

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

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, April 5, 2016. Chair O'Neill opened the meeting at 7:00 p.m.**

**The following were in attendance:**

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

**ABSENT: Vice Chair Joseph Thornton**

**Pledge to the Flag  
Roll Call**

**EMERGENCY ITEM:**

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

**Discussion with Action: Request from David P. Sleight for a no-action letter for Map 320, Block 7, Lot 10 – 30 Winona Avenue.**

**MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to add Agenda Item 6651 tonight's agenda following Agenda 6650.**

**VOTE: Unanimous.**

**PRESENTATION: NATIONAL LIBRARY WEEK**

**CHAIR: We are pleased this evening to recognize National Library Week 2016 and please to have members of the Edith Belle Memorial Library with us including the Chair of the Library Board of Trustees, Mary Ann Kotros. We all recognize the extreme value of Libraries and those who administer the program; opening up opportunities of learning for young and old alike. Our appreciation to Lee Koenigs, Librarian and her staff and to the Board of Trustees for their input on behalf of the Library. The Chair recognized all those from the Friends of the Library who also were in attendance this evening. The Proclamation reads as follows:**

**Town of Old Orchard Beach  
State of Maine  
National Library Week 2016  
Proclamation**

**WHEREAS, libraries are not just about what we have for people, but what we do for and with people;**

**WHEREAS, libraries have long served as trusted and treasured institutions, and library workers and librarians fuel efforts to better their communities;**

**WHEREAS, libraries are evolving in order to serve their communities and to continue to fulfill their role in leveling the playing field for all who seek information and access to technologies;**

**WHEREAS, libraries and librarians open up a world of possibilities through innovative STEM programing, Makerspaces, job-seeking resources and the power of reading;**

**WHEREAS, libraries and librarians are looking beyond their traditional roles and providing more opportunities for community engagement and deliver new services that connect closely with patrons' needs;**

**WHEREAS, libraries support democracy and effect social change through their commitment to provide equitable access to information for all library users regardless of race, ethnicity, creed, ability, sexual orientation, gender identity or socio-economic status;**

**WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week.**

**NOW, THEREFORE, be it resolved that I, Shawn O'Neill, Town Council Chair, proclaim National Library Week to be April 10-16, 2016. I encourage all residents to visit Edith Belle Libby Memorial Library this week and explore what's new at your library, and engage with your librarian. Because of you, Libraries Transform.**

**ACKNOWLEDGEMENT:**

**COUNCILOR TOUSIGNANT: We wish to thank OOB 365 for sponsoring a food drive for the Old Orchard Beach Community Food Pantry and thanks to all those who contributed. It is good to remember that we can always drop off canned and dried goods and non-perishable items at the Food Pantry and these are in great need and will help support those needing the program.**

**ASSISTANT TOWN MANAGER: In connection with Library Month – the Edith Belle Memorial Library is also offering a Fine Free Period. Bring in a canned or dried pet food produce when you return your overdue materials and your fines will be forgiven. The food will be provided to the Community Animal Watch and they are most appreciative to the Libby Library for their support. So please bring in any outstanding**

materials to the Library along with a donation for the community Animal Watch – and you will not be fined.

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of March 15, 2016.

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

**VOTE:** Unanimous.

**PUBLIC HEARING: BUSINESS LICENSES AND APPROVAL**

**CHAIR:** I open this Public Hearing at 7:09 p.m.

Old Orchard Beach Public Library (206-27-1X), 27 Staples Street, Parking; request to waive the fees of \$600; Joshua R. Eon (107-2-3), 61 Smithwheel Road, Unit B, one year round rental; and Janet Peters (205-6-14), 21 Milliken Street, three year round rentals.

**DORIS HARRIS:** Suggested that when items are waived for any business or organization that it should be noted in the listing. It has been in the past however.

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

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

**VOTE:** Unanimous.

**AGENDA # 6631**

**AGENDA ITEM:** Discussion: Presentation of the FY17 Municipal Budget by Town Manager – Larry Mead

**BACKGROUND:**

The Town Manager will present his Fiscal Year 2017 Municipal Budget to the Town Council. Over the past few months he has been meeting individually with Department Heads preparing their requests for Council consideration.

In keeping with the Council's budget guidance my goal in developing the FY17 budget has been to limit the growth in the municipal tax commitment to 3% or less. The budget I am submitting today does that with an increase of 2.8% (the actual tax rate increase may be more or less than that, depending on the final school and county budgets, and the final FY17 total valuation).

For a variety of reasons it has been very challenging to achieve this goal, and there are many projects and proposals that have great merit that are not included in my budget submission. I am sure that the Council, during its review process, will face difficult decisions and choices ahead as you debate what the final budget will include.

Projected Tax Increase of Less Than 3%

**The property tax commitment is made up of the municipal budget, school assessment, and county assessment. The overall combined tax rate increase for FY17 under the proposed municipal, school and county budget is less than 3%, based on the following assumptions:**

- The Council adopts a municipal budget that remains within the budget guidance provided to the Town Manager,
- On the education side the adopted RSU budget is consistent with the budget proposed by the School Superintendent,
- The York County budget recommended by the County Administrator is adopted.
- The Town's property valuation increases by \$9 million (6 tenths of a percent). This is a conservative projection. Based on the experience of the last three years and the housing starts of the past year the valuation growth should exceed this assumption.

**These assumptions will unfold as the budget development process proceeds, and certainly prior to final budget adoption by the Council.**

Gross Municipal Budget Expenditures Increase Less Than 3%

**Gross municipal expenditures are made up of the operating budget and the capital improvements budget expenditures. The gross budget is the total before non-property tax revenues are subtracted. As proposed for FY17 the gross municipal budget is \$15,991,591, a 2.96% increase over FY16.**

Operating Budget

**The operating budget comprises 92% of the total municipal expenditures, and includes the funding for day-to-day operations of municipal departments, as well as funding for debt service, the Libby Library, solid waste disposal, and contributions to the transit district. The FY17 proposed operating budget of \$14,732,755 increases by \$483,569, or 3.4% above the FY16 budget. The increase would have been 3% except for the addition of a patrol officer position. , This expense is offset by a revenue contribution that negates the added cost (doesn't add to the tax levy). I have included in your budget materials a listing of the most significant drivers of increased cost in the operating budget. It is noteworthy that increases in wages, debt service, and health and retirement costs total \$406,000, which is only \$21,000 less than a 3% increase above the FY16 budget. This illustrates the challenge in limiting growth in operating budget expenditures.**

#### **Firefighter Positions Added**

**In the FY16 budget the Town Council authorized the addition of four firefighter/paramedic positions in order to staff a second ambulance on a year-round basis as well as providing a third person for responses to fire calls. However the four positions were phased in over a two-year period (2.5 positions in FY16). As a result the FY17 budget adds 1.5 positions at a total additional cost of \$90,000 including benefits.**

#### **Other Position Changes**

**As stated above the Police department budget includes an additional patrol officer position. That position does not add to the number of officers deployed however. The added position replaces an officer who has been assigned indefinitely to the Maine Drug**

Enforcement Agency. The Town is reimbursed for all associated costs for this assignment. The Town benefits from a closer working relationship with MDEA.

I am proposing to increase the Assistant Planner position from a 28-hour part-time position to 37 hours full-time. Reductions were made in other areas of the budget to limit the overall increase in Code and Planning to \$6,500, limiting the budget increase to 2% in those combined budgets. Although Code and Planning have separate budgets they operate as a single department. Given the pace of development activity in the last two years the additional hours are very much needed and the full time position should provide greater continuity in the position.

#### Cost of Living Adjustment

I have included in the budget a 2% COLA for non-union positions. The Town's non-union employees are, with few exceptions, well below the average compensation of neighboring municipalities, often in double digits below average. It is critical for equity, recruitment and retention that our non-union compensation not lags behind any further, and 2% is representative of wage increases in Southern Maine municipalities.

#### Contingency

To assist in limiting the overall expenditure increase to 3% I have reduced the contingency allocation from \$200,000 to \$120,000. While it is impossible to anticipate unplanned expenses the Town has been fortunate in the last two budgets to not require significant use of contingency funds.

#### Capital Budget

The capital budget funds improvements that are beyond the scope of day-to-day operations. Usually the improvements or equipment have a useful life of 10 years, or over 5 years in the case of equipment, and typically have a cost in excess of \$25,000, although there are certain circumstances when the cost can be less.

For FY17 I am proposing total capital expenditures of \$1,258,836, a decrease of \$23,164 (-1.8%).

Under the Town's charter the Finance Committee is charged with proposing a capital improvement budget to the Town Council for its consideration. The Finance Committee's has completed its work and is recommending a capital budget that totals \$1,692,836. These recommendations are included in your budget materials. Although I do not disagree with the Finance Committee's assessment of the need for and desirability of the projects included in its proposed capital expenditures I have cut over \$400,000 in project proposals from my proposed capital budget in order to stay within the Council's budget guidance. As the Council reviews departmental budgets at workshop sessions the capital requests will be addressed at that time in addition to the operating budget requests. I look forward to working with the Council, staff and Finance Committee members during the budget workshops to arrive at final decisions with respect to capital expenditures.

#### Non-Property Tax Revenues and Transfers

**Non-property tax revenues and transfers include all sources of funding other than the property tax, including fees for services, permits and licenses, revenue from other governmental entities, excise taxes on motor vehicles, rescue service revenues, and**

transfers from fund balance. As proposed in FY17 these revenues total \$4,864,000, an increase of \$169,020, or 3.6%.

Consistent with revenue experience in the last 2-3 budget years the FY17 budget includes projected modest growth in licensing fees, excise taxes and building permit activity totaling an additional \$115,000. The Police Department will receive reimbursement revenue of \$84,000 due to the loan of one officer to the Maine Drug Enforcement Agency.

The State Legislature has expanded the Homestead Reimbursement Program from \$10,000 to \$15,000 per eligible household. The State reimburses Town's for 50% of the lost revenue, which amounts to an \$80,000 increase for FY17. It should be noted that there is a corresponding reduction in total valuation (a loss of \$9,000,000), which results in an increase of 5 cents to the tax rate.

The proposed budget reduces the use of rescue call funds from \$625,000 to \$500,000. The most significant contributing factor is a change in the reimbursement policy by Medicare that resulted in a large number of rescue calls being reclassified from ALS 2 responses to ALS 1, with a significant decrease in the reimbursement rate. Additionally the revenue increases from adding the second ambulance full time has been less than was projected for FY16. I believe that the Department will have a clearer picture of revenue results after one more year of experience with two full-time ambulances in service. I am also including a request to increase the fees for rescue calls for the FY17 year to be commensurate with the fee levels in our surrounding communities of Biddeford, Saco and Scarborough. Chief Plummer will present relevant information at the Fire Department budget workshop.

Proposed Municipal Tax Commitment Increases by 2.8%

Operating expenditures, capital expenditures, and non-property tax revenues combined comprise the municipal budget commitment to be funded by property taxes. As presented for consideration by the Council the municipal commitment increases \$302,939, or 2.8% over FY16. On a \$200,000 house that represents an increase in property taxes of less than \$50 per year for the municipal budget. If the School budget stays within the budget proposed by the Superintendent the combined property tax increase would be less than \$100 on a \$200,000 property. Additionally, for anyone who qualifies for the homestead exemption the additional \$5,000 exemption for FY17 will reduce the property tax bill by an estimated \$76, resulting in an increase of less than \$25 on a \$200,000 house.

Thank you to the Department Heads, the Assistant Town Manager, and particularly to Finance Director Diana Asanza, for their work in developing the FY17 budget. I look forward to working with the Council, staff, and Finance Committee to improve and revise the FY17 municipal budget.

The Chair thanked the Town Manager and the staff for their efforts on behalf of the citizens of Old Orchard and following the recommendation of the Town Council.

# 6632            Discussion with Action: Set specific funding and/ or financing for the purchase of a new fire truck in the amount of \$367,940.

**Background:**

The Town Council approved the purchase of a new fire engine at the amount of \$367,940 at the Town Council meeting of March 15, 2016. The Town Council at that

time asked for an agenda item to be placed on this evening's Town Council agenda determining how that funding will be done.

The Town Manager presented the following:

**RE: FINANCING OF NEW SUTPHEN FIRE ENGINE**

We have a couple of options for funding the Fire Engine that Council approved March 15, 2016, with a scheduled delivery on September 2016.

- Option #1) Pay the first lease payment in the amount of \$60,000 in FY 17 – September 2016 when the engine is delivered.
- Option #2) Defer the first payment in the amount of \$60,000 until FY 18 - September 2017

The interest rate for either option is at 3.38% which is subject to change since the interest is set at time of closing which could be September 2016 or September 2017.

Based on the proposals, if we were to go with Option #2 of deferring the first payment to FY 18, the total interest over the life of the loan would be approximately \$13,750 more than Option #1.

The proposed FY17 budget being presented to the Town Council for its review does include the debt service cost under Option 1, where the lease payments begin in September of 2016. Therefore if Council chooses to defer payments until FY 18 the FY 17 debt budget would be decreased by \$60,000.

The following memo was also received from the Fire Chief, Ricky Plummer.

“As we discussed, we have had ongoing issues with our Engine 72 the 2007 Seagrave Pumper. After doing more research and looking at several more trucks in NJ and PA along with the discussions at the last Town Council meeting I have come to this recommendation.

Here are the following options:

- By a 2012 Demo available now. I have looked at it while in Ohio. The Cost is \$365,000. This can be lease purchased for roughly \$58,000 per year for 7 years
- Buy a new truck at a cost of \$376,090.00 with a 5 month wait time.(demo slot) Payments - \$60,272.00 per year for 7 years
- Buy a used truck at a cost not to exceed \$200,000 to purchase and make any changes to meet our needs.

The first 2 options come with new truck warranties – 1 year bumper to bumper, 10 year cab warranty, 7 year paint warrant, 10 year plumbing warranty, 10 year structural integrity warranty, lifetime frame warranty from Sutphen. Then we would have warranties from the engine and transmission companies which is Cummins and Allison. They are 10 years or 100,000 miles.

With any of the used truck they do not come with any type of warranty what so ever.

These are the only options I see available to allow us to get Engine 72 rehabbed. Once the Engine comes back from rehab we would then sell the 1994 Freightliner Engine that is scheduled for replacement this year. I am estimating it would sell for \$20,000.00. We would also have the new Ladder Truck by then and will be selling the old ladder truck for possibly \$75,000 to \$100,000.00.

I would suggest that any money received from the sale of the old ladder truck and engine be put towards paying off the debt of the new engine. This would actually bring it down to the cost of a used truck.

Because we are good customers with Sutphen they are letting us take another demo spot and the new Engine would be delivered in September. The lease/purchase payments are approximately \$60,000 per year for 7 years.

This leaves the question what do we do for the summer? The Sutphen dealer has offered to let us borrow a spare Engine so we would have a spare engine for the summer and I feel we are good with that.

As soon as the new Engine arrives we would send Engine 72 out for rehab. With this in mind I am quite sure we would get another 12-15 years out of this Engine. With the addition of the new Engine we would be all set for our large rolling stock for the next 12-15 years. (Excluding ambulances). I feel this plan sets us up for the future and sets a price we can afford and finishes the plan that was submitted last year. This would really stop kicking the can down the road and finish what we have started with upgrading the fleet.

After looking at several used engines I feel we are throwing good money after bad. Although I had originally proposed buying the used Engine I have researched it to death, looked at them, and have driven some. I do not feel it is a good idea at this time with price of the new engine \$100,000 cheaper than I first estimated.

I would recommend that we purchase either one of the new engine options but will make any option work as the Manager and Council see fit.”

**MOTION:** Councilor Kelley motioned and Councilor Blow seconded to Remove without Prejudice and for this item to be part of the budget process

**VOTE:** Unanimous.

**# 6633** Discussion with Action: Set a Public Hearing date of April 19th, 2016 to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187, Restrictions and Prohibitions, adding Ocean Park Road and amending Saco Avenue.

**BACKGROUND:**

The following amendments are being suggested:

**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 19th, 2016, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 54, Traffic and Vehicles, section 54-187, Restrictions and Prohibitions (Ocean Park Road) and (Saco Avenue), of the Town of Old Orchard Beach Code of Ordinances is amended by adding the underscored language, and removing the strikethrough language:

**Sec. 54-187. Restrictions and prohibitions.**

**Ocean Park Road. No vehicle shall park on either side of Ocean Park Road from Saco Avenue to the Saco Town Line.**

**Saco Avenue. No vehicle shall park on either side of Saco Avenue from Old Orchard Street to where the lower portion of Jameson Hill Road intersects with Saco Avenue, the intersection of Ocean Park Road, except that parking shall be allowed on the northwesterly side from Washington Avenue to Pine Lane, two-hour parking shall be allowed on the northwesterly side from School Street to St. John's Street, and 30 minute parking shall be allowed on the beach side of Saco Avenue from 15th Street to Pleasant Street. Five parking spaces shall be allowed on the beach side of Saco Avenue from Staples Street toward Old Orchard Street during church services only.**

**MOTION: Councilor Blow motioned and Councilor Kelley seconded to Set a Public Hearing date of April 19th, 2016 to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187, Restrictions and Prohibitions, adding Ocean Park Road and amending Saco Avenue.**

**VOTE: Unanimous.**

**# 6634 Discussion with Action: Accept the bid from Morse Excavation in the amount of \$45,872 for sewer replacement on Winona Avenue from Account Number 50002-50508 – CapitalSewer, with a balance of \$295,956.92.**

**BACKGROUND:**

The Public Works Department issued a Request for Proposal (RFP) for a sewer replacement on Winona Avenue because the area is too wet and deep for Public Works crews to replace the 400 feet of sewer line. The RFP was placed on the Town's website, advertised in the Courier, and sent by mail to two contractors – Morse Excavation and Labbe Excavation. Morse Excavation was the only contractor to bid.

The extent of the work will include furnishing all of the services and materials, and performing all the work as outlined and the contractor will be responsible for the professional quality, technical accuracy, and timely completion of all services furnished by the Contractor under this Agreement.

**MOTION: Councilor Kelley motioned and Councilor Kelley seconded to Accept the bid from Morse Excavation in the amount of \$45,872 for sewer replacement on Winona**

**Avenue from Account Number 5002-50508 – Capital Sewer, with a balance of \$295,956.92.**

**VOTE: Unanimous.**

**# 6635 Discussion with Action: Approve the proposal from Dayton Sand & Gravel for grading and paving Memorial Park Tennis Court in the amount of \$23,206 from Account Number 50002-50812 – Memorial Park Capital Improvement Budget, with a balance of \$58,505.**

**BACKGROUND: Dayton Sand and Gravel is already under contract to the Town for paving services. This agenda item will authorize the use of Dayton Sand and Gravel to do the finish grading and paving work for the tennis courts at Memorial Park under the terms of the existing contract. Public Works Department personnel performed the excavation, drainage and base preparation work on the tennis courts this past fall, resulting in considerable savings to the Town.**

**MOTION: Councilor Kelley motioned and Councilor Blow seconded to Approve the proposal from Dayton Sand & Gravel for grading and paving Memorial Park Tennis Court in the amount of \$23,206 from Account Number 5002-50812 – Memorial Park Capital Improvement Budget, with a balance of \$58,505.**

**VOTE: Unanimous.**

**# 6636 Discussion with Action: Approve the Line Item Transfer in the amount of \$10,346.50 from Account Number 20131-50104 - Police Department Seasonal Reserves; with a balance of \$66,874.50; to Account Number 20131-50109 - Police Department Seasonal Reserve Overtime, with a balance of (-\$10,346.50).**

**BACKGROUND:**

**The Chief has requested a line item transfer as follows:**

**\$10,346.50 for overtime**

**It should be noted that overtime was more than anticipated as reserves left employment earlier than we anticipated, requiring the Chief to replace those vacant shifts at an overtime rate.**

**\$2,000.00 for clothing**

**MOTION: Councilor Kelley motioned and Councilor Blow seconded to Approve the Line Item Transfer in the amount of \$10,346.50 from Account Number 20131-50104 - Police Department Seasonal Reserves; with a balance of \$66,874.50; to Account Number 20131-50109 - Police Department Seasonal Reserve Overtime, with a balance of (-\$10,346.50).**

**VOTE: Unanimous.**

# 6637      Discussion with Action: Approve the Line Item Transfer in the amount of \$10,000.00 from Account Number 20138-50120 - Fire Department Call Force Wages, with a balance of \$16,564.91; to Account Number 20138-50111 - Fire Department Overtime, with a balance of (-\$4,307.78); and transfer \$5,000.00 from Account Number - 20138-50405 - Heating Fuel Expense, with a balance of \$10,118.18; to Account Number 20138-50111 – Fire Department Overtime, with a balance of (-\$4,307.78); and transfer \$6,000 from Account Number 20138-50120 - Fire Department Call Force Wages, with a balance of \$16,564.91; to Account Number 20138-50230 - Fire Department Clothing Allowance, with a balance of (-\$3,842.55.)

**BACKGROUND:**

The Chief has requested line transfer as follows:

\$15,000 for overtime  
5,000 for clothing

A memo to the Town Manager from Chief Ricky Plummer:

I am requesting that we make the following line item transfers to cover overtime as well as clothing. Due to several firefighter injuries we have had extra openings in the full-time ranks and therefore there has been a spike in unforeseen overtime. Several of these members were either sick or injured prior to the new full-time firefighters being hired causing the overtime account to be utilized more than anticipated. Some overtime can also be attributed to not being able to fill part-time shifts on occasion. I am requesting that \$15,000 be transferred into the overtime account.

Our clothing line is also over as we, for the first time, bought uniform shirts for part-time members as well as call force members. With the addition of several new members and the cost of uniforms raising slightly it has left us with a deficit in this account. Many of our current members needed new uniform boots this year which are an expensive item and are not purchased every year. I am requesting that \$6,000 be transferred into the clothing/uniform account.

**MOTION:** Councilor Tousignant motioned and Councilor Blow seconded to Approve the Line Item Transfer in the amount of \$10,000.00 from Account Number 20138-50120 - Fire Department Call Force Wages, with a balance of \$16,564.91; to Account Number 20138-50111 - Fire Department Overtime, with a balance of (-\$4,307.78); and transfer \$5,000.00 from Account Number - 20138-50405 - Heating Fuel Expense, with a balance of \$10,118.18; to Account Number 20138-50111 – Fire Department Overtime, with a balance of (-\$4,307.78); and transfer \$6,000 from Account Number 20138-50120 - Fire Department Call Force Wages, with a balance of \$16,564.91; to Account Number 20138-50230 - Fire Department Clothing Allowance, with a balance of (-\$3,842.55.)

**VOTE:** Unanimous.

**# 6638 Discussion with Action: Set a Public Hearing date of April 19, 2016 to Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 54 – Traffic and Vehicles; Article V – Stopping, Standing, Parking; Division 2 – Specific Places; Section 54-187 – and Prohibitions, Smithwheel Road.**

**BACKGROUND:**

The Planner presented the following information.

The proposal to be considered is an amendment to the Traffic and Vehicles Ordinance, Sec. 54-187, Smith Wheel Rd. The amendment includes exempting delivery vehicles from the 9,000 lb. gross weight limit along a portion of Smith Wheel Rd., beginning at the Smith Wheel/Ocean Park Rd. intersection continuing north along Smith Wheel for 310 feet (see attachment). The currently adopted language prohibits all vehicles with a gross weight limit exceeding 9,000 lb., except emergency and municipal vehicles, from traveling over Smith Wheel Rd. from Ocean Park Rd. to Vallee Lane. The purpose of this amendment is to allow delivery vehicles to access the recently approved Dunking Donuts.

As you may know, Dunking Donuts approval includes a single entrance to the site which is via Smith Wheel Rd. Originally, the proposal included a second entrance off Ocean Park Rd. Town staff and Maine Department of Transportation determined this access could prove to be dangerous so it was eliminated. This resulted in the Smith Wheel Rd. access as the only entrance to the site. During Planning Board review, the 9,000 lb. restriction was discussed and the Board decided this was a matter the applicant and town will need to address separately from the Board's decision on the proposal.

**Ch. 54, Parking Restrictions and Prohibitions Ordinance Amendments: Smith Wheel Road  
016, D1)**

**Amendment to Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Smith Wheel Road**

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

**Except as identified in the exemptions below, No vehicle, except emergency or municipal vehicles, having a registered gross weight in excess of 9,000 pounds shall be operated or caused to be operated on or over Smith Wheel Road from Vallee Lane to the Ocean Park Road. Exemptions: Emergency vehicles; Municipal vehicles; Delivery vehicles for a distance of 310 feet, beginning at the Smith Wheel Road and Ocean Park Road intersection, continuing north along Smith Wheel Road.**

**There was discussion about the purpose of this public hearing and also John Bird suggested that in the near future that all weight limits be reviewed.**

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Set a Public Hearing date of April 19, 2016 to Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 54 – Traffic and Vehicles; Article V – Stopping, Standing, Parking; Division 2 – Specific Places; Section 54-187 – and Prohibitions, Smithwheel Road.

**VOTE:** Unanimous.

**# 6639**      **Discussion with Action:** Authorize the Town to contract with Wright Pierce to create a comprehensive Operations and Maintenance Manual (O&M) for the Wastewater Treatment Facility in the amount of \$31,250 from Account Number 20161-50300 – Wastewater Facility Professional Engineering Expense with a balance of \$20,000; and the remainder from Account Number 30181-50300 – Sewer Reserve Fund Professional Engineering Expense, with a balance of \$715,152.24.

**BACKGROUND:**

A letter of Warning for non-compliance with Operations and Maintenance (O&M) Plan requirement has been received from the State of Maine, Department of Environmental Protection. It indicates that the Old Orchard Beach Wastewater Treatment Facility has not maintained a current O&M Manual as required in Special Condition H of its MEPDES permit # ME101524. The Town has budgeted funds to update the manual in 2016. The DEP has indicated that if progress reports are submitted quarterly, significant progress is being made in each quarter, and a current O&M plan is developed in 2016, they will consider the situation resolved. Staff will need to dedicate many hours working with the engineers to develop a working O&M manual since our facility has been upgraded multiple times and still retains equipment, procedures and infrastructures from any of the prior upgrades.

The Finance Director indicated that as discussed at staff meeting the Town has received a letter of warning by the Department of Environmental Protection that the Town must follow through on a previous obligation to create an O&M manual for the wastewater treatment facility. Wright Pierce has developed a proposal to develop this manual at a cost of \$31,250. The DEP has given a deadline of December 30th of this year and is expecting that the Town submit progress reports quarterly with the first report due on April 1st. I have already submitted a report reporting the intention to retain Wright Pierce for the project.

This an unusual effort on the part of staff and Wright Pierce in the sense that the facility has been upgraded multiple times and still retains equipment, procedures and infrastructure from many of the prior upgrades. For this reason the staff will need to dedicate many hours working with the engineers to develop a working O&M manual. Standard practice for most wastewater facilities is to perform comprehensive upgrades after 15-25 year periods that include complete revisions of O&M manuals. The development of this manual will ensure that future personnel will benefit from the accumulated knowledge of operations that existing staff possess.

**MOTION:** Councilor Kelley motioned and Councilor Blow seconded to Authorize the Town to contract with Wright Pierce to create a comprehensive Operations and Maintenance Manual (O&M) for the Wastewater Treatment Facility in the amount of \$31,250 from Account Number 20161-50300 – Wastewater Facility Professional Engineering Expense with a balance of \$20,000; and the remainder from Account Number 30181-50300 – Sewer Reserve Fund Professional Engineering Expense, with a balance of \$715,152.24.

**VOTE:** Unanimous.

**THIS IS A PROPOSAL** to the TOWN OF OLD ORCHARD BEACH, MAINE ("CLIENT") from WRIGHT-PIERCE ("ENGINEER") for OPERATIONS AND MAINTENANCE (O&M) PLAN at the Wastewater Treatment Facility (the "Project"). CLIENT will fund the project from its Wastewater Capital Improvement Plan account. CLIENT received a January 5, 2016 Letter of Warning from the Maine Department of Environmental Protection (MEDEP) indicating that the CLIENT has not maintained a current O&M Plan as required by its MEPDES permit. MEDEP has required that the O&M Plan be completed by the end of 2016 and that progress reports be submitted quarterly. CLIENT has requested that ENGINEER provide engineering assistance with the project starting immediately in order to meet the MEDEP's deadline. CLIENT and ENGINEER in consideration of their mutual covenants herein agree in respect to the performance or furnishing of professional engineering services by ENGINEER with respect to the Project and the payment for those services by CLIENT as set forth in the agreement.

**# 6640** Discussion with Action: Consider whether to accept a bid of \$25,555 for a 2005 Case Backhoe currently used by the Public Works Department.

**BACKGROUND:**

The Town Manager indicated to the Council: You will recall that last fall the Town Public Works Department offered for public sale a number of pieces of equipment. Offers were received by sealed bid. One of the items up for sale was a 2005 Case Back Hoe. The highest offer for the backhoe was \$25,555 submitted by Brian Robillard. After the bids were opened I made the decision not to sell the backhoe because I was concerned about not having it as a backup during the winter should a Loader break down. For that reason I did not include the back hoe on the Council order authorizing the sale of the surplus equipment. During the meeting I spoke to the Council and explained the backhoe was not included in the order.

Subsequently Mr. Robillard objected to the decision not to follow through with the sale. I explained that I had decided it was in the Town's interest to retain the backhoe as a backup this winter and that the Town was not obligated to accept his bid. I consulted with the Town's attorney, Phil Saucier, who opined that the solicitation of offers is not a contract until the Town as seller accepts the offer. In addition the Town Charter controls the sale of surplus property and gives to the Town Council the discretion to accept or reject all bids (Section 409.15).

Mr. Robillard retained an attorney, Daniel Murphy, to press his position that the Town must accept his offer. I participated in a meeting with Mr. Robillard, Mr. Murphy and Town Counsel Mr. Saucier. I reiterated that my reason for not selling the backhoe was to protect the Town's interests through the winter months. As an outcome of that meeting I agreed that in April I would recommend to the Town Council the sale of the backhoe to Mr. Robillard. However I also informed Mr. Robillard that the Town Council retains the final authority on whether to sell or not sell surplus Town property. Through his attorney Mr. Robillard agreed that he would abide by the Town Council's decision.

Also addressed to the Town Council was a memo from the Public Works Director:

"I know the Council is meeting next Tuesday to consider selling the Case loader/backhoe. As Director of Public Works I recommend that the Council not sell.

Last Fall the Department of Public Works conducted an auction of surplus Town equipment. Bids were received on October 19, 2015 at Public Works. Included in the surplus equipment was a 2005 Case loader/backhoe, 590 SM 2 with thumb, cleanup bucket with digging bucket, VIN N5C394262.

The high bid of \$25,555.00 was received from Brian Robillard of Old Orchard Beach. The minimum bid set by the Town was \$23,000.00.

On November 17, 2015 the sale of the surplus equipment was submitted to the council for their consideration. However, at your direction, the Case loader/backhoe was not included in Council Order 6525. You felt strongly that the loader/ backhoe should be kept over the winter "just in case". Mr. Robillard was informed of this decision.

Over the winter the Department has looked for an adequate sidewalk plow/utility tractor. We talked with equipment dealers. What do they have; what kind of deals is available? One of the dealers, Beauregard Equipment, has offered the Town \$45,000 for the Case loader/backhoe as a trade-in.

The Town Charter requires Council approval for any Town item to be sold. Article VI Town Council, Section 409 – Enumeration of Powers:

Sec. 409.15. Sell, or offer to sell, by sealed competitive bids, surplus property of the Town provided that no real property acquired in any manner other than through nonpayment of taxes may be offered for sale, leased for more than three years, or otherwise disposed of without a referendum vote or, in the case of condemnations, sold to any other than the original owner without first offering it to the original owner for the price paid minus any expenses incurred by the original owner because of the condemnation. Invitations for bid shall be published at least thirty (30) days prior to the date for the opening of bids. The Council may, in its discretion, accept or reject any or all bids.

I urge the Council not to sell the Case. It has great value to the Town as a trade-in."

There was discussion among the Council and Mr. Robillard on this issue and whether since the verbiage was not in the RFP that the Town had the option to accept or reject a bid, there were those including Councilor Tousignant who felt that we should honor the bid that was provided by Mr. Robillard. Councilors Kelley and Blow both indicated that they understand that the verbiage should have been there and it as an oversight

that needs to be corrected from this point on, but it was also noted that in the Charter it is clear that the Town has the right to accept or reject a bid. Maria Turner as a citizen felt that the bid should be honored as well. The Chair said he had mixed feelings but again the Charter is clear.

**MOTION:** Councilor Tousignant motioned and Councilor Blow seconded to Accept a bid of \$25,555 for a 2005 Case Backhoe currently used by the Public Works Department.

**VOTE:**       Yea: Councilors Tousignant, Chair O'Neill  
              Nea: Councilors Kelley and Blow

This motion failed.

**# 6641**       **Discussion with Action:** Approve the annual Special Event Permit applications for the Salvation Army to hold their evening program in the Square, in the area near the Pier, from July 28th, 2017 to August 4th, 2017, (including set-up and takedown), and from July 27th, 2018 to August 3rd, 2018 (including set-up and takedown). Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to each event.

It should be noted that The Salvation Army has not asked for the permit to be waived but rather has paid for all the permits.

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

**VOTE:** Unanimous.

**# 6642**       **Discussion with Action:** Approve the Special Event Permit applications for the Salvation Army to hold their annual parades on Sunday, July 30th, 2017, and Sunday, July 29th, 2018, from Saco & Biddeford Savings Bank to the Pier parking area. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to each event.

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

**VOTE:** Unanimous.

**# 6643**       **Discussion with Action:** Approve the Special Event Permit application for The Salvation Army to hold their 3rd annual Freedom 5K Run/Walk on Monday, August 1st, 2016. Set-up 6 a.m., race starts at 7:30 a.m., take down by 11 a.m. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the Event.

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



**VOTE: Unanimous.**

**# 6644 Discussion with Action: Amend a Special Event Permit approved on December 1st, 2015, for the Grotton wedding on the beach on September 10th, 2016. The set-up is still at 10 a.m. The ceremony is now at 3 p.m., instead of noon, and take-down by 5 p.m. instead of 2 p.m.**

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

**VOTE: Unanimous.**

**# 6645 Discussion with Action: Approve the Special Event Permit application for the Veterans Memorial Park Sub-Committee to hold "Illumination Night" in Memorial Park on Sunday, May 29th, 2016, from 3 p.m. to 10 p.m., rain date, Monday, May 30th, 2016; and a request to waive the fee, as it is a Town event.**

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

**VOTE: Unanimous.**

**# 6646 Discussion with Action: Approve the Special Event Permit application for the Ballpark Commission to host a fundraiser, including bands and vendors, and beer and wine served by Jimmy the Greek's. Event set-up on Friday, June 17th, 2016, from noon to 5 p.m. Event on Saturday, June 18th, 2016 from 11 a.m. to 5 p.m., and takedown ending at 10 p.m. Rain date June 19th, 2016. Request to waive the fee as it is a Town event.**

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

**VOTE: Unanimous.**

**# 6647 Discussion with Action: Approve the Special Event Permit application from Steven Glykokokalos to hold his wedding ceremony on the beach at the end of Cortland Avenue on Saturday, June 4, 2016; set-up time from 3:30 to 4:30 p.m.; event from 5:00 p.m. to 6:30 p.m., including take-down.**

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

**VOTE: Unanimous.**

**# 6648 Discussion with Action: Appoint Ryan Kelly as an Alternate Member of the Planning Board, term to expire 12/31/16.**

**Approval by the Planner.**

No questions- let's get him on the agenda

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Appoint Ryan Kelly as an Alternate Member of the Planning Board, term to expire 12/31/16.

**VOTE:** Unanimous.

**# 6649** Discussion with Action: Approval and Ratification of the Old Orchard Beach Wastewater Employees Association Contract, effective July 1, 2016 to June 30, 2018.

A memo was sent to the Council from the Town Manager:  
**RE: PROPOSED COLLECTIVE BARGAINING AGREEMENT WITH WASTEWATER EMPLOYEES ASSOCIATION FOR A THREE YEAR PERIOD FROM JULY 1, 2015 THROUGH JUNE 30, 2018**

The administration has reached a tentative agreement with the OOB Wastewater Employees Association for a three-year collective bargaining agreement effective retroactively to July 1, 2015. The bargaining agreement applies to six positions in the Wastewater Department. The agreement includes the following provisions:

- **Wages:** 2% cost of living increase in each of the three years of the agreement, retroactive to July 1, 2015. In addition the Chief Operator position wage scale is increased by \$2.00 per hour. The total added cost to the Town over the three years of the contract is \$24,000. The 2% annual increase and the \$2/hour increase for the Chief Operator is justified because of the wage pressure from comparable departments in Maine and Northern New England. The Town conducted a wage survey in Maine that documented the need for an increase in wages in order to be remaining somewhat competitive. There is a shortage of qualified wastewater personnel because of a decline in people seeking careers in this industry. As a result recruitment is extremely difficult. The OOB department has had a vacancy for over a year now for which there have not been qualified applicants available. I would note that, in my opinion, the 2% adjustment does not mean that other Town bargaining units warrant comparable wage settlements. It will depend on market conditions for each employee category.
- **Vacation:**
  - Provide three weeks vacation accrual after 3 years of service (formerly 5 years of service).
  - For new hires limit the allowable vacation carry over from one year to the next to 80 hours. Employee will not accrue vacation time if the carry over exceeds 80 hours.
- Union will indemnify town from any legal damages related to the Town's withholding of association "service fees" or member dues.
- Secondary on-call employee will receive one hour of pay at overtime rate for responding to service call by telephone.
- Employees who are performing permitted confined space entry work to be paid at time and one half for work performed.
- Clarified pay rate for call-in prior to the start of a regularly scheduled work shift.

- **Make employee responsible for initiating the process to apply for short-term disability coverage.**
- **Added language to allow Town to bypass the regular steps of progressive discipline depending on the severity of the offense.**
- **Chief operator will receive a cell phone stipend of \$5.77/wk or receive a town supplied cell phone.**
- **Clarify that time allotted for the permitted two personal days is 8 hours for each day.**
- **Clarify that payments made in lieu of receiving health insurance are based only on the Town's cost of insurance premiums, not including the employee's share of cost for insurance premiums.**

**The proposed contract and the red-lined changes to the existing contract are attached.**

**The Council must vote to approve the proposed contract in order for it to be executed.**

**MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Approve and Ratify the Old Orchard Beach Wastewater Employees Association Contract, effective July 1, 2016 to June 30, 2018.**

**VOTE: Unanimous.**

**# 6650 Discussion with Action: Approve the Liquor License Renewals for Richard Payette dba/The Landmark Restaurant (306-5-6), 28 East Grand Avenue, m-s-v in a Restaurant; and New Pier Pizza Corp dba/Pier Pizza (306-6-1), L2 Old Orchard Street, m-v in a Restaurant.**

**MOTION: Councilor Kelley motioned and Councilor Tousignant seconded to Approve the Liquor License Renewals as read.**

**VOTE: Unanimous.**

**# 6651 Discussion with Action: Request from David P. Sleight for a no-action letter for Map 320, Block 7, Lot 10 – 30 Winona Avenue.**

**BACKGROUND:**

**No-Action Letter**

**The Town Councilors of the Town of Old Orchard Beach understand that a single family residence located on a lot identified as Map ID 320-7-10 in the Assessor's records, with a physical address of 30 Winona Ave, current owner of record Patricia J Means, includes an attached deck structure that was inadvertently located several feet within the Town's right of way. We further understand that the owner desires to convey the property with the deck structure remaining in the existing location, and**

that the Code Enforcement Officer has reviewed the location and does not find the location to in any way hinder pedestrian or vehicular traffic within the Town's right of way.

Given these circumstances the Town of Old Orchard Beach will not take any action regarding any violations of the Town of Old Orchard Beach Code of Ordinances related to the location of the deck structure within the Town's right of way, subject to the physical location of the deck not being further expanded into the Town's right of way, subject to the Town forever reserving the right at any future time to require the removal of the deck structure from the Town right of way at the owner's expense, subject to the owner or future owner indemnifying and holding harmless the Town of Old Orchard Beach and its officials and agents, for any resulting loss of value to the property or economic harm to the owner, and subject to this no-action letter being recorded with the property deed at the York County Registry of Deeds.

Executed as of the date and year as set forth below by a Town Council vote on April 5, 2016.

**MOTION:** Councilor Tousignant motioned and Councilor Blow seconded to approve the request from David P. Sleight for a no-action letter for Map 320, Block 7, Lot 10 – 30 Winona Avenue.

**VOTE:** Unanimous.

#### **GOOD AND WELFARE:**

**GUY FONTAINE:** Head of the Ballpark Operations, he provided an update on the upcoming summer activities which includes money raising events for the betterment of the ballpark and its continued community use. He talked about concerts and also about the three baseball groups using the facility and drawing large crowds. A update was provided on the current reconstruction projects including those associated with the ADA requirements. He explained how to get on the Ballpark's website and the fact that it will hold all pertinent information relative to the workings and the operations of the Ballpark and all its activities throughout the summer months.

**MARIA TURNER:** Working in connection with the Ballpark she updated the Town Council, requesting their support and that of the administration, on the SOUNDS OF HOPE concert scheduled for June 18<sup>th</sup> from 11 a.m. to 5:00 p.m. at the Ballpark and including a special guest performance of "The Sky is Falling" performer, Steve Azar; The Kenny Grimsley Band, Crash the Owl Party, Captain Ray and the Castaways, and Sugarbox. She talked about the funding that will be given to benefit the work of Keeping Kids Safe, Hope Rising and The Dauntless Project. He continued to explain the necessity for attention to be given to the human sexual exploitation of children as well as the Heroine issues relevant all over this country and in our community as well. The event is being sponsored by the Ballpark, Director Mail of Maine, BBI Waste, Jimmy the Greeks, Chenette Media and the Atlantis Motel.

**JEROME BEGART:** He encouraged promotion of the Ballpark activities and also the development in connection with the stipulation of the charter on the issue of surplus sales.

#### **ADJOURNMENT**

**MOTION:** Councilor Tousignant motioned and Councilor Kelley seconded to Adjourn the Town Council Meeting at 9:50 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 twenty-one (21) pages is a copy of the original Minutes of the Town Council Meeting of April 5, 2016.**

**V. Louise Reid**