

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, AUGUST 5, 2008 – 7:00 P.M.
TOWN HALL CHAMBERS
AGENDA**

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, August 5, 2008 in the Town Hall Chamber. The Chairman opened the meeting at 7:00 p.m.

Pledge to the Flag and Roll Call:

Present were:

**Chairman James Long
Councilor Roxanne Frenette
Councilor Shawn O’Neill
Councilor Robin Dayton
Councilor Sharri MacDonald
Town Manager Stephen Gunty
Assistant Town Manager V. Louise Reid**

MOTION: Councilor O’Neill motioned and Councilor Frenette seconded to table the presentation of the Regional Planning Commission (RPC) until a later date.

VOTE: Unanimous.

MOTION: Councilor O’Neill motioned and Councilor Frenette seconded to remove without prejudice Agenda Item 4028 – Discussion with Action: Approve the Special Event Permit for L.L. Bean to hold a Spring/Summer ’09 Still Photo Shoot for their Kids Catalog for one day between August 13 and August 24, 2008, between the hours of 8:00 a.m. and 8:00 p.m. on the beach in front of Palace Playland.

VOTE: Unanimous.

MOTION: Councilor O’Neill motioned and Councilor Frenette seconded to move Good and Welfare before Agenda Item Number 5033.

VOTE: Unanimous.

ACKNOWLEDGEMENTS

COUNCILOR FRENETTE: We thank the Library and all their supporters for the wonderful event held a week ago in Memorial Park in which fabulous displays of art were unveiled and for the exciting events surrounding that day. It was a pleasure that day to have the opportunity to select a picture for the Town for our support of that event. The picture I chose displayed behind our Council chairs this evening is the work of Chris Griffith of Great Moose Aerial Art who graciously provided this more expensive piece of art. I would like to introduce Chris and thank him.

COUNCILOR DAYTON: I would also like to thank all who participated in the Library Book Sale which I understand was very successful raising about \$700.

ACCEPTANCE OF MINUTES: Town Council Minutes of July 15, 2008; and Town Council Workshop Minutes of July 23, 2008.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to accept the Town Council Minutes of July 15, 2008 and the Town Council Workshop Minutes of July 23, 2008.

VOTE: Unanimous.

BUSINESS LICENSES: Mark A. & Tracey L. Sardella (210-2-24), 1 Jeannette Avenue, Unit #10, one year round rental; Paula Goodman (302-3-3), 19 Puffin Street, Unit B, one seasonal rental; and Catherine A. Jordan (312-6-9), 39 West Old Orchard Avenue, one year round rental.

MOTION: Councilor Dayton motioned and Councilor Frenette seconded to approve the Business Licenses as read.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMITS: Paul Dussault & Louise Lesperance dba/Joseph's by the Sea (310-3-3), 55 West Grand Avenue, Entertaining & Dancing and Armand Vachon & Daniel Raye dba/Oceanic Inn, Inc. dba/One Soho Square (310-6-3), 43 West Grand Avenue, Entertaining & Dancing.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to a Approve the Special Amusement Permits as read.

VOTE: Unanimous.

NEW BUSINESS:

5021 Discussion with Action: Accept the bid for sale of the tax-acquired Town Property located on Maplewood Avenue, Map 311, Block 9, Lot 10.

CHAIRMAN LONG: The Town Council authorized the Town Manager to follow the procedures to dispose of tax acquired property for the two tax-acquired parcels on Maplewood Avenue identified in Map 311, Block 9, Lot 10X and Map 311, Block 9, Lot 13X. It should be noted that the Town Clerk, the Assessor and the Code Enforcement Departments have participated in the preparation of this material and have agreed to its format as has our legal counsel. The Zoning Standards for the R-2 Zone are extremely severe on very small parcels, i.e., 20 foot front and rear yard setbacks and fifteen foot each side yard setbacks leave both lots in question with no build able land. Even with maximum relief from these standards by the Zoning Board of Appeals, the land would be minimal size. The suggested minimal bid would be \$5,000 per lot. The latest liens placed of record for the two parcels of tax-acquired property on Maplewood Avenue were filed on May 19, 1977 in the York County Registry of

Deeds. The line instrument for Parcel #311-9-10 is recorded in book 2194, page 68. The lien instrument Parcel #311-9-13 is recorded in book 2194, page 69. The schedule and timeline for a sale that conforms to the Town's procedures governing disposition of tax-acquired properties is as follows:

May 6, 2008: Place the action item on the Town Council agenda.

May 11, 2008 (Sunday): The Maine Sunday Telegram will run a legal ad referencing the sale and the sealed bid procedures to sell the two tax-acquired Maplewood Avenue parcels.

May 12, 2008 (Monday): Bid packets will be made available to interested bidders at the Town Clerk's Office.

June 13, 2008 (Friday): To be considered, sealed bids must be received back at the Town Clerk's Office by 4 p.m.

June 16, 2008 (Monday): The sealed bids will be opened and read at noon time in Council Chambers.

On June 17, 2008 (Tuesday), the Town Council will be given copies of the sealed bids (delivered to your homes by the Police). Between June 17, 2008 and the regular Town Council meeting of July 1st, the Town Council should hold an executive session to discuss the sealed bids and disposition of the properties in accordance with the best interests of the Town. Atty. Vaniotis advises that an executive session is allowed under the open meeting law and is the preferred procedure because the Town Council should not disclose the bid values or value of the property, etc. in open session, because you may reject all bids. The wording for the Special Town Council meeting would be: Discussion with action: Discussion of disposition of publicly held property on Maplewood Avenue. (Note: this item discusses issues appropriate for executive session under Title 1 M.R.S.A. Section 405(6)(C) as "Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.")

ORDERED:

1. The bid of _____, dated _____, to purchase the property on Maplewood Avenue, Map 311, Block 9, Lot 10X and Map 311, Block 9, Lot 13X is accepted.
2. The Town Manager is authorized to enter into a Purchase and Sale Agreement with _____, pursuant to the terms and conditions of the Bid Specifications and the accepted bid.

The Town Manager is authorized to execute and deliver the property deed and all other documents necessary to complete the sale.

Town of Old Orchard Beach, Maine
Notice of Public Sale of Tax Acquired Property

OFFICIAL NOTICE

Please take notice that the Town of Old Orchard Beach will conduct a public sale of the following property in Old Orchard Beach, subject to the following procedures and conditions of sale:

Maplewood Avenue Map 311, Block 9, Lot 10

These properties were acquired by the Town through the foreclosure of tax liens filed under 36 M.R.S.A. sections 942 and 943. The sale will be conducted through a sealed bid process according to the following terms and schedule:

1. The Town reserves the right to set minimum bids for the property in an amount approximately the amount of outstanding taxes, municipal charges, fees, expenses and interest as may be due or as may have been incurred by the Town in connection with its administration of the properties and this sale. The minimum acceptable bid for property subject of this sale is as follows:

| | | |
|------------------|--------------------------|------------|
| Maplewood Avenue | Map 311, Block 9, Lot 10 | \$5,000.00 |
| Maplewood Avenue | Map 311, Block 9, Lot 13 | \$5,000.00 |

2. All bids must be submitted on the attached Notice of Bid form and submitted to the Town of Old Orchard Beach in a sealed envelope addressed to “The Town of Old Orchard Beach, Tax Acquired Property Sale, c/o Town Clerk’s Office”.

3. To qualify, all bids must be stamped and signed as received by the Town of Old Orchard Beach at One Portland Ave., Old Orchard Beach, ME 04064 on or before 3:00 PM on _____, and a deposit in the amount of 10% of the total bid amount must accompany all bids. The deposit must be in the form of certified funds or a cashier’s check made out to “The Town of Old Orchard Beach”. Personal checks will not be accepted. Bid deposits submitted by the successful bidder shall be applied to the total purchase price paid at closing.

4. The Town of Old Orchard Beach, in its sole discretion and right, reserves the right to accept or reject any bid and the right to make or not make any award of any bid that the Town, in its sole discretion, determines will be or will not be in the best interests of the Town. Bids will be opened publicly and read by the Town Clerk’s Office in Council Chambers at the Town Hall at 3:00 PM on _____.

5. Successful bidders must execute a Purchase and Sale Agreement substantially in the form of the attached Purchase and Sale Agreement within 15 days of the Town’s acceptance of a successful bidder’s bid. If a successful bidder does not timely execute the Purchase and Sale Agreement within 15 days of being awarded the bid the Town shall retain the successful bidder’s deposit check.

6. Upon the identification of the successful bidders, other bidders may then elect to withdraw their bids by providing written notice of the withdrawal to the Town. Bidders may use the attached Notice of Bid Withdrawal Form. Unsuccessful bidders who elect to withdraw and not continue their bids after the successful bidders are identified shall receive back their deposits. Bids that are not withdrawn according to this procedure shall continue as viable bids that the Town may accept in the event that successful bidders do not timely execute the required Purchase and Sale Agreement within 15 days of the acceptance of their bids.

7. If a successful bidder fails to timely execute the required Purchase and Sale Agreement, the Town may in its discretion award bids to other qualified bidders who have not withdrawn their bids according to the requirements of Paragraph 7. In the event that the Town accepts the bids of other qualified bidders, the remaining unsuccessful bidders may then withdraw or continue

their bids according to the terms and requirements of Paragraph 7. New successful bidders shall be required to execute the required Purchase and Sale Agreement within 15 days of the date of being awarded the bid or the Town will retain their deposit check.

8. Upon completion of the transfer of the properties, the Town will return all remaining bid deposits of unsuccessful bidders by mail to unsuccessful bidders at the address they include on the bid form.

9. Conveyance of the property shall be by a Maine statutory Municipal Short Form Quitclaim Deed. The transfers shall be subject to any and all encumbrances and other liens of record and tenancies and occupancies of the property as of the date of the conveyance.

10. Bidders are strongly encouraged to seek legal assistance concerning matters related to the properties, including but not limited to: title, encumbrances, permitted activities or uses, occupancy or tenants. All properties are offered and sold by the Town on an "as is" basis with no express or implied warranties as to title, condition, acreage or boundaries, encumbrances, environmental matters, suitability or fitness for any purpose.

11. Bid packages may be obtained from the Town Clerk's Office, Town of Old Orchard Beach, One Portland Ave., Old Orchard Beach, ME 04064. Telephone (207) 934-4042.

**Town of Old Orchard Beach, Maine
Public Sale of Tax Acquired Property
Bid Response Form**

In order to bid in the Town of Old Orchard Beach, Maine Public Sale of Tax Acquired Property to take place on _____, all bidders must timely complete and return this form and conform to all other conditions of the sale.

Please note that the Town will rely on the information you supply on this form in administering the bid and sale process and awarding the bid. Bid Response forms and deposits must be stamped and signed as received by the Town of Old Orchard Beach on or before 3:00 PM on _____. Late bids or bids submitted without required deposits will not be accepted.

1. Parcel or property to be bid on: **Maplewood Avenue, Map 311, Block 9, Lot 10**

2. Name of Bidder: _____
(Please print your name. If a business name, please also provide the name of contact Person(s).)

3. Bidder's Address: _____
(Please provide your postal address. Note: The Town will use this address for all correspondence related to the bidding, bid process and sale of the property).

4. Daytime Telephone: _____ Fax: _____
(Telephone number(s). Note the town will use these numbers for communications related to the bidding, bid process and sale of the property).

5. Bid Amount: \$ _____, _____ U.S. Dollars
(Bid Amount. Please include here numerically and written out the full amount of your bid for the property. All bids must be in United States Dollars).

6. Bid Deposit: \$____.____, _____ U.S. Dollars
(To qualify as a bid in the sale, you must return with this form a bid deposit in the amount of 10% of your bid price or \$200, whichever is greater, the funds to be either a bank check or certified funds payable to “The Town of Old Orchard beach”).

7. Bidder’s signature and date: _____
(All bids must be signed and dated by the Bidder or his or her designated agent).

This form is a legal document and may bind the signer to certain obligations and consequences if accepted by the Town. The Town recommends that all bidders consult with their attorneys to review title, encumbrances, occupancy and other conditions related to the property and the sale which is the subject of this bid before executing and submitted this form. The Town of Old Orchard Beach reserves the right to reject or accept any bid and the right to make or not make any award of any bid that the Town, in its sole discretion, determines will be or will not be in the best interests of the Town. Successful bidders will forfeit their deposit in the event that they fail to timely complete the terms of the sale.

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Public Sale of Tax Acquired Property
Bid Response Form**

In order to bid in the Town of Old Orchard Beach, Maine Public Sale of Tax Acquired Property to take place on _____, all bidders must timely complete and return this form and conform to all other conditions of the sale.

Please note that the Town will rely on the information you supply on this form in administering the bid and sale process and awarding the bid.

Bid Response forms and deposits must be stamped and signed as received by the Town of Old Orchard Beach on or before 3:00 PM on _____. Late bids or bids submitted without required deposits will not be accepted.

1. Parcel or property to be bid on: Maplewood Avenue, Map 311, Block 9, Lot 13

2. Name of Bidder: _____
(Please print your name. If a business name, please also provide the name of contact Person(s)).

3. Bidder’s Address: _____
(Please provide your postal address. Note: The Town will use this address for all correspondence related to the bidding, bid process and sale of the property).

4. Daytime Telephone: _____ **Fax:** _____
(Telephone number(s). Note the town will use these numbers for communications related to the bidding, bid process and sale of the property).

5. Bid Amount: \$____.____, _____ U.S. Dollars
(Bid Amount. Please include here numerically and written out the full amount of your bid for the property. All bids must be in United States Dollars).

6. Bid Deposit: \$____.____, _____ U.S. Dollars

(To qualify as a bid in the sale, you must return with this form a bid deposit in the amount of 10% of your bid price or \$200, whichever is greater, the funds to be either a bank check or certified funds payable to "The Town of Old Orchard beach").

7. Bidder's signature and date: _____
(All bids must be signed and dated by the Bidder or his or her designated agent).

This form is a legal document and may bind the signer to certain obligations and consequences if accepted by the Town. The Town recommends that all bidders consult with their attorneys to review title, encumbrances, occupancy and other conditions related to the property and the sale which is the subject of this bid before executing and submitted this form. The Town of Old Orchard Beach reserves the right to reject or accept any bid and the right to make or not make any award of any bid that the Town, in its sole discretion, determines will be or will not be in the best interests of the Town. Successful bidders will forfeit their deposit in the event that they fail to timely complete the terms of the sale.

**Town of Old Orchard Beach, Maine
Public Sale of Tax Acquired Property
Notice of Bid Withdrawal Form**

This form may be used to withdraw a bid in the Town of Old Orchard Beach, Maine Public Sale of Tax Acquired Property that took place on _____. For the withdrawal of bids to be effective, this form or other written notice must be received by the Town either before the bids are opened or after the identification of the successful bidders. Unsuccessful bidders who elect to withdraw and not continue their bids after successful bidders are identified shall receive back their deposits. Bids that are not withdrawn accordingly shall continue as viable bids that the town may accept in the event that successful bidders do not timely execute the required Purchase and Sale Agreement within 15 days of the acceptance of their bids.

To the Treasurer of the Town of Old Orchard Beach:

Please take notice that the following bid made in the Town of Old Orchard Beach, Maine Public Sale of Tax Acquired Property of _____, 2008, is hereby withdrawn.

1. Parcel or property bid on: Maplewood Avenue, Map 311, Block 9, Lot 10

2. Name of Bidder: _____
(Please print your name. If a business name, please also provide the name of the contact person(s)).

3. Bid Amount: \$_____._____, _____ U.S. Dollars
(Bid Amount. Please include here numerically and written out the full amount of your bid for the property. All bids must be in United States Dollars).

4. Bidder's signature and date: _____
(To be effective, this notice must be signed and dated by the Bidder or his or her designated agent).

**Town of Old Orchard Beach, Maine
Public Sale of Tax Acquired Property**

Notice of Bid Withdrawal Form

This form may be used to withdraw a bid in the Town of Old Orchard Beach, Maine Public Sale of Tax Acquired Property that took place on _____. For the withdrawal of bids to be effective, this form or other written notice must be received by the Town either before the bids are opened or after the identification of the successful bidders. Unsuccessful bidders who elect to withdraw and not continue their bids after successful bidders are identified shall receive back their deposits. Bids that are not withdrawn accordingly shall continue as viable bids that the town may accept in the event that successful bidders do not timely execute the required Purchase and Sale Agreement within 15 days of the acceptance of their bids.

To the Treasurer of the Town of Old Orchard Beach:

Please take notice that the following bid made in the Town of Old Orchard Beach, Maine Public Sale of Tax Acquired Property of _____, 2008, is hereby withdrawn.

1. Parcel or property bid on: Maplewood Avenue, Map 311, Block 9, Lot 13

2. Name of Bidder: _____
(Please print your name. If a business name, please also provide the name of the contact person(s)).

3. Bid Amount: \$_____._____, _____ U.S. Dollars
(Bid Amount. Please include here numerically and written out the full amount of your bid for the property. All bids must be in United States Dollars).

4. Bidder's signature and date: _____
(To be effective, this notice must be signed and dated by the Bidder or his or her designated agent).

Note: This agreement is supplied with the bid package for form only.

AGREEMENT FOR THE PURCHASE AND SALE OF REAL ESTATE

AGREEMENT made and entered into this _____ day of _____, 2008 by and between _____ ("Buyer") and the Town of Old Orchard Beach, Maine ("Seller").

WITNESS AS FOLLOWS:

1. **PURCHASE AND SALE.** Seller agrees to sell and Buyer agrees to buy, on the terms and conditions hereinafter set forth, the land and any improvements presently thereon located on _____, Old Orchard Beach, Maine (the "Premises"), as shown on the Official Tax Maps for the Town of Old Orchard Beach as Map _____, Block _____, Lot _____.

2. **PURCHASE PRICE.** Subject to any adjustments and pro-rations hereinafter described, Buyer agrees to pay for the Premises _____ dollars (\$ _____), this sum to be comprised of the following:

(a) The sum of _____ dollars (\$_____) as a deposit (the "Deposit"), the receipt whereof is hereby acknowledged by Seller, which Deposit shall be credited towards the purchase price.

(b) The sum of _____ dollars (\$_____) shall be paid to Seller at the closing by certified funds or bank cashier's check payable to the Town of Old Orchard Beach.

3. **TITLE.** Seller makes no representations as to title in the property and shall convey the Premises to Buyer at the closing by statutory short form municipal quitclaim deed.

4. **CLOSING AND FURTHER OBLIGATIONS OF THE PARTIES.** The closing shall take place at the Old Orchard Beach Town Hall on _____. Seller further agrees to execute and deliver to Buyer at the closing such other Affidavits and Certificates as may be reasonably necessary for Buyer's acquisition of the Premises and as are consistent with the statutory short form municipal quitclaim deed.

5. **RISK OF LOSS, DAMAGE AND INSURANCE.** All risk of loss to the Premises before closing shall be borne by Seller.

6. **INSPECTION.** Buyer may make arrangements to enter the Premises times before the closing in order to inspect the Premises. Seller makes no representations as to condition of the Premises and Buyer takes Premises as is and where is.

7. **POSSESSION OF THE PREMISES.** In the event that the Premises are vacant and not occupied, the Buyer may take possession of the Premises immediately after closing. In the event that the Premises are occupied, Buyer takes the Premises subject to such occupancy and shall be solely responsible for evicting any and all occupants and removing any and all personal property in conformance with all applicable laws.

8. **DEFAULT AND REMEDIES.** In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer's remedies shall be limited to return of Buyer's deposit. In the event that Buyer fails to close hereunder for a reason other than the default of Seller, Seller shall have all remedies available at law and equity and shall also keep Buyer's deposit.

9. **BROKERAGE.** Seller and Buyer represent and warrant to each other that neither party has engaged the services of any real estate broker with respect to this transaction.

10. **ADJUSTMENTS, PRORATIONS AND CLOSING COSTS.**

(a) The recording of the deed of conveyance and the fee associated therewith is the sole responsibility of the Buyer.

(b) Maine real estate transfer tax as applicable shall be paid by Seller and Buyer in accordance with 36 M.R.S.A. § 4641-A.

11. **GENERAL PROVISIONS.** This Agreement may be executed in duplicate originals and is to be construed under the laws of Maine. Time is of the essence of this Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto, their

The Town of Old Orchard Beach, Maine has caused this instrument to be signed in its corporate name by Jill Eastman, its Treasurer duly authorized, as of this _____ day of _____, 20_____.

TOWN OF OLD ORCHARD BEACH

By: _____

ACKNOWLEDGEMENT

State of Maine
York County, ss.

Then personally appeared before me the above-named Jill Eastman, Treasurer of the Town of Old Orchard beach, Maine and acknowledged the foregoing to be her free act and deed in her said capacity and the free act and deed of the Town of Old Orchard Beach, Maine.

Dated: _____, 20_____.

Before me,

Notary Public

BEVERLY LAVIGNE: *Ms. Lavigne spoke about her frustration with those applying not having the opportunity to speak with individual Councilors and she felt she was not given adequate information and had been discouraged in submitting a bid. She went to the expense of getting legal council and felt that the whole issue of the parking on Maplewood was a result a few people taking advantage of the town not monitoring its own property. Despite all the updates to her place she now has no place for her renter to park and felt that this was putting her at a disadvantage. She spoke of the condition of the land on Maplewood including hazardous material which she helped clean up. She mentioned the Code Officer said that she could not bid because she was not an abutter. She reiterated several times her feeling that not having Councilors approachable made it difficult for those bidding to know the rules and answer the questions that they had as to what criteria would be used in selecting the right bidder.*

CHAIRMAN LONG: I believe that the Council, with the help of our legal counsel, has done our due diligence.

MOTION: Councilor Frenette motioned and Councilor Long seconded to accept the bid of Daniel and Gail Blaney, in the amount of \$9,000, for the purchase the tax-acquired Town Property located on Maplewood Avenue, identified as Map 311, Block 9, Lot 10, the sale and transfer to be completed in accordance with the terms set forth in the Official Notice of Sale and bid package made available on or about May 12, 2008.

VOTE: Yea: Councilor Frenette, O’Neill, MacDonald and Chairman Long
Nea: Councilor Dayton

5022 Discussion with Action: Accept the bid for sale of the tax-acquired Town Property located on Maplewood Avenue, Map 311, Block 9, Lot 13.

MOTION: “Move to accept the bid of Francine, Gwendolyn, and Alexandria Strain, in the amount of \$7,700, for the purchase the tax-acquired Town Property located on Maplewood Avenue, identified as Map 311, Block 9, Lot 13, the sale and transfer to be completed in accordance with the terms set forth in the Official Notice of Sale bid packages made available on or about May 12, 2008.

**VOTE: Yea: Councilor Frenette, O’Neill, MacDonald, and Chairman Long
Nea: Councilor Dayton**

5023 Discussion with Action: Authorize the Town Manager to negotiate a contract with ACS – Advanced Collection Services with a flat commission rate of 35% of recovered funds in the recovering of personal property taxes and parking fines.

CHAIRMAN LONG: The Town Manager is presenting this evening a request from the Finance Director, Jill Eastman, and the Tax Collector, Deborah Mulherin, that consideration be given by the Council for the Town to enter into a Collection Agency Agreement to collect back personal property taxes and parking fines. The Finance Director instituted such a program in Auburn, Maine, during her many years as the Finance Director. It was highly productive in recovering back personal property taxes in an orderly and totally professional manner with clearly defined instructions as to what accounts will be considered based on proof of any circumstances of inability to pay. She indicated that over the years Old Orchard has yearly sent reminders to the long list of those owing back personal property taxes and that before the Collection Agency would contact any of them another mailing would be completed indicating that again we are requesting them to pay or set up a means of payment and if not heard from within the next thirty days the account would be turned over to the collection agency which would in the future affect their credit rating. The Finance Director sought bids from three Collection Agencies but only received bids from two:

ACS – Advanced Collection Services

Flat Commission Rate of 35% of recovered funds

Credit Service Agency of Maine

Commission Rate of 40% of all dollars recovered on Accounts of \$100 or more and less than one year old; 40% of all dollars recovered on Accounts of \$100 or more and between one year old and three years old; and 50% applied to Accounts of less than \$100 and over three years old and Accounts on which legal action is deemed necessary.

There are procedures in place to protect the sensitivity of the issues; the necessity for professional courtesy and effective communication. Should either not be able to recover the funds due, no money is owed. Both agencies guarantee results, state-of-the-art technology and a record of delivering the highest level of customer service and

performance. In reviewing the two bids the Finance Director strongly recommends ACS for two reasons:

- o The simply one fee of 35%;
- o Her previous fifteen years of experience working with this company.

In additional conversations with the Tax Collector, Deb Mulherin, she provided us with a listing of the unpaid personal property taxes and the interest from 1997 to 2008 with an amount of \$466,794.77 in personal property taxes owed to the Town of Old Orchard Beach and additional interest owing of \$153,343.29 for a total owed of \$620,138.06. The Tax Collector indicated that each year they are notified again of the outstanding amounts and in most of the instances it is for trailers and campers. She also indicated that she felt that if they were notified again that we had obtained the services of a Collection Agency that many of the smaller amounts would come in rather than risk the chance of showing poor credit rating. She asked that I indicate should fully supports this process and has been requesting it for a number of years and appreciates the Council discussing this option now. The Finance Director worked with Advanced Collection Services when she was in Auburn and that there were never issues in their working relationship. She urges consideration by the Council on her recommendation to approve a contract with ACS. Consideration of these funds being owed to the Town and therefore to the Taxpayers is a consideration as well.

Personal Property Taxes

| Year | Unpaid | Interest |
|--------------|----------------------|----------------------|
| 1997 | 24,223.87 | 13,445.43 |
| 1998 | 24,081.24 | 12,796.90 |
| 1999 | 35,848.95 | 18,365.78 |
| 2000 | 37,197.36 | 17,454.90 |
| 2001 | 46,989.65 | 21,144.35 |
| 2002 | 54,194.20 | 23,739.93 |
| 2003 | 44,568.03 | 14,825.89 |
| 2004 | 47,851.45 | 12,033.34 |
| 2005 | 46,608.83 | 9,328.53 |
| 2006 | 34,485.98 | 6,169.06 |
| 2007 | 31,808.15 | 5,362.70 |
| 2008 | 38,937.06 | 3,676.46 |
| Total | \$ 466,794.77 | \$ 153,343.29 |

Parking Tickets

In speaking with Deputy Chief Keith Babin he prepared for your review a listing of the outstanding parking tickets which he feels also should be included in our agreement with this agency, should the Council approve.

On the report that he gave to me today it indicates the following:

| <u># of Unpaid Tickets</u> | <u>Amount Unpaid Tickets</u> | <u>Including Penalties</u> |
|----------------------------|------------------------------------|----------------------------|
| 2005 | 1,044 \$ 27,015 | \$ 53,300 |
| 2006 | 1,748 45,755 | 91,200 |
| 2007 | 2,412 64,545 | 91,210 |
| 2008 | 1,889 49,485 | 49,485 |
| Totals | 7,093 \$ 186,800 | \$ 285,195 |

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to Authorize the Town Manager to negotiate a contract with ACS – Advanced Collection Services with a flat commission rate of 35% of recovered funds in the recovering of personal property taxes, parking fines and other outstanding funds.

VOTE: Unanimous.

5024 Discussion with Action: Accept the resignation of William Watson as Health Officer, effective August 5, 2008.

CHAIRMAN LONG: Animal Control Officer, William Watson, has also been assuming the position of Health Officer, but Department of Human Services guidelines have changed for municipal health officers...and all health officers must meet the training, education and experience standards by June 1, 2009. Long time state health inspector and Yarmouth resident, Anita Anderson, has just retired from the State and is looking to work part-time for several southern Maine towns. She has great experience and qualifications with her nearly 20 years as a state health inspector working with campgrounds, restaurants, tattoo parlors, etc. She is available on an as needed basis and could use work space in the code/planning office for the few times she might need it. Anita's resume is attached for your review and consideration.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to Accept with regret and appreciation the resignation of William Watson as Health Officer, effective August 5, 2008.

VOTE: Unanimous.

5025 Discussion with Action: Appoint Anita L. Anderson as Health Officer, effective August 6, 2008, term to expire 12/31/2011.

CHAIRMAN LONG: Noting that a Health Officer is required for our municipality we are asked to approve the position of Health Officer being given to Anita L. Anderson whose extensive experience as the State Health Officer will bring much expertise to our town.

**ANITA L. ANDERSON
32 BALSAM LANE
YARMOUTH, ME 04096-7100
207-846-4962
207-671-4813**

EXPERIENCE

November 1988 - April 30, 2008 when I retired from full-time state employment Employed as Sanitarian 11 for the Maine Center of Disease Control (formerly Bureau of Health)
November 1988-December 1991 Inspector for Health Engineering Eating and Lodging Program, Included licensing, inspecting, investigations, complaints, outbreaks, drinking water issues, septic system problems, for restaurants, lodging places, body artists, campgrounds, youth camps, caterers, swimming pools, and tanning facilities. Major reduction of work force resulted in my being laid off until March 1992.
March, 1992 - August 1994 - State Lead Poisoning Prevention Investigator-statewide. Interview families of confirmed lead poisoned children, do thorough environmental investigation of living facilities, as well as schools, and other buildings frequented by the affected children, promulgated rules, gave information classes on lead issues including the Maine Real Estate Commission, University of Maine at Orono, Maine Landlord Association, as well as other groups of interest.

August 1994-2008 - Sanitarian 11-State Health inspector, Same duties as above with the addition of researching and rule making, addressing work group Legislative committees, completing several Maine Code Enforcement Certification workshops, as well as aiding to present several workshops. I have worked very closely with the municipalities in my district regarding health issues, licensing, environmental assessments, sanitation assessments, and regulatory and statutory requirements.

Currently: I serve on the Yarmouth Zoning Board of Appeals, and the Yarmouth Board of Health. I am the Local Health Officer for Chebeague Island.

August 1, 2008

**Anita L. Anderson
32 Balsam Lane
Yarmouth, ME 04096-7100**

SUBJECT; LETTER OF INTENT

Dear Ms. Anderson

The Town Council and Administration of Old Orchard Beach designates you as Town of Old Orchard Beach Local Health Officer. It is the desire of the Council and town Administration to whom this position

will report, that the hours of operation for providing such service will be conducive to serving the citizens of Old Orchard Beach on a timely basis.

With respect to your part-time employment, the Town is prepared to offer you an annual stipend of \$2,000.

ACCEPTED BY THE PARTIES:

Stephen Guntz
Town Manager

MOTION: Councilor Dayton motioned and Councilor Frenette seconded to Appoint Anita L. Anderson as Health Officer, effective August 6, 2008, term to expire 12/31/2011 including a stipend of \$2,000 per year from Account Number 20113/50107 – Part Time Wages, with a balance of \$22,696.

VOTE: Unanimous.

5026 Discussion with Action: Approve the Special Event Permit application for Sandra and Doug Lawson to have a family campfire on the beach at the end of Randall Avenue on August 8, 2008, with a rain date of August 9, 2008.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to approve the Special Event Permit application as read.

VOTE: Unanimous.

5027 Discussion with Action: Approve a Blanket Letter of Approval for Games of Chance – Cards, for the Veterans of Foreign Wars (VFW), Post 7997, 76 Atlantic Avenue, from August 5, 2008 to December 31, 2010.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to Approve a Blanket Letter of Approval for Games of Chance – Cards, for the Veterans of Foreign Wars (VFW), Post 7997, 76 Atlantic Avenue, from August 5, 2008 to December 31, 2010.

VOTE: Unanimous.

5028 Discussion with Action: Approve the Special Event Permit for L.L. Bean to hold a Spring/Summer '09 Still Photo Shoot for their Kids Catalog for one day between August 13 and August 24, 2008, between the hours of 8:00 a.m. and 8:00 p.m. on the beach in front of Palace Playland.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to remove this agenda item without prejudice.

VOTE: Unanimous.

5029 Discussion with Action: Appoint Alfred Hills as Election Warden; Urbain Goulet, Deputy Warden; Jerome Plante, Deputy Warden; and David Huntington as Deputy Warden; terms to expire August 5, 2009.

MOTION: Councilor Dayton motioned and Councilor Frenette seconded to approve the Appointments as read.

VOTE: Unanimous.

5030 Discussion with Action: Approve the transfer of the Defendant in Rem, or any portion thereof, pursuant to 15 M.R.S.A., Section 5824(3) and Section 5826(6) and Section 5826(6) and accept the seizure of a 1996 Chevrolet Tahoe should it be awarded by the Courts.

CHAIRMAN LONG: This agenda item involves the transfer of the Defendant(s) *in Rem*, or any portion thereof, to the Town of Old Orchard on the grounds that our Police Department did make a substantial contribution to the investigation of this or a related criminal case.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to Approve the transfer of the Defendant in Rem, or any portion thereof, pursuant to 15 M.R.S.A., Section 5824(3) and Section 5826(6) and Section 5826(6) and accept the seizure of a 1996 Chevrolet Tahoe should it be awarded by the Courts.

VOTE: Unanimous.

5031 Discussion with Action: Approve the Liquor License Renewals for Paul Dussault & Louise Lesperance dba/Joseph's by the Sea (310-3-3), 55 West Grand Avenue, s-m-v in a Restaurant; and Armand Vachon & Daniel Rave dba/Oceanic Inn, Inc., dba/One Soho Square (310-6-3), 43 West Grand Avenue, s-m-v in a Hotel-Optional Food.

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

VOTE: Unanimous.

5032 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold "Vote for Business Bandwagon" – a "promote tourism event," on Thursday, August 21, 2008 from 9:00 a.m. to 11:30 a.m. in the Square; request to close the Square from 8:00 a.m. to 11:00 a.m.; and a request to waive the fee.

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

VOTE: Unanimous.

GOOD AND WELFARE:

COUNCILOR DAYTON: I am happy to introduce my website and would ask that you visit it and take the opportunity to present your opinions. There is a survey on the web site and I would so appreciate your comments and expressions. This is my opportunity to share with you the issues that we face together. Please go on the website and visit www.robindayton.com

5033 Discussion: Personnel Issues. (Note: This item discusses personnel issues as defined under Title 1 M.R.S.A. Section 405(6)(A). Discussion will occur in Executive Session).

MOTION: Councilor O'Neil motioned and Councilor Frenette seconded to enter into Executive Session to discuss personnel issues as defined under Title 1 M.R.S.A. Section 405(6)(A). Discussion will occur in Executive Session).

VOTE: Unanimous.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to Adjourn the Executive Session.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to adjourn the Town Council Meeting at 8:35 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 eighteen (18) pages is a true copy of the original Minutes of the Town Council Meeting of August 5, 2008.
V. Louise Reid**