

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, January 5, 2016
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 5, 2016. Chair O'Neill opened the meeting at 7:05 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**

CHAIR: May I have a motion to add an Emergency Item to the Agenda this evening, per Section 404.1 of the Town Charter:

MOTION: Councilor Kelley motioned and Councilor Blow seconded to add Agenda Item 6554 to tonight's agenda following Agenda 6553.

Discussion with Action; Approve the Special Event Permit application for the Recreation Department to hold their annual Frozen 4-miler Road Race on Sunday, January 17, 2016, with a snow date of Sunday, January 24, 2016, 11:15 a.m. to 1:00 p.m.; two Old Orchard Beach Police Officers required; and a request to waive the fee.

VOTE: Unanimous.

PRESENTATION:

**Red Hat Ladies – Presentation of a check for
\$400 towards the purchase of the Beach Wheelchair**

The Red Hat Ladies are here this evening to present a check in the amount of \$400 towards the purchase of a second Beach Wheel Chair. The original Beach Wheelchair was donated to the Recreation Department by the Saco Bay Rotary and its use during the summer season brought in letters of support from so many families who in the past did not have the ability to get a handicapped family member to the beach. The expected cost will be approximately \$1,700 and so far \$575 has been raised towards the purchase. The Red Hat Ladies are encouraging the residents of Old Orchard Beach to help make the second wheelchair not just a possibility but an actuality.

ACKNOWLEDGEMENTS:

ASSISTANT TOWN MANAGER: The Town Council would like to express its appreciation to the Chamber of Commerce and to OOB365 for the excellently planned celebrations during the Holiday season. For all the hard work and planning, we are thrilled to have enjoyed and participated in these events. The Salvation Army would also like to thank staff members who participated in the ringing of the bell. Our thanks also go out to the Public Works Department for all the efforts they put forth during this holiday season. Another exciting event was the Lobster Dip at the Brunswick for the benefit of Special Olympics – cold but successful

ACCEPTANCE OF MINUTES: Town Council Minutes of December 15, 2015.

MOTION: Councilor Kelley motioned and Vice Chair Thornton seconded to Accept the Minutes as read.

VOTE: Unanimous.

PUBLIC HEARING:

CHAIR: I open this Public Hearing at 7:10 p.m.

Shall We Amend the Town of Old Orchard Beach Code of Ordinances to allow Cafes as a Conditional Use within the General Business District 2 (GB2) as follows: Chapter 78-ZONING, Article VI – DISTRICTS, Division 9 – GENERAL BUSINESS DISTRICT 2 (GB-2), Section 78-833. CONDITIONAL USES, (6) Cafes?

Memo from the Planner – Jeffrey Hinderliter

TO: Old Orchard Beach Town Council
Larry Mead, Town Manager
Louise Reid, Assistant Town Manager
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: Proposed Ordinance Amendment- Cafes
DATE: 9 December 2015

At the 15 December 2015 Council Meeting, the Council will begin consideration of adding the Café land use as a Conditional Use within the General Business 2 Zoning District. Background info is below.

This proposal is to amend Chapter 78 (Zoning) to allow Cafes as a Conditional Use within the General Business 2 (GB2) Zoning District. Cafes are defined as:

Cafe means a food service establishment providing foodstuffs and/or nonalcoholic beverages for consumption on or off the premises with a service counter not directly accessible to the public from outside of the building, and indoor seating for not less than eight persons. Cafes may offer sidewalk cafe service provided that the number of outdoor seats does not exceed the number of indoor seats provided.

After learning that the applicant (Toni Maestre) could not establish a food service-related business at her property on Saco Ave. (Curl-Up and Dye), she approached me to discuss how she could proceed with establishing a food service business at this location. She stated that it has been on the market for some time and most of those who have serious interest in the property want to use it as a restaurant or some type of business related to food service. At one time, a restaurant existed on the property (over 10 years ago) but it was replaced by a hairdresser.

When the proposal was brought to me, I found that the food service businesses similar to what the potential buyers wanted were not permissible in the GB2. This is not because they are specifically identified as ‘Not Permitted.’ It is because they are not identified as ‘Permitted’ or ‘Conditional Use’ when in other districts, food service-related businesses are identified as Permitted or Conditional.

During my review of this proposal to see if I could make a food service business fit within the GB2, I considered:

- Food service-related land uses currently identified in town ordinances.
- Food service-related land uses that may be appropriate and compatible for this property and surrounding area.
- Potential impacts (e.g., traffic, noise) the uses could introduce.
- Existing land uses.
- Guidance from the Comprehensive Plan.
- The ordinance standards that may apply, including if the current standards could properly regulate a food service-related land use in this area.
- Who should be responsible for municipal review (e.g., PB, planning staff, codes).

After my evaluation of the proposal, I determined that allowing Cafes as a Conditional Use within the GB2 was the best way to proceed. To do this requires a pretty simple ordinance amendment which identifies Cafes as a Conditional Use within the GB2. I discussed this with the applicant and she felt comfortable with my recommendation.

**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 January 5th, 2016, 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 section 78-833, Conditional Uses, of the Town of Old Orchard Beach Zoning Ordinance is amended by adding the underscored language:

Chapter 78 – ZONING, Article VI – DISTRICTS, Division 9 – GENERAL BUSINESS DISTRICT 2 (GB-2)

Sec. 78-833. Conditional uses.

(6) Cafes

There were no comments from the public and the Planner explained the change at the request of Councilor Tousignant.

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

PUBLIC HEARING: BUSINESS LICENSES:

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

Brenda Neary & Marshal Harris (203-2-3), 39 Walnut Street, one year round rental; and Suzanne L. Poirier (316-4-1-3A), 1 Seacliff Avenue, Apt. 3A, one year round rental.

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

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the Business Licenses as read.

VOTE: Unanimous.

TOWN MANAGER REPORT:

The Town Manager reported that he was working with staff from the Planning, Code, Finance, Tax on delinquent property tax accounts. This involved reviewing properties that may have foreclosed, making efforts to talk with property owners to be sure they understood and were aware and helping to make arrangements to make payments before January 11th. Looking ahead to the summer season; working on downtown trash and maintenance. Preparing the Department of Environmental Protection application, providing information to the Design Review Committee, and drafting RFP language for

potential contractors. Worked with staff on stormwater issues at two subdivisions to resolve problems so that work can go forward. Anticipating an audit by the Department of Environmental Protection. It has been many years since we have had one. Met with the owners of a majority of remaining properties in Homewood Park to discuss his interest in continuing beyond Poplar Street. Working with them to not have dead-end streets, and to include sidewalks. Made progress and wants to move forward this year. Dunkin Donuts project is moving forward with a public hearing planned with the Planning Board scheduled for January 14th. If citizens want to indicate their concerns, this would be the meeting to attend. Budget season begins in earnest.

NEW BUSINESS:

6544 Discussion with Action: Approve the purchase of seven (7) CALE Parking Pay Stations in the amount of \$53,034.95 from Account Number 52002-50884 – CIP Parking Control Station, with a balance of \$57,019.47.

BACKGROUND:

During the budget process the purchase of additional parking pay stations was discussed and approved. It is being presented to the Town Council this evening for their approval of the agenda item. The Police Chief indicated these would be placed on First Street when questioned by Councilor Tousignant.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the purchase of seven (7) CALE Parking Pay Stations in the amount of \$53,034.95 from Account Number 52002-50884 – CIP Parking Control Station, with a balance of \$57,019.47.

VOTE: Unanimous.

CHAIR: The owner of T0950 has paid the portion of 2014 taxes owed on the property and therefore I am asking for a motion to remove this item without prejudice.

6545 Discussion with Action: Authorize the Treasurer, per 36 M.R.S.A., subsection 944, to record a waiver of foreclosure in the Registry of Deeds for the property at 3 Nason Drive, Assessor's Record T0950, Leslie Penna, Owner.

**TOWN OF OLD ORCHARD BEACH
Memorandum**

December 31, 2015

TO: Members of the Old Orchard Beach Town Council
FROM: Larry Mead, Town Manager

RE: AGENDA ITEMS 6545, 6546, AND 6547: WAIVER OF FORECLOSURE

On January 12 properties that remain delinquent on payment of taxes for the 2013/2014 tax year will automatically go into foreclosure. Taxes are also owed for the 2014/2015 tax year and the current 2015/2016 tax year. Property owners were sent by certified mail 45 day

notice of pending foreclosure. In addition staff has made attempts to contact those property owners who did not accept delivery of the certified mail in an effort to make them aware of the pending foreclosure.

State law allows a municipality to prevent a property from automatically going into foreclosure when the municipality does not wish to acquire a property that may be a burden to taxpayers due to its condition. In those circumstances the Town Council, acting as the legislative body, must vote to authorize the Treasurer to file with the registry of deeds a waiver of foreclosure form. Filing the waiver of foreclosure does not relieve the property owner of the obligation to pay all past due property taxes. The liens remain in place and continue to be filed going forward.

In accordance with the policy adopted by the Town Council staff has reviewed those properties that are pending foreclosure. Based upon observation and information gathered it is the recommendation of staff that the following properties not automatically go into foreclosure, and that the Council authorize the Treasurer to file a waiver of foreclosure prior to January 12, 2016:

Leslie Penna – Owner – 3 Nason Drive – Assessor’s Record T0950

Kathleen Profenno – Owner – 35 Goosefare Drive – Assessor’s Record T1230

Katherine MacKaye – Owner – 23 Mayflower Drive – Assessor’s record T1900

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Remove Agenda Item 6545 without prejudice as payment of the 2014 taxes has been paid.

VOTE: Unanimous.

6546 Discussion with Action: Authorize the Treasurer, per 36 M.R.S.A., subsection 944, to record a waiver of foreclosure in the Registry of Deeds for the property at 35 Goosefare Drive, Assessor’s Record T1230, Kathleen Profenno, Owner.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Authorize the Treasurer, per 36 M.R.S.A., subsection 944, to record a waiver of foreclosure in the Registry of Deeds for the property at 35 Goosefare Drive, Assessor’s Record T1230, Kathleen Profenno, Owner.

It was noted that the owner of T1230 has indicated she will pay the 2014 taxes before the January 11th date but the funding had not been received as of the time of this meeting.

VOTE: Unanimous.

6547 Discussion with Action: Authorize the Treasurer, per 36 M.R.S.A., subsection 944, to record a waiver of foreclosure in the Registry of Deeds for the property at 23 Mayflower Drive, Assessor’s Record T1900, Katherine MacKaye, Owner.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Remove without Prejudice Agenda Item 6547 as payment of the 2014 taxes have been paid.

VOTE: Unanimous.

6548 Discussion with Action: Approve the source of funds for Milliken Street Trash Handling Facility.

The Town Manager presented to the Council suggested means for funding including the following:

Capital Accounts:

Stormwater Fund	\$ 50,000
Project balances from FY13, FY14, FY15	
Sewer Fund	27,500
Project balances from FY14, FY15	
Road Maintenance Fund	50,000
Project balances from FY14, FY15, FY16	
Sub Total Capital Accounts	\$127,000
FY16 Contingency funds remain available	\$200,000

There was discussion about the funding and where the funds would come from but this was not requiring at this time a motion from the Council. Discussion continued about a need for a Workshop as there were abutters in the audience who spoke and felt that more information was forthcoming. The question was asked if this was a done deal and Council Tousignant said he believed there were no other options at this time.

Speaking before the Council were Harvey and Shirley Korobkin, owners of Windward Sail Motel who were concerned that those using the pool and sitting at the motel will be looking at trash being hauled in from the beach. It was explained again the reason for the move and that the Council is trying to address this issue which is vitally important to the summer tourist trade and the necessity for decisions to be made at this time. Also speaking was Jack Sarno who lives in the area of Milliken Street Parking Lot and he pressed for confirmation that there were no other options.

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to Remove without Prejudice Agenda Item 6548.

VOTE: Unanimous.

6549 Discussion with Action: Approve the amount of \$8,820 to Steamatic for scope of services in air duct cleaning within Town Hall from Account Number 20115-50450 – Town Hall Building Repair and Maintenance, with a balance of \$9,897.43.

BACKGROUND:

For some time the air quality in the Town Hall has been a concern and the Town Manager contacted four companies for bids related to the scope of services in air duct cleaning within Town Hall. Bids were requested from:

Steamatic of Portland	\$8,820
Sea-Pro Marine Ltd.	Did not respond
Servpro of Biddeford	\$10,392.30
Stanley Steamer	Did not respond

The Council is being asked to approve the project being completed by Steamatic of Portland in the amount of \$8,820 from the Town Hall Building Repair and Maintenance Account with a balance of \$9,897.43.

MOTION: Vice Chair Thornton motioned and Councilor Kelley seconded to Approve the amount of \$8,820 to Steamatic for scope of services in air duct cleaning within Town Hall from Account Number 20115-50450 – Town Hall Building Repair and Maintenance, with a balance of \$9,897.43.

VOTE: Unanimous.



Steamatic of Greater Portland, Inc.
4 Hemlock Lane
Gray, Maine, 04039
Phone: (207) 657-3088
Fax: (207)657-2402
Toll Free: 1-866-759-1077

December 10, 2015

V. Louise Reid – Assistant Town Manager
Town of Old Orchard Beach
1 Portland Ave.
Old Orchard Beach, Maine 04064

STEAMATIC OF GREATER PORTLAND, Inc. appreciates the opportunity to submit the following proposal. Information in reference to the cleaning AH1, AH2, AH3, and AH4 at the above location.

STEAMATIC has been providing personal and professional assessments in indoor air quality for building owners and building engineers nationally. Our experience indoor air quality has kept STEAMATIC as the sole leader in the IAQ.

Our IAQ cleanup will ensure a healthy and safe environment in your building.

Respectfully submitted,
Mark C. Fenton, ASCS

Mark C. Fenton, ASCS
Certification Number
03011228

STEAMATIC

Environmental program as follows for:

SCOPE OF WORK FOR SOURCE REMOVAL OF AIR CONVEYANCE SYSTEM COMPONENTS COMPOSED NON-POROUS MATERIALS

- I. Air Handling Units
 - A. Clean all interior/exterior of housing surfaces.
 - B. Clean coils; drain pan and frame.
 - C. Clean all fans and related components.

- II. Ductwork
 - A. Source removal process will be used to clean all accessible ductwork. Debris, dust and particulates will be removed by physical contact with a soft vacuum brush attached to our HEPA vacuum system in conjunction with a Negative Air Machine and air washing devices.
 - B. Access points will be cut as needed to provide entry points for source removal, visual inspection sights.

- III. Supply Register/Return Air Grills
 - A. All supply register/return air grills will be removed, cleaned, and replaced. If either is affixed to structure, then it will be cleaned in place.
 - B. Area around supply register/return air grill will be vacuumed.
 - C. All supply registers will be covered with a duct mask material during the treatment process. This will be removed after these processes have been completed.



Steamatic of Greater Portland, Inc.
4 Hemlock Lane
Gray, Maine, 04039
Phone: (207) 657-3088
Fax: (207)657-2402
Toll Free: 1-866-759-1077

December 10, 2015

V. Louise Reid – Assistant Town Manager
Town of Old Orchard Beach
1 Portland Ave.
Old Orchard Beach, Maine 04064

This will confirm our agreement with regard to cleaning AH1 first floor, AH2 street level, AH3 City Managers, Assessors office and AH4 Chambers ½ third floor.

We have agreed as follows:

1. STEAMATIC OF GREATER PORTLAND, INC. clean ducts and unit at the aforementioned location.
2. The work and services hereinabove provided shall here to for commence and shall be continued with reasonable diligence until completion and done in a good workmanlike manner.
3. In consideration of the foregoing services Town of Old Orchard Beach will pay STEAMATIC OF GREATER PORTLAND, INC. **\$8,820.00** for labor as set forth in the scope of services to be performed.

4. STEAMATIC OF GREATER PORTLAND, INC. shall present a written invoice of changes with the terms of this agreement. **Town of Old Orchard Beach will pay within 30 days after completion of work.**
5. Owner's responsibilities
 - A. Lock out tag out and capping all utilities to include identifying and maintaining systems, which are to remain throughout removal process.
 - B. Supplying and maintaining of all utilities i.e. water, electricity and heat.
 - C. Identification of or testing of any suspect materials not identified in the specifications.
 - D. All fire alarms and smoke detectors.
6. This contract covers only those items as heretofore listed in the original scope of services to be performed. Any additions to the scope must be initialed by both parties and be submitted with an addendum restoration contract. Any and all deletions to original scope of services to be performed.
7. This agreement is governed by and construed in accordance with the laws of the State of Maine wherein the work is to be performed.

If the foregoing expressed our agreement, please indicate your acceptance by signing a copy hereof.

Very truly yours,

Accepted this _____ day of _____ 2015

This proposal must be signed and returned before any work can be started.

Please return pages 3 & 4 to our office.

The scope of work to be performed will commence TBD, until completion.

NOTES: If work is to be done after regular business hours or weekends add 20%.

Pricing is subject to change if work cannot be completed in consecutive days.

If you need an insurance certificate, please contact our office at 207-657-3088.

This scope of work and pricing will be effective for a period of 30 days from this date. After that time review of the scope and pricing will be required.

6550 Discussion with Action: Authorize the Town Manager to execute a three-party agreement with the Maine Department of Transportation and the Portland Area Comprehensive Transportation System to do preservation paving of Cascade Road from the Saco City line to Ross Road in 2016, at a cost to Old Orchard Beach of approximately \$162,000 depending on the final project costs, from Account Number 50002-50506 – CIP Road Maintenance/Improvement, with a balance of \$618,766.75.

**TOWN OF OLD ORCHARD BEACH
Memorandum**

December 31, 2015

**TO: Members of the Old Orchard Beach Town Council
FROM: Larry Mead, Town Manager**

**RE: AGENDA ITEM 6550 AGREEMENT WITH MDOT AND PACTS FOR PAVING OF
CASCADE ROAD FROM SACO LINE TO ROSS ROAD**

The Council is aware that the Town previously applied for and received a grant from the Portland Area Comprehensive Transportation System (PACTS) for funding up to 50% of the cost of a mill and fill paving of Cascade Road from the Saco line to Ross Road. The Town was awarded this grant in August.

The Council is asked to authorize the Town Manager to execute a three-party agreement with PACTS and the Maine Department of Transportation (MDOT) to allow the planned paving to go forward either this coming Spring or Fall.

MDOT will provide up to a maximum of \$161,765 for the project that has an estimated cost of \$323,530. Under this grant program the Town is responsible for bidding and managing the project under MDOT standards. Funding is identified through the existing capital budget for street improvements.

**cc: Diana Asanza, Finance Director
Marc Guimont, Public Works Director**

**TOWN OF OLD ORCHARD BEACH
Memorandum**

December 31, 2015

TO: Members of the Old Orchard Beach Town Council

FROM: Larry Mead, Town Manager

**RE: AGENDA ITEM 6550 AGREEMENT WITH MDOT AND PACTS FOR PAVING OF
CASCADE ROAD FROM SACO LINE TO ROSS ROAD**

The Council is aware that the Town previously applied for and received a grant from the Portland Area Comprehensive Transportation System (PACTS) for funding up to 50% of the cost of a mill and fill paving of Cascade Road from the Saco line to Ross Road. The Town was awarded this grant in August.

The Council is asked to authorize the Town Manager to execute a three-party agreement with PACTS and the Maine Department of Transportation (MDOT) to allow the planned paving to go forward either this coming Spring or Fall.

MDOT will provide up to a maximum of \$161,765 for the project that has an estimated cost of \$323,530. Under this grant program the Town is responsible for bidding and managing the project under MDOT standards. Funding is identified through the existing capital budget for street improvements.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Authorize the Town Manager to execute a three-party agreement with the Maine Department of Transportation and the Portland Area Comprehensive Transportation System to do preservation paving of Cascade Road from the Saco City line to Ross Road in 2016, at a cost to Old Orchard Beach of approximately \$162,000 depending on the final project costs, from Account Number 50002-50506 – CIP Road Maintenance/ Improvement, with a balance of 618,766.75.

VOTE: Unanimous.



PACTS

Portland Area Comprehensive Transportation System

Gerry Audibert, P.E.
MPO Engineer and MaineDOT Project Manager
Bureau of Planning
Maine Department of Transportation
16 State House Station
Child Street
Augusta, Maine 04433-0016

November 30, 2015

Old Orchard Beach, Cascade Road PACTS MPI Project

Gerry,

The following is the letter requested outlining the above project as part of the PACTS MPI program modeled after the similar MaineDOT program.

PACTS will be using a portion of our CY2016 state funding allocation for four projects which have been endorsed by our Committees and approved by the PACTS Policy Committee at their July 30, 2015 meeting.

The following project was submitted by Old Orchard Beach for funding for 2016:

Cascade Road from Ross Road 0.88 westerly to the Saco town line.

The RLM's are from 1.26 miles at Ross Road to 2.14 miles to the Saco TI for a total project length of 0.88 miles.

The scope is expected to consist of a mill and fill with 1-1/2 inches of surface pavement including all applicable and associated work.

The total cost is estimated at \$323,500.

Value should be 530, not 500.

Construction complete year is scheduled to be 2016

The funding is 50/50 at \$161,765 state and \$161,765 local and is capped at \$161,765 state.

PACTS is requesting a transfer of the above amount from the MPI WIN and will request a lineage WIN for the project when the time is appropriate to do so.

I have spoken with Larry Mead the Town Manager and Woodward and Curran, the town's engineering consultant and informed them we will need contract documents including a scope of work, unit prices and complete specifications similar to or the same as a MaineDOT "Book Project".

The Metropolitan Planning Organization for the Portland Urbanized Area

970 Baxter Blvd • Portland, Maine 04103

Telephone: (207) 774-9891 • Fax: (207) 774-7149 • www.paetsplan.org

Thank you for your attention to this matter. If you have any questions please call.

Sincerely,

Paul Niehoff
PACTS

cc: Larry Mead, Old Orchard Beach Town Manager
Marc Guimont, OOB Public Works Director
John Duncan, PACTS



<i>Internal use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
THREE PARTY AGREEMENT
REGARDING
PORTLAND AREA COMPREHENSIVE TRANSPORTATION SYSTEM
MUNICIPAL PARTNERSHIP INITIATIVE PROGRAM
CASCADE ROAD, OLD ORCHARD BEACH
MAINEDOT PSN 68740**

This Cooperative Agreement ("**Agreement**") is entered into by and between the Maine Department of Transportation ("**MaineDOT**"), an agency of state government with its principal administrative offices located on Child Street, Augusta, Maine, the Portland Area Comprehensive Transportation System ("**PACTS**") located at 970 Baxter Boulevard, Portland Maine and the Town of Old Orchard Beach ("**Municipality**"), a municipality in the State of Maine with offices located at 1 Portland Avenue, Old Orchard Beach, ME 04064, hereinafter referred to as the "**Parties**".

WHEREAS, PACTS has created a Municipal Partnership Initiative Program ("**MPI**"); **PACTS** will be responsible for administering the program in accordance with the attached **MPI** process (See Attachment B); and

WHEREAS, Municipality shall perform a project on Cascade Road beginning at Ross Road and extending 0.88 miles westerly to the Saco town line. The scope is expected to consist of a mill and fill with 1-1/2 inches of surface pavement including all applicable and associated work. Municipality estimates this project at \$323,530. Construction complete year is scheduled to be 2016. The funding is 50%/50% at \$161,765 state and \$161,765 local and is capped at \$161,765 state ("**Project**"); and

WHEREAS, Payment by **MaineDOT** for the **PACTS MPI Project** shall be 50%, up to a maximum of \$161,765.00 of the actual costs incurred and paid by the **Municipality**; and

WHEREAS, this **Project** has been included in MaineDOT's 3-Year Work Plan.

NOW THEREFORE, the **Parties** hereby agree as follows:

The following attachments are hereby incorporated into this Agreement:

- Attachment A – PACTS MPI Project Approval Letter
- Attachment B – Project Scope and Cost Sharing
- Attachment C – PACTS MPI Project Process

MUNICIPALITY SHALL:

- A. Procure and oversee the **Project** for the work outlined above.
- B. Administer the **Project** in accordance with an approved design generated by an engineer licensed in the State of Maine. The **Project** will be designed to provide a smooth ride, and not reduce the safety, mobility or structural quality of the state [state aid] road. All design documents must be stamped and signed in accordance with this provision by a Professional Engineer (“**PE**”).
- C. Secure all necessary Federal, State and Local permits necessary to complete the work. **Municipality** also agrees to secure any needed property rights in accordance with all applicable State Laws.
- D. Document any exceptions to State Design Standards as part of this process. This documentation shall compare the new design to the existing conditions for each exception to current design standards. Any exceptions shall be displayed on the cover sheet for the **Project** plans with the signature and **PE** stamp of the engineer responsible for the design of the Project. MaineDOT’s Chief Engineer or his/her designee shall determine if the design exception(s) will be granted.
- E. Be responsible, within the Project limits, for the following:
 - a. Ensuring that the safety of the corridor and the life of the resulting structural and design elements are equal to or better than existing conditions and design;
 - b. Ensuring that the structures, roadways and/or design features affected by the **Project** work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;
 - c. Ensuring that the **Project** does not introduce any unanticipated safety hazards to the traveling public;
 - d. Ensuring that the **Project** retains the same level of mobility or improves mobility of travel within the corridor;
 - e. Ensuring that the **Project** does not in any manner decrease the life expectancy of this component of Maine’s transportation system;
 - f. Ensuring the **Project** meets the most recent Americans with Disabilities Act of 1990 (ADA) design requirements; and
 - g. Providing traffic control and ensuring the safety of pedestrians and the traveling public.
- F. Provide certification through their Engineer to **MaineDOT** that the **Project** is complete and was constructed as designed.
- G. Construction shall commence within twelve (12) months and shall be certified complete within twenty-four (24) months of execution of this Agreement. **Municipality** may forfeit the unpaid balance of this grant if these deadlines are not met or they cannot demonstrate earnest and good faith efforts to meet them.

PACTS SHALL:

- A. Provide a maximum of \$161,765.00 in State funds supporting the **Project** work stated above. Reimbursement may begin once the Project is 1/3 complete and upon receipt of supporting cost documentation from the **Municipality**. Payments will be made in accordance with Appendix A.
- B. Through its **MPI** Administrator review the costs and certify their eligibility prior to requesting reimbursement from **MaineDOT** and the **PACTS** Municipal Partnership Initiative Funds.

Anything herein to the contrary notwithstanding, the **Municipality** and **PACTS** acknowledge that, although the execution of this **Agreement** by **MaineDOT** manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this **Agreement** does not create any obligation on behalf of **MaineDOT** in excess of such appropriations.

MaineDOT may terminate this **Agreement** with or without cause upon 30 days written notice.

The Parties agree to function within all applicable laws, statutes, regulations, and **Agreement** provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this **Agreement**.

IN WITNESS WHEREOF, the **Parties** hereto have executed this **Agreement** effective on the day and date last signed.

TOWN OF CUMBERLAND OLD ORCHARD BEACH

Dated: _____ By: _____
Larry S. Mead, Town Manager

PACTS

Dated: 12/28/15 By: John Duncan
John Duncan, Director

STATE OF MAINE DEPARTMENT OF TRANSPORTATION

Dated: _____ By: _____
Herb Thomson, Director Bureau of Planning
Maine Department of Transportation

ATTACHMENT B

**PROJECT SCOPE AND COST SHARING
PORTLAND AREA COMPREHENSIVE TRANSPORTATION
SYSTEM**

Municipal Partnership Initiative Project

~~MUNICIPALITY OF SACO~~

MUNICIPALITY OF OLD ORCHARD BEACH

PROPOSED IMPROVEMENTS TO: CASCADE ROAD

STATE PROJECT SEQUENCE NUMBER PSN 68740

Project Scope: Project on Cascade Road beginning at Ross Road and extending 0.88 miles westerly to the Saco town line. The scope is expected to consist of a mill and fill with 1-1/2 inches of surface pavement including all applicable and associated work. The total cost is estimated at \$323,530. The funding is 50/50 at \$161,765 state and \$161,765 local and is capped at \$161,765 state. Construction complete year is scheduled to be 2016.

Funding Outline: The Total Project Estimated Cost is \$323,530.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below. The State Share shall not exceed a maximum of \$161,765.00.

Work Element	Municipal Share		State Share		Total Cost
	%	\$	%	\$	\$
Project Costs	50	\$161,765	50	\$161,765	\$323,530
PROJECT SHARES		\$161,765		\$161,765	\$323,530
Total Cost of Additional Work above Agreement estimate	100%	\$0			
TOTAL ESTIMATED MUNICIPAL REIMBURSEMENT		\$161,765.00			

REIMBURSEMENT SCHEDULE:

Upon 1/3 Project Completion the Municipality may begin invoicing PACTS. Preferred invoicing interval is 1/3, 2/3 and Final. MaineDOT will also accept monthly invoices after 1/3 Project completion with a maximum number of invoice submittals not to exceed 5 invoices.

ATTACHMENT C - PACTS MPI Projects Process

MaineDOT's approach to the PACTS Municipal Partnership Initiative (MPI) program is for the process to emulate the Department's MPI program. Municipalities will be required to retain a Professional Engineer to prepare plans and certify that a completed project has been constructed according to the plans and following applicable state standards. The Department will not approve plans, per se, nor inspect the completed project. The process for MaineDOT approval follows.

- PACTS will submit its MPI project candidates, including location information, scope of work, cost and cost shares and other information as may be required by the MaineDOT MPO Engineer for potential inclusion in the annual MaineDOT 3-Year Work Plan.
- PACTS staff will participate in a MaineDOT Work Plan "Synergy Meeting" to present their MPI and other project candidates to MaineDOT representatives from the Bureau of Planning, Bureau of Project Development, Region 1 Office and others. The PACTS MPI project requests may be revised or cancelled as a result of the meeting.
- Upon acceptance of a PACTS MPI project into the Work Plan, PACTS will provide to the MaineDOT MPO Engineer a letter on PACTS letterhead, formally requesting authorization of the PACTS MPI project, including:
 - Municipality
 - Project Description
 - Location, including Beginning and Ending Route Log Miles
 - Total Project Cost
 - State Amount
 - (Requested) Construction Year
 - Draft Project Agreement between PACTS, the municipality and MaineDOT
- Upon acceptance of the draft Project Agreement by the MPO Engineer, PACTS will submit a Final Agreement, signed by the Municipality and PACTS, to the MPO Engineer.
- Upon receiving the Final Project Agreement, MaineDOT will sign the Final Agreement, record it to the MaineDOT project file and the MPO Engineer will return a copy to PACTS, requesting PACTS retain a copy for its files and forward a copy to the Municipality.
- MaineDOT will activate the project WIN after the Work Plan has been published and the Letter and Final fully-executed Project Agreement have been recorded.
- The MPO Engineer will then issue a Notice to Proceed to PACTS.
- MUNICIPALITY will retain a Maine-licensed Professional Engineer to oversee all Project activities, including certification that plans were prepared in accordance with agreed-upon scope and relevant state standards.
- MUNICIPALITY will submit Engineer's plans to PACTS and MaineDOT for concurrent review and acceptance. Any exceptions to Design Standards must be clearly noted on the project plans cover sheet with a request for MaineDOT acceptance of the Design Exceptions.
- Following completion of the work, Municipality will provide certification from the Professional Engineer stating the project has been constructed according to the agreed-upon scope and meets the MaineDOT quality assurance standards applicable to the Project.
- Payment of the state funds from MaineDOT will ideally be a one-time reimbursement following completion of the work. For larger projects this could be a draw of 1/3, 1/3, 1/3 or ½, ½ if needed for cash-flow reasons (this would be specified in the agreement).
- Review of PACTS invoices will be made by the MaineDOT MPO Coordinator. Upon acceptance of an invoice, the MPO Coordinator will process the invoice for payment by the Bureau of Finance and Administration to PACTS.

6551 Discussion with Action: Approve the Special Event Permit for OOB365 to host a Scottish Festival in Veteran's Memorial Park on Saturday, June 4th, 2016, from 8 a.m. to 6 p.m. Set-up is on Friday, June 3rd, 2016 starting at 8 a.m. Future dates will include the first Friday and Saturday of June in 2017 and 2018. Event to include crafters, Scottish athletic demonstrations, music entertainment, pony rides, food vendors, and gas grills. Request a banner at the corner of E. Emerson Cummings Blvd. and Union Avenue, and in the Square for two weeks prior to the event. Request the fee be waived as the OOB Recreation Director co-signed the application. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided at least one month prior to the event.

John Bird indicated this sounded like a great event and perhaps in the future we might have French night, German night, English Night, etc.

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

VOTE: Unanimous.

6552 Discussion with Action: Re-appoint the following Committee members; Kim Schwickrath, Donald Comoletti and Mark Lindquist, Design Review Committee, terms to expire 12/31/17; Kimbark Smith, Conservation Commission, term to expire 12/31/18; Michael Fortunato, Planning Board, term to expire 12/31/17; Jayne Flaherty, Registration Appeals Board, term to expire 12/31/2019; Owen Stoddard, Zoning Board of Appeals, term to expire 12/31/18; Robin Dube, Board of Assessment Review, term to expire 12/31/18; Michelle Geyer, Denise Zahares and Carol Twomey, Community Animal Watch Committee, terms to expire 12/31/17; Winthrop Winch, John Bird, Lou Valentine and Jason Webber, Comprehensive Plan Committee, terms to expire 12/31/17; Robert Rings and W. Victor Gould, Ballpark Commission, terms to expire 12/31/18.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Table Agenda Item 6552 as read.

VOTE: Unanimous.

6553 Discussion with Action: Appoint Bruce Kier as a regular member of the Ballpark Commission, term to expire 12/31/17; Daniel Blaney as the alternate business member of the Administrative Board, term to expire 12/31/17; appoint Michael Shannon as the alternate citizen member of the Administrative Board, term to expire 12/31/17; appoint Jay Reynolds and Warren "Todd" Bassett as regular members of the Finance Committee, terms to expire 12/31/17; and Thomas Mourmouras as a regular member of the Comprehensive Plan Committee, term to expire 12/31/17, and as an alternate member of the Zoning Board of Appeals, term to expire 12/31/18.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Approval the appointments as read.

VOTE: Unanimous.

6554 Discussion with Action; Approve the Special Event Permit application for the Recreation Department to hold their annual Frozen 4-miler Road Race on Sunday, January 17, 2016, with a snow date of Sunday, January 24, 2016, 11:15 a.m. to 1:00 p.m.; two Old Orchard Beach Police Officers required; and a request to waive the fee.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Special Event Permit application for the Recreation Department to hold their annual Frozen 4-miler Road Race on Sunday, January 17, 2016, with a snow date of Sunday, January 24, 2016, 11:15 a.m. to 1:00 p.m.; two Old Orchard Beach Police Officers required; and a request to waive the fee.

VOTE: Unanimous.

GOOD AND WELFARE:

GUY FONTAINE: He suggested that some of the parking meters might be considered for Ocean Park.

ADJOURNMENT:

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Adjourn the Town Council Meeting at 7:50 p.m.

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 twenty-four (24) pages is a copy of the original Minutes of the Town Council Meeting of January 5, 2016.

V. Louise Reid