

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, December 18, 2018
TOWN HALL CHAMBERS
6:30 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, December 18, 2018. Chair Thornton opened the meeting at 6:32 p.m.

The following were in attendance:

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

Absent: Councilor Kenneth Blow
Councilor Jay Kelley

ACKNOWLEDGEMENTS:

A special thanks to businesses in our community who purchased erasers, stools and items on the wish lists for local teachers. Thanks to Lisa Kidd owner of Ocean Park Sub and Grocery and Café 64 who spearheaded the Adopt a Classroom Program. Thank you to our Fire Department for ringing the bell for the Salvation Army and collecting \$1,100.74. And to our employees for their donation of Christmas gifts for children's wishes through The Salvation Army. LAST BLAST sponsored by OOB365 is scheduled for December 31st in the Town Square and the party starts at 5:00 p.m. Giant fireworks display at 7:30 p.m. Huge beach bonfire, marshmallow toasting pits, hot cocoa, kettle corn, cotton candy and bring your Christmas tree to feed the fire. Great time and great way to welcome in the New Year. Thanks to all who contributed to the Socks for Seniors and for gifts for children through the efforts of The Salvation Army. To each of our residents and business owners, a blessed New Year.

ACCEPTANCE OF MINUTES:

Town Council Minutes of December 4, 2018.

MOTION: Councilor Tousignant motioned and Vice Chair O'Neill seconded to Accept the Minutes as read.

VOTE: Unanimous.

GOOD AND WELFARE

TABLED AGENDA ITEM # 7285

Discussion with Action: Approve changes to the Personnel Policies and Procedures: related to retirement from the Maine Public Employees Retirement System, and to pro-rate benefits for permanent, part-time employees; Article IV, Conditions of Employment; and Article VII, Time-off from Work.

BACKGROUND:

One item is a proposed change to the personnel policy to provide pro-rated sick leave to regular part-time employees who work at least 20 hours weekly. The Town Council tabled this item at the last meeting so that the language could be changed to make it more clear that per-diem employees are not considered “regular” part-time employees and do not accrue sick time. For this meeting there is revised language that lists per-diem employees as a specific category of employee that is different from a regular part-time employee. I have attached that new proposed language to this email.

The Council tabled the pro-rated benefits for permanent, part-time employees due to the question in regards to how sick time benefits would apply to the Per Diem Firefighters. After some discussion on the challenges with calculating the hours for Per Diem staff, the Council asked that the issue be tabled for further review. It should be noted that proposed changes to the Personnel Policy would affect two provisions:

With regard to change number one the Maine State retirement system (MainePERS) recently issued new rules regarding employees who retire from the system and then are rehired and remain employed with the same employer (Retire/Rehire). The proposed changes to the Personnel Policy would give eligible non-union employees the ability to utilize this MainePERS feature.

Change number two would stipulate that permanent part-time employees who work at least 20 hours per week accrue sick and vacation leave at 50% of the applicable leave for full time employees.

The proposed changes would benefit the Town in both recruiting and retaining employees at a time when the tight labor market makes it difficult to fill vacancies with qualified individuals.

MOTION: Councilor Tousignant motioned and Vice Chair O’Neill seconded to Approve changes to the Personnel Policies and Procedures: related to retirement from the Maine Public Employees Retirement System, and to pro-rate benefits for permanent, part-time employees; Article IV, Conditions of Employment; and Article VII, Time-off from Work.

VOTE: Unanimous.

ARTICLE IV CONDITIONS OF EMPLOYMENT

Sec. 4-1 Employment Classification

~~Employee classification relates to work schedules, exempt/non-exempt status, and eligibility for benefits.~~

Regular full-time employees work the standard work week (usually 37 or 40 hours) ~~for their department~~ and are hired for an indefinite period of time, unless otherwise provided by agreement of the parties. Such employees may be exempt or non-exempt, based on the federal Fair Labor Standards Act criteria. Non-exempt employees are paid on an hourly basis and are eligible for overtime pay; exempt employees are paid on a salaried basis and are not eligible for overtime pay. Regular full-time employees are eligible for employee benefits in accordance with this policy.

Regular part-time employees work fewer hours than the standard work week for their department and are hired for an indefinite period of time. They may also be classified as exempt or non-exempt. Part-time employees may be eligible for ~~some~~ employee benefits depending on the number of hours per week they work.

Temporary employees may work full-time or part-time for a limited period, usually less than six months. Temporary employees are not eligible for employee benefits.

Per-diem employees are administrative, service and/or support employees who are not on a Department's regular work schedule and who are scheduled to work on an "as needed" basis, subject to change depending on the needs of the Department. Work may be scheduled by the Department prospectively but should be considered as "elected and accepted" by the employee. The "election" of a work schedule may vary based on the individual's availability and the availability of open shifts. The employee is essentially a freelance employee, who sets their availability with the Department based on the days they elect to work and where. A Department may not assume the availability of a Per-diem employee for a given schedule and the Per-diem employee may not assume that hours of work will be offered for a given schedule. Per-diem employees are not eligible for employee benefits.

Sec. 4-2 Work Schedules - ~~Normal~~ Standard Work Hours

~~The normal working days of the work week shall be Monday through Friday. It is necessary, however, due to the variations in the different~~ Due to the variety of services provided by the Town, that there are be variations in the hours and days of work per week within different departments. The hours of work, the starting and stopping time, and sixty (60) minute lunch periods will be established within each department with the Town Manager's approval. the hours Hours of work, the starting and stopping time, ~~or the and~~ and lunch periods may be changed by ~~mutual agreement of the department head and department, employees, &~~ mutual agreement of the department head and department, employees, & subject to approval by the Town Manager.

~~It is understood that salaried~~ Salaried employees ~~who are~~ exempt from overtime shall accomplish the work assigned to the position ~~on~~ regardless of the hours required ~~to do work~~. This policy will be applied within reason. It is the responsibility of each department head to ensure that the department's work hours are adhered to by all employees.

TOWN MANAGER: The Town Manager noted that we are enveloped tonight with the Spirit of the Season. The Council Chambers are beautifully decorated for the holidays thanks to the outstanding work of two employees, Kathy Smith and Fran Beaulieu. Fran put together our holiday bling in the form of poinsettias, window treatments, the Christmas Tree, and the décor hanging in front of the Council Platform. Kathy Smith did her incredible magic in assembling the Snowman Village displayed behind the Council tonight. They are both wonderfully creative and giving people and I thank them for their gifts that we enjoy tonight. Assistant Town Manager and I had the pleasure of attending the Wreaths Across America event at Jameson School last week. It was both moving and a lot of fun at the same time. The teachers and students did a super job of presenting music and ceremony to the gathered parents, local Veterans and many residents present. Louise and I were honored to Accept on behalf of the Town the Wreath behind Chair Thornton that features the flags of all of our military branches of service as well as the POW/MIA, and American flags. Last week Memorial Park Chair, MaryBeth Robillard, Conservation Commission Chair, Kimbark Smith,

and I met at the Libby Library with a number of Old Orchard Beach Veterans of Military Service. The meeting was held to get input directly from our Veterans regarding the upcoming improvements and renovations to the Veterans Memorial Park. The improvements will result in a beautiful memorial area that honors the sacrifice, service and patriotism of our Veterans of Military Service. We expect the work to be completed in 2019. The Town Manager reminded residents that with the winter season upon us the Town will institute parking bans as needed during winter storms. Residents should make a point of looking for announcements of parking bans. Parking bans are publicized on all of the major local television outlets, some radio stations, and on the Town's and Police Department's website. In addition anyone can sign up to receive an email notification from the Town of parking bans. Simply go to the Town's website home page and click on the "Subscribe to News" button to register for these alerts. Off street parking is available during parking bans at the Memorial Park and Milliken Street parking lots and at the Ocean Park Square.

NEW BUSINESS:

7293 Discussion with Action: Amend the Orchard Beach Code of Ordinances, Section 54-114, Milliken Street Parking Lot; Section 54-115, Memorial Park Parking Lot; and Section 54-142, Parking at expired meters and overtime parking, by authorizing Veterans and Gold Star Family members of Veterans to park free on legal Federal Holidays.

BACKGROUND:

The proposed ordinance changes will provide free municipal parking on Memorial Day, July 4th, and Labor Day to veterans of the US Armed Forces whose motor vehicles display a registration license plate signifying that the owner of the vehicle is a veteran. This provision for free parking will also apply to vehicles that display Gold Star family license plates. This program will apply to all municipal metered and pay display parking, both on street and in municipal parking lots.

Words of appreciation were given by Nancy Kelley, a Gold Star Mother and also Rich Littleton, Chaplain of the Veterans of Foreign Wars.

MOTION: Councilor Tousignant motioned and Vice Chair O'Neill seconded to Amend the Orchard Beach Code of Ordinances, Section 54-114, Milliken Street Parking Lot; Section 54-115, Memorial Park Parking Lot; and Section 54-142, Parking at expired meters and overtime parking, by authorizing Veterans and Gold Star Family members of Veterans to park free on legal Federal Holidays.

VOTE: Unanimous.

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 December 4th, 2018 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, amending Section 54-114, Milliken Street parking lot; amend 54-115, Memorial Park parking lot; and 54-142, Parking at expired Meters and overtime parking, by adopting the underscored language as follows:

Sec. 54-114. – Milliken Street parking lot.

(f) The provisions of subsection (a) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

Sec. 54-115. – Memorial Park parking lot.

(I) The provisions of subsection (a) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

Sec. 54-142. – Parking at expired meters and overtime parking.

In the event of a violation of the provisions of subsections (c)(1)–(7) above, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered, and the fact that a vehicle is in a metered parking space when the time signal on the parking meter for such space indicates no parking permitted without the deposit of a coin or coins, or when the receipt from a multi-space meter has expired or no receipt is properly displayed, shall also be prima facie evidence that the vehicle has been parked in the parking space longer than the lawfully permitted period.

The provisions of subsection (a) and (c) (1)–(5) in this section shall not apply on legal federal holidays to any motor vehicle that has a valid license plate signifying that the vehicle is registered to a veteran of the United States Armed Forces or registered to a Gold Star family member of a veteran.

Per Order of the Municipal Officers this _____ day of _____, 2018.

A True Copy

Attest:

Kim M. McLaughlin, Town Clerk

7294 Discussion with Action: Amend the Town of Old Orchard Beach Code of Ordinances, Section 54-187, Restrictions and Prohibitions, amending parking on West Grand Avenue removing the parking on the ocean side from Staples Street to Fourth Street from September 15th to May 1st each year.

BACKGROUND:

In 1996 the Town Council authorized parking on the ocean side of West Grand Avenue from Fourth Street to lower Staples Street. Parking is currently allowed there from Labor Day until April 1st. For several years, and because the season had expanded, that particular area has become increasingly congested, especially on weekends as well as during the week, particularly if it is good weather. The Motels adjacent to this location stay open longer and their parking lots, which run adjacent to West Grand Avenue, create a situation where their guest's vehicles are parked very close to the edge of the roadway as it is; and in some cases actually encroach out into the roadway. With vehicles parked on West Grand Avenue it creates a very narrow path for two lanes of traffic to safely navigate their way through. There have been several minor accidents over the years involving car mirrors being hit because it is so narrow. During the winter months there have been issues with congestion because of the snow banks. Typically this problem only exists on weekend nights or holidays when the Brunswick is open. On several occasions we were not able to allow participants of the Lobster Dip to park because of the snow. They typically were aware of this and made arrangements in nearby lots to park. The Chief has spoken with the Public Works Director who's preference for plowing purposes would be that vehicles not be allowed to part in that area. It is felt that the Brunswick is the only year-round business that would be affected by this proposed change and the Brunswick personnel are aware of the proposal.

Councilor Tousignant asked that this Item be Tabled until there is a full Town Council in attendance.

MOTION: Councilor Tousignant motioned and Councilor O'Neill seconded to Table Agenda Item 7294 to Amend the Town of Old Orchard Beach Code of Ordinances, Section 54-187, Restrictions and Prohibitions, amending parking on West Grand Avenue removing the parking on the ocean side from Staples Street to Fourth Street from September 15th to May 1st each year.

VOTE: Unanimous.

**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 December 4th, 2018 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, amending Section 54-187, Restrictions and Prohibitions, amending West Grand Avenue, by adopting the underscored language and deleting the strikethrough as follows:

West Grand Avenue. No vehicle shall be parked on either side of West Grand Avenue from Old Orchard Street to the Saco Line, except that parking shall be allowed on the ocean side of West Grand Avenue from Ocean Avenue to Pavia Avenue. Also, thirty-

minute parking shall be allowed on the ocean side from Union Avenue to Ocean Avenue Loading and unloading only may be permitted within 50 feet of commercial establishments if not in conflict with other provisions of this chapter. Signs shall be erected and will define such areas at the designation of the chief of police. ~~Parking shall be allowed on the ocean side of West Grand Avenue from Staples Street to Fourth Street commencing on September 15 and ending on May 1 of each year.~~

7295 Discussion with Action: Approve the Blanket Letter of Approval for Games of Chance for Veterans of Foreign Wars (VFW), Post 7997, 76 Atlantic Avenue, from January 1, 2019 to December 31, 2020.

MOTION: Vice Chair O'Neill motioned and Councilor Tousignant seconded to Approve the Blanket Letter of Approval for Games of Chance for Veterans of Foreign Wars (VFW), Post 7997, 76 Atlantic Avenue, from January 1, 2019 to December 31, 2020.

VOTE: Unanimous.

7296 Discussion with Action: Consideration of a request from Castle Estates Homeowners Association to accept the following streets in Castle Estates by Warranty Deed with Covenants—Camelot Circle, King Phillip Drive, and Queen Lillian Circle.

The entity that is making the request to the Town is the Homeowners Association (HOA), not the Developer because the roads are now owned by the Home Owners Association. This is an issue that has the Council acting similar to a Planning Board. One issue is related to the retention basins for stormwater and requiring the HOA to enter into a maintenance agreement with the Town as a condition of accepting the streets. Although the HOA has previously told staff it did not want to have this responsibility, it does now appear that the HOA will agree to this condition.

A second issue is related to related to Lot 28 at the corner of Cascade Rd and King Phillip Drive, owned by Charlene Lopresti. The Lopresti's believe that the Developer should have provided water service to the lot on King Phillip Drive. Instead the water service is provided from Cascade Rd. The Lopresti's contend that this will increase the cost for them and they want the Developer to absorb any increased cost. This cost dispute is in and of itself a civil dispute between the parties. However the approved plan had the water service to Lot 28 on King Phillip Drive. Although the change was approved by the Planning Staff our ordinance required that the Planning Board give the approval for the change. The Council has to decide whether this process error has any bearing on whether to accept the roads. The Town Manager indicated he felt the subdivision was done at a very high level of quality and should be accepted by the Town assuming that the issues still under review can be resolved to the Council's satisfaction.

BACKGROUND:

To: Old Orchard Beach Town Council
From: Planning Staff
CC: Larry Mead, Town Manager; Louise Reid, Assistant Town Manager
Date: 12/13/18
Re: Castle Estates Road Acceptance

At the November 27th Town Council meeting, the Council held a workshop to discuss three roads in the Castle Estates development that are proposed for acceptance by the Town as public ways: Camelot Circle, Queen Lillian Circle and King Phillip Drive. The previous memo provided the Council with a brief summary of the proposal and some background information on the project.

Items Proposed and Not Proposed for Town Acceptance

We would like to reiterate that the Developer/HOA is requesting the Town accept:

- The road and the 50 foot Right of Way (ROW)
- Catch Basins and Associated Drainage Piping in and under the 50 Foot ROW
- Curbing
- 2 Wooden Guardrails and associated stream culvert crossing
- Three Fire Hydrants
 - On the corner of Camelot Circle and Queen Lillian Circle
 - On Camelot Circle across from King Phillip Drive
 - Adjacent to Lot 22 on King Phillip Drive

Based on our review of the application, it appears the Town is NOT accepting:

- Stormwater Vegetated Soil Filters/Filtration Basins
- Any Drainage Piping that Extends Beyond the 50 Foot ROW to the Stormwater Features
- Sidewalks
- Lighting
- Utility Infrastructure: Electrical, Gas
 - Any other infrastructure that is not specified as our responsibility
 - Water infrastructure which is owned by Maine Water.

Discussion Items and Background for the Town Council Decision

1. Is the Town Council okay with accepting the Filtration Basins certifications as presented given the discussion below on the inspections?

Please note: The Developer is not requesting the Town accept the Filtration Basins, however, they are requesting acceptance of the piping to the Filtration Basins that are under the 50 Foot ROW.

YES

NO, more information is needed

BACKGROUND:

- On 1/31/17, BH2M provided an inspection report to the Town stating they inspected the construction of Filter Pond #7.
- On 4/14/17, Wright Pierce provided an inspection report saying that the filter ponds were filled with sediment and had unstable side slopes. This was reiterated again in a report on 5/18/17.
- On 5/24/17, Wright Pierce and the Contractor discussed and it was determined that the sediment forebay would require full reconstruction. The Contractor and BH2M were going to develop a plan for completion and stabilization and present the plan to the Town.

- On 6/5/17, we reached out to BH2M regarding the plan again. We received a response saying the sand did not migrate into the pipe or stone, a small area of sediment was hand shoveled out. Our thoughts were that we should have received documentation of the inspections completed and documentation of how the determination was made that the sand falling into the filtration bed did not migrate into the pipe or stone.
- On 6/24/17, Wright Pierce and the Town completed an inspection and noticed the filter basins had been constructed and hydroseeded. We did not receive any inspection reports or a certification.

It is important to note that ultimately, the Homeowners Association will be responsible for maintaining the filtration basins as discussed below. We have communicated this concern to the Homeowner Association. Town Staff is recommending, as a condition of approval, that the HOA submit Annual Certifications documenting the basins are functioning as intended and any maintenance required has happened. This is discussed further below.

2. We understand that Queen Lillian Circle was constructed with a flatter than required slope. The Town Ordinance requires a 0.5% slope to eliminate the possibility of ponding. Our understanding from Wright Pierce is that the road is acceptable as constructed. They do not anticipate any issues. Is this response acceptable to the Town Council?
 - YES
 - NO, more information is needed

3. Is the Town Council on board with Town Staff's recommendation to require a signed Maintenance Agreement and that Annual Certifications be submitted for each of the filter basins?
 - YES
 - NO, more information is needed

BACKGROUND:

Chapter 71 of our Town Ordinance requires, for all projects greater than one acre that are approved after 2013, to sign a Maintenance Agreement that binds them to submit Annual Certifications on all Best Management Practices (BMPs) installed. This would include the seven filtration basins located at Castle Estates. However, this project was originally approved prior to the adoption of that ordinance in 2013 so they are not subject to the same requirements as our other projects.

As a condition of accepting the road, Town Staff is recommending the HOA sign a Maintenance Agreement with the Town and submit Annual Certifications for each of the filter basins to ensure they are kept in good working order throughout the life of the project.

This will also ensure maintenance is occurring each year and the Town will receive copies of the maintenance reports and inspections.

4. Who is responsible for providing water and electric service to Lot #28?
 - The DEVELOPER
 - The LOT OWNER
 - MORE INFORMATION NEEDED
 - a. Should the Town Council require an Escrow for the installation of a waterline (tap the main, install the service line and shut off to the property line and repair road pavement) and underground electricity to serve Lot #28?
 - YES
 - NO, more information is needed

BACKGROUND:

As discussed at the last meeting, the original plan for the project included a looped waterline up King Phillip Drive. The Developer, understandably, did not want to run a waterline hundreds of feet including through a stream crossing to serve only one lot. As such, they approached Maine Water and the Engineer at Maine Water approved a change to end the waterline at the beginning of the stream crossing so it was all set on their end. The Developer and Engineer said Lot #28 can get water and utilities from Cascade Road. This change did not go through the Planning Board for an amendment. There is a moratorium on Cascade Road that expires in October of 2019. The moratorium can be broken, however, there is more work that would need to be done in terms of trench repair if the road is cut into prior to the expiration date of the moratorium.

The ultimate question comes down to *who is responsible for providing water and electric service to Lot #28?* Should the Town Council require an Escrow Agreement to cover the cost of installation of the waterline and underground electric?

Additional Outstanding Items

1. As of the date of this memo, we have not received a Warranty Deed with Covenants, as required by our Town Ordinance. We did receive a Quitclaim Deed with Covenants. We are hopeful this will be received before the Town Council meeting.
2. On 12/12/18, Planning Staff received a response from BH2M on the outstanding concerns discussed in the Wright Pierce memo. As of the date of this memo, we have not heard from Wright Piece as to whether or not they are satisfied with the response from BH2M. If not, we need to know what remains outstanding.
3. We still need to coordinate with the Developer and the bank to set up an Escrow Agreement for the final shimming and landscaping in the amount of \$10,000 for the Town to complete the work in the spring. This is as simple as contacting the bank and working with the Developer to get the funds transferred over to the Town from the bank. We just want to ensure there is nothing else (as discussed above) to be included in this escrow before we contact the bank with the proposed amount and finalize this item which should be a simple process.

From: Jodine Adams [<mailto:jadams@wellstown.org>]

Sent: Thursday, December 13, 2018 11:26 AM

To: Megan McLaughlin <mmclaughlin@oobmaine.com>

Subject: RE: Castle Estates - Waterline Issue

I had asked this question once before and I was wondering again; since the “as built” does not match the Planning Board Approval to include the fact the lot 28 does not have the underground utilities as required by the Planning Board in accordance with *section 74-275-Utilities.(emphases) The size and location of public utilities, such as streetlights, telephones, gas lines, fire hydrants, etc. in a subdivision shall be approved by the planning board and installed in accordance with local practices. Utilities shall be installed underground except as otherwise approved by the planning board.*

The more I started to think about it, the electricity which is called out on the plan to lot 28 is also now gone, too. So we have an 8” water line and other underground utilities that

were approved by the Planning Board and deleted by Developer and Town Staff. Why is the Town accepting these streets before this has gone back to the Planning Board? The plan is in violation.

Everyone can wash over issues by using the catch phrase in the code under sec. 74-65. (*emphases*) Modifications of locations or design of improvements; maintenance of improvements. A). *If at any time, before or during the construction of the required improvements , it is demonstrate to the satisfaction of the appointed engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required subdivision improvements, the appointed engineer may, upon approval of the planning board, authorize modifications, provided these modifications are within the spirit and intent of the planning board’s approval and do not extend to the waiver or substantial alterations of the function of any improvements required by the planning board. The appointed engineer shall issue and authorization under this section in writing and shall transmit a copy of such authorization to the planning board at its next regular meeting.*

I do not believe cost is an unforeseen condition. 1.) The stream did not just appear there, it was already on the plan that it had to be crossed. 2.) Deleting utilities from a plan is not a modification that is within the spirit and intent of the planning board’s approval that removes services from a lot within the approved subdivision. I believe that is a waiver within the authority of the planning board not appointed staff. 3.) I would like to see the documentation that gave authorization to the developer and went to the planning board for further discussion.

Now, I have a lot that is non-conforming to the Planning Board approval because the Town did not enforce its own approvals and the subdivision is in violation and possibly not marketable. Lot 28 was part of an approved plan by the Planning Board that was not followed. This is the Towns responsibility to find out from the developer how he plans to get those utilities to that lot as it was originally approved to include cable, electricity and water. The engineer just taking it off the plan is not how I think it is supposed to work.

If they Town cannot not insure the developer will put escrow into place to make my mother’s lot whole then I would be more than happy to discuss this situation in detail and any of the other issues that are not in compliance with the approved plan that actually makes the roads unacceptable according to its own code if the Town thinks it would be helpful in getting lot 28 into compliance by the Developer, who violated the code with the Town’s help at a regular Council Meeting under “open to the public” so that it is very clear to everyone that the town wronged my mother by allowing the developer to do as he pleased to save money . That there should be some value to the codes in Old Orchard Beach, they are codes; not guide line to get it “close enough”. Please consider these facts, it is a matter of right and wrong, it should have been built to comply with the signed Planning Board Approval recorded at the York County Registry of Deeds, not something else. We have been victimized by the developer and the Town by the alteration of our approved lot to a lot that is nonconforming to its approvals. I will do whatever is necessary to protect my mother’s interests.

MEGAN MCLAUGHLIN: The Associate Planner reported on this item. She indicated that they had prepared a memo to update the Council from the November 27th workshop where we discussed acceptance of three roads in the Castle Estates development. In that memo, there are four primary discussion items for the Town Council to consider. The first is in regards to the filter basin certifications. At our Pre-Construction meetings which are held before a project begins, or at a new phase of a project, we request a certification from the Engineer of Record that each of the stormwater features have been constructed in accordance with the plan and that the EOR have been on site during construction. During one of our inspections, we noted that a couple of the filter beds had been constructed and sand had migrated into the bed itself. We asked several times for a plan with a schedule to address the sediment in the filter basin and did not receive a response. We went out to the site one day and the pond had been completed, we did not receive an update from the Engineer or Contractor saying they were completing the pond or an inspection report showing how or when the sediment was cleaned out.

Having said all of this, the Town is not going to be accepting responsibility for the stormwater infrastructure (aside from the piping under the 50 foot ROW). The HOA will be responsible for maintenance of the stormwater infrastructure. Jeffrey and I met with the HOA Chair on Friday, he is aware of the inspections and has spoken to the Contractor directly. He said the Contractor explained how he cleaned out each of the filter beds and that he does not have a problem with the inspection reports. He is here tonight as well. So the ultimate question comes down to: Is the Town Council okay with accepting the filtration basin certifications as presented given the circumstances that occurred during construction?

Now, the second question which in a way reverts back to the first question is whether or not the Town Council wants to require the HOA sign a Maintenance Agreement and provide Annual Certifications on each of the filter basins. With the issues discussed on the inspections of the filtration basins and the fact that the Town is going to own some of the stormwater infrastructure piping, we recommend the HOA submit Annual Certifications on the functionality and any maintenance required on each of the filter basins.

This is a requirement for all of our projects greater than one acre. The requirement did not go into effect until 2013 so this project, approved in 2006, was exempt. Having said this, Staff feels that as a condition of accepting the road, Annual Certifications should be submitted. It protects the Town, current and future homeowners in the development and ensures we have a written agreement that the filtration basins will be maintained. The HOA Chair has provided a draft Maintenance Agreement that we feel is a little too simple. We need to work on this further if the Town council is okay with recommending this condition. So the second question comes down to: does the Town Council want to require a signed Maintenance Agreement and Annual Certifications be submitted for each of the filtration basins?

The third question is something that was brought to our attention regarding the slope of Queen Lillian Circle. The Town Ordinance requires a 0.5% slope to eliminate the possibility of ponding on the road. That section of the road does not meet the standard as constructed. Wright Pierce and DPW have indicated that they do not see the potential for a problem. So is the Town Council okay with accepting Queen Lillian Circle as constructed? Lastly and probably one of the more significant questions pertains to Lot #28. As discussed at the workshop, the plan was changed to end the waterline at the stream crossing, rather than run it several hundred feet to serve only one lot, #28. There is a waterline running down Cascade Road that Lot #28 can connect to. Currently, there is no

water stub to lot #28. Since the waterline is shown on the approved plan and stubs were in place for the other lots in the development, should the Developer provide a stub to Lot #28 as well? Since your memo, Staff has discussed with the lot owner and Developer to try and come up with a solution to the waterline stub and electric/cable service to serve Lot #28. The Developer has agreed to put up an Escrow to cover the cost of these items. Wright Pierce is estimating the cost to be about \$10,000 for a waterline stub from Cascade, underground electrical service to the lot and cable. We have drafted two Escrow agreements for this which I have and can share with you. The second Escrow agreement for an additional \$10,000 covers the shimming of the road to address the pooling water in front of Lot #28 and final landscaping items for the Town to complete in the spring. I know this was a lot to cover all at once and we tried to break out the questions in your memo. So to recap:

1. Is the Town Council okay with accepting the filtration basin certifications as presented given the discussion regarding inspections and the HOA confirmation?
2. Is the Town Council on board with Staff's recommendation to require a signed Maintenance Agreement requiring that Annual Certifications be submitted for each filter basin?
3. Is the Town Council okay with the difference in slope on Queen Lillian Circle?
4. Is the Town Council on board with the Escrow for Cable, Electric and water service to serve Lot #28?

I think the best plan is for the Council to address each of these questions one by one with the HOA before making a ruling on the street acceptance proposal. Thank you and please let me know if you have any questions.

Vice Chair O'Neil thanked the staff for their hard work and bringing this to Council this evening and he said he is going to motion to approve but in the future he is asking that staff not bring forward to Council any issues that remain unanswered and need more work. Archie St. Helaire, owner of BBI Properties, LLC, requested the ability for them to choose the contractor to do the improvements as noted, but the Town Manager indicated that this would be the decision of the Town Administration. Bill Thompson, the Engineer, indicated that the project was moving along in the right timeframe. Andy White, President of the Association, made comments concerning their commitment as well.

MOTION: Vice Chair O'Neill motioned and Councilor Tousignant seconded to Approve a request from Castle Estates Homeowners Association to accept by Warranty Deed with Covenants, the following streets in Castle Estates; Camelot Circle, King Phillip Drive, and Queen Lillian Circle; with the condition that the Castle Estates Developer, BBI Properties, LLC, enter into two Escrow Agreements with the Town of Old Orchard Beach, in the total amount of \$19,925, for the purpose of completing identified improvements in castle Estates, and the condition that the Castle Estates Homeowners Association enter into an Agreement drafted by the Town for annual certification of the storm water filtration basins.

VOTE: Unanimous

ADJOURNMENT:

MOTION: Councilor Tousignant motioned and Vice Chair O'Neill seconded to Adjourn the meeting at 7:25 p.m.

VOTE: Unanimous.

Respectfully Submitted,

**V. Louise Reid
Town Council Secretary**

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of fourteen (14) pages is a copy of the original Minutes of the Town Council Meeting of December 18, 2018.

V. Louise Reid