

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to approve the Town Council Meeting Minutes of July 21, 2009; Town Council Workshop Minutes of July 21, 2009; and Town Council Workshop Minutes of July 28, 2009.

VOTE: Unanimous.

BUSINESS LICENSES: George & Joanne McCarthy (202-2-4), 205 East Grand Avenue, Unit 4A, one year round rental; Neal Weinstein (206-24-31), 10 St. John Street, one year round rental; Mike & Rose Grimanis (205-6-10), 15 Milliken Street, four year round rentals; and Elaine Kahaner (318-8-6-#45), 146 West Grand Avenue, #45, one year round rental.

MOTION: Vice Chair Dayton motioned and Councilor Bolduc seconded to approve the Business Licenses as read.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMITS: Joseph's by the Sea, Inc. dba/Joseph's by the Sea (310-3-3), 55 West Grand Avenue, Live Music Inside and Outside from 2:00 p.m. until 4:00 p.m.; and Oceanic Inn Inc., dba/One Soho Square (310-6-3), TV Inside – 12:00 p.m. – 1:00 a.m.

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to approve the Special Amusement Permit as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT: Nomination papers are available as of August 12, 2009 at Town Hall for two seats on the Town Council. They are two-year terms. Nomination papers are also available as of August 12, 2009 at Town Hall for six seats on the Charter Commission. If the establishment of a Charter Commission is approved by the voters at the November 3, 2009 election, members of the Charter Commission will serve until the Commission has completed its work, up to 25 months after the election. The papers can be obtained through the Town Clerk's Office and must be returned by September 21, 2009, at 4 p.m. Election Day is November 3, 2009. We are also asking citizens to consider serving on the Ordinance Committee. Come into the Town Clerk's office and indicate your interest and fill out the necessary paperwork. The bringing of our Ordinances up to current use is important.

NEW BUSINESS:

5263 Discussion with Action: Repeal Chapter 62 of the Town of Old Orchard Beach Code of Ordinances-Vehicles for Hire and replace with the Revised Chapter 62 of the Town of Old Orchard Beach Code of Ordinances – Vehicles for Hire.

MIKE NUGENT: A Public Hearing was held on the new Tax Cab Ordinance. Chief Kelley, Mike Nugent and Gary Lamb met recently to discuss our taxi ordinance and enforcement thereof. We would like the Council to consider the following as they debate the temporary suspension and future form of our taxi ordinance Chapter 62.

- Code enforcement and planning staff have recently been working with a new taxi operator to get him properly licensed. During that process, we have discovered that no taxi companies presently “operating in town” have business licenses at all.
- Digging deeper, we discovered this situation has existed for years. This is probably because there have not been problems or major complaints with taxis operating in town. Simply put, in years past, if taxi business license applications were not submitted, no one followed up when taxis were seen operating in town to tell them they needed a license.
- We need a better definition of what the ordinance means by “operating in town”
- Current ordinance limits the number of taxi licenses that can be issued to four...why?
- Current ordinance requires taxi meters whereas most companies now operate by zone fares. Do we care how the fare is determined?
- Current ordinance requires the taxi be inspected by an independent third party inspector. Who should this be?
- License Administrator (Lamb) is supposed to issue a taxi ID card with drivers name, photo and business license number. We have no provision for doing this now although we could do this without major expense. Is this necessary?
- We have no formal taxi stands in town. With the late night crowds we have, perhaps public safety would be enhanced by creating some.

MOTION: Councilor Tousignant motioned and Councilor O’Neill seconded to Repeal Chapter 62 of the Town of Old Orchard Beach Code of Ordinances-Vehicles for Hire and replace with the Revised Chapter 62 of the Town of Old Orchard Beach Code of Ordinances – Vehicles for Hire.

VOTE: Unanimous.

5264 Discussion with Action: Appoint Community Development Block Grant Members as follows: Ken Lafayette, Brigitte Menard, Christine Bellino, Don Comoletti, Karen Anderson, Mark Rondeau, and Kenneth McCauley.

CHAIR MACDONALD: This Committee will be involved in the Block Grant and the good that it will do in our Community. We appreciate those willing to serve. It should be noted that Mark Rondeau, because of personal reasons, has removed himself from the Committee.

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to Appoint Community Development Block Grant Members as follows: Ken Lafayette, Brigitte Menard, Christine Bellino, Don Comoletti, Karen Anderson, and Kenneth McCauley.

VOTE: Unanimous.

5265 Discussion with Action: Approve the one year position of Recreation Coordinator to assist in the temporary absence of the Assistant Recreation Director including duties involved in event coordination.

TOWN MANAGER: With the Assistant Recreation Director being out on maternity leave and the addition of several new Recreation Programs, the Council is being asked to approve the one year position of Recreation Coordinator to assist in the temporary absence of the Assistant Recreation Director as well as event coordination.

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to Table Item Number 5266 which is the one year position of Recreation Coordinator to assist in the temporary absence of the Assistant Recreation Director including duties involved in event coordination with funding coming from the Recreation Department programming with the exception of \$13,960 which will come from Account Number 10013-30100 – Undesignated Fund - with a balance of \$5,427,778.

VOTE: Unanimous.

5266 Discussion with Action: Approve the Liquor License Renewals for Joseph's by the Sea Inc., dba/Joseph's by the Sea (310-3-3), 55 West Grand Avenue, s-m-v in a Restaurant; and Oceanic Inn Inc. dba/One Soho Square (310-6-3), 43 West Grand Avenue, s-m-v in a Hotel/Optional Food.

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

VOTE: Unanimous.

5267 Discussion with Action: Request to Waive the \$250 Planning Board Conditional Use Application Fee for a Janie Newcomb of 188 Portland Avenue.

GARY LAMB: In 1987, an above garage apartment was added to a home without proper permitting for an additional dwelling unit. This has been an illegal dwelling unit for over twenty years. In 2009, the owners want to sell the property as a two family unit, but cannot until the apartment has Planning Board approval as a legal Accessory Dwelling Unit. The owners of the home have submitted a Conditional Use application to the Planning Board. This Planning Board process requires a fee of \$250 dollars.

MOTION: Councilor O'Neill motioned and Councilor Tousignant seconded to Approve the Request to Waive the \$250 Planning Board Conditional Use Application Fee for a Janie Newcomb of 188 Portland Avenue.

VOTE: Unanimous.

5268 Discussion with Action: Adopt new Policy to replace Town Council Policy 97-2, Rescue Billing Reserve Fund: Fund Use.

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL ORDER
AMENDING TOWN COUNCIL POLICY 97-2,
RESCUE BILLING RESERVE FUND: FUND USE**

BE IT HEREBY ORDERED that Town Council Policy 97-2, “Rescue Billing Reserve Fund: Fund Use,” is hereby replaced with the following:

1. Each fiscal year, the Rescue Billing Reserve Fund may be drawn upon for the actual costs of vehicles and related equipment for fire, emergency medical services, and/or police use.
2. Each fiscal year, the Rescue Billing Reserve Fund may be drawn upon, by transfer to the Town’s general fund, in an amount not to exceed the actual costs (including personnel expense) of billing for emergency medical services.
3. In the event that the rescue billing collection amount substantially rises or declines, the Council may amend this policy to either increase or decrease amounts transferred to the general fund.
4. Funds deposited in the Rescue Billing Reserve Fund after August 4, 2009 and any interest and earnings thereon may also be used for the funding and financing of the construction or remodeling of public safety facilities.

Chair MacDonald indicated that the rescue billing fund is the money generated from ambulance fees and that averages between \$350,000 to \$400,000 each year. Recent discussions on construction plans for a new public safety building have included the possibility of using rescue billing funds to finance the suggested project. The Council’s vote tonight will make the money available for the project. Previously town policy stated that only \$50,000 a year from the ambulance fund could be transferred to the general fund and otherwise the funds could only be used toward the purchase of public safety vehicles. The new policy states that the fund may be used for public safety vehicles and money deposited after August 4th may be used to finance the construction or refurbishing of a public safety building. The new policy will allow the transfer of money from the rescue billing fund to the Town’s general fund. It would not give a specific cap on the amount of money that can be transferred. It was noted that in June the Council approved the municipal budget that used \$325,000 from rescue billing funds to offset expenses. There was a great deal of discussion including the suggestion by Councilor O’Neill that the Policy be done away with but others felt it was a Policy that gave flexibility to the use of the Policy. Councilor O’Neill suggested the Town do away with the policy completely and all money from the rescue billing fund could go directly to the general fund and the Town could allocate the money as needed. Vice Chair Dayton indicated that these funds are non-tax revenue and should not be commingled with tax dollars in the general fund. It makes more sense to keep the funds in a separate account to make it easier to account for the money that is being generated.

MOTION: Councilor Tousignant motioned and Vice Chair Dayton seconded to Adopt new Policy to replace Town Council Policy 97-2, Rescue Billing Reserve Fund: Fund Use.

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

5269 Discussion: Provide Town Council input to Staff concerning Draft Marina Performance Standards that the Planning Board will begin discussing at their August 6 and August 13, 2009 meetings.

GARY LAMB: The LD 1119 procedural requirement to have a marina ordinance standard in place by September 10th, effective date of LD 1119. Planner Gary Lamb will summarize the result of a recent meeting with the Saco Bay Working Group regarding this issue. All parties recognize our top priority is to fulfill the LD 1119 procedural requirement to have marina ordinance standards "at least as strict" as Saco's. If we want to change our boundary prior to the Sept 10th effective date of LD 1119, marina standards must first be in place. Second priority was a strong sentiment that we should either prohibit any and all marinas...or at least have tough standards that discourage marinas in our jurisdictional portion of Saco Bay. It is very important to recognize that LD 1119 requires that we pass "marina standards". We spoke at length about whether we would meet the letter of the law if we simply prohibited any and all marinas...but did not create any "standards". This is an important legal distinction and our Legal Counsel feels that we should pass standards similar to Saco's now, get the boundary officially changed, and then move on to a more comprehensive look at our offshore zoning in the months or years ahead. Please know that a complete prohibition of marinas probably does not satisfy the requirement of having marina standards. If the town wants to prohibit marinas outright in the long run, that is fine...but we should enact such marina prohibition language after LD 1119 conditions are met and our boundary has changed. I agree with this philosophy as meeting LD 1119 specs now and getting our boundary changed is our most important task. Council should also remember that the present 18 month Saco Bay development moratorium does not expire until mid December 2009, thus precluding any applications for offshore development before then. I would appreciate Council input after you have read my Draft Marina Performance Standards. These draft standards essentially permit a private marina of up to 5 slips for vessels no longer than 30 feet. Commercial or public marinas are specifically prohibited. The Saco Bay Six group thought this language would meet the LD 1119 requirements yet also strongly discourage any marina applications. I merely want to know if you agree in concept with this approach since I need to initiate this ordinance change at the August 6, 2009 Planning Board meeting. I do not want to give the Planning Board draft ordinance language that is drastically different from what Council wishes to implement.

**Draft Marina Performance Standard text for OOB Zoning Ordinance
(version 2.0 by Gary Lamb after discussion July 16, 2009 with OOB citizen members
of former Saco Bay Working Group)
(underlined text has been added from version 1.0 of text and ~~strike through text~~ has
been deleted from version 1.0)**

Existing Article VIII – Performance Standards
New Division 12 - Marinas
New Section 78-2122 and beyond

Purpose. The purpose of this section is to establish minimum requirements for the siting, design, construction and operation of marinas to serve the needs of boaters, to protect the natural resources affected by marinas, and to protect the health, safety and welfare of the citizens of OOB. In order to meet these purposes, a marina proposal shall be subject to this section and to all applicable standards within this Zoning Ordinance.

Applicability. This section shall apply to:

- a. Any commercial, public, or private marina that is proposed as a new use, ~~or a proposed expansion of an existing marina, that is on or adjacent to the water and contains five or more slips or moorings, and/or provides berthing for commercial vessels that can accommodate more than twenty people.~~
- b. Any vessel maintenance or repair yard that is on or adjacent to the water.
- c. All public or commercial boat ramps.

Definitions (actually to be added to Chapter 78 Article 1 definitions section)

A Private Marina is defined as a facility providing dock facilities for no more than 5 vessels at any one time, with each vessel length not to exceed 30 feet.

A Commercial or Public Marina is defined as a facility providing dock facilities for more than 5 vessels at any one time.

~~Exemptions.—Moorings are exempt from the definition of dock facilities
This section shall not apply to:~~

- ~~a. Private slips or ramps that serve a single residence and are constructed exclusively for the personal use of the occupants of that residence.~~

Permitted Uses - Private marinas and moorings are a permitted conditional use in offshore waters within the jurisdiction of Old Orchard Beach.

Prohibited Uses - Commercial and public marinas are prohibited uses in offshore waters within the jurisdiction of Old Orchard Beach.

Submission Requirements. A Marina shall be subject to Site Plan Review, and as such is subject to submission requirements found in Article 78. In addition, any additional evidence or exhibits requested by town staff or the Planning Board shall be submitted in order to adequately respond to required submission items. To the extent that an application is subject to shoreland zoning review, all relevant shoreland zoning provisions and requirements set forth in Article 78 shall also be applicable.

Planning and Design Requirements.

Marinas shall only be located in areas which offer safe and convenient access to waters of navigable depth. Safe and convenient access shall be determined by the following Standards of Performance:

- a. Factors such as existing water depths, the size and draft of vessels for which the marina is proposed, and tidal and wave action shall be considered.
- b. Marinas shall be designed to minimize adverse impacts on the existing use and enjoyment of immediate and nearby waters.
- c. Marinas shall be sited and designed to afford adequate protection against wakes caused by vessel traffic to the maximum extent practicable.

d. Adequate restroom facilities for the use of marina patrons shall be provided so as to encourage the use of shoreside facilities, to discourage the overboard discharge of untreated or inadequately treated sewage from vessels, and to protect water quality.

e. Vessel maintenance areas shall be sited as far from the water as is practicable, and shall be designed so that all maintenance activities that are potential sources of air or waterborne contaminants shall be accomplished over dry land or indoors. A management plan for the control and disposal of hazardous materials, by-products, debris, residues, spills and stormwater runoff from maintenance areas shall be submitted. All drains from maintenance areas shall lead to a sump, holding tank, or pump-out facility from which the wastes can be removed for treatment and/or disposal.

f. Fuel storage and delivery facilities shall not be allowed in waters offshore of Old Orchard Beach. ~~be in accordance with local and state fire codes and/or with NFPA 303, 'Fire Protection Standards for Marinas and Boatyards.'~~ ~~All vessel fueling operations shall be undertaken at the fueling station or other specifically designated remote location in accordance with NFPA 302, 'Fire Protection Standards for Pleasure and Commercial Motor Crafts.'~~

g. Life safety equipment – flotation devices shall be provided at regular intervals throughout the marina to ensure the safety of marina users.

h. Lighting shall be in accordance with U.S. Coast Guard and/or U.S. Army Corps of Engineers requirements, and is subject to Article 78 Lighting Standards. In general, lighting shall be designed with maximum usage of full cutoff fixtures to ensure public safety and minimize visual impacts.

i. The owner or operator of a proposed marina shall maintain, at a minimum, insurance policies for comprehensive general liability, marina operators legal liability, pollution coverage/endorsement/riders, and any other policies as may be mandated by any State or Federal agency as part of any permitting, approvals, license conditions or otherwise. Verification of said policies shall be submitted to the Town prior to the issuance of a Certificate of Occupancy by the Code Enforcement Office.

j. Marina structures in, on or over submerged lands shall be designed to comply with applicable requirements of the State of Maine, and with the following:

1. They shall be designed to minimize adverse impacts on navigation, use of waters, and natural resources impacts.
2. They shall not significantly restrict water flows.
3. The width and length of all structures shall be limited to what is reasonable for the intended use, and shall minimize the shading of marine vegetation.
4. Barrier-free access for the handicapped that complies with the Americans with Disabilities Act and the Architectural Barriers Act Accessibility Guidelines shall be provided for all marina structures.
5. They shall have sufficient strength to resist all anticipated loading required of buildings in the Town of Old Orchard Beach, including but not limited to dead, live, wind, earthquake, snow, and impact loading.
6. They shall not be constructed using creosote treated timber.
7. No structure (other than a boat) shall exceed thirty-five (35) feet in height as measured either from the mean original grade at the downhill side of the structure, or from the surface of the water.

Standards. In addition to site plan review criteria found in Article 78, the Planning Board shall consider the following factors in reaching a decision:

a. Potential impacts to water quality and to visual and aesthetic enjoyment of the waters of Saco Bay will be minimized to the maximum extent practicable.

- b. Unavoidable impacts to aquatic and terrestrial resources have been or can be compensated to a practicable and appropriate extent.
- c. The potential effects on the public with respect to commerce, navigation, recreation, aesthetic enjoyment and natural resources have been minimized to the greatest practicable extent.
- d. The extent to which structures that extend beyond the Normal High Water Mark of Coastal or Tidal Waters are dependent upon water access for their primary purpose. Restaurants, decks, dwellings, and other non-water dependent structures that extend beyond the Normal High Water Mark of Coastal or Tidal Waters shall not be authorized by this section.
- e. The proposed location does not unreasonably interfere with access to existing marine structures or points of public access, or with existing developed or natural beach areas.

In discussion by the Council there were a few suggestions made to the Planner including Councilor Bolduc who suggested that the number of five slip marinas that could be approved for any one person or entity should be limited to one. Vice Chair Daytonn suggested moorings should not be exempted from marina standards. Vice Chair Dayton pointed out that the wording regulating the dumping of sewage be changed to “prohibited” and she requested that the Planning Board reconsider the height of a marina which in the proposed legislation was 5 stroies. Vice Cahir Daytonsuggested this was too high and should be reduced to 2 or 3 stories. Councilors Tousignant and O’Neill felt the suggested draft marina test is acceptable. Councilor O’Neill indicated that he felt the mooring exemption should remain in the test. Chair MacDonald had no comments either way. Vice Chair Vice Chair Daytonn suggested language under Standards (Section D) be changed from legalese to plain English. Planner Lamb commented that the legalese comes right from the State’s Shoreland Zoning language. Vice Chair Daytonn still requested a simplified explanation for those who read this language. Planner Lamb indicated that he will work with the Planning Board at their special meeting scheduled for Monday, August 24, 2009. A mandatory public hearing might be held on September 10th Planning Board meeting so Council discuss further at their September 15th meeting.

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5270 Discussion with Action: Determine that the Town will set speed limits on local roads pursuant to 29-A M.R.S.A., Section 2075(3)(E), and authorize the Chief of Police to provide written notice of that determination to the Maine Commissioner of Transportation.

CHIEF KELLEY: We have the authority for local roads if the Town Council wants to do that. If not, we have to follow the speed limits established by MDOT, and contact them if we wish to have a speed limit amended. Council will have the final word on any changes to be made.

**Maine Local Roads Center
Setting Speed Limits on Local Roads**

September, 2001

As a result of LD 643 in the 120th Maine Legislature, the law has changed relative to WHO has authority to set speed limits on Maine's local roads. The new law was signed by the governor on May 29, 2001 as Public Law 2001, Chapter 313. It amends [Title 29-A § 2075, §-3](#) and became effective on September 21, 2001.

Here are the highlights:

- The MDOT no longer has sole authority or responsibility for speed limits in Maine. Certain municipalities will now have the full responsibility and authority for setting speed limits on local roads after providing written notice to MDOT if they choose that option.
- Only “qualifying municipalities” will have this authority. A “qualifying municipality” is one that (1) has a population over 2,500 as measured by the last US Census, or (2) employs a Professional Engineer (PE) licensed in Maine.
- Qualifying roads are ONLY town ways which are federally classified as “local” roads. Typically, these are local neighborhood streets and not the busier main roads through town.
- In order to accept this responsibility, the municipality MUST provide written notice to the Commissioner (on the proper MDOT form letter) and understand that it shall accept the full responsibility to set speed limits on ALL qualifying roads in that town ---- not just a few roads for a short amount of time. The municipality will now be “in the speed zoning business” and will accept all the pros and cons related to this work.
- Regardless of whether your town is an “urban compact” town or not, local control will ONLY apply to local roads or “town ways”. Speed limits on State or State Aid highways will remain the full responsibility of the MDOT.
- Speed zoning is a technical subject and requires proper review and analysis of many factors. Therefore, all speed limits must be set in conformance with procedures set forth in the Manual on Uniform Traffic Control Devices (MUTCD). Traffic engineers also agree that an unreasonably low speed limit WILL NOT “get people to slow down”. Speed limits which are set too low do a disservice to everyone and breed greater disrespect for the law.
- Speed limits must be in 5 mph increments and be within the following ranges:

1) From 20 to 25 mph, inclusive, for roads in a business or residential district or a compact area, except that 15 mph can be used on roads on islands not accessible by road, or dead end roads less than ¼ mile in length, and

2) From 30 to 50 mph, inclusive, on roads in all other areas.

- Any municipally-set speed limits are legal if the following 3 steps are followed:

1) The limits must be validated as a municipal traffic ordinance as set forth in [Title 30-A, § 3009](#).

2) Standard speed limit signs must be posted per the MUTCD (min 24 by 30 inches), and

3) Written notice of the speed limit zones must be sent to the MDOT (on MDOT form letter) after passage of the municipal traffic ordinance.

- For those towns which have a population of 5,000 or more, the MDOT may require the town to gather all the proper technical information, send it to MDOT, and the MDOT will determine the actual speed limit. The technical data will include number of driveways, traffic volume, prevailing speed, accident history, and speed enforcement efforts, etc.

MOTION: Councilor Tousignant motioned and Vice Chair Dayton seconded to Determine that the Town will set speed limits on local roads pursuant to 29-A M.R.S.A., Section 2075(3)(E), and authorize the Chief of Police to provide written notice of that determination to the Maine Commissioner of Transportation.

VOTE: Unanimous.

5271 Discussion with Action: Approve the Special Event Permit Application for the “Back to the Beach Corvette Weekend Parade” on June 12, 2010, from 4:40 p.m. to 5:00 p.m.

MOTION: Councilor Tousignant motioned and Councilor O’Neill seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5272 Discussion with Action: Approve the Special Event Permit Application for the Marshall & St. Pierre Wedding Ceremony to occur on the beach in front of the Waves Hotel (87 West Grand Avenue) on June 12, 2010 from 4:30 p.m. to 5:00 p.m.

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5273 Discussion with Action: Approve the Special Event Permit Application for the Recreation Department for the Old Orchard Beach Recreation Department to host the 2009 Beach Slam 3 on 3 Basketball Tournament on Thursday, August 27 from 8:30 a.m. to 8:00 p.m.; Friday, August 28 from 3:00 p.m. to 8:00 p.m.; Saturday, August 29 from 8:30 a.m. to 8:00 p.m. in Memorial Park; and a request to waive the fee.

MOTION: Councilor Tousignant motioned and Vice Chair Dayton seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5274 Discussion with Action: Approve the Special Event Permit Application for the Brunswick/Oceanside Grill to host a UNUM Corporate function at the Brunswick on Wednesday and Thursday, August 5 and 6, 2009; with a rain date of Wednesday and Thursday, August 12 and 13, 2009; from 10:00 a.m.

to 6:00 p.m.; and approve parking at the Ballpark with parking attendants to be provided by the Brunswick; and a request to waive the fee in lieu of a donation to the Ballpark Enterprise Fund for the use of the Ballpark.

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to approve the Special Event Permit Application as read.

VOTE: Unanimous.

5275 **Discussion with Action:** Approve payment of \$10,140.03 (31.52%) to the Regional School Union for services provided from December 1, 2008 to June 19, 2009 from Account Number 10012-20120 - Teacher Summer Salaries- Booked, with a balance of \$258,079.71.

CHAIR MACDONALD: This is payment for the RSU from December 1, 2008 through June 19, 2009 including Election costs relative to the RSU Budget Validation Election.

MOTION: Vice Chair Dayton motioned and Councilor O'Neill seconded to Approve payment of \$10,140.03 (31.52%) to the Regional School Union for services provided from December 1, 2008 to June 19, 2009 from Account Number 10012-20120 Teacher Summer Salaries- Booked, with a balance of \$258,079.71.

VOTE: Unanimous.

5276 **Discussion with Action:** Approve the Town of Old Orchard Beach Web Site Policy.

TOWN COUNCIL POLICY 09-02

TOWN OF OLD ORCHARD BEACH

Terms of Use Town of Old Orchard Beach Official Web Site

The Town of Old Orchard Beach provides this web site as a public service. Unauthorized attempts to modify any information stored on this site or utilize this site for other than its intended purposes are prohibited. The Town makes no claims or guarantees about the accuracy or currency of the contents of this web site and expressly disclaims liability for errors and omissions in its contents.

No warranty of any kind, express or implied, including but not limited to the warranties of non-infringement of third party rights, title, merchantability, fitness for a particular purpose and freedom from computer virus, is given with respect to this web site or its links to other web sites. All information and data on this web site is subject to change without notice. Neither the Town nor its affiliates, employees or agents shall be liable for any loss or injury caused in whole or in part by use of this web site or in reliance upon the information contained herein or linked hereto. You understand and agree that any material downloaded or otherwise obtained through the use of this web site is done at your own risk and discretion and that you will be

solely responsible for any damages to your computer system or loss of data that results from the download of such material.

Privacy.

The only information the Town will obtain about you when you visit this site is the information you provide to it. The Town's use and dissemination of the information you provide is governed by laws including without limitation the Maine Public Records Law, the Maine Fair Information Practices Act, and laws relating to the confidentiality of tax, wage reporting, and child support information. The Town does not sell or rent information about its users, but it may share or exchange information in accordance with applicable law. Any requests submitted under the Freedom of Information Act shall be submitted on the Town of Old Orchard Beach Request for Access to Public Records form and given to the Freedom of information officer designated by the Town Council.

General and/or Zoning By-laws

Copies of any laws found on this web site, including without limitation Code of Ordinances, Zoning laws and regulations, are provided as a service to Town residents and other interested parties. The Town makes no representations, promises or guarantees about the accuracy, currency, completeness or adequacy of the contents of these laws, and expressly disclaims liability for errors and omissions in their contents. In any situation where the official printed publications of the Town differ from the text contained in this web site, the official printed publications shall take precedence. Pursuant to Maine Law, official printed copies of general and zoning laws and regulations are maintained in the office of the Town Clerk.

Town of Old Orchard Beach's Policy on Municipality Web Site Links and Information

The purpose of this web site is to provide information about the local government, services, and attractions. This web site may provide links to web sites outside the locality's web site that also serve this purpose. The Town is not responsible for and does not endorse the information on any linked web site unless the Town's web site states otherwise. The following criteria will be used to decide whether to grant requests for Town web site links. If a particular request does not fit any of the following criteria, the local authority will decide whether to approve the request. The local authority may in its sole discretion approve the requested web site link if it serves the general purpose of the Town's web site.

The Town's web site may in the Town's sole discretion provide links to web sites for:

1. Governmental and educational institutions;
2. Organization with some relationship to the Town (including but not limited to: organizations contracting with the Town, organizations sponsoring Town activities or programs, and organizations participating in municipal activities or programs);
3. Generally recognized community organizations (committee, boards, volunteer organizations);
4. Organizations providing information about art, cultural, and sporting and recreational activities in the Town's area;
5. Organizations providing information about tourist attractions, or are holding Special Community Events, in the Town's area.

The Town's web site will not provide links to web sites for:

- 1. The Town of Old Orchard Beach will not provide a link from the Town's web site to sites: promoting illegal activities, sexually explicit sites, libelous or otherwise defamatory content, sites belonging to or supporting a political affiliation, sites which furthers the agenda of a political organization or candidate running for office, sites that exhibit hate, bias, discrimination, or sites containing information violating any of the Town's Ordinances. This does not prohibit the Town from posting current elected officials on their website, with necessary contact information, and a link to that official's home page to aid voters attempting to contact their elected officials.**
- 2. Corporate or other for-profit organizations unless they fit any of the criteria stated above.**
- 3. Individual or personal homepages.**

The Town reserves the right in its sole discretion to deny any requested web site link and to modify this policy at any time without notice.

The Council had discussion on this issue and the question of what efforts would be taken to make sure there is no plagiarism.

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to Approve the Town of Old Orchard Beach Web Site Policy with special attention being given those efforts are made to avoid any plagiarism.

VOTE: Unanimous.

5277 Discussion with Action: Set the Public Hearing Date of August, 2009 to Amend the Code of Ordinances, Section 54-187, Restrictions and Prohibitions, Seavey Street.

**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 August 18th, 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 section 54-187, Restrictions and Prohibitions, of the Town of Old Orchard Beach Traffic Ordinance is amended by deleting the strikethrough language and adding the underscored language:

Seavey Street. Seavey Street is designated as "one way." Vehicles are allowed to enter Seavey Street from Old Orchard Street and proceed in a northerly direction. Parking shall be allowed on ~~both~~ the left sides of Seavey Street.

MOTION: Vice Chair Dayton motioned and Councilor O'Neill seconded to Set the Public Hearing Date of August, 2009 to Amend the Code of Ordinances,

VOTE: Unanimous.

5278 Discussion with Action: Set the Public Hearing Date of August 18, 2009 to Amend the Code of Ordinances, Section 54-187, Restrictions and Prohibitions, Smithwheel Road.

**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 August 18th, 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 section 54-187, Restrictions and Prohibitions, of the Town of Old Orchard Beach Traffic Ordinance is amended by adding the underscored language:

Smith Wheel Road. 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. A right hand turn only shall be permitted from Smithwheel Road onto Rte 5 (also known as the Ocean Park Road).

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to Set the Public Hearing Date of August 18, 2009 to Amend the Code of Ordinances, Section 54-187, Restrictions and Prohibitions, Smithwheel Road.

VOTE: Unanimous.

5279 Discussion with Action: Appoint the following as members of the Finance Committee: Neal Weinstein; Jerome Plante, Michael Gray; Peter Prinz; and Gary Salamacha.

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to Appoint Neal Weinstein; Jerome Plante, Michael Gray; Peter Prinz; and Gary Salamacha; as members of the Finance Committee.

VOTE: Unanimous.

5282 Discussion with Action: Declaration of Emergency: The Town Council hereby determines and declares that, in order to assure continuity in administration of Government and achieve an orderly transition of the Town Manager's duties, this Order requires adoption as an emergency order. Be it Ordered: The resignation of Stephen J. Gunty as Town Manager is accepted effective August 14, 2009 and the attached Separation Agreement dated August 4, 2009, is approved.

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to accept the Resignation of Town Manger Stephen Gunty as read.

VOTE: Unanimous.

GOOD & WELFARE:

JACK SARNO: Madam Chair, Town Council Members, and Town Manager. I have two issues that I would like to bring back to your attention and to the residents of Old Orchard Beach. Councilor O'Neill during the Town Council Meetings dates June 2, 2009 and June 16, 2009 initiated the first issue I would like to talk about. The subject was false allegations against the Town Administration. Madam Chair, I have responded to this issue to you and the Town Councilors via e-mail on July 18, 2009. I would like to read it to the residents of Old Orchard Beach. "Councilors, if you truly believe what was stated by me, I would ask you to step forward and take action to right the wrong concerning the bond approval regarding West Grant Avenue/Ocean Park Flooding Resolution. Councilors, I would ask you to schedule a workshop to discuss what the 1.85 million dollars is getting used for. It sure is not going to resolve the flooding as originally stated per the bond proposal. Town Council Members should not be left out of the decision making as they have in this case. I say this because there was never a Town Council Workshop open to the public to discuss this matter. The Department of Public Works Director initiated the only meetings held with personal invitations to the residents of Ocean Park to attend the meetings. I believe there were two meetings arranged. Madam Chair, I believe that all Council Members and residents of Old Orchard Beach should have had the right to voice concerns, not a select few."

I would like to read my e-mail of July 17, 2009. "Madam Chair. My letter is a response to Councilor O'Neill's accusations stating that this administration is being wrongly accused by Council members and the public. I am one who has voiced my issues and concerns to the Council and I take this statement very personal. The Town Council meeting dated June 2, 2009 it was stated by Councilor O'Neill that a lot of misinformation was being stated about the Town administration. I would assume he was referring to the Department of Public Works. I state that because I was one who

spoke out about the bond issues involving the Round- About Bond and the West Grand/Ocean Park Flooding Bond. These two issues seemed to irate him therefore he requested the following. Councilor O'Neill requested to the Chair to have the administration collect all information regarding (not actually sure what he was referring to) the issues at hand, so he may present the facts to the public. Request was granted and the administration was assigned the task. The Town Council meeting dated June 16, 2009 it was stated by Councilor O'Neill he has the facts and it will be available for the public to read. The package was about three inches thick with some CD disks. It would be available in the Town Clerk's office for the public to read. His goal I would assume was to disprove stated allegations. I went to the Town Clerks office that week and read what information that was available that involved my statements about the bond issues. I did not view the CD's, just the documents. There was no evidence or information in the documents to show what I have stated was untrue or incorrect. Madam Chair, I stand firm with my statements that the voters of Old Orchard Beach was misled on that bond issues that I referred to. It may not have been done intentionally but it has created some serious concerns. Before this Town Council moved forward on the West Grand Ocean Park Bond Project, I would ask they review from start to finish the project and how it is about to grow from 1.85 million dollars to who knows what amount with all these new phases for completion. Madam Chair, you asked the most important question to the Department of Public Works Director. It was, will this approved bond resolve the total flooding issues in Ocean Park? The reply was No. The bond voted on by the residents for completion was 1.85 million, no more, no less. Madam Chair, if Councilor O'Neill has the correct facts to disprove my allegations then ask him to come forward and present them. If I am wrong, I will apologize to him, the administration and the public. Thank you for your time and concern in this matter."

My second issue pertains to my submitting an Access to Public Records request in which I have not as yet received a satisfactory reply from the Town Administration. Question One: Agent Item 1097, dated March 3, 2007. Question Two. Council chose to support improvements to West Grand Avenue on November 2007. Madam Chair, I e-mailed you and the Town Council about the subjects on March 11, 2009, May 18, 2009; and July 8, 2009. I would like to read it to the residents of Old Orchard Beach. "Madam Chair as I stated no answers from the Town Administration as yet on question one. Could you please address this question to the auditor or financial director to explain where the money went and why it was moved elsewhere? Madam Chair, on question two, no information or documents submitted as yet. Madam Chair, as yet no resolution has been brought forward as we requested during our workshop on March 3, 2009. The topic of discussion was flooding issues related to Milliken St./Walnut Street area. The Department of Public Works Director and the Planning Board Director were putting together an action plan. Have you heard from them yet because Move the Dam Committee has yet to hear from them?"

I would like to read my e-mails of March 11, 2009. "Madam Chair, at a recent Town Council Workshop held March 1, 2009, the meeting was to discuss drainage and flooding issues related to the Milliken/Walnut Street area. Move the Dam Water Committee and the residents would like to thank you for bringing this issue forward once again. We are hoping this time that the sitting council will move in the right direction to help us. During my presentation I brought up two issues that are still concerning to myself and our committee. Question 1. Town council meeting dated March 3, 2007, agenda item 1097. Accept Engineering study by Wright Pierce on the

amount of \$22,000. Money got approved but I did not recall if the project was completed. As stated, I submitted on Access to Public Records Request to the Assistant Town Manager for an inquiry to this matter. I did get a response but was not satisfied with the answer. Per the Department of Public Works Directors letter dated February 26, 2009 (Council has copies), it stated that the study was not completed. There is currently a balance of approximately \$260,000 dollars left in this account. My question to the Council was what happened to the \$21,740 dollars that was earmarked for this study that is no longer there. I have not yet received a reply from this Council. Question two: Also in the same letter dated February 26, 2009, it was stated by the Department of Public Works Director that in November 2007, the Council chose to support the improvements to the West Grand Area for the first Bond Package. Madam Chair, I asked, is there documentation to verify this statement. You directed this question to the Town manager for a reply and he stated hat he would get it to me. What was sent to me by the Assistant Town Manager (Council has copies) makes no reference to the November 2007 statement I would ask the Chair once again for verification of statement written by the Department of Public Works Director. Madam Chair, I will be away from the area for six weeks but would appreciate any correspondence to this issue be sent to one of my committee members. Once again thank you or your assistance and concern.”

Madam Chair, I wish to read an e-mail of July 8, 2009. “On March 11, 2009 I sent you (copied Town Council) an e-mail asking or a reply on the two questions that were of concern to me and my committee. The two questions asked were issues discussed during the workshop dated March 3, 2009. I have been gone since Mary 14, 2009 and just returned on May 8, 2009. As of today (May 18, 2009) neither I nor my committee has heard from you. During my absent I contacted Councilor Robin Dayton a few times for a possible update on my request. I probably should have contacted you but I felt you did not need to be pressured so I inquired through her for updates. As you know on May 12, 2009 Vice Chair Dayton sent me a copy of the e-mail sent to her by Mr. Gunty. The e-mail was from Wright Peirce Engineering dated May 11, 2009 referencing W-P Project 10995A. My interpretation of the data sent and the statements made by the Department of Public Works Director is that the original 22,000 approved for the project on March 20, 2007 never moved forward. Therefore funds were either diverted or transferred to another project without the consent of the Town Council. Is this the norm or was it supposed to be brought back to Council on funds approved but not spent before it went elsewhere. Ad I sit and write this e-mail I know no more now than before. Something is not right. The original study that was approved I thought was to study the storm water drainage problem on Milliken Street/Walnut Street. Madam Chair, Move the Dame/Water Committee is asking for your interpretation or clarification on what transpired and what measures you can put into place to prevent this from happening in the future. I am also waiting for clarification on my second question; it seems to have been overlooked. Madam Chair, we had a workshop on March 3, 2009 to discuss the drainage and flooding issues related to the Milliken/Walnut Street area and the outcome of that meeting was to get final recommendations from the Department of Public Works and the Department of Economic Development (Planning/Building Department.) I have not heard or seen any actions on this. If you have any information or updates that I can pass on to my committee it would be appreciated.”

Deleted: Councilor Dayton

Deleted: n

COUNCILOR O’NEILL: The facts have been presented to Mr. Sarno. He is just not willing to

accept the explanations and documents that were presented. I will not continue to address his issues because they have been addressed to the fullest. Unless he accepts what he has been given there it not much that we can do further.

5280 Discussion with Action: AFSCME Council 93, Local 481-06, Old Orchard Beach Waste Water Treatment Plant Union Contract, pursuant to 1 M.R.S.A., Section 405, 6(d). (Note: This item discusses labor negotiations and the Council anticipates that the discussion portion will occur in executive session).

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to Enter into Executive Session pursuant to 1 M.R.S.A., Section 405, 6(d) - AFSCME Council 93, Local 481-06, Old Orchard Beach Waste Water Treatment Plant Union Contract.

VOTE: Unanimous.

5281 Discussion with Action: AFSCME Council 93, Local 481-06, Old Orchard Beach Public Works Department Union Contract, pursuant to 1 M.R.S.A., Section 405, 6(d). (Note: This item discusses labor negotiations, and the Council anticipates that the discussion portion will occur in executive session).

MOTION: Vice Chair Dayton motioned and Councilor Tousignant seconded to enter into Executive Session pursuant to 1 M.R.S.A., Section 405, 6(d) - AFSCME Council 93, Local 481-06, Old Orchard Beach Public Works Department Union Contract, . (Note: This item discusses labor negotiations, and the Council anticipates that the discussion portion will occur in executive session).

VOTE: Unanimous.

EXECUTIVE SESSION:

MOTION: Vice Chair Dayton motioned and Councilor Bolduc seconded to close the Executive Session pursuant to 1 M.R.S.A., Section 405, 6(d) - AFSCME Council 93, Local 481-06, Old Orchard Beach Waste Water Treatment Plant Union Contract.

VOTE: Unanimous.

MOTION: Vice Chair Dayton motioned and Councilor Bolduc seconded to close the Executive Session pursuant to 1 M.R.S.A., Section 405, 6(d) - AFSCME Council 93, Local 481-06, Old Orchard Beach Public Works Department Union Contract,

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to adjourn the Executive Sessions.

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 (20) pages is a true copy of the original Minutes of the Town Council Meeting of August 4, 2009.

V. Louise Reid