

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

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, April 7, 2009 in the Town Hall Chamber. The Chairman opened the meeting at 7:03 p.m.

Pledge to the Flag and Roll Call:

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

Absent: Councilor Laura Bolduc

ACKNOWLEDGEMENTS:

MIKE TOUSIGNANT: Just a reminder that May 16th is Armed Services Day and Veterans Memorial Park Clean Up Day. We will be celebrating and cleaning up the Park and are asking citizens, residents, friends, community groups and organizations to donate plans so that Memorial Park Committee can sell them to raise money to be earmarked for a drinking water fountain (bubbler) in Memorial Park. Any questions can be referred to Tina Morrison at 934-9936.

SHAWN O'NEILL: I wish to take this opportunity to congratulate the work of Representative George Hogan for his excellent work on the Transportation Committee including possible new construction of a 50 miles of off road Eastern Trail to connect Thornton Academy in Saco with the Cascade Road in Old Orchard Beach (\$1,700,000); Reconstruction of new and rehabilitate sidewalks and bicycle lanes on the south side of Saco Avenue beginning at Staples Street and extending westerly to Union Avenue (\$607,526); Construction of sidewalk connections and crossing improvements to improve bicycle and pedestrian safety in the vicinity of middle and elementary schools (\$180,000); Preliminary engineering for intersection improvements of Ocean Park Road, Saco Avenue, Temple Road, Old Salt Road and Old Orchard Road (\$1,290,000); Intersection improvements with Signal located at the intersection of Saco Avenue E. Emerson Cummings Boulevard and Union Avenue (\$356,850); and Construction, new and rehabilitated sidewalks and bicycle lanes on the north side of Saco Avenue, beginning at Staples Street and extending westerly.71 of a mile to Union Avenue and project will include ADA compliance ramps (\$188,000). We express our thanks to Representative Hogan for all the assistance he is giving our community.

ACCEPTANCE OF MINUTES:

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to approve the following Minutes:

Town Council Minutes of March 3, 2009;	All in attendance
Town Council Workshop of March 3, 2009;	All in attendance
Special Town Council Minutes of March 4, 2009;	All in attendance
Town Council Workshop of March 21, 2009;	All in attendance
Administrative Board Hearing of March 26, 2009;	All can vote
Administrative Board Hearing of April 2, 2009.	All can vote

VOTE: Unanimous.

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

Special Town Council Minutes of March 10, 2009;	Absent – O'Neill
Town Council Minutes of March 17, 2009;	Absent – O'Neill
Town Council Workshop of March 18, 2009;	Absent – O'Neill
Town Council Workshop of March 25, 2009;	Absent – O'Neill/Bolduc
Town Council Workshop of March 26, 2009;	Absent – O'Neill
Town Council Workshop of March 31, 2009;	Absent- O'Neill

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

PUBLIC HEARINGS NUMBER ONE:

**Shall We Amend the Town of Old Orchard Code of Ordinance,
Chapter 30, Article V – Privately Owned Fire Hydrants?**

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

**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 7, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 30, Article V. Privately Owned Fire Hydrants, Section 30-96 of the Town of Old Orchard Beach is added by adding the underscored language:

Section 30-96. Violations and Penalties

- 1. Any person who fails or refuses to comply with any lawful order, discretion or requirement given under the authority of this Ordinance, upon adjudication, shall be subject to a fine of not less than \$50 per hydrant for the first (1st) violation; \$100 per hydrant for the second (2nd) violation; and \$300 per hydrant for each subsequent violation. All fines shall be recovered, upon complaint, to the use of the Town.**

CHIEF JOHN GLASS: The purpose of this ordinance standardized the types of ordinances and proper installation and the maintenance of the fire hydrants such as at Dunegrass and with other private developers. We asked them to put in a hydrant to protect their property from fire. We then expect them to provide for snow removal and hydrant installation as well as continued maintenance. The one thing that was not included in the previous fire hydrant ordinance was that we did not add a penalty clause to ask for a penalty when hydrant care and maintenance is not adhered to and followed. Penalties would be \$50 for the first infraction of not providing proper maintenance including snow removal; second occurrence would be \$100 per hydrant; and for subsequent offences it would be \$300 per hydrant.

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

PUBLIC HEARING NUMBER TWO:

Shall We Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 18, Businesses, Section 521, 522, 524 through 531; and Chapter 78 – Zoning, Sections 1, 1222, 1224, 1225 and 1229?

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

GARY LAMB: The proposed revisions accomplish three things: The revisions will eliminate the out-of-date provision that makes it illegal to use a toilet within a recreational vehicle. All Sections and definitions pertaining to campgrounds will be up-to-date, consistent, and easy to navigate when reviewing the Ordinance for campground related issues. The Town Ordinance will be in compliance with the State Department of Human Services Rules Relating to Campgrounds, which all Campgrounds in Town are required to comply with.

CHAIR MACDONALD: I close this Public Hearing at 7:14 p.m.

PUBLIC HEARING NUMBER THREE:

Shall We Amend the Town of Old Orchard Code of Ordinances, Chapter 74, Subdivisions, Sections 153, 207,233, and Chapter 78 – Zoning, Section 215?

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

JESSICA WAGNER: This set of Ordinance revisions will require all Plenary Site Plan Review and Subdivision applicants to submit plans in digital format as part of the Planning Board review process. Over the past year and a half, Planning Staff has been trying to collect all proposed projects in digital format. This has been difficult to do because there is currently no provision in the Ordinance requiring digital format submissions. Including this as a submission requirement in Town Ordinance will make collecting these digital files much easier. This will enable approved plans to be added to our parcel maps at little cost to the taxpayer and this survey quality information will greatly increase the accuracy of our maps. There are two portions of the digital submission requirement: **PDF Image:** All plans must be submitted as a PDF image. This digital format will be kept in the Planning Department digital files and may be used to send plans to Planning Board Members, abutters, peer review engineers, and all other interested parties. **Datum Reference:** All plans must be submitted on Datum so that our GIS consultant will have the most accurate information when updating our GIS data layers. The information collected through this digital submission process will be put on our town-wide GIS mapping system and be made available to the public.

CHAIR MACDONALD: I close this Public Hearing at 7:16 p.m.

PUBLIC HEARING NUMBER FOUR:

Shall We Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78 – Zoning, Sections 1, 142, 178, 212, and 1381?

CHAIR MACDONALD: I open this Public Hearing at 7:17 p.m.

MIKE NUGENT: As it currently stands in the Ordinance, accessibility ramps for physically disabled individuals require a Variance from the Zoning Board of Appeals if the ramp is located in setback areas of the lot (which they almost always are). The proposed amendment to Sec. 78-178 (a) will make accessibility ramps exempt from this process. This revision will make the installation of accessibility ramps for disabled individuals an easier process and will only require a simply building permit, without appearing before the ZBA. When the accessibility ramp is no longer needed by the disabled individual, it will lose this nonconformity exemption. According to the current Ordinance, the reconstruction of a nonconforming structure within the nonconforming footprint requires a Variance from the Zoning Board of Appeals. For the last several years, Code Enforcement Staff allowed these structures to be rebuilt without obtaining a Variance from the ZBA (ignoring this Ordinance requirement). Current staff has been enforcing this regulation for a nearly a year, and it has consumed a significant amount of staff and Board time. This restriction in the Ordinance also discourages property owners from making necessary improvements and inhibits the correction of blighted properties. This revision will encourage improvements for nonconforming properties and will make the process easier for property owners, Town staff and Board members. There are several buildings in Town that are in violation of the Space and Bulk requirements of the Zoning Ordinance in affect at the time of their construction. Often times Building Permits were issued for these structures (against the restrictions in the Ordinance) and today Town staff cannot accept these structures as legal. Since this is not the fault of the property owner and the fault of former Town staff, the Town is put in a difficult position. We need a provision in the Ordinance for dealing with these misplaced structures. This proposed Ordinance Revision will provide amnesty for this type of nonconforming structure that was constructed with a building permit prior to February 3, 1998

(the same date for Miscellaneous Appeal cut-off). Currently each Zoning District treats sheds differently, with most Districts allowing all sheds a 10ft setback from side and rear property lines. Property owners frequently complain about this restriction and nonconforming shed locations are common. This proposed revision would allow sheds no larger than 120sf to be set 5ft from the side and rear property lines in all districts. Structures composed of a rigid framework with a membrane roof covering used for storage, sometimes referred to as “little green garages”, are currently not defined in the Ordinance. By default we are required to classify these structures as buildings and require that they maintain the building setbacks within each Zoning District. This proposed revision would add a definition specifically for these structures and allow them to follow a 50% reduction in the side and rear setback of the District they are located. Exemption from Site Plan Review for commercial/multi-family construction 240sf or less with no impact on parking requirements. All additions and construction projects for nonresidential and multi-family residential structures that are 1000sf or less are required to undergo Administrative Site Plan Review [per sec. 78-213(b)(3)]. Many of the small projects that fall within this category include the construction of decks, sheds, the removal of or alteration of exterior stairways, sunrooms, etc. These projects meet Space and Bulk requirement and have minimal impact on abutting properties. Staff recommends that the smallest projects be exempt from the Administrative Site Plan Review process. This proposed revision makes construction of new structures and additions to existing structures that are 240 sf or less and do not increase the need for additional parking may be exempt from Administrative Site Plan Review. This revision will save the time of the applicant as well as Town staff.

COUNCILOR O’NEILL: Where it is non conforming issue, would this mean those less than ten years would still have to come the Town Council?

MIKE NUGENT: Anything older than ten years would just be legal. This is just a relaxing of the ordinance.

CHAIR MACDONALD: These ordinances have all gone to workshop before and this is your opportunity to present your opinion.

COUNCILOR TOUSIGNANT: Is there any limit to what these sheds can be used for?

MIKE NUGENT: They cannot be lived in. It is simply used for storage. They are not habitable.

CHAIR MACDONALD: I close this Public Hearing at 7:22 p.m.

BUSINESS LICENSES: Carmen & Marco Giancotti (201-1-1), 231 East Grand Avenue, one year round rental; Jason Hirst (205-6-6-9), 6 Imperial Street, Unit 9, one year round rental; Lois Hager (210-1-20-48), 39 Smithwheel Road, Unit 48, one year round rental; PMF Inc., dba/Ace’s Auto Sales (211-1-15), 1 Old Orchard Road, Used Car Lot, Service Station, Storage Unit and one year round rental; Patricia Kane-Raynor (301-3-1-100), 189 East Grand Avenue, Unit 100, one year round rental; Paul Houle (312-14-3), 74 Atlantic Avenue, one year round rental; Nicholas J. Cerullo (320-9-10), 3 West Casco Avenue, one seasonal rental; and Johanna Thomas (324-1-2), 6 New Salt Road, one seasonal rental.

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

NEAL WEINSTEIN: I have a comment that only one of those is a business. Of all those business licenses those wanting to rent a room or rent their home should not be considered as a business as it restricts the value of their property and brings an extra burden on citizens. I think the ordinance should be changes so this fictitious ordinance is corrected. It also restricts the value of their home. It may hurt sales of units and they feel it is a burden or a restriction. Just a suggestion.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Fly By Night Inc., dba/Mr. Goodbar (306-5-2), 6 East Grand Avenue, live music, juke box, comedy, karaoke, & dancing.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to approve the Special Amusement Permit as read.

VOTE; Unanimous.

TOWN MANAGER'S REPORT: Presented the Transfer Station Summer Program and apologized for any confusion as a result of release of the incorrect information. He congratulated Chief John Glass, Police Chief Dana Kelley and Public Works Director Mary Ann Conroy, for the excellent work done in connection with the presentation of reimbursement documentation for the Ice Storm which resulted in a grand total submitted of \$149,315.56 less the local share of \$14,931.56 with a total of Federal State Share due the town of \$134,384.00. To date the Town has received \$24,130 from FEMA with the balance forthcoming.

NEW BUSINESS:

5147 Discussion with Action: Amend Section 54 –Regulatory Powers (b)(5) – Establish Specific Parking Spaces for Lifeguards to Park during the Hours of 9:00 a.m. and 5:00 p.m. between the Friday before Memorial Day and Labor Day; Amend Sections 54-44 (Penalty); 54-159(Passenger and Loading Zones); and Add Sections 54-114 (Milliken Street Parking Lot) and 54-115 (Memorial Park Parking Lot).

TOWN MANAGER: This is a housekeeping item giving me permission to assign regulator powers to Section 54 - –Regulatory Powers (b)(5) – Establish Specific Parking Spaces for Lifeguards to Park during the Hours of 9:00 a.m. and 5:00 p.m. between the Friday before Memorial Day and Labor Day. Again, I have been doing this but this just defines the regulatory power. The second one is to Amend Sections 54-44 (Penalty); 54-159(Passenger and Loading Zones), came about from one of the Taxi Cab company requesting for dropping off passengers – discharging only. The Memorial Parking and Milliken Street Parking provides us to legally address parking fines. The question of how

many spaces in the Memorial Park I have also addressed. There have always been five spaces but I think it was just a misunderstanding.

MOTION: Councilor Tousignant motioned and Councilor O'Neill seconded to Amend Section 54 –Regulatory Powers (b)(5) – Establish Specific Parking Spaces for Lifeguards to Park during the Hours of 9:00 a.m. and 5:00 p.m. between the Friday before Memorial Day and Labor Day; Amend Sections 54-44 (Penalty); 54-159(Passenger and Loading Zones); and Add Sections 54-114 (Milliken Street Parking Lot) and 54-115 (Memorial Park Parking Lot).

VOTE: Unanimous.

5148 Discussion with Action: Amend Section 42-173 (Surfing- Areas Where Prohibited); and Add Sections 42-112 (Beach Rules) and 42-113 (Fishing).

KEVIN SULLIVAN: I was not able to be here for the previous public hearing as I was very ill although I watched the meeting on television. I would like to discuss something about the changes in the surfing ordinance. It was not a Council driven ordinance and I don't think something changed by the people should be changed so easily by the Council. Early in the 70's young surfers went before Town Council to ask for a designated area for surfing. Intense meetings were held but even with the support of adults the Council rejected what the Council was trying to do. This is a civic lesson worthy of national coverage – there were petitions – a change that was brought forth because of a group of kids. In June of 1970 by an overwhelming margin the surfing area was approved by the voters. Moving the surfing area to the north side – down near Fourth Street is not a problem but moving it from 150 yards to 150 feet is a problem. Surfing was permitted at all hours and now it is stipulated hours. People vote on things – different than when the Council vote on it. Considering that this was a citizen driven ordinance and revert back to 150 yards and not adding the time. Respect the intent, the vote and the activity.

STEVE SALINSKY: I represent the Northern New England Surfing Foundation. I echo what has been said. We are against the reduction in size and it is a safety issue in doing that. The size of the area needs to be maintained if possible. Our biggest concern is the safety issue.

NEAL WEINSTEIN: I was one of the kids that benefited when they changed the ordinance in 1970. I love to surf and restricting it to one area of the beach is not appropriate thing to do. I thought it was going to go to a workshop instead of coming before the Council. The only two people that spoke in favor if it was the Fire Chief and the Lifeguard Captain. I suggest that this be tabled and go to a workshop. There are businesses here in Old Orchard Beach and the Surf Shop being one of the year round businesses.

PETER TOOHEY: Not only were there a number of citizens and a number of letters but only the Chief and the Life Guard gave anything in favor of the changes. Whoever wrote these Ordinances did not do a very good job writing them. I think these things need to go back to a Workshop as well.

KEVIN O'BRIEN: I realize these were put together for safety issues as you don't want a child to be hurt with a fishing line. I would recommend that we table all these and rewrite them. The ordinance changes are too harsh on fishing, surfing and other fun things to do.

COUNCILOR O'NEILL: I apologize for being away on vacation. I don't know where they came from and they are too restrictive and adding these restrictions will turn away tourists and visitors.

COUNCILOR DAYTON: This is a difficult situation when you are trying to look at safety but at the same time considerable opposition to the ordinances. I want to go on record to say that I do support the Fire Chief and Lifeguards and would ask that you not give up in considering some of these issues. There is a little bit of too restrictiveness and at this time I don't agree with the ordinance but I do support the Fire Department and the lifeguards.

CHAIR MACDONALD: I am glad Chief brought this forward and that we are aware that there are some safety issues and that, unfortunately, it is just a few. So we need to watch out for one another and I would like to request that we get an update at the end of the summer some statistics of what occurs and have a workshop at that time.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Remove Without Prejudice this Item to Amend Section 42-173 (Surfing- Areas Where Prohibited); and Add Sections 42-112 (Beach Rules) and 42-113 (Fishing).

VOTE: Unanimous.

5149 Discussion with Action: Amend Sections 34-26 (Definitions); 34-91 (Occupancy Requirements); and 34-286 (Required: Criteria for Issuance on Conversion of Seasonal Structures to Year Round Dwellings).

MIKE NUGENT: I requested this revision be made to the Zoning Ordinance to improve the Zoning Board of Appeals and permitting process. Those affected are exemption of accessibility ramps from nonconforming status. As it currently stands in the Ordinance, accessibility ramps for physically disabled individuals require a Variance from the Zoning Board of Appeals if the ramp is located in setback areas of the lot (which they almost always are). The proposed amendment will make accessibility ramps exempt from this process. This revision will make the installation of accessibility ramps for disabled individuals an easier process and will only require simply a building permit, without appearing before the ZBA. When the accessibility ramp is no longer needed by the disabled individual, it will lose this nonconformity exemption. In addition reconstruction of a nonconforming structure within the previously existing building footprint: According to the current Ordinance, the reconstruction of a nonconforming structure within the nonconforming footprint requires a Variance from the Zoning Board of Appeals. For the last several years, Code Enforcement Staff allowed these structures to be rebuilt without obtaining a Variance from the ZBA (ignoring this Ordinance requirement). Current staff has been enforcing this regulation for a nearly a year, and it has consumed a significant amount of staff and Board time. This restriction in the Ordinance also discourages property owners from making necessary improvements and inhibits the correction of blighted properties. This revision will encourage improvements for nonconforming properties and will make the process easier for property owners, Town staff and Board members. The amnesty provision is also part of this for structures with nonconforming locations. There are several buildings in Town that are in violation of the Space and Bulk requirements of the Zoning Ordinance in affect at the time of their construction. Often

times Building Permits were issued for these structures (against the restrictions in the Ordinance) and today Town staff cannot accept these structures as legal. Since this is not the fault of the property owner and the fault of former Town staff, the Town is put in a difficult position. We need a provision in the Ordinance for dealing with these misplaced structures. This proposed Ordinance Revision will provide amnesty for this type of nonconforming structure that was constructed with a building permit prior to February 3, 1998 (the same date for Miscellaneous Appeal cut-off). Currently each Zoning District treats sheds differently, with most Districts allowing all sheds a 10ft setback from side and rear property lines. Property owners frequently complain about this restriction and nonconforming shed locations are common. This proposed revision would allow sheds no larger than 120sf to be set 5ft from the side and rear property lines in all districts. Structures composed of a rigid framework with a membrane roof covering used for storage, sometimes referred to as "little green garages", are currently not defined in the Ordinance. By default we are required to classify these structures as buildings and require that they maintain the building setbacks within each Zoning District. This proposed revision would add a definition specifically for these structures and allow them to follow a 50% reduction in the side and rear setback of the District they are located. And finally this will also allow exemption from Site Plan Review for commercial/multi-family construction 240 sf or less with no impact on parking requirements. All additions and construction projects for nonresidential and multi-family residential structures that are 1000sf or less are required to undergo Administrative Site Plan Review. Staff recommends that the smallest projects be exempt from the Administrative Site Plan Review process. This proposed revision makes construction of new structures and additions to existing structures that are 240sf or less and do not increase the need for additional parking may be exempt from Administrative Site Plan Review. This revision will save the time of the applicant as well as Town staff.

COUNCILOR DAYTON: One of the things that concerns me is that this type of ordinance change will have an affect on my neighborhood and that many of the seasonal homes will be designated as not able to be rehabbed. I am not convinced that encourage the kind of change we would like. It is clear that over the past six years we have been trying to make this a year round community. My concern is again that this will make it more difficult to move here were there are seasonal building and need to be rehabbed to live year all year long. I am not sure that this encourages that type of rehabbing.

MIKE NUGENT: This actually facilitates conversion by relaxing the zoning ordinance which is often a stumbling block.

COUNCILOR DAYTON: Really? Are you sure?

MIKE NUGENT: Absolutely.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Amend Sections 34-26 (Definitions); 34-91 (Occupancy Requirements); and 34-286 (Required: Criteria for Issuance on Conversion of Seasonal Structures to Year Round Dwellings).

VOTE: Unanimous.

#5150 Discussion with Action: Approve the Liquor License Renewals for Richard Payette dba/The Landmark Restaurant (306-5-6), 28 East Grand Avenue; s-m-v in a Restaurant; Fly By Night Inc., dba/Mr. Goodbar (306-5-2), 6 East Grand Avenue, s-m-v in a Class A Lounge; Thomas H. Humphreys dba/Tom's Restaurant (306-4-4), 17 B East Grand Avenue, s-m-v in a Restaurant; J. G. Cutter LLC dba/Barefoot Boy (305-4-5) 45 East Grand Avenue, s-m in a Restaurant; and Chrysanthe & Demetrios Dikos dba/Chryst's Restaurant (306-5-1-E), 6 East Grand Avenue, m-v in a Restaurant.

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

VOTE: Unanimous.

5151 Discussion with Action: Request to reduce a Administrative Design Review Certificate fee from \$150 to \$70 for Design Review Applicant, Sharron Saunders, 27 West Grand Avenue, Oceanside Snack Shack (MBL 307-1-3.)

GARY LAMB: The owners of Oceanside Snack Shack at 27 West Grand Avenue are required to apply for an Administrative Design Review Certificate to construct a 4ft tall white vinyl decorative lattice fence between the sidewalk and the outdoor eating area of the business. This fence will be seasonal, coming down in the winter months with the existing awning. This new improvement requires an Administrative Design Review Certificate per Sec. 78-427(a)(3) of the Town Ordinance. Based on the Schedule of Application Fees in Appendix A of the Town Ordinance, the Administrative Design Review Certificate for this new fencing will cost \$150.00. The total cost of this new fencing is estimated at \$150.00 (the same price as the required Design Review fee). The Applicant is requesting the Design Review application fee be reduced to that of the "replacement and repair" Administrative Design Review Certificate of \$70.00. Staff believes this is a reasonable request by the Applicant. Perhaps the Fee Schedule in Appendix A could be amended in the future to include minor improvements such as this.

COUNCILOR TOUSIGNANT: Why are we charging them anything? How did you come up with the charge?

GARY LAMB: That is a valid point but it is in the Ordinance. They need to go through Design Review and there is a charge for that. The project does not require much time on our part? That is the charge for repair and renovation.

COUNCILOR O'NEILL: I understand the situation the folks are in and it is a common sense thing and why do we charge them anything. If the ordinance say we have to charge them but now we say that it doesn't seems right that we are. We need to look at changing the ordinance and if it falls under the category of replacement and repair but it has to fall under that category. I have to be fair to all citizens. The Ordinance is the law. I can't vote for it.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to reduce a Administrative Design Review Certificate fee from \$150 to \$70 for Design Review Applicant, Sharron Saunders, 27 West Grand Avenue, Oceanside Snack Shack (MBL 307-1-3.)

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

5152 Discussion with Action: Accept with regret the resignation of Jayne Flaherty from the Conservation Commission; and Appoint John Bird as a regular member of the Conservation Commission, term to expire 12/31/2011.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Accept with regret the resignation of Jayne Flaherty from the Conservation Commission; and Appoint John Bird as a regular member of the Conservation Commission, term to expire 12/31/2011.

VOTE: Unanimous.

5153 Discussion with Action: Appoint Eber Weinstein as an Alternate Member of the Planning Board, term to expire 12/31/2010.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Appoint Eber Weinstein as an Alternate Member of the Planning Board, term to expire 12/31/2010.

VOTE: Unanimous.

5154 Discussion with Action: Approve additional funding for the Conservation Commission in the amount of \$30,000 and erase the \$17,756.15 overages for a total amount of \$47,756.16 from Account Number 20117-50549- Miscellaneous Expense with a balance of \$60,805.48.

TOWN MANAGER: At a recent Workshop where the Conservation Commission presented information on overages. It was the general consensus of the Council to support \$30,000 of additional funding and to erase the \$17,756.16 overages in the amount of \$47,756.16 from Account Number 20117-50549- Miscellaneous Expense with a balance of \$60,805.48. Since Memorial Park is considered a separate cost center for budgeting purposes, that perhaps the revenue generated from the Parking lot there should also be considered as an appropriate offset to the Conservation Commission overages in this instance and that the Park is still in its start-up growth mode where expenses are typically higher and that future years should see a stabilization of the costs involved with maintaining the recreational asset which has become an important downtown anchor and community resource.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to change the word “erase” inappropriate wording and use the word to “cover,” and approve additional funding for the Conservation Commission in the amount of \$30,000 and erase the \$17,756.15 overages for a total amount of \$47,756.16 from Account Number 20117-50549- Miscellaneous Expense with a balance of \$60,805.48.

COUNCILOR O’NEILL: I do not support this. It is quite clear that we funded the Memorial Park for \$50,000 so that Conservation Commission knew what they had to spend now bringing it up to \$97,000. This is not appropriate. We are holding department heads for overages which are totally understanding but I can’t justify the \$47,000 overages and I vote no for this.

COUNCILOR TOUSIGNANT: During the Workshop on this we had great discussions on this and I agreed Councilor O’Neill about this but we worked out the issues and at this time these things have to be finished.

COUNCILOR O’NEILL: Where are the grants that they received. It was over \$130,000 with the grant funds on top o the \$50,000 and on top of the \$47,000. It has to be done in a public meeting which is televised.

COUNCILOR DAYTON: There have been weeks of working in workshop and in conversations and it’s in the Minutes with a full review of the issues. The bottom line is a drainage issue which caused \$60,000. There is a full accounting on this and there was a grueling Workshop and the issue was the drainage issue and it has been accounted for.

COUNCILOR O’NEILL: It was not just one issue that made this an issue.

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

5155 Discussion with Action: Set the Public Hearing date of April 21, 2009 to Amend the General Assistance Ordinance.

**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 21, 2009 at 7:00 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the General Assistance Ordinance by changing the dollar amounts allowed for Food Maximums, as follows:

Amend Section 6.8 a) Food

No. of Household	CURRENT WEEKLY	<u>PROPOSED WEEKLY</u>	CURRENT MONTHLY	<u>PROPOSED MONTHLY</u>
1	\$40.93	<u>\$46.51</u>	\$176.00	<u>\$200.00</u>
2	\$75.12	<u>\$85.35</u>	\$323.00	<u>\$367.00</u>
3	\$107.67	<u>\$122.33</u>	\$463.00	<u>\$526.00</u>
4	\$136.74	<u>\$155.35</u>	\$588.00	<u>\$668.00</u>
5	\$162.33	<u>\$184.42</u>	\$698.00	<u>\$793.00</u>
6	\$194.88	<u>\$221.40</u>	\$838.00	<u>\$952.00</u>
7	\$215.35	<u>\$244.65</u>	\$926.00	<u>\$1,052.00</u>
8	\$246.05	<u>\$279.53</u>	\$1,059.00	<u>\$1,202.00</u>

Increase Additional persons from \$132.00 to \$150.00 per month.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Set the Public Hearing date of April 21, 2009 to Amend the General Assistance Ordinance.

VOTE: Unanimous.

5156 Discussion with Action: Update the Special Event Permit approved on February 17, 2009 for the OOB365 and the Old Orchard Beach Recreation Department holding the Taste of OOB on May 3, 2009 to include the hanging of banners and signs.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Update the Special Event Permit approved on February 17, 2009 for the OOB365 and the Old Orchard Beach Recreation Department holding the Taste of OOB on May 3, 2009 to include the hanging of banners and signs.

VOTE: Unanimous.

5157 Discussion with Action: Approve a donation to the Veterans of Foreign Wars (VFW) towards the Memorial Day Parade, in the amount of \$5,000 from Account Number 20117-50549 – Miscellaneous, with a balance of \$13,049.32.

CHAIR MACDONALD: The Memorial Day Parade for years has been a source of enormous entertainment and pride of this community. The Veterans of Foreign Wars under the direction of Bob McNally have arranged a parade that is known around the State as the best. Economic times have made the raising of the funds necessary to cover the expenses of the parade has been difficult. The Town is providing \$5,000 to help fund the Parade which has great support in our community.

MOTION: Councilor Dayton motioned and Chair MacDonald seconded to Approve a donation to The Veterans of Foreign Wars (VFW) towards the Memorial Day Parade, in the amount of \$5,000 from Account Number 20117-50549 – Miscellaneous, with a balance of \$13,049.32.

VOTE: Unanimous.

5158 Discussion with Action: Approve the Special Event Permit for the Old Orchard Beach Call Force Association to hold their Annual Yard Sale Fundraiser at the Public Safety Complex on Saturday, May 2, 2009 from 8:00 a.m. to 2:00 p.m.; and a Request to Waive the Fee.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Special Event Permit as read.

VOTE: Unanimous.

5159 Discussion with Action: Provide Payment to Dennis K. Burke Oil Company for School Department oil in the amount of \$124,104.84 from Account Number 10013-30111 – Reserve for Special Education, with a balance of \$150,000 and continue to pay for the remainder of oil invoices through the School year.

CHAIR MACDONALD: Shortfalls in the current year's school budget necessitated possible remedies to the fiscal difficulties being faced. Last December when the State subsidies were curtailed and budget shortfalls were discovered, the Superintendent of Schools indicated he issued a spending freeze for the school system. Since then the school subsidies which were originally cut have been restored, and the spending freeze resulted in \$93,000 of savings for the 2008-2009 school year. Still the current budget year has run short about \$142,500 partly due to the \$198,500 in unbudgeted costs for bus fuel, heating fuel, course reimbursement and equipment repairs. It is also due to \$37,000 in revenue shortfalls.

COUNCILOR TOUSIGNANT: This is more overage money. Councilor O'Neill had a valid point and it seems as if there are many overages by the other Councils.

COUNCILOR O'NEILL: I hate to take offense to Councilor Tousignant that former Councilors allowed overages. There are reasons for overages. When someone expends funds from one account to pay off another, this is irresponsible. When the oil tank is allowed to run drive. I appreciate that the School Board has made strides to get this balanced but there has to be more accountability on these overages.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Authorize The Town Manager to provide Payment to Dennis K. Burke Oil Company for School Department oil in the amount of \$124,104.84 from Account Number 10013-30111 - Reserve for Special Education, with a balance of \$150,000 and continue to pay for the remainder of oil invoices through the School year.

**VOTE: Yea: Councilors Dayton and Tousignant and Chair Macdonald
Nea: Councilor O'Neill**

GOOD AND WELFARE:

NEAL WEINSTEIN: I just noticed that they are fixing the sidewalk on Staples Street and I applaud the Public Works for doing this but I would like to see bike racks in the downtown. It would be a good thing to have for both citizens and tourists alike.

ADJOURNMENT:

MOTION: Councilor O'Neill motioned and Councilor Tousignant seconded to Adjourn.

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 fifteen (15) is a true copy of the original Minutes of the Town Council Meeting of April 7, 2009.

V. Louise Reid