The liens securing the assessment are tied to the interests subject to the taxes on April 1 2009. The status of the Units as of that date was that although they were not formally

declared they still could have been, and the significant improvements developed- the two half unit foundation slabs on Units 11 and 12, and the half-built town house on Unit 2. The foreclosure technically gave the Town fee simple title to the interests it taxed, subject only to being overturned if a court finds a material irregularity in the tax lien process. The unknown facing the Town still is what exactly is that interest the Town acquired under the foreclosure—interests in the separate units, interests in the potential separate units or a partial interest in the common elements of the condominium?

D. Recommendations.

We discussed with Assessor how to address the Order's holding that the Units became part of the common elements in the Spring of 2011 due to the expiration of the Declaration's option to declare new units in the spring of 2011 for the 2015/2016 taxes. We think it best to treat the three units going forward as part of the common areas.

In regards to past tax years, Assessor's abatement authority would be limited to addressing the 2104/2015 taxes, if those taxes were committed less than a year ago. The Council, as the municipal officers, could if requested (or on its own) abate the taxes for the 2012/2013 and 2013/2014 taxes if those taxes were in fact committed less than 3 years ago. 36 MRSA Section 841 (1), par. 2.

The abatements would be based either on the fact the Town owned the interests under the foreclosures or alternatively on the mistake in the ownership and nature of the property interests in those tax years. These abatements would clear up the assessment register, but no money would be refunded since no taxes were paid.

The ongoing issue of what to do about the foreclosed property interests still remains. In that regard until a court may advise otherwise the Town still holds its interest in the land area formerly associated with the now expired Units 2, 11 and 12 under the foreclosure. The question is exactly what that those interest are (the Court Order not addressing this) and what the Town's realistic options are in terms of selling or exercising its rights in the interests foreclosed on. If the Association has any interest in completing Unit 2 or doing anything with Units 11 and 12, it certainly has ongoing title issues due to the liens. I would suspect that the Association will consider declaring Unit 2 as a separate unit so it can be completed; one would think so. As a result, I would think that the Association might be motivated to clear up the lingering title issues related to the foreclosures at least for Unit 2 so that if it is built out it can be sold and financed with good title."

End of the Attorney's comments

The Town Manager presented a historical account leading up to the recent court case. During a lengthy discussion period the following information was discussed. At the time of making the assessment in 2010, the Assessor found three partially improved units, and although not declared, as of that time they could have been declared with the option to declare them up through the beginning of April 2011 when the declarant's rights terminated. The Assessor approached the assessment consistent with the condominium statute which directs that each unit be treated as separate parcel for tax purposes. The lien process followed by the Town after the 2010 taxes were not paid relates to what the Assessor assessed as of April 1, 2010. While the redemption of the liens and foreclosure took place in January of 2012, the tax lien statutes are pretty emphatic that the only way the lien process is stopped from foreclosure is either payment of the taxes and related charges secured by the lien or an order of court stopping the foreclosures. Neither of those events took place before the foreclosure. The law also presumes that the foreclosure process and results are valid

until a defect is proven in a court proceeding. The Town Council members asked many questions with the final determination made by the following three item motions.

MOTION: Councilor Blow motioned and Vice Chair Thornton seconded to Consider abatement of taxes and accumulated interest and penalties as requested by the Assessor, for 42 Walnut Street, Units 11 and 12, for the tax years 2013 and 2014.

VOTE: Unanimous.

6466 Discussion with Action: Authorize the Treasurer to declare as uncollectable the outstanding taxes and accumulated interest and penalties related to properties at 42 Walnut Street, units 11 and 12, for the tax years 2010, 2011, and 2012.

There was a discussion on this agenda item with the final determination made that the tax year of 2010 would be paid by the Acorn Village Condominium Association. In the discussion was the suggestion that these units were “common elements” which are part of a property that are necessary or convenient to the existence, maintenance, and safety of a condominium or are normally in common use by all of the condominium residents. Each condominium owners has an undivided ownership interest in the common elements.

MOTION: Vice Chair Thornton motioned and Councilor Blow seconded to authorize the Treasurer to declare as uncollectable the outstanding taxes and accumulated interest and penalties related to properties at 42 Walnut Street, units 11 and 12, for the tax years 2011, and 2012; with accumulated taxes and interest for the tax year 2010 to be paid by the Acorn Village Condominium Association; and with the understanding that neither units 11 or 12 can be sold and will remain as common elements..

VOTE: Unanimous.

6467 Discussion with Action: Convey foreclosed property at 42 Walnut Street, unit 2, to Acorn Village Condominium Association for the total amount of outstanding taxes and accumulated interest and penalties due on the effective date of conveyance, including estimated FY16 taxes.

MOTION: Vice Chair Thornton motioned and Councilor Tousignant seconded to Convey foreclosed property at 42 Walnut Street, unit 2, to Acorn Village Condominium Association for the total amount of outstanding taxes and accumulated interest and penalties due on the effective date of conveyance, including estimated FY16 taxes.

VOTE: Unanimous.

6468 Discussion with Action: Approve the Special Event Permit application for Roger Stevens to hold a bonfire on Friday, September 18th, 2015, from 7 p.m. to 11 p.m., and a wedding on the beach on Saturday, September 19th, 2015, from 1 p.m. to 4 p.m. on the beach at the end of Reggio Avenue. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk’s Office at least one month prior to the event.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Special Event Permit as read.

VOTE: Unanimous.

- # 6469 Discussion with Action: Accept, with regret, the resignations of Arlene Dolgan and Michelle Belanger, from the Community Animal Watch Committee; and move Michelle Geyer from the Alternate Member to a Regular Member, term to expires 12/31/15.**

MOTION: Vice Chair Thornton motioned and Councilor Tousignant seconded to Accept with regret, the resignations of Arlene Dolgan and Michelle Belanger, from the Community Animal Watch Committee; and move Michelle Geyer from the Alternate Member to a Regular Member, term to expires 12/31/15.

VOTE: Unanimous.

- # 6470 Discussion with Action: Amend the Special Event Permit approved on December 2, 2014, for the New England Parkinson Ride to hold their ride on September 12, 2015, starting the Ballpark, to now include Friday, September 11th, 2015, to hold a pre-ride dinner at the Ballpark—cyclists to start arriving for dinner approximately 6:30 p.m., dinner at 7 p.m., ending at 10 p.m., and back for preparations for the ride at 5 a.m. September 12th. Request to waive the fee for the additional day. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event.**

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to Amend the Special Event Permit as read.

VOTE: Unanimous.

- # 6471 Discussion with Action: Approve the Special Event Permit application from the Surf rider Foundation to hold a beach clean-up and surfing lessons on the beach at the end of Union Avenue, on Saturday, August 22nd, 2015 from 2 p.m. to 7 p.m. Rain date of August 23rd, 2015. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least two weeks prior to the event.**

John Manley and Sherri Tripp both spoke about this race and the enormous impact it has on the community and their delight in sponsorships. The importance of the cleanliness of our beach was acknowledged by the Town Council and the support of the administration in whatever way asked.

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to Approve Special Event Permit as read.

VOTE: Unanimous.

- # 6472 Discussion with Action: Approve the Special Event Permit application from the Ocean Park Association to hold an "End of the Capital Campaign Parade" on Sunday, August 23rd , 2015, from the Temple to the Memorial Library on Temple Avenue. Request to waive the fee as the event is being co-sponsored by the Old Orchard Beach Recreation Department.**

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Special Event Permit as read.

VOTE: Unanimous.

6473 Discussion with Action: Amend the Special Event Permit for the Chamber of Commerce Car Show on September 18th and 19th, 2015, approved by the Town Council on October 21st, 2014, to close Seavey Street and First Street from Staples Street to Heath Street—travel lane and parking spots on the side closest to Memorial Park only, on Friday, September 18th, from noon to 7:30 p.m.

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to Amend the Special Event Permit.

VOTE: Unanimous.

GOOD AND WELFARE:

GUY FONTAIN: He spoke about the upcoming Surf Rider Foundation event and thanked Mr. Manley and Ms. Tripp for their wonderful support.

MARIE TURNER: Ms. Turner spoke at length on the matter of human trafficking. She reminded the Council that as mentioned earlier this evening, the Town promotes and strives to create a safe environment for its citizens to live and raise families and considers the promotion of the safety and welfare of children to be of paramount importance. She said that over the past four years she has come before the various Councils and asked for a Workshop on human trafficking, the trade of humans for sexual slavery and exploitation. She provided a number of statistics related to the increase of human trafficking and stated that human trafficking is thought to be one of the fastest-growing activities of trans-national criminal organizations. It is a violation of human rights. She stated that every year millions of men, woman and children worldwide, and in Old Orchard Beach, are victims of human trafficking, often lured with false promises of well-paying jobs or a manipulation by people they trust. She stated that the U.S. Department of Homeland Security is responsible for investigation of human trafficking, arresting traffickers and protecting victims. She said she could not understand why the Council would not have a workshop on this for awareness and education is the ways to address this issue. She said that everyone has a role to play in combating human trafficking and there are a variety of resources out there that citizens could be made aware of through a workshop. She continued her lengthy comments by saying that human trafficking involves the commercial exchange and exploitation of human trafficking including prostitution and pornography.

The Council expressed their appreciation for her comments.

ADJOURNMENT:

MOTION: Councilor Kelley motioned and Councilor Tousignant seconded to Adjourn the Town Council Meeting at 8:25 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 eighteen (18) pages is a copy of the original Minutes of the Town Council Meeting of July 21, 2015.

V. Louise Reid