

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, MARCH 20, 2007
TOWN HALL CHAMBERS**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, March 20, 2007. Chairman Joseph Kline opened the meeting at 7:03 p.m.

Pledge of Allegiance and Roll Call:

Present were:

**Councilor Robin Dayton
Councilor Roxanne Frenette
Councilor James Long
Vice Chair Shawn O'Neill
Chairman Joseph Kline**

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to add an item to the agenda: reconsideration of Agenda Item Number 1088- on the March 14, 2007 agenda - Engage the service of Martin L. Wilk, Esquire, in connection with a personnel matter to become Item Number 2010 on this agenda.

**VOTE: Yea: Councilors Frenette, Long & Chairman Kline.
Nea: Councilors Long and Dayton**

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to move under Council Rule 2-79 to suspend the requirement of Rule 2-73 that a motion for reconsideration is contained on the agenda.

**VOTE: Yea: Councilors Frenette, O'Neill and Chairman Kline
Nea: Councilors Dayton and Long**

MOTION: Councilor Frenette motioned and Councilor Long seconded move for reconsideration of Agenda Item Number 1088 – Engage the service of Martin L. Wilk, Esquire, in connection with a personnel matter under Item Number 2010 on this agenda.

**VOTE: Yea: Councilors Frenette, O'Neill and Chairman Kline
Nea: Councilors Long and Dayton**

ACKNOWLEDGEMENTS: None

ACCEPTANCE OF MINUTES: Town Council Minutes of March 6, 2007; Town Council Workshop of March 13, 2007; and Special Town Council Meeting of March 14, 2007.

MOTION: Councilor Frenette motioned and Councilor Long seconded to approve the the Town Council Meeting Minutes of March 6, 2007.

VOTE: Unanimous.

MOTION: Councilor Frenette motioned and Councilor Long seconded to approve the the Town Council Workshop of March 13, 2007.

VOTE: Yea: Councilors Long, Frenette, Dayton and Chairman Kline
Abstain: Councilor O'Neill

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to approve the Special Town Council Minutes of March 14, 2007.

VOTE: Unanimous.

BUSINESS LICENSES: Arthur M. Deraney (305-4-1-302), 1 Cleaves Street, Unit 302, one year round rental; Avis Johnson (316-8-7), 6 Seacliff Avenue, two year round rentals; Robert Manning dba/ Coastal Convenience Store (206-26-4), 34A Saco Avenue, two gasoline pumps, grocery store and victualers; and John & Joyce Martin (210-2-15-17), 2 Ryefield Drive, #17, on year round rental.

MOTION: Councilor Frenette motioned and Councilor Long seconded to approve the business licenses as read.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Surf Six, Inc. dba/Surf 6 Restaurant & Lounge (306-2-9), 2 Cortland Avenue, Entertaining & Dancing; and Pine Ridge Realty, Inc. dba/Dunegrass Golf Club (105A-1-200), 200 Wild Dunes Way, Entertaining & Dancing.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to approve the business licenses as read.

VOTE: Unanimous.

NEW BUSINESS:

1090 Presentation by the Community Watch Council (CWC).

COUNCILOR ROBIN DAYTON: I am pleased to be able to have presented the Community Watch Council program to you this evening and will ask Lt. Timothy DeLuca to make the presentation.

LT. DELUCA: On March 20 2007, the Community Watch Council (CWC) is excited with the opportunity to make a presentation to members of the Old Orchard Beach Town Council. The presentation will outline this recently organized group of residents and police officers for the purpose of benefiting the Town of Old Orchard Beach and its residents. The idea is to touch on our goals, objectives, what we have accomplished, where we are headed and the impact this has and will have on our community now and in the future. I am pleased to make the presentation along with the President – Helene Whittiker.

Mission Statement

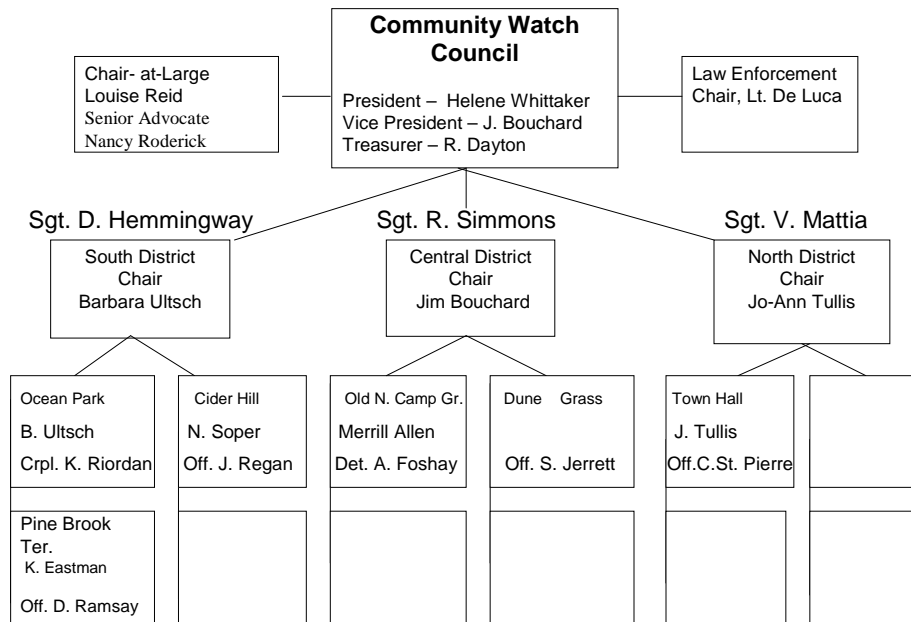
The mission of the Community Watch Council (CWC) is to ensure the integrity of our neighborhoods through positive interaction, community encouragement and public awareness between law enforcement and the citizens of Old Orchard Beach.

CWC Members List

President: Helene Whittaker
Vice President / Secretary: Jim Bouchard
Treasurer: Robin Dayton
Police Chair: Lt. Timothy De Luca
Chair at large: Louise Reid
Senior Advocate: Nancy Roderick
South District Chair: Barbara Ultsch
Central District Chair: Jim Bouchard
North District Chair: Jo-Ann Tullis
Members at large: Neal Soper

**Old Orchard
Beach
District Map**





HELENE WHITTAKER: What We Do: Community Policing efforts include problem solving, alerts and education; develop and set standards for new Watch groups and design and implement citizen awareness and safety training programs. What have been our accomplishments: We adopted the CWC Bylaws; prepared a District Map for finalized jurisdiction; established alert process which has lead to some arrests; stronger neighborhood Watch Groups and improved community conflict resolution process. Current Activities including developing new Neighborhood Watch groups such as Dunegrass, The Birches, Pine Brook Terrace, TRIAD (a Senior initiative), and guest speakers for Watch Meetings.

JACK SARNO: I have attended these meetings and all citizens should take the opportunity to find out what is going on in the community.

COUNCILOR DAYTON: We Need You! We need volunteers to participate in Neighborhood Watch. Please contact Lt. Tim DeLuca at 934-4911 or Helen Whittaker at Whitmaine@USADATANet.net. To learn more see our brochure and click on OOBPD.com

CHAIRMAN KLINE: We would like to express our thanks to Councilor Dayton for bringing this item to our attention and review.

1091 Discussion with Action: Approval of Liquor License Renewals for Richard Payette dba/The Landmark Restaurant (306-5-6), 28 East Grand Avenue, malt, spirituous and vinous in a Restaurant; Surf Six, Inc. dba/ Surf 6 Restaurant & Lounge (306-2-9), 2 Cortland Avenue, malt, spirituous and vinous in a Class A Lounge; and Pine Ridge Realty, Inc. dba/Dunegrass Golf Club (105A-1-200), 200 Wild Dunes Way, malt, spirituous & vinous in a Golf Club.

MOTION: Councilor O'Neill motioned and Councilor Long seconded to approve the Liquor License Renewals as read.

VOTE: Unanimous.

1092 Discussion with Action: Approve the Request for Funds in the amount of \$31,583 to D. H. Pinnette & Sons, Inc. for roof repairs to Jameson School from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05.

CHAIRMAN KLINE: The Superintendent of Schools, Rick Matthews, has requested consideration from the Council on approving Capital Improvement items at Jameson and Loranger School. He had originally presented these in December of 2006 and he will again this evening make a presentation on items reflected in Items 1092, 1093, 1094 and 1095.

SUPERINTENDENT MATTHEWS: I am presenting the following for consideration by the Council this evening. Each of these items is reflected in the request in Items Number 1092, 1093, 1094 and 1095.

Immediate Needs:

Jameson Roof #1 & #2 - A. \$ 43,050.00 – Perma Roofing
 B. \$ 27,783.00 - D.H. Pinnette & Sons, Inc Roof 1
 3,800.00 - Jameson Roof #2,3,4- . Recommended Bid
 C. \$ 29,175.00 Industrial Roofing

Immediate Needs Total - \$ 64,923.00

The School Department has covered these immediate needs with \$ 54,000.00 from a State DOE award for our out of district placements given to us in July and an additional \$ 11,686.75 that we have temporarily frozen from our 5800 code which supports student and staff travel.

Total Resources taken from other lines to cover these needs - \$65,686.75

Alternative bids are available for inspection at the Town Hall

Thanks in advance for considering our request.

CHAIRMAN KLINE: Please explain the receipt of the \$54,000 and the reason that with less than three months left in the school time frame the money was not spent for programs that you suggested but rather was used for the repair of the roof.

SUPERINTENDENT OF SCHOOLS: The money was a surprise and came from the State for out of placement special education students. We had planned to redesignate it for technical needs but because of a number of efforts to talk with the municipality did not materialize . I tend to be a very conservative, cautious administrator and although I recognize that you might think I should have done something sooner it was my intent to make sure our funding for the school year was in tact. Again, there were snags in the process and the ability not to meet with the Council that have increased the time delay.

COUNCILOR LONG: I believe the upkeep of the School and Municipal properties and buildings is a major concern and I have requested below the establishment of a Committee to oversee these upkeeps so that they are done in a timely and more practical manner.

COUNCILOR FRENETTE: I understand your technical needs and I support those technical requests but you have known you had these needs for sometime and I just am concerned why that was not addressed sooner. You only have three months left in your fiscal year.

COUNCILOR DAYTON: My concern is the time frame of only three months left before the end of the school year and the fact that these program needs were not taken care of before when the money was received last July. Is the roof work nearly complete? In essence this work is done and is already paid for. So this request is for reimbursement, correct? Am I correct that some of the items that are here were in the budget we discussed last week?

SUPERINTENDENT MATTHEWS: We chose to cut the Capital Improvement Line in lieu of keeping teacher positions. We have a purchase order for this but if you decide that the Town Council would fund this for us then we would issue a new purchase order. I recognize that my frugal consideration of funding may be in question but I am always concerned that we are able to cover the needs of the school system in a timely manner and perhaps I have been more protective than necessary. Yes, the work is almost complete but with the cold snap we just had it has been delayed but with the warm temperatures projected for this coming week end we should have it completed by then. I have indicated this before that the school is under funded which often puts us in this difficult situation. I would rather use the money for the technology needs rather than a new roof and I have always felt that the school is under funded.

COUNCILOR O'NEILL: Then I support my previous suggested motion. I congratulate the Superintendent for his conservative manner and we have said we will be supportive in difficult times. We are giving you three months to spend \$54,000 and you had several months and had not spent it.

TOWN MANAGER: I would just like to clarify my position. If the Superintendent had mentioned the need for technical improvements when I met with him last week but he did not when I asked about what programming needs he was considering. I recognize that technically they are ten years behind and I told them several months ago that I would work with them to see this issue was corrected but they never addressed it again with me.

COUNCILOR FRENETTE: I recommend to the School Board that you come up with your wish list and that you present it at the budget workshop in another week or so.

COUNCILOR DAYTON: I am troubled that the funds were received in July and here we are in March and I am concerned that it has taken us this long to get to this place. I think the School Board should have moved faster to spend these funds. I would encourage the School Board that if in the future such a windfall comes your way that you consider using it immediately and not retaining it for a long period of time.

MOTION: Councilor O'Neill motioned and Councilor Long seconded that Items 1093, 1094 and 1095 be removed without prejudice and that we compromise and provide the \$31,583 requested in Item 1092 for the roof repairs Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05 and that the School consider the additional \$33,340 in their budget request in the coming month.

CHAIRMAN KLINE: Will the secretary please call for the vote.

**VOTE: Yea: Councilors Frenette, Long, O'Neill and Chairman Kline
Nea: Councilor Dayton**

This vote was included in items number 1094, 1095 and 1096 as indicated below.

1093 Discussion with Action: Approve the Request for funds in the amount of \$9,550 to Classic Flooring for Carpeting at Jameson School from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05.

**Jameson Hallway Carpet – A. \$ 9,550.00 – Classic Flooring – Recommended Bid
B. \$ 12,921.00 – Carpet Town**

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to remove without prejudice Item Number 1093 - the Request for funds in the amount of \$9,550 to Classic Flooring for Carpeting at Jameson School from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05.

VOTE: Yea: Councilors Frenette, Dayton, Long, O'Neill and Chairman Kline

1094 Discussion with Action: Approve the Request for funds in the amount of \$6,835 to Honneywell Company (not a bid but under their current contract with the School) for Burner Replacement to the Back Up Boiler at Loranger School from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05.

Loranger Middle School – Burner Replacement for Back up Boiler - \$ 6,835.00 – already installed through Honeywell, not a bid but under current contract.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to Remove without Prejudice the Request for funds in the amount of \$6,835 to Honneywell Company (not a bid but under their current contract with the School) for Burner Replacement to the Back Up Boiler at Loranger School from Account Number 10013/30100 Undesignated Fund, with a balance of \$4,143,404.05.

VOTE: Yea: Councilors Frenette, Dayton, Long, O'Neill and Chairman Kline

1095 Discussion with Action: Approve the Request for funds in the amount of \$16,955 to Haskle & Hall for repairs to the Northeast Wall at Loranger School for brick and mortar work from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05.

Loranger Middle School – Northeast Wall , facing Public Safety & Main Entrance Repair

(Four bids were requested but because of limited number of business who are qualified for this work only two companies bids were received.)

- A. \$ 16,955.00 - Haskle and Hall - work includes necessary bricks and mortar; also all seals around doors and windows and is finished with a water sealant to entire wall. Recommended Bid**
- B. \$60,000 - CCI**

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to Remove without Prejudice the Request for funds in the amount of \$16,955 to Haskle & Hall for repairs to the Northeast Wall at Loranger School for brick and mortar work from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,143,404.05.

VOTE: Yea: Unanimous

1096 Discussion with Action: Authorize approval of Agreement with Poland Spring Bottling Company to treat Poland Springs (Hollis location) processed wastewater at our Old Orchard Beach Wastewater Treatment Plant Facility.

CHAIRMAN KLINE: I would like to mention that the question was raised about the legality of the executive session held by the Council on March 6th on the agenda, Item #1087. Our legal counsel indicated that “he had reviewed the agenda item in advance with staff and concluded that the executive session would be permissible under 1 M.R.S.A. Section 405 (6) ©. The subject matter of the executive session, as described by staff was the use by Poland Spring Bottling Company of the Town’s wastewater treatment plant to dispose of wastewater from the Poland Spring plant in the Town of Hollis. Poland Spring has been utilizing the wastewater treatment facility for that purpose since May of 2000. Originally there was a written agreement between the Town and Poland Spring authorized by the town Council. That agreement had an expiration date of May 2002 but both the Town and Poland Spring have continued to operate under the terms of that agreement since then. The reason for the executive session on March 6th was to discuss with a representative of Poland Spring whether the Town would continue to allow that use of the wastewater treatment plant, and under what terms and condition. 1 M.R.S.A., Section 405 (6) © allows a municipal body to enter into executive session for discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosure of the information would prejudice the competitive or bargaining position of the body or agency. Clearly the executive session of March 6th concerned the use of real property and personal property permanently attached to that real property – the wastewater treatment plant. Based on my conversations with staff prior to the March 6th meeting and conversations with staff and members of the Council after that meeting, I remain of the opinion that this was a situation where public discussion at that point in time had the potential to inhibit candid discussions in a way that could have prejudiced the Council as it attempted to negotiate with Poland Springs over the terms of the use of the wastewater treatment facility. It has been my experience over the years that business entities engaged in discussions of this type with a municipality are very concerned about proprietary information and trade secrets and would not be as forthcoming in public sessions as they would be in private negotiations with elected officials. With those preliminary discussions on March 6th concluded the Council now has the matter on the agenda for discussion public on March 20th. Any action which the Council takes on the matter will be in public session. For these reasons I believe the Council has acted in compliance with the requirements of the Freedom of Access Act.” (Chris Vaniotis, Esquire.)

TOWN MANAGER: In June of 2000 the Poland Spring Bottling Company (PSBC) entered into a contract with the town of OOB to discharge their waste stream at the Halfway Pump Station. The waste was to be delivered in 8,000 gallon tanker trucks by route of the turnpike spur, Temple Ave and on to Manor Street which goes directly to the PCF. The contract included the following fees; \$0.006 per gallon along with an annual charge of \$4,375.60 for

laboratory testing and monitoring the waste stream. Since that time we have seen a marked increase in the amount of trips to the facility and the number of gallons discharged. The overall business relationship has been a good one. There are times when employees have been called out for alarms during deliveries or to perform snow plowing duties so the trucks can gain entrance to the facility. I would estimate it costs the town about \$1.13 per pound to treat the residential waste stream converting common pollutants to pounds. If we were to apply this same formula to the PSBC waste stream, it costs about \$30,000 to treat the PSBC waste stream. Since \$200,000 was grossed in 2006, it would leave a net profit of \$170,000. Another location that PSBC uses for waste discharge is the City of Auburns Pollution Control Facility. Auburn charges PSBC \$0.0031 per gallon to treat waste water that is discharged directly to the facility via a force main. The total gallons discharged to the Auburn facility were not available, but assuming they received the same amount of PSBC wastewater that OOB did in 2006, Auburn would have grossed \$100,000 compared to the \$200,000 grossed by the Town of OOB. The lack of capacity here at the Halfway Pump Station is another issue to consider. During heavy rainfall it is not uncommon to see both pumps running to keep up with the waste stream. Engineering standards call for a spare pump in case of a pump failure. Since this station does not have a spare pump, a single pump failure could result in sanitary sewer overflows. During high flow situations, PSBC has always been cooperative with slowing down the rate of discharge from the trucks or in some cases rerouting the trucks to another facility until the flow has slowed down. In other words, we do have the ability to control the rate of discharge, or stop it all together from PSBC. The facility processed 650 million gallons (MG) of water in 2006 and about 200 MG of this went through the HWPS. The 32 MG discharged by PSBC accounted for 32 MG, or 16% of the flow to the station. Aside from the obvious date changes our legal counsel has made the following two substantive revisions: (1) In paragraph 7 insertion of an automatic renewal clause; and (2) adding of a new paragraph 11, allowing the Town to terminate the agreement if it runs out of capacity at the Treatment Plant.

**Poland Spring
Waste Water Treatment Fees**

	Budget	Actual	
FY 07	\$120,000.00	\$ 87,527.00	as of 3/20/07
FY 06	\$ 60,000.00	\$173,290.00	
FY 05	\$ 60,000.00	\$ 90,065.00	
FY 04	\$ 55,000.00	\$ 56,448.00	
FY 03	\$ 40,000.00	\$ 57,192.00	
FY 02	\$ 50,000.00	\$ 41,496.00	

The terms and conditions of this agreement is more than double what Auburn, Maine is receiving. This contract has an automatic renewal unless either party gives 90 days notice. We have also agreed in the contract to the fact that if at any time Old Orchard Beach determines that it no longer has capacity at the Wastewater Treatment Plant to accept water from Poland Spring and that such lack of capacity is not due to temporary conditions, then Old Orchard Beach may terminate this agreement by giving written notice of termination to Poland Spring at least 90 days prior to the termination date. After such termination date, this agreement shall have no further force and effect and neither party shall have any rights or obligations hereunder. It is expected that Poland Spring will increase their productivity and thereby increase our revenue. It is deposited to the general fund and used for all services for the various departments.

CHAIRMAN KLINE: I support the 90 days rather than the 30 days as requested by the Poland Springs. I also wish to remind everyone that our legal counsel has indicated that the agreement between the Town and Poland Springs bottling Company is not subject to the requirements of Section 409.16 of the Charter because it does not involve a sale or lease for more than three years of real property. I would also look at delegating that money to the Wastewater Department for use in the pump station.

HELENE WHITTAKER: I would remind the Council that Ocean Park is a retirement community with many seniors and that the condition of the roads on Manor Street and Temple Avenue are disgraceful and need work and would suggest that the funding for the delivery of Poland Springs water be used to fix the needs of this part of the area of the Wastewater Facility. This is a safety issue and there are more than four trips now that they have increased their deliveries. Seniors have a difficult time getting to the bus stop and I believe that this money should be used to put in stop signs, sidewalks, etc.

COUNCILOR DAYTON: I have several concerns and questions and you know including the terms of the agreement and acceleration in what we are receiving for their opportunity to bring water into Ocean Park and would recommend that we consider a cost change and revisit the reimbursement question. Does the price for the chemicals that you use to treat this waste from Poland Spring change? Does the price change? My concern is that we have a chance to review the increase in cost and would ask that we address this issue in a timely manner. I am wondering if the Council sees that as an issue.

CHRIS WHITE: We don't buy special chemicals other than what we ordinarily use. It is just the additional flow.

CHAIRMAN KLINE: If you review the agenda showing the changes, this was addressed. We can do that down the way and certainly the Superintendent will monitor this closely. One of the recommendations of automatic renewal is that we don't get into the expired contract as we have at this time.

COUNCILOR O'NEILL: I personally was disheartened over what went on as a result of our Executive Session a couple of weeks ago. If this contract had been compromised we would have lost \$200,000 in revenues to support the Town. I never can remember in my years in public service that a member of this Council potentially compromised the trust factor and confidentiality of the Executive Session. I was concerned, alarmed and dissatisfied that a member of this Council provided information to the press and that the information of a three to two vote to enter into Executive Session was incurred. It was a unanimous vote to enter into Executive session. The paper even misrepresented the facts. I received many phone calls and once I stated the facts rather than information that was provided to the press, I believe that such behavior was totally irresponsible and the integrity of the Council itself was subjected to innuendos. The Public needs to be aware of this. I am disheartened that it came from this Council because they disagreed that at the Executive Session whether we should be there. The fact that it was misquoted that it was three/two to enter into executive session. That was incorrect. I received many phone calls and after I clarified what really happened – nerves were calmed. This Council has never acted without integrity.

BILL DANTON: Before you went into Executive Session, did you have a legal opinion from our Council before you entered into Executive Session? As a citizen and business owner I was embarrassed by what was written in the newspaper. We don't need this type of

unethical, unfair and very embarrassing behavior by a member of Council. We don't need it in our Town and it is not fair to the business community who is attempting to bring new business into our community. If you already had a legal opinion I have never seen in my history here where the work of the Council was compromised as it was in this instance.

CHAIRMAN KLINE: Yes, we did have a legal opinion. It was not the local newspapers but rather the Portland Press.

COUNCILOR LONG: I am concerned about the integrity of the contract. I will speak to being taken to the wood We already have concerns about the Hal Way Pump Station and we have a business bringing in eight to twelve loads a day, seven days a week – 66,000 pounds per trip. We are presently denying building permits because of our inability to provide the needed infrastructure requirements. We have concerns for new economic development projects in this town because we do not have sewer capacity. We are ignoring our own needs such as Temple Avenue, Manor Street; it is not wide enough for the trucks to even make the turns. A woman on a Bicycle hit what she thought was water and it was a hole in the road and she broke her hip. We are doing a disservice to the citizens of our community and Poland Springs is the one getting the benefits. Poland Springs comes and goes as they like; they have a key to the facility and there is no supervision. We have damage to Manor Street. They are beating up our roads so without a provision or without discussion the real cost of this dumping to take place; we do a disservice to our community. Poland Springs is in a competitive business – their business is growing – to say or to imply that this money goes into the general fund and is not hurting the Waste Water plant is not correct. For the reasons I state I oppose this motion.

CHAIRMAN KLINE: First we should have the savings dedicated. DOT owns Temple Avenue and part of the problem there is funding from the State.

COUNCILOR FRENETTE: I would ask Chris White if he felt there were some issues with Poland Spring's delivery he could deal with them directly, is that not correct?

CHRIS WHITE: There is control and we have a very good working relationship with Poland Spring. There have not been any issues with them and we do have control over them. It has been a good partnership.

COUNCILOR LONG: Obviously the comments made this evening have been directed toward me and I accept the criticism of the Council and recognize they have taken me out to the woodshed. We had no idea what was going to be discussed so to say the attorney approved was going to be discussed still provided no information to us. I take the criticism but had the best interest of the public in the forefront.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to Authorize approval of Agreement with Poland Spring Bottling Company to treat Poland Springs (Hollis location) processed wastewater at our Old Orchard Beach Wastewater Treatment Plant Facility and indicating that item 11 of the agreement will indicate "at least 90 days instead of 30 days prior to the termination date".

VOTE: Yea: Councilors Frenette, O'Neill and Chairman Kline
Nea: Councilors Dayton and Long

COUNCILOR LONG: I accept the concern of the Council. We went into that meeting with no indication of what was going to be discussed including the items that were discussed this evening. So to say the attorney approved this, this Council did not know and that is certainly cause for concern. I take the criticism but I clearly believe was in the better interest of the public.

1097 Discussion with Action: Accept the Proposal for the Evaluation of Stormwater Management Alternatives on Milliken and Walnut Street submitted by Wright-Pierce Engineers in the amount of \$22,000 from Account Number 10013/30100 – Undesignated Fund Balance, leaving a balance of \$4,143,404.05.

TOWN MANAGER: Public Works is submitting a proposal for engineering services to evaluate alternatives for management of stormwater contributing to flooding in the areas of Milliken and Walnut Streets. As the Town has recently completed rehabilitation of stormwater outfalls in the area of Brown and Mullen Streets, it appears that there is an opportunity to redirect a component of stormwater that presently contributes to flooding in the Milliken/Walnut Street area. Prior to embarking on construction of piping improvements to this end, it is appropriate to review the range of options for achieving this goal. It is understood that the Town wishes to initiate construction of the improvements within the next year, hence we will work together with Public Works to identify a suitable scope and budget for the construction. Public Works recommends accepting the proposal from Wright-Pierce Engineers for the total not to exceed the amount of \$22,000.00 to be paid from Undesignated Account # 10013/30100, leaving a balance of \$ 4,143,404.05 .

MOTION: Councilor Long motioned and Councilor O'Neill seconded to Accept the Proposal for the Evaluation of Stormwater Management Alternatives on Milliken and Walnut Street submitted by Wright-Pierce Engineers in the amount of \$22,000 from Account Number 10013/30100 – Undesignated Fund Balance, leaving a balance of \$4,143,404.05.

VOTE: Unanimous.

1098 Discussion with Action: Authorize the Town Manager to go out for bid and advertise the Summit Street Sewer Improvement Project.

TOWN MANAGER: Public Works is seeking permission from the council to bring this project out to bid for this spring. This sewer project has been in the capital budget for two years and the final design/construction documents have been completed. The scope of work includes replacing a failing system of sewer lines along Summit Street that currently include a cesspool and very shallow main lines. Public Works and Wright Pierce Engineers have completed an optimal design that includes relocating the cross-country sewer line to a new location with the permission of the private landowners, via a sewer easement. The cross country line, connecting Summit St. sewer line to the existing School St. sewer line, will be directionally drilled (underground) with no disruption of private property. The existing lines on Summit Street will also be replaced with new structures and sewer lines installed at a more appropriate depth. Wright-Pierce has estimated construction costs \$250,000. Public Works recommends approval to advertise the Summit Street Sewer Improvement Project immediately and come back to council with the bid award in one month. This project would

need to be paid from Undesignated Account # 10013/30100, leaving a balance of \$ 4,143,404.05.

MOTION: Councilor Long motioned and Councilor Frenette seconded to Authorize the Town Manager to go out for bid and advertise the Summit Street Sewer Improvement Project.

VOTE: Unanimous.

1099 Discussion with Action: Approve the Purchase of two (2) Franklin Miller Grinders for the Waste Water Department in the amount of \$23,954 from Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

TOWN MANAGER: The Pollution Control Department needs to purchase two (2) grinders. These grinders “shred” large objects that could potentially interfere with operations or damage equipment. One grinder is needed in the primary pump room. Another is needed at the septic receiving station. Installation will be done by facility staff. Three quotes have been received and we are recommending we purchase two (2) Franklin Miller grinders for the sum of \$23,954.00 to be taken out of Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

MOTION: Councilor Frenette motioned and Councilor Long seconded to Approve the Purchase from Franklin Miller of two (2) Franklin Miller Grinders for the Waste Water Department in the amount of \$23,954 from Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

VOTE: Unanimous.

2000 Discussion with Action: Award the contract for the Pump Station Knife Gate Upgrade for the West Grand Pump Station to Allagash Valve and Control Company in the amount of \$9,876 from Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$ 198,047.56.

TOWN MANAGER: This gate is situated at the very lower level of the “wet side” of the pump station. The gate is normally fully open, but during high flows the gate will close and the pumps will shut off. In order to restart the station, one employee must enter the lower level and manually throttle the gate valve allowing flow into the station while another employee restarts the pumps. This proposal would bring the automatic and manual gate controls to the upper level of the pump station, eliminating potential safety issues and give the department the ability to manually operate the valve in case of power failure. Allagash was the only company that was willing to provide both parts and labor. I am recommending we contract the job for the sum of \$9,876.00 to the Allagash Valve and Control Company from Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$ 198,047.56.

MOTION: Councilor Frenette motioned and Councilor Long seconded to Award the contract for the Pump Station Knife Gate Upgrade for the West Grand Pump Station to Allagash Valve and Control Company in the amount of \$9,876 from

Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$ 198,047.56.

VOTE: Unanimous.

2001 Discussion with Action: Approve the Purchase from ABB of a New Variable Frequency Drive for Blower #2 for the Waste Water Facility in the amount of \$13,129.20 from Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

TOWN MANAGER: There are three (3) blowers at the facility that provide air for the biological part of the treatment. Blower #2, which is the smaller one at 100 horsepower, had been used in the winter when the air demand was less. Due to process changes and year round population growth it is no longer sufficient even in the winter time. We will be installing a 200 HP blower that is in stock and will need another VFD. All VFD's at the facility and pump stations are Toshiba brand VFD's, but due to aggressive pricing I am recommending we purchase the ABB brand VFD. I have conferred with their service center and am confident that there will not be any issues. I am recommending we purchase the ABB VFD at a cost of \$13,129.20 from Account Number #20204-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

MOTION: Councilor Frenette motioned and Councilor Long seconded to Approve the Purchase from ABB of a New Variable Frequency Drive for Blower #2 for the Waste Water Facility in the amount of \$13,129.20 from Account Number 20204-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

VOTE: Unanimous.

2002 Discussion with Action: Approve the Purchase of two (2) Worthington Yard Drain Pumps for the Waste Water Facility, to be installed by facility staff, in the amount of \$22,892 from Account Number 2024-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

TOWN MANAGER: These pumps (2) are essential equipment used for multiple processes at the Pollution Control Facility. The original pumps installed in 1985 are now worn out and in need of replacement. The Worthington brand pump was part of the original design and any deviation from this would mean significant and costly modifications to the piping design. By purchasing the Worthington pumps, the installation can be done by facility staff. Rebuilding these pumps are not an option due to the fact that both pumps sometimes operate at the same time and the system cannot be out of commission for more than a few days. I am recommending we purchase the Worthington pumps for the sum of \$22,892.00 from Account Number 2024-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to Approve the Purchase of two (2) Worthington Yard Drain Pumps for the Waste Water Facility, to be installed by facility staff, in the amount of \$22,892 from Account Number 2024-50846 – Treatment Plant Equipment with a balance of \$198,047.56.

VOTE: Unanimous.

2003 Discussion: Possible Police Sub Station located at the Grand Victorian.

CHAIRMAN KLINE: Recently, the question was proposed about the idea of a police sub-station located within the new Grand Victorian property. Looking back over the years, a sub-station never became a reality because of the lack of a suitable and affordable location. The opportunity a police sub-station at the Grand Victorian provides us many new options to better serve the public. We thank Councilor Dayton for bringing this to the forefront and I will ask her to continue.

COUNCILOR DAYTON: I have worked with the Police Department on this very important issue and would ask Lt. De Luca to give us some information.

LT. DELUCA: I would like to thank the Council for this opportunity and present the following information:

Purpose:

There are several specific reasons a sub-station will have a positive impact on police services. The sub-station would centralize police services in the downtown area providing a higher level of services directly to the general public. Additionally, considering a staff of 18 full-time officers, 40 reserve officers and parking enforcement staff, the sub-station will ease the impact on the main police complex which currently does not meet personnel requirements.

Efficiency:

A sub-station eliminates the need for officers having to travel to the police complex to meet the victims, complainants, witnesses or suspects of a crime. An officer can maintain continuity of the incident given the proper tools such as interview rooms and a good working space. This will enhance interaction with victims, witnesses and suspects while not being exposed to distractions during a "street interview". Officers will have the ability to complete reports during shift hours. This eliminates the need for officers to wait until shift ends and therefore enhancing shift efficiency.

Full-service:

Police services will be convenient to members of the public where they can experience "full service" interaction with police officers and quickly gain information and answers by police department staff. This will include, reporting of crime, paying parking tickets, law and ordinance information, reporting of lost children, general information center, and delivering witness statements. The department intends to staff the sub-station with part-time personnel that are normally located at the police complex during the peak season. Further plans include development of community volunteer programs such as utilizing seniors to help staff the sub-station during the off peak season along with a routine presence of law enforcement officers.

Roll call room:

Currently the department holds 5 active roll-calls daily in the summer and 3 off season which are difficult due to space limitation. At times these are limited due to interruption caused by 4 offices, a bathroom and lockers room located directly adjacent the current roll-call and training area. Other times, roll-calls are eliminated due to victim or suspect interviews in the multi-purpose space.

Training room:

Currently the department lacks the space to train officers. This includes our two week training school and academy required of our new hires each year as well as other training attended and mandated by full-time and other staff members.

The police sub-station would give us the ability to sponsor state and regional training in Old Orchard Beach resulting in a cost in admittance fees, travel and over-time, (to name a few). The benefit is better trained officers at lower costs.

Work space area:

Some functions will be relocated to the sub-station to include equipment storage such as portable radios, vests, flashlights, related paperwork and other work related items.

Community Room:

Our Community Policing objective and efforts over the years have resulted in neighborhood watch meetings held monthly within our community. This also includes neighborhood mediations sessions and problem solving exercises that have been difficult due to the lack of meeting space without interruptions. This space would provide the police department and community with a great location these meetings.

Projected Costs:

A more detailed budget will be provided to the council by Tuesday.

Build out

Preliminary estimated costs 25,000.00 to 30,000.00.

Operational office equipment and supplies

Preliminary estimated costs: 25,000.00

Lease cost:

15,000.00 per year with an expected 2 year lease period.

Summary:

Considering the issues outlined above, a police sub-station at the Grand Victorian would have will have a positive impact on the efficiency of police services by integrating police personnel directly with the community.

CHAIRMAN KLINE: Again, our sincere thanks to Councilor Dayton and Lt. Deluca for bringing this to us this evening. There is no motion as this was a discussion item only.

2004 Discussion: Parking Plan for Ocean Park.

CHAIRMAN KLINE: I believe this is an issue that needs to be readdressed before the summer season. I will ask the Town Manager to make comments regarding this issue.

TOWN MANAGER: In 2004 a series of meetings were held with residents of Ocean Park regarding traffic and parking problems. Residents asked for stop signs at various intersections, stripping plans that would clearly define the areas of 'no parking', particularly near the intersections, a permit parking plan that would address the over crowding of vehicles in the summer months, where several vehicles could arrive for any one rental unit, and more definition to the open square where visitors, unfamiliar with the area, would understand how to drive through the open area. After several meetings and a design charrett, held in May 2004, plans were formulated and a pilot permit parking plan was created. On October 27, 2004 a public meeting was held to discuss an overview of the alternative plans, to present the plans developed by the residents in the charrett, to learn staff's recommendations, based on a combination of the plans, and to discuss permit parking. There was no apparent consensus for any of the plans presented and town staff determined no decision regarding Ocean Park parking could be made until residents were more unified in what they wanted. A final meeting was in Ocean Park at the requested of residents. This meeting was well attended by residents and town staff, including the Town Manager, Assistant Town Manager and the Police Department. Residents made it clear to the administration that no change was preferable to any of the recommendation thus far presented. The Ocean Park Association (OPA) did agree to present the final alternative plan to the members for a vote. On July 19, 2006 OPA members voted not to support a design that would incorporate a strip of land varying from 1-foot to 11- feet in depth along the open square in Seaview Avenue and fronting the OPA property, so that a parking area could be creating in the square.

In a meeting yesterday with Planning, Police and Fire, the only options for metering the existing areas with kiosks would involve numerous kiosks at \$15,000/unit. Alternatives for placement of the units were considered and it was determined it would not pay to meter the area as there are no concentrated parking areas. As it is, the residents will not have any further changes to the streets.

The Assistant Town Manager has e-mails from residents sent during the last process. There were too many to copy but they are available at the Council Meeting for review as well as the plans that were discussed with the citizens.

COUNCILOR O'NEILL: I do not feel this is an issue that should come up here this evening. It has been work shopped to death and we have a plan in place. I believe this should be removed without prejudice.

COUNCILOR FRENETTE: We have work shopped this before and we have talked about this over and over again and the citizens have spoken over and over again on the issue.

JUNE ?, 2 Temple Avenue (Trustees of Billow House Realty Trust.) I don't want this tabled. We came out tonight when we saw this advertised to talk about it. We have a big concern both for the residents and also the business owners.

NANCY MACBRIDE: We have had three workshops on this. This predates this council. It is very frustrating to see it taken off the agenda again. This is the fifth year of continued dialogue.

COUNCILOR LONG: We have so many issues facing the Council and through April into May we are into the Budget process and now we are talking about putting this into the works this season. That is totally unreasonable.

CHAIRMAN KLINE: This was only a discussion item to get a feel from the Council how they may want to proceed so we will look into the future scheduling of a workshop.

2005 Discussion with Action: Authorize the Town Manager to Advertise for the Sale of Surplus Goods.

CHAIRMAN KLINE: A year ago the Town went out to bid on several items and some of the bids came in very low. The Council at that time said they would like to determine before we go out to bid whether it would be more fiscally responsible to donate items to non-profit agencies. We wish to ask the Council for the ability to go out to bid on several items:

SALE OF SURPLUS GOODS

Number 1: Planning Department – For information call Will Watson – 934-5714 X 236. Items on display at 1 Portland Avenue, Old Orchard Beach, Maine

2000 Chevy Impala, mileage 112,723; car has rear end damage of approximately \$1,000 but all lights and truck locks are still operational. Car is a retired Police Cruiser, white in color and equipment with a driver's side spot light; there are plugged holes on the roof and the trunk from the removal of police equipment. Minimum Bid - \$800.

Xerox Work Center XK50 scanner, printer & fax combo – SN: YD9-028108

Samsung, Sync Master 950-p – 18” monitor – SN: P619h3ln3002082

**Swintec 1146CM Electronic Typewriter – 4X312981 Minimum - \$25
Minimum - \$40**

Number Two – Recreation Department – For information call Jason Webber, Recreation Director – 934-0860. Items can be seen at 148 Recreation Department – 148 Saco Avenue, Old Orchard Beach, Maine

1984 Blue School Bus – VIN – 1GBJ6P1B1EV137443 – Mileage – 95,464 – Minimum Bid - \$200 with no guarantee that it will pass inspection.

**1988 Chevrolet S010, white, VIN – 1GCCS14B512176912
Mileage – 142,351 – Minimum Bid - \$100 with no guarantee that it will pass inspection.**

Number Three – Public Works Department – For information call Mike Perrone at 934-2250 – Items on display at Public Works – 103 Smithwheel Road, Old Orchard Beach, Maine.

1997 Crown Victoria – VIN – 2FALP71W1TX189497 – Mileage 147,812, Major work needed to be operational. Minimum bid - \$50 with no guarantee that it will pass inspection.

Number Four – Fire/Rescue Department – For information call Chief John Glass – 934-4911 – Items on display at the rear of the Fire/Police Complex – 136 Saco Avenue, Old Orchard Beach, Maine 04064

1988 Chevrolet Silverado, VIN: 2GCDC19KXJ1194657 – Mileage 71,304 – Minimum Bid - \$300.

Number Four – Waste Water Department – For information call Chris White at 934-4416 – 24 Manor Street, Ocean Park, ME 04063

1976 175KW Onan Emergency Generator – Minimum Bid - \$500

1976 Gas Powered 4” portable pump – Minimum bid of \$100.

1995 Phasemaster Rotary Phase Converter – Model #DPA-5 – Minimum bid of \$250.

MOTION: Councilor O’Neill motioned and Councilor Long seconded to Authorize the Town Manager to Advertise for the Sale of Surplus Goods.

VOTE: Unanimous.

2006 Discussion with Action: Set a Special Town Council Meeting for March 27, 2007 at 7:00 p.m. for the Presentation of the FY 08 School Budget and a Presentation of the FY08 Municipal Budget.

MOTION: Councilor Long motioned and Councilor O’Neill seconded to Set a Special Town Council Meeting for March 27, 2007 at 7:00 p.m. for the Presentation of the FY 08 School Budget and a Presentation of the FY08 Municipal Budget.

VOTE: Unanimous.

2007 Discussion with Action: Set a Special Council Meeting for Wednesday, March 28, 2007 at 7:00 p.m. to Discuss Public Safety Building/Dispatch Center.

MOTION: Councilor Long motioned and Councilor Frenette seconded to Set a Special Council Meeting for Wednesday, March 28, 2007 at 7:00 p.m. to Discuss Public Safety Building/Dispatch Center.

VOTE: Unanimous.

2008 Discussion with Action: Set a Public Hearing for April 3, 2007 to Amend the Town of Old Orchard Beach Code of Ordinances, Floods, Chapter 70, Section 26-38 by deleting all references to Zones AH and VE.

CHAIRMAN KLINE: This is a housekeeping item to prepare for codification.

**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 April 3, 2007, 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 following section of the Town of Old Orchard Beach Code of Ordinances, Floods, Chapter 70, Section 26-38, is amended by deleting all references to Zones AH and VE.

MOTION: Councilor Frenette motioned and Councilor Long seconded to Set a Public Hearing for April 3, 2007 to Amend the Town of Old Orchard Beach Code of Ordinances, Floods, Chapter 70, Section 26-38 by deleting all references to Zones AH and VE.

VOTE: Unanimous.

2009 Discussion with Action: Set a Workshop Date for Thursday, April 5, 2007 at 7:00 p.m. to Discuss School Budget and Issues.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to Set a Workshop Date for Thursday, April 5, 2007 at 7:00 p.m. to Discuss School Budget and Issues.

VOTE: Unanimous.

2010 Emergency Item – 1088 – Discussion with Action: Withdraw the engagement of the service of Martin L. Wilk, Esquire, in connection with a personnel matter.

CHAIRMAN KLINE: This is reference to an evaluation of an individual. We had the indiscretion of a media facility outside this area on an issue that should have been private. The local media gave us the professional courtesy by not going toward tabloid playing— an outside our area media made things up – have no prove – no validation. There was an assumption of who was being investigated. It could have been a former employee, a committee member, a past committee member, on the payroll or not, so it was very upsetting to see a person's name revealed without any proof. I asked our legal counsel if there was anything that we could do and he said freedom of information permits it possible for the media to write what they will. In consideration of this Emergency Item I will read comments by our Legal Counsel, Chris Vaniotis, "As I understand it, Mr. Wilk was going to undertake fact-finding to assist the Council in evaluating certain concerns about the performance of an employee. Those concerns have been identified as five separate items and, at your request, I have reviewed these items. There are no allegations of criminal or illegal conduct which would require an outside investigation. In my view, the nature of those concerns is such that the Council could, if it so chooses, dispense with a formal fact-finding and proceed directly to a discussion of the areas of concerns with the employee. In addition, because it appears that certain information about discussions which the Council held in executive session has been revealed to the public and members of the press, the use of an independent fact-finder to preserve confidentiality have been

compromised. If the Council chooses to proceed to direct discussions with the employee, and if the concerns are not adequately addressed as a result of such discussions, the Council could always invoke a more formal fact-finding process later. How to proceed is entirely within the discretion of the Council. “

CHAIRMAN KLINE: I just want to state again that with the information leaked out, the media source made its own conjecture – I feel this issue has been compromised. There was also a question as to why we would use an attorney. That was by consequence. It was a professional courtesy of the attorney we hired but I should have realized the veracity of the media. By the confidentiality of the executive session being betrayed, the safe harbor for your government, your elected officials, you hired officials, endorsed by the state of Maine to leverage the best processes to negotiate contracts or to internal problems if there are some. It is embarrassing – to the Council and to the person they defined. The media should be aware that what they printed was unwarranted, invalidated, no proof and nothing came of it and the name of the individual harmed. That individual has family, friends. You know what happens in a whispering campaign. You tell one person who tells the next who tells the next and ten people later what was the first message has no resemblance to the last. I am no longer supporting an external investigation. As our legal counsel of 40 years has said and read above, we will review the issue internally. They are internal issues that we can resolve ourselves. I believe that many of the issues are vindictive – someone didn’t get their way – and the information provided has not been validated. So at this point I would ask someone to make a motion to reverse the decision.

COUNCILOR O’NEILL: Mr. Chairman, it is unfortunate as I state earlier that this leak came from a member of Council. It is disheartening to me that because we disagree, have a difference of opinion, that this type of behavior is considered permissible. I recommend that we cease and desist in this type of activity. It is an embarrassment to the community, to us individually, govern correctly and properly, and that we cease acting in haste and with such irresponsibility and it cannot be condoned any longer and will not be. This council as in the councils past has made great strides in our image – both government and private side – we are adults – need to act as such. Thank you Mr. Chairman.

COUNCILOR FRENETTE: I would like to echo Councilor O’Neill’s statement. This was a personal agenda and not in the best interest of the community and the constituency we serve nor did they elect us to do that. Regardless of our personal likes and dislikes, at the end of the day the question is and should be what is best for our community. We have had a misstep and we need to recoup and work together and whether we have our way on any individual issues we need to let that go and work together towards consensus and in the best interest of the community not our personal ego.

COUNCILOR DAYTON: If we vote for this item, do I understand that discussion between the Council will be held. We will have the opportunity to address these issues with the employee. I raised some of these issues and I want them addressed.

CHAIRMAN KLINE: I, as the Chair, will provide further direction to the Council.

COUNCILOR DAYTON: We need to trust the process? Do we have proof that someone on this Council that someone leaked information to the press? I am to vote on trust?

CHAIRMAN KLINE: I am going to come up with some recommendations and we only have one employee and I think we can figure out how to work with one employee –

learning styles we have talked about this – sometimes people don't understand processes. I don't like executive sessions. In my own opinion executive sessions appear to be secret meetings – that is why we have very few and make sure we do them correctly.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to withdraw the request for the engagement of service of Martin L. Wilk, Esquire, in connection with a personnel matter.

CHAIRMAN KLINE: Will the secretary call for the vote:

SECRETARY: Councilor O'Neill – Yea
Councilor Frenette – Yea
Councilor Long – Yea

COUNCILOR DAYTON: In the desire for unanimity in the vote.

Councilor Dayton – Yea
Chairman Kline – Yea

CHAIRMAN KLINE: That is a 5/0 vote. We will now move on.

GOOD AND WELFARE:

COUNCILOR O'NEILL: I want to take this opportunity to congratulate Jeannie LeChance and Mike Dickinson for the positive contributions with their new and updated businesses have made to our community. We are proud of what they have done and support their endeavors with the belief they will be very successful.

ADJOURNMENT:

MOTION: Councilor Frenette motioned and Councilor Long seconded to adjourn the Meeting.

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 twenty-two (22) pages is a true copy of the original Minutes of the Town Council Meeting of March 20, 2007.

V. Louise Reid