

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, JUNE 16, 2009 - 7:00 P.M.
TOWN HALL CHAMBERS**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, June 16, 2009 in the Town Hall Chamber. The Chairman opened the meeting at 7:04 p.m.

Pledge to the Flag and Roll Call:

Present:

**Chair Sharri MacDonald
Vice Chair Robin Dayton
Councilor Mike Tousignant
Councilor Shawn O'Neill
Councilor Laura Bolduc
Town Manager Steve Gunty
Assistant Town Manager V. Louise Reid**

PRESENTATION: Appreciation to Representative George Hogan for the passage of his historic LD 1119 Bill expanding the Old Orchard Beach boundary in the Bay three miles seaward; to the Saco Bay Working Group; and to Planner, Gary Lamb. Members of the Saco Bay Working Group included from Old Orchard Beach:

**Cheryl Poulopolous
Bud Harmon
Phil Denison
Dan Blaney
David Spellman
Gary Curtis
Planner, Gary Lamb**

Members from other communities:

**Saco City Planner, Bob Hamblen
Scarborough Town Planner, Dan Bacon
Biddeford City Planner, Greg Tansley**

**Dept. of Conversation Submerged Lands Director, Dan Prichard
State Planning Office Coastal Program Director, Kathleen Leyden**

ACKNOWLEDGEMENTS:

COUNCILOR DAYTON: She provided information on the event scheduled for Saturday, June 20, 2009 from 2:00 p.m. to 6:00 p.m. at Lindbergh's Landing at the Pier to raise money for the Ball Park Project.

CHAIR MACDONALD: Christine Bergeron, a former Old Orchard Beach High School Student and a doctoral student in Virginia Tech's College of Natural Resources, received a fellowship from the Environmental Protection Agency's (EPA) National Center for Environmental Research for her research on the reproductive success of American toads. Bergeron's fellowship, part of the EPA's Science to Achieve Results (STAR) program which will support research for the next three years. The highly competitive STAR fellowship encourages students to pursue advanced degrees and environmentally related career by providing recipients with \$111,000 over a three-year period for tuition, stipend, and research expenses. Her research focuses on the effects of mercury on the reproductive success of adult American toads and development of their offspring from eggs through metamorphosis. The Chair indicated her pride in this accomplishment and all those who have graduated from Old Orchard Beach High School.

ACCEPTANCE OF MINUTES: Special Town Council Minutes of May 29, 2009; Special Town Council Minutes of June 2, 2009; Regular Town Council Minutes of June 2, 2009; and Town Council Workshop of June 9, 2009.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to approve the following Minutes as read.

VOTE: Unanimous.

CHAIR MACDONALD: I open this Public Hearing at 7:52 p.m.

PUBLIC HEARING NUMBER ONE: Shall We Amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187 Restrictions and Prohibitions, Town Hall?

**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 June 16, 2009 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 the Old Orchard Beach Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187, Town Hall and Veteran's Square, be amended by adding the underlined language listed below.

Town hall. Upper lot parking shall be limited to town hall business only; Monday through Friday. Lower lot parking shall be by parking permit only; Monday through Friday.

Veteran's Square. This refers to the area known as Veteran's Square or that area which runs from Old Orchard Street to Imperial Street. There shall be no entrance onto Veteran's

Square from Old Orchard Street, and a right-hand turn only shall be permitted from Veteran's Square onto Portland Avenue. Parking shall be limited to permit parking only: Monday through Friday.

TOWN MANAGER: Opening up the Town Parking Lots on the weekends will continue to permit The American Legion to use it for Saturday night Bingo; St. Margaret's Church for Sunday services; and also for Associations and Groups using the Town Hall for meetings on the weekend. We also need to arrange for use by the Harmon Museum on Tuesdays; and the American Legion on Monday nights.

CHAIR MACDONALD: I close the Public Hearing at 7:59 p.m.

BUSINESS LICENSES: CHA Builders LLC (107-3-1-K2), 35 Kavanaugh Road, one year round rental; CHA Builders LLC (107-3-1-M12A), 12 A MacIntosh Lane, one year round rental; Drusilla M. Myers LLC dba/Food Addiction & Chemical Dependency Consultants (207-2-12-1A), 155 Saco Avenue, LL1 & LL2, Personal Service, Requesting fees to be waived as in previous years; Estate of Marilyn Miller Trust (302-6-5-1), 173 East Grand Avenue, one year round rental; David & Elizabeth Murphy dba/Sand Dollar Vacation Homes LLC (303-2-7), 2 Scollard Road and 6 Scollard Road, two year round rentals; Luca & Fotini Pizzuti (303-4-10-4), 106 East Grand Avenue, Unit 4, on year round rental; Shai Patel dba/Red Rocket Gas & Groceries (311-1-10), 141 Saco Avenue, two gas pumps & Grocery Store; Gay A. Muller (311-7-5), 19 Sixteenth Street, one year round rental; Ted M. Domin (311-13-8), 27 Evergreen Avenue, one year round rental; Ernest Tarbox (311-24-4), 3 Fourteenth Street, one year round rental; Robert Stevenson (320-7-1), 37 Oceana Avenue, one year round rental; and Philip McGregor (321-5-10), 18 Ancona Avenue, three seasonal rentals.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to approve the Business Licenses as read.

VOTE: Unanimous

TOWN MANAGER'S REPORT: The Contract Manager of Maine Energy wrote a letter to the Town Manager praising the ability of the Public Works Director, Mary Ann Conroy, in providing data which permitted Maine Energy to issue a credit for the full amount for the GAT shortfall that had been previously billed to the Town. The revised calculations as a result of the Public Works Director's research resulted in a savings to the town of \$190,709.02.

NEW BUSINESS:

5214 Discussion with Action: Approve a proposed Ordinance entitled "Ordinance Prohibiting Operation of Chem-Free Dances in Drinking Establishments" (which would repeal and replace the current ordinance in Chapter 6, Article IV, "Chem-free Dances in Drinking Establishments Restricted.")

MOTION: Councilor Bolduc motioned and Councilor O'Neill seconded to Approve a proposed Ordinance entitled "Ordinance Prohibiting Operation of Chem-Free Dances

in Drinking Establishments” (which would repeal and replace the current ordinance in Chapter 6, Article IV, “Chem-free Dances in Drinking Establishments Restricted.”)

VOTE: Unanimous.

5215 Discussion with Action: Adopt the Ordinance entitled “Closing of Ways (Temporary Road Postings to Weight Limits).”

TOWN MANAGER: Spring may seem an odd time to be thinking about closing roads to winter maintenance, but Winter road closure orders must be approved between May 1st and October 1st. In other words, to close a road to winter maintenance next winter, a municipality must act well before winter returns. (Maine Boardsman)

MOTION: Councilor O’Neill motioned and Councilor Dayton seconded to Adopt the Ordinance entitled “Closing of Ways (Temporary Road Postings to Weight Limits).”

VOTE: Unanimous.

5216 Discussion with Action: Approve an Ordinance Establishing Moratorium on “Head Shops”

TOWN MANAGER: A Public Hearing was held on this on June 2nd and a vote will be taken tonight.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Approve an Ordinance Establishing Moratorium on “Head Shops.”

VOTE: Unanimous.

5217 Discussion with Action: Approve the Purchase of Computer Server Upgrades in the amount of \$41,725 from Account Number 20201-50856 – Capital-Computer System Upgrade, with a balance of \$55,695; with the hardware being purchased from Dell and the installation of Software to be done by CBE Technologies.

TOWN MANAGER: Bill Botting, our Computer Specialist Consultant has prepared the following information on the purchase of the system upgrade: He indicate that he had performed an evaluation of current computer systems and formulated a plan for the most logical server upgrade strategy given the available budget. His recommendations included suggestions for immediate purchase, and those that should occur in the fiscal year 2010. My recommendations for server equipment upgrades for fiscal year 2009 include the following:

- **Install a new server rack to accommodate new servers.**
- **Replace the 2 Citrix servers which are 6+ years old with new server hardware.**
- **On the 2 old Citrix servers, install the Windows 2003 Server operating system so that these servers can become Windows 2003 domain controllers. The domain is presently on a Windows 2000-level domain, and a minimum of Windows 2003 is required to upgrade the Exchange Server version from 2000 to 2007.**
- **Promote the Police Department server “Server04” to domain controller.**

- Demote all Windows 2000 domain controllers and set domain to Windows 2003 Native Mode.
- Replace the present Exchange server with new hardware and Exchange 2007 software.

Beginning in Fiscal 2010 he recommended the following strategy for server replacements:

- Replace the old MUNIS server, which is on the obsolete SCO/Unix with Informix database platform, with a Windows 2003-based server, using Microsoft SQL Server database software.
- Replace the 6+ year old servers Server01 and Application01 with new hardware. Promote these to domain controllers. Retire the 2 old Citrix servers, since they will no longer be needed as domain controllers.

Because the software installations for the Citrix servers and Exchange servers require considerable time on-site to perform, he would suggest outsourcing this task to a local IT consulting firm...preferably CBE Technologies of South Portland. This is mostly because I really cannot “pull-away” from my full-time job in Sanford long enough to perform those tasks and also deliver a reasonably short amount of down-time in for users.

Bill Botting has 15 years of experience with Windows Servers which he indicated had taught him that you cannot go wrong with Dell. He recommended that servers be standardized to Dell to make them consistent across the organization. The present HP/Compaq servers in the Town Hall have experienced far too many drive failures to make me comfortable. He said he had not had a single Dell hard drive fail in the last 5 years. I got server quotes for both Dell and HP just for comparison, and found the prices to be comparable. So there is no financial advantage to staying with HP. The present HP/Compaq server rack is near full. It cannot accommodate all of the servers that will be operating during the migration of servers. It is also not quite deep enough for the proper installation of Dell servers, which tend to be several inches deeper than similar HP servers. The server room needs a larger network switch, since all ports are presently in use on the current switch. The new rack will also need a new KVM switch (a device that shares one monitor, keyboard, and mouse with the servers) since the present KVM switch also has all port in use. A UPS battery may be needed. It depends on whether APC can fix the UPS battery that was removed due to the whining noise it created. Below are the details of what is necessary, including prices:

Town of Old Orchard Beach - Server Plan 2009				
Description	Model	Dell Direct		
		Qty	Cost	Extended Cost
Exchange Server (hardware)	PowerEdge R710	1	9184.61	9184.61
Exchange Server 2007		1	495.50	495.50
Exchange 2007 CALs		125	47.30	5912.50
Windows Server License	Dell (included)	0	0.00	0.00
Misc		1	49.87	49.87
Installation Labor (CBE)		25	150.00	3750.00
Citrix Server (hardware)		2	5116.53	10233.06
Windows Server License		2	651.88	1303.76
Misc		1	149.02	149.02

Installation Labor (CBE)		24	150.00	3600.00
KVM Switch Belkin OmniView Pro3 8-port	F1DA108Z	1	219.99	219.99
KVM Cables USB 6 ft	F1D9401-06	1	31.99	31.99
KVM Cables USB12 ft	F1D9401-12	1	42.99	42.99
KVM Stacking Cable 6 ft	F1D108-CBL-06	1	49.99	49.99
Network Switch	HP 2810-24G (J9021A)	1	1249.00	1249.00
Server Rack		1	1316.18	1316.18
Total Capital Improvement				37588.46
Also remaining: Citrix Maintenance Renewal		1	3581.50	3581.50
UPS for Server Rack*		1	553.58	553.58
Total 2009				41723.54

*if spare UPS cannot be repaired

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Purchase of Computer Server Upgrades in the amount of \$41,725 from Account Number 20201-50856 Capital-Computer System Upgrade, with a balance of \$55,695; with the hardware being purchased from Dell and the installation of Software to be done by CBE Technologies.

VOTE: Unanimous.

5218 **Discussion with Action:** Accept the bid from Radio Communications Management, Inc., for repairs to the Police Radio System in the amount of \$16,816.79 from Account Number 20118-50350 – Contingency, with a balance of \$41,602.

CHIEF KELLEY: The Police Radio System is in critical need of upgrading and we went out to bid and received two bids as follows:

Maine Radio (provided upgrades in three processes)
\$ 3,173.32 \$2,006.00 \$11,836.65
Total - \$17,015.97

Radio Communication Management
\$16,816.79

Councilor Bolduc questioned why this was an emergency item and why it was coming out of Contingency. If the problems were known since November why is it now coming to the Council two weeks before the end of the budget season and why could it not have been anticipated in last

year's budget. She confirmed that she expects the Council to meet with department heads and be aware of emergency items so that they can be budgeted for rather than last minute items such as this. The Chief indicated that it was an emergency. That it took quite a while to determine what was actually wrong. Some of the issues being corrected included frequency interference; poor transmission from portable units in the fringe areas; antenna issues; and tactical infrequency. The Chief also indicated that there were opportunities for a grant coming through to supplement the costs of this need as well as possible funding in his budget.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Accept the bid from Radio Communications Management, Inc., for repairs to the Police Radio System in the amount of \$16,816.79 from Account Number 20118-50350 – Contingency, with a balance of \$41,602.

VOTE: Unanimous.

5219 Discussion with Action: Authorize full expenditure of the \$199,364.52 on the Roundabout Project to include completion of the preliminary design from Account Number 31141-50871, with a balance of \$199,364.52.

MARY ANN CONROY: MDOT/PACTS have been working in partnership with the Town of Old Orchard Beach to review, design and build a new Roundabout at the Halfway Intersection. After extensive review, this design was found to be the most cost effective with the least amount of impacts for our community. We are a few steps into the first phase waiting to proceed into the preliminary design work. This past November the voters approved a referendum that included a \$200,000 commitment to this project. Since that time, the total project costs over the next four years would entail an additional \$800,000 in match funding from the Town of Old Orchard Beach. We are stopping all work at this point in time to rethink going forward with this project. If we stop work now, the total money spent to date will be the responsibility of the Town of Old Orchard Beach (the total amount spent is approximately \$105,000). This project is now approved for 3.38M in grant funds with 1.07M in match funds from OOB over the next four years. If this project is stopped, we cannot resubmit this project for grant funds in the future; the funds will get reallocated to communities ready to move forward with their projects.

Council had several questions on this subject. It was pointed out that should the Council decide to stop at this point then the Town would be liable for the costs expended already. Councilor Bolduc questioned how the project could go from the \$200,000 which was bonded to \$3.2 million and question an explanation of the correct figures for the grant and total cost. She stated that the voters did not know what they were voting on and expected the \$200,000 to be the total match funds for the entire project. Her reiterated concern was that what the citizens voted on in a referendum is not what is on the table this evening. It was pointed out that the Council has the ability to vote to stop this now and not to send it to referendum. Councilor Tousignant expressed in detail that the cost of this project makes it necessary to go to referendum as the Charter requires. The concern was raised by Councilor Bolduc that she doesn't understand when the Council tells the staff to stop a project why they don't stop. When asked about the costs incurred since the Council previously asked for the project be stopped it was determined that since March 24th the cost was at \$98,000 and it is now \$104,000. This included in meetings with the DOT, handling the cost of invoices and possible ten to fifteen hours of the Public Works Director's time. The Town Manager said that the staff does not waste time. Councilor O'Neill asked what would be the ramifications between accepting the motion as written or stopping the work now and ending it. The Public Works Director indicated that to move forward would make it possible for

the project to be ready to go forward (shelf ready) at any time that the economic situation provided that opportunity.

Jack Sarno went on for some time asking about the original referendum vote and the fact that it should not have been collectively included with the sewer referendum. He claimed there were no updates on a regular basis and that no one was aware of the project as it stands now. Ricki Letouwt indicated that she doesn't know why a simple traffic light would not solve the issue. Neal Weinstein said he opposed traffic lights and that this whole project is a bad idea and something pushed by just a few people. Even if free, he said, it is a bad idea. He said that roundabouts are bad ideas and are being stopped throughout the country. Councilor Bolduc said she wanted to know how much the Biddeford Roundabout cost and the Public Works Director told her \$6 million dollar.

Several motions were made and removed including the suggestion to remove this item without prejudice and put it on the ballot for a referendum but there was not the support for that motion. Councilor Tousignant again reiterated that no matter what the reasoning why things were done or not done – it is needed to go to the people for approval because of the cost factor. We don't have the money to pay for it and it is up to the people.

Councilor O'Neill emphasized the need for the Council to show staff more respect. He indicated there has been a lot of allegations made that are not correct. The Chair indicated she had no idea before what she was voting on and she apologized. Jack Sarno again asked that the Council take the vote to deny this agenda item and shut down the project immediately and not go to referendum. He said, just like the Milliken Street Parking Lot, the former Town Manager and Town Council Chair just did what they wanted and we did not know the whole project or understood it. He indicated he has asked often for information and has been ignored. Neal Weinstein again encouraged to deny based on the financial situation the Town is going through and the economic times. When the Council sought to make a motion, Councilor O'Neill indicated the Chair cannot make the motion as she is the break vote. The Council broke for an intermission until that could be defined.

When the Council came back into session it was noted that the Chair had the right to make the motions, however it was made as indicated below:

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to ~~Authorize~~ **DENY** full expenditure of the \$199,364.52 on the Roundabout Project to include completion of the preliminary design from Account Number 31141-50871, with a balance of \$199,364.52.

VOTE: Unanimous.

THIS ITEM WAS DENIED.

5220 Discussion with Action: Shall the Town Council Set a Date to Act on an Order to issue a bond for the Roundabout Infrastructure project, and set a referendum Election and Public Hearing date thereon?

MARY ANN CONROY: Based on the discussion of Item Commentary Number 5220, the Town Council will decide whether this item will be on the November ballot as a Referendum.

MDOT/PACTS is ready to award, \$1.2M in additional grant funds for Phase II funding of the Halfway Roundabout Project. This phase commits the Town of Old Orchard Beach to an additional \$204,580 in matching funds for the upcoming two year period. The Phase II funds will be available after October 1, 2009. Phase II of this project includes ROW acquisition and PE design/bid package. For your information, Phase III of this project is to construct the roundabout and field inspection during construction. The MDOT/PACTS grant for Phase III is for a total of 1.46M with an additional \$669,910 in matching grant funds from the Town of Old Orchard Beach. Funding for the final phase will be available after October 2011 with construction being complete by 2013 (at the latest). We cannot vote on this phase at this time, but need to be cognizant of the impacts of moving forward with Phase II. A third referendum vote may be required as bond funds (for the match money) needs to be expended within an 18 month period. A “no” vote on this agenda item will stop the project completely. Any improvements to this intersection in the future will be at 100% to the Town of Old Orchard Beach. A “yes” vote on this agenda item will continue the process to the next referendum question for Phase II funding. It does not commit the Town of Old Orchard Beach to the Phase III funding; however, a desire to see the project moved forward will be inferred, but not binding, with a yes referendum vote.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Set a Date to Act on an Order to issue a bond for the Roundabout Infrastructure project, and set a referendum Election and Public Hearing date thereon.

VOTE: Yea: Councilors O’Neill and Tousignant
Nea: Councilors Bolduc, Dayton and Chair MacDonald

THIS ITEM FAILED TO PASS.

5221 Discussion: Overview of Time Line for the Request for Sealed Proposals for Contract for Solid Waste and Recycling Materials Collection and Disposal Services.

MARY ANN CONROY: The Public Works Director will present to the Council an overview of the timeline for the Request for Sealed Proposals for Contract for Solid Waste and Recycling Materials Collection and Disposal Services which has been reviewed by the Recycling Committee.

**Town of Old Orchard Beach
MUNICIPAL SOLID WASTE and RECYCLING
OVERVIEW OF TIME LINE for CURBSIDE HAULING ONLY**

Prepared by: Mary Ann Conroy, Director of Public Works
Recycling Subcommittee, RFP Review
Date: June 8, 2009

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|---|--|
| A. Review Draft RFP w/Recycling Comm. | Monday, June 8 th , 2009 |
| B. Final Approval of RFP w/ Recycling Comm. | Monday, June 22 nd , 2009 |
| C. Council Approval to Advertise | Tuesday, July 7 th , 2009 |
| D. Advertise RFP | Wednesday, July 8 th , 2009 |
| A. Mandatory Pre-Bid Meeting | Thursday, July 16 th , 2009 |
| B. Open Bids | Thursday, July 30 th , 2009 |
| C. Award Bids | Tuesday, Aug. 18 th , 2009 |

Other Time Factors:

- Time period to educate and prepare the public on any changes in our program, such as “Pay as You Throw” (on-going – recycling committee/Ecomaine/DPW)
- Time period to implement a “Pay as You Throw” program, such as bag RFP, distribution/process, costs analysis, financial accounting (12-18 months estimated)
- Time period to get bags in stock (two month minimum)
- Time period for ordinance changes (three month minimum)

The recently produced brochure is the first effort to educate emphasizing that Single-Sort Recycling means all recyclables go into one bin; that any bin can be a recycling bin; and that many products we use on a daily basis are made from recycled materials. The Single-Sort Recycling means that instead of separating recyclables by type, simply combine all glass, metal, paper, cardboard and plastic into one recycling container and that container can continue to be used as long as it is clearly labeled as recyclables. In addition to the reduction in air pollution, recycling always means greater conservation of our natural resources and using recycled materials to make products saves energy. Every pound of material that is recycled in Old Orchard Beach reduces the cost of disposal and more important this reduces our town’s environmental impact.

JOHN BIRD: He acknowledged that more work is required and that he and the Committee had made several additions to the RFP but that it is going to be difficult to do anything different than we have already done. We don’t know what we will get back and whether it will meet our needs or not.

5222 Discussion: Update on Bond Projects.

MARY ANN CONROY: The Public Works Director is presenting at the request of the Council and update on Bond Projects.

ROSS ROAD CULVERT REPLACEMENT

<p>Total Bond Amount: \$350,000.00</p> <p>Scope of Work:</p> <ul style="list-style-type: none"> • Install (3) 72” culverts • Reconstruct 600 feet of roadway • Raise the road by approximate 3 feet • Improve life for the fish <p>Contractor: Peters Construction</p>	<p>Contract Price: \$192,244.75</p> <p>Start Date: July 6, 2009</p> <p>Anticipated Substantial Completion Date: August 30, 2009</p> <p>Anticipated End Date: Spring 2010 (final pavement)</p>
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OCEAN/SEAVIEW SEWER PROJECT

Total Bond Amount:
\$800,000.00

Contract Price:
\$968,850.00

Scope of Work:

- **Replace all sewer lines and manholes**
- **Bidd Saco Water Co. to replace water services**
- **Fully reconstruct both roadways**

Anticipated Start Date:
July 27, 2009

Anticipated Substantial Completion Date:
Sept. 15, 2009

Apparent Low Bidder:
Shaw Brothers

Anticipated End Date:
Spring 2010
(final pavement)

SUMMIT STREET SEWER PROJECT

Total Bond Amount:
\$900,000.00

Contract Price:
Unknown

Scope of Work:

- **Replace all sewer lines and manholes**
- **Install new stormdrain**
- **Fully reconstruct the roadway**
- **Install a new pump station**

Anticipated Start Date:
August 2009

Anticipated Substantial Completion Date:
Nov., 2009

Contractor:
Bid July 2009

Anticipated End Date:
Fall 2010
(final pavement)

WEST GRAND SEWER AND ROAD PROJECT

Total Bond Amount:
\$1,850,000.00

Scope of Work:

- **Fully reconstruct roadway, raising the elevation approx. 1 foot**
- **Replace some sewer lines and manholes**

Contractor:
Bid August 2009

Contract Price:
Unknown

Anticipated Start Date:
Sept., 2009

Anticipated Substantial Completion Date:
Spring, 2010

Anticipated End Date:
Fall 2010
(final pavement)

Discussion was very lengthy and included questions on timing, what is being done, questions of who is hired to do the surveys and determines the cost factors. Jack Sarno again asked many questions on the West Grand Avenue (Ocean Park) project, very frustrated because his Walnut Street area has the same problems, if not worse. The cost factors were questioned by Councilor Bolduc and the Chair asked for another update on Bonds on the August 4th Agenda. Councilor Tousignant complimented the Public Works Director on her presentation. Jack Sarno spoke again at length questioning why the name on the project is now West Grand Sewer and Road Project whereas on the Referendum it was West Grand Stormwater Project. He asked that the latter be used. The Public Works Director explained the process of the road requirements before others. Questions were raised by no workshop was held as Jack Sarno presented to the Council Minutes of the Public Meeting. The Public Works Director explained that she does not hold workshops; but rather public meetings. She made a good point in saying it is not about north and south and east and west but rather about the issues that are alike and very different on these projects. Councilor Dayton stated that she never knew about any phases to the West Grand project and emphasized the lack of information provided to the public. Chair MacDonald asked the Public Works Director if the work being done on West Grand will the flooding and the Public Works Director answered “absolutely not.”

The Chair asked the Town Manager to get an update on the dredging of the marsh which was asked by Jack Sarno. He also had asked for another workshop on the flooding issue. The Public Works Director stated that this project was only the first step in a multi phase solution intended to address public safety with our primary concern, during flooding, is to be able to access homes in case of fire or emergency. She also stated that this phase was working with the Ocean Park Conservation Commission on possible adjustments to the existing tide gates. At this point Councilor O’Neill again raised the issues of the false allegations that have been made by the public and Council and asked for a full disclosure of facts addressing the questions that have been asked. Then the issue again came up as to why this Workshop was not televised and the Chair indicated she did not have three votes. Councilor O’Neill said he had asked for it and the people have a right to know what is being done on their behalf including the budget which has a lot of issues that people are not even aware of because they don’t have access to it on television. Councilor Tousignant said that all citizens could come to the meetings and be here in person. Councilor Dayton indicated that she has not felt there has been transparency in presentation of issues.

5223 Discussion with Action: Accept the bid for the E. Emerson Cummings Boulevard Sidewalk Improvement Contract in the amount of \$230,000 from Peter’s Construction, with total funding paid for by the Maine Department of Transportation Safe Routes to School Grant.

MARY ANN CONROY:

Project Overview: Sidewalk improvements for E. Emerson Cummings Boulevard span from the High School to Ballpark Way for a total project length of approximately 1,500 feet. The new sidewalk will be a shared use path for both pedestrian and bicycle traffic.

The Phase I Project will consist of the following components:

- new eight-foot wide shared use path with portions curbed,
- Installation of new fencing along the football field,
- installation of nine handicap detectable warning devices,

- **disturbed areas will be finely graded, loamed, and seeded.**

This project is being funded 100% by the Maine Department of Transportation (MeDOT) via the Safe Routes to School Program. The total amount of this contract will be paid through the Town of Old Orchard Beach and fully reimbursed by MeDOT.

Phase II funding will be available after October 1 and will generally include: the continuation of the shared use path to Dirigo Drive, the solar school flasher, the raised crosswalks, and landscaping. The Council will see the details of Phase II later in the summer as new funds becomes available.

Public Works recommends awarding the contract to Peters Construction for a total of \$104,727.60 is the successful bidder on this project and all work must be completed between July 1, 2009 and August 21, 2009.

Councilor Dayton indicated that there has been a lot of confusion on this project and also that the signature for this contract would be the Town Manager and not the Public Works Director. Councilor O'Neill and the Town Manager indicated that the success of this project is due to the work and efforts of the Public Works Director and that if she had stopped at the point the Council had previously asked the funding paid by the Maine Department of Transportation would not have come through. Councilor Tousignant asked that the letter of award from the DOT should be attached to the agenda item and part of the official record. Councilor O'Neill suggested that the project be completed as designated in the agenda item. Again their were motions made and withdrawn until the final motion was agreed on by the Council.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Authorize the Town Manager to sign an Award Letter in the amount of \$230,000 Required to Authorize the Contract with Peters Construction to Construct a new Sidewalk for the E. Emerson Cummings Boulevard Sidewalk Project and paid for by the Maine Department of Transportation (MDOT) Grant Program - Pin #13098 and a copy of the signed Award Letter from the MDOT to be included with this Agenda Item.

VOTE: Unanimous.

COPY OF AWARD LETTER IS ATTACHED TO MINUTES

5224 Discussion with Action: Sewer appeal pursuant to Section 58-124. of the Sewer Ordinance. The request to review the determination that Tupelo Woods, 7 Heath St. is required to pay the balance of the sewer permit fees for Building "D" in the amount of \$16,500.

MIKE NUGENT: In June of 2006, during the construction phase of Tupelo Woods, the sewer connection fees increased from \$1,200 per unit to \$3,300 per unit. They had applied for a building permit for building "D" until after the adoption of the new fee (September 06), the Town assessed a new fee. The owner was allowed to pay ½ (\$1,650) prior to the issuance of the permit and ½ (\$1,650) prior to the issuance of the occupancy permits for the units. The town cannot issue business licenses or certificates of occupancy for units in building "D" until the fees are paid.

(Section 58-152 of the Ordinance. This decision has been appealed by the parties and must be decided by the Town Council.

KEVIN BEAULIE: He explained his frustration and disappointment that this issue had to be raised at all. He emphasized the fact that they never stopped developing their project and that it has been ongoing since 2004. He urged the Council to waive the fee. He indicated that he was never notified of the increase in the fee and certainly if there had been any changes in his plan he would have had to go back to the Planning and Code Department.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Sewer appeal pursuant to Section 58-124. of the Sewer Ordinance. The request to review the determination that Tupelo Woods, 7 Heath St. is required to pay the balance of the sewer permit fees for Building "D" in the amount of \$16,500.

VOTE: Unanimous.

5225 Discussion with Action: Designate two parking spaces in front of 16 Old Orchard Street (205-5-5) to be a Taxi Stand/Loading Zone pursuant to Section 54-147 of the Traffic and Vehicles Ordinance.

CHIEF KELLEY: On the weekends there are groups that use the Town Parking Lot such as Associations that use our building for their yearly meetings; the American Legion for Bingo; St. Margaret's Church; and other groups. Since parking is not allowed on the weekends in our current Ordinance, the Ordinance needs to be changed. In addition the American Legion is requesting parking on Monday nights for Bingo as well; and the Harmon Museum is asking parking opportunities for its staff on Tuesdays. This change in the Ordinance will include those exceptions. The Chief indicated this has been an ongoing issue.

The Councilors questioned several issues including a 5:00 time period until closing time; possible 15 minute time periods; discussed the issues that might cause difficulties such as remaining in the parking stop for a long period of time.

JOHN SERAN: He represented A1 Cab and assured Council that his drivers understand they can no remain in the spot and would attempt to move often. He also spoke of the safety issue both for the Town and for the individuals using their service in the late evening hours. He felt that the recommendation by Ricki Letout that they park at the Railroad Station took it out of the immediate area of the downtown and meant that the occupants would have to walk up a dark street to get to the taxi service.

It was also discussed that this is an opportunity to try this arrangement for the summer and if there are issues the Chief can come back to the Council for changes.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Designate two parking spaces in front of 16 Old Orchard Street (205-5-5) to be a Taxi Stand/Loading Zone pursuant to Section 54-147 of the Traffic and Vehicles Ordinance.

Vote: Unanimous.

5226 Discussion with Action: Accept bids for repair of Town Tennis Courts as follows:

Memorial Park	\$2,648
Middle School	2,657
High School	4,100

or for a discounted rate for all three at the cost of \$8,765 from Account Number 20118-50350 – Contingency with a balance of \$41,602.

TOWN MANAGER: The above tennis courts are in great need of repair or replacement. It was suggested by the Conservation chair that an upgrade be done which would possibly last for about three years when perhaps the funding would be available to do them over completely. A bid was proposed by Jay Kelley of the School System from Vermont Tennis Courts.

Councilor Bolduc questioned again the need for this to come out of contingency and reiterated that in the future these kind of expenses need to be expected and planned for. Councilor Dayton indicated that she had sought to have this done many months ago and to encourage these courts be ready to be useable for the citizens. When the subject of funding was raised Councilor Dayton said that she has been diligent since a year ago in attempting to get funding for this project. Councilor Tousignant reminded the Council of the financial issues that were discussed last evening and this is another \$9,000 that we are giving away when we have cuts in staff that are affected as well. Councilor O'Neill reminded the Council that this is coming out of this year's budget, not next years.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Accept bids from Vermont Tennis Courts for repair of Town Tennis Courts in the amount of \$8,765 from Account Number 20118-50350 – Contingency, with a balance of \$41,602.

VOTE: Yea: Councilors O'Neill, Dayton, Bolduc and Chair MacDonald
Nea: Councilor Tousignant

GOOD AND WELFARE:

COUNCILOR O'NEILL: He expressed his frustrating and lack of professionalism shown to staff and emphasized that there were a lot of inaccurate statements made this evening. He emphasized the confusion of the E. Emmons Cummings sidewalk and that to suggest that staff has to stop work when the Council says stop is ridiculous as there are needs to close projects and that takes time. If it were not for the work of the staff this would have been a lost opportunity. I do apologize to Councilor Bolduc for my frustration and outburst but the Council needs to establish a sense of respect for staff.

COUNCILOR BOLDUC: I accept Councilor O'Neill's apology but in the future when he has such personal and emotional issues he needs to reclude himself from the issue.

RICKI LETOWT: I saw the port-a-potties have been removed from the beach and I did send the Council and pictures and hope that they were reviewed. If you see the dug out and the exposed seawall, it is rotted. May Ann she cannot fix the seawall until next year and I wonder if she means the 2009-2010 budget or the 2011 budget because I would hope they could be fixed sooner rather than later.

The Public Works Director indicated it will take a permit process and better clarity on the property ownerships is needed before a permit can be applied for.

CHAIR MACDONALD: She asked that a time frame and plan be established and asked the Council Secretary to get that information.

COUNCILOR TOUSIGNANT: He suggested that perhaps this is private property and not the responsibility of the Town.

COUNCILOR DAYTON: This has been an ongoing issue and the boundary lines are something that I have asked about for many months and have not received an answer as of this evening.

TOWN MANAGER: I believe it is a right of way and would be the responsibility of the Town.

COUNCILOR DAYTON: This is an issue we need to address up and down the beach.

ADJOURNMENT:

MOTION: Councilor Bolduc motioned and Councilor Dayton seconded to adjourn the meeting at 10:05 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 sixteen (16) pages is a true copy of the original Minutes of the Town Council Meeting of June 16, 2009.

V. Louise Reid