

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, JANUARY 16, 2007  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 16, 2007. Chairman Joseph Kline opened the meeting at 7:02 p.m.**

**Pledge of Allegiance and Roll Call**

**Present were:**

**Councilor Robin Dayton  
Councilor Roxanne Frenette  
Councilor James Long  
Vice Chair Shawn O'Neill  
Chairman Joseph Kline**

**ACKNOWLEDGEMENTS:**

**COUNCILOR FRENETTE:** Thanks to all those who participated in the Lobster Dip for the benefit of the Special Olympics on January 1<sup>st</sup>. As we all know Special Olympics Maine is a year round athletic training and competition program. We appreciate all those who made the effort and the money that was raised.

**COUNCILOR DAYTON:** The Recreation Department is looking for volunteers for this year's Easter Parade, scheduled for Saturday, March 31. Planning for the event is in the early stages but volunteers are needed for some of the activities to take place in the park. Last year there was a great turnout and we hope to have a better turnout this year. Contact Jason Webber or Caroline Segall as soon as possible.

**COUNCILOR FRENETTE:** Congratulations to Bud Harmon and the Chamber of Commerce for making the Maine Biz list of top 30 Chamber of Commerce's in the State. We have not made the list before and congratulate them all for this acknowledgement of their important.

**COUNCILOR LONG:** Thank you, Mr. Chairman. I will ask Sheila Webber from the Veteran's of Foreign War (VFW).

**SHEILA WEBBER:** The Patriot's Pen is a nationwide Veteran of Foreign War's (VFW) sponsored essay competition giving students an opportunity to write an essay expressing their views on democracy with the prospect of winning U.S. Savings Bonds. This year's topic was "Citizenship In America." We had 39 entries; 33 entries from Loranger Middle School, mentored by Mr. Regula and six from Notre Dame de Lourdes School in Saco. Our winners for 2006-2007 from Old Orchard Beach Memorial Post #7997 are:

**1<sup>st</sup> Place:** Sam Lampera – Loranger Middle School  
**2<sup>nd</sup> Place:** Megan Kruger – Loranger Middle School (not able to attend)  
**3<sup>rd</sup> Place:** Alana Mae Sanders – Notre Dame de Lourdes School

The Voice of Democracy is also a nationwide Veterans of Foreign War's sponsored audio essay competition. Since 1947, the Voice of Democracy has been the VFW's premier scholarship program. Each year more than 100,000 high school students compete for more than \$2.5 million in scholarships and incentives. Students compete by writing and recording a broadcast script. This year's topic was "Freedom's Challenge." There were four entries from Old Orchard Beach High School mentored by Melissa Milne, Guidance Director. The winner this year for 2006-2007 from Old Orchard Beach Memorial Post #7997 are:

**1<sup>st</sup> Place:** Ashley Hibbard  
**2<sup>nd</sup> Place:** Michaela Couture (not able to attend)  
**3<sup>rd</sup> Place:** Carly Wittman

This program would not be successful without the volunteers who spend their time reading essays and listening to audio tapes. I would like to acknowledge the following who gave us their time: Donald Maheu, Beth Richardson, James Long, and Fran Booth, who is the only Past National President of the Ladies Auxiliary to the VFW from the State of Maine.

**COUNCILOR LONG:** The Veterans of Foreign War and the American Legion are sponsoring this marvelous event and visit.

**RICHARD WILLETT:** This is a real privilege to be here this evening and we are thrilled that this Wall is being brought to our Town. I am pleased on behalf of Post 57 of the American Legion to present a check for this event and knowing that this will be done with great honor and pride. This Memorial weekend will afford great opportunity to our visitors and friends as they pay tribute to the fallen heroes of this war in service to our nation which is priceless.

**JASON WEBBER:** First I would like to thank The C. Fayette Staples American Legion Post #57 and Commander Lawrence Lapeair, 1<sup>st</sup> Vice Commander Richard Gullet and all their members for their generous donation. It is these kinds of acts that will make this event successful. As you may know The Vietnam Memorial stands as a reminder of the dedication and sacrifice that 2.7 million American men and women of the Armed Forces gave to their country in Vietnam. Inspired by this honor, a group of Vietnam Veterans wanted to share this important memorial with all the people of the United States. As a result, a mobile version of the Vietnam Memorial, known as *The Moving Wall*, came into creation and has been traveling the country to pay tribute Vietnam Veterans' since 1984. Since then, *The Moving Wall* has visited over 1,000 communities throughout the United States of America. It is our honor and privilege that the Vietnam Veterans Memorial Moving Wall will be in The Town of Old Orchard Beach from Thursday, May 24 to Memorial Day Monday, May 28 under the guidance of the Town of Old Orchard Beach Recreation and the help of Nancy Kelley and many other volunteers. *The Moving Wall* will be open to the public 24 hours a day; Opening Ceremony will be on Friday May 25 at 3:00pm; closing ceremony will be on Memorial Day, Monday May 28 at 6:00pm. There will also be a one hour ceremony Saturday and Sunday at 6:00pm. Details of the ceremonies will be posted on the Town's website. A special thanks to the Memorial Park Committee and Chair, Andrea Berlin, in there on going help and dedication in the restoration of the park area. This is a tremendous event and it will take coordination and dedication as a community to make this a great success. This is our

**opportunity to show what Old Orchard Beach has to offer. We are actively seeking donations and volunteers to plan and run events related to the display. Anyone interested in helping may contact the Recreation Department at 934-0860 or go to the Town Website under Moving Wall. We are looking forward to hearing from everyone.**

**ACCEPTANCE OF MINUTES: Town Council Minutes of 12/19/06; Special Town Council Meeting of 1/9/07; and Town Council Workshop of 1/9/07.**

**MOTION: Councilor Long motioned and Councilor O'Neill seconded to accept the Town Council Meeting Minutes of 12/19/06; Special Town Council Meeting Minutes of 1/9/06; and Town Council Workshop Minutes of 1/9/07.**

**VOTE: Unanimous.**

**CHAIRMAN KLINE: I open the Public Hearing at 7:19 p.m.**

**As indicated recently for years one of the last chores of the season for many downtown Old Orchard Beach business owners has been to tack plywood over their windows before locking up for the winter. In our hopes to create a year-round business district, some merchants and town officials feel the tradition needs to stop. The town center should look like it is open for business if it wants to attract a winter clientele. It is my request to have this public hearing this evening to consider the adoption of an ordinance prohibiting property owners from boarding up their windows. The issue has come up over the last few years and has been met with objections from business owners who say they need to protect their buildings from the elements and vandals during the long off-season. I have decided to push the measure after hearing from downtown merchants who believe that covered-up storefronts are inhibiting efforts to extend the town's commercial season. Business owners are investing a lot of money to stay open year-round. Nobody stops because they think the town is closed down for the season. I believe the message that may be sent by boarded up windows is that Old Orchard Beach is a dangerous community – is more damaging than any threat of vandalism. If you look downtown, what happens folks, is that we are desensitized. It doesn't look like we're saying 'Come to Old Orchard Beach and open up here. There are a few business owners who follow the existing boarding up ordinance in place and those businesses looked neat and trim but the majority of businesses just slapped on some boards. It doesn't look bad but it looks deplorable.**

**PUBLIC HEARING: Shall we Amend Article VI, Section 38-236 through 245 – Boarding Up of Seasonal Facilities?**

#### **NOTICE OF PUBLIC HEARING**

**On January 16, 2007 at 7:00 p.m. in the Town Council Chamber, Old Orchard Beach Town Hall, the Old Orchard Beach Town Council will hold a public hearing on a proposed ordinance entitled "Boarding up of Buildings Prohibited." The proposed ordinance would prohibit boarding up of buildings in Old Orchard Beach except in specified emergency situations. A corresponding change to the License Ordinance would allow the Town to remove illegally placed boarding up materials from licensed businesses. The full text of the proposed ordinance is on file in the office of the Town Clerk.**

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, in Town Council assembled, that Chapter 38, Article VI of the Code (Boarding Up of Seasonal Facilities) is repealed and replaced with the following new Chapter 66, Article X (Boarding Up of Buildings Prohibited):

## ARTICLE X. BOARDING UP OF BUILDINGS PROHIBITED

### Sec. 66-250. Purpose.

The purpose of this Chapter is to prevent the appearance of social blight and economic depression and the negative impacts on property values and on the Town's economic wellbeing which occur when buildings are boarded up during periods of non-use.

### Section 66-251. Authority.

This Chapter is adopted as a local land use and building code ordinance pursuant to 30-A M.R.S.A. section 3001.

### Sec. 66-252 Definitions.

As used in this Article, the following phrases have the following meanings:

*Boarding up, boards up or boarded up* means the covering of doors, windows or other openings of a building with boarding up materials.

*Boarding up materials* means any materials attached to cover the openings of a building when it is not occupied and which are placed over or attached in place of the permanent windows, doors or other closures regularly utilized when a building is occupied. The term boarding up materials includes (but is not limited to) (1) panels made of plywood, oriented strand board, particle board and similar glue and fiber building products, and (2) permanently installed overhead doors; sliding gates, shutters and similar fixtures which close over the regularly utilized doors and windows.

### Sec 66-253. Boarding Up Prohibited.

After April 1, 2007, no building in Old Orchard Beach may be boarded up, except as allowed by Section 66-254 below:

### Sec. 66-254. Exceptions.

(a) *Existing Boarding Up Materials.* Boarding up materials may remain on a building already boarded up on April 1, 2007, until no later than May 15, 2007.

(b) *Damaged Buildings.* A building which has been damaged by fire, storm, vandalism or accident may be boarded up pending demolition or repair with written permission from the fire chief, for a period of no more than 30 days.

(c) *Storm threat.* A building may be boarded up in order to protect against damage from a storm, for a period of no more than 5 days for any one storm event.

**(d) *Grace Period for Structural Changes.*** In the event a building housing a seasonal business is so designed that it cannot be secured against the elements or unauthorized entry without either boarding up or making structural changes, and such building has previously been boarded up, the Code Enforcement Officer may allow the building to be boarded up until no later than April 1, 2008, provided the Code Enforcement Officer is satisfied that the proposed boarding up materials will be consistent in design, texture and color with the building, will be securely installed so as to prevent removal by vandalism or dislocation by action of the elements and will be attached so as to present a neat and orderly appearance.

**Sec. 66-255. Violation and Penalties.**

Any person who boards up a building in violation of this Chapter and any person who owns a building which is boarded up in violation of this Chapter commits a civil violation punishable as provided in 30-A M.R.S.A. section 4452. In addition the Town may remove any boarding up materials placed in violation of this Chapter from the premises of any business licensed under Chapter 18, Article II (Licenses).

**Sec. 66-256. Enforcement.**

This Chapter shall be enforced by the Old Orchard Beach Code Enforcement Officer.

Be it further ordained that Section 18-37 of the Code is amended by adding a new paragraph (d), as follows:

(d) A licensee, as a condition of receipt of a license under this article, also agrees to comply with Chapter 66, Article X (Boarding Up of Buildings Prohibited) and consents to removal by the Town of Old Orchard Beach of any boarding up materials attached to the licensee's premises in violation of that Article.

**CHAIRMAN KLINE:** The Ordinance that has been prepared is punishable according to 30-A M.R.S.A. section 4452, the land use enforcement statute (copy attached). The statute is incorporated by reference in Section 66-255 of the proposed ordinance. Under the statute, the minimum penalty is \$100; the maximum is \$2,500; and the court can impose the penalties on a per-day basis. The Town may also recover its attorney fees if it is the prevailing party. We have chosen to use the statute for a land use or building code ordinance because it is nice shorthand way to incorporate penalties into an ordinance and judges tend to be familiar with it. In order to meet the February Community Development Block Grant application deadline.

## Title 30-A, §4452, Enforcement of land use laws and ordinances

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**PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.**

§4452. Enforcement of land use laws and ordinances

1. Enforcement. A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building inspector, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and [1993, c. 23, §1 (amd).]

C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce. [1993, c. 23, §1 (amd).]

[1993, c. 23, §1 (amd).]

2. Liability for violations. Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.

[1991, c. 732, §2 (amd).]

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500. [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500. [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

B-1. Notwithstanding paragraph B, the maximum penalty is \$5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. [1999, c. 370, §1 (new).]

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:

- (1) A threat or hazard to public health or safety;
- (2) Substantial environmental damage; or
- (3) A substantial injustice.

[1989, c. 727, §1 (amd).]

C-1. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the violator shall be ordered to correct or mitigate the violation unless the correction or mitigation results in:

- (1) A threat or hazard to public health or safety;
- (2) Substantial environmental damage; or
- (3) A substantial injustice.

[1989, c. 727, §1 (new).]

D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees,

expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule. [1989, c. 727, §1 (amd).]

E. In setting a penalty, the court shall consider, but is not limited to, the following:

- (1) Prior violations by the same party;
- (2) The degree of environmental damage that cannot be abated or corrected;
- (3) The extent to which the violation continued following a municipal order to stop; and
- (4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action.

[1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance. [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

G. The penalties for violations of a septage land disposal or storage site permit issued by the Department of Environmental Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349. [1997, c. 794, Pt. A, §1 (amd).]

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. [1989, c. 727, §1 (new).]

[1999, c. 370, §1 (amd).]

4. Proceedings brought for benefit of municipality. All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

[1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

5. Application. This section applies to the enforcement of land use laws and ordinances or rules which are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State which is subject to the jurisdiction of the Maine Land Use Regulation Commission; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new); 2003, c. 689, Pt. B, §6 (rev).]

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

C. Local ordinances adopted pursuant to Title 22, section 2642; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25, chapter 331; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

G. Local land use ordinances adopted pursuant to section 3001; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

H. Local building codes adopted pursuant to sections 3001 and 3007; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

I. Local housing codes adopted pursuant to sections 3001 and 3007; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3. [2005, c. 148, §1 (amd).]

**K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter II; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]**

**L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter III; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]**

**M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]**

**N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]**

**O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352; [1989, c. 104, Pt. A, §45 (new); Pt. C, §10 (new).]**

**P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B; [1999, c. 127, Pt. A, §46 (amd).]**

**Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed; [2005, c. 240, §4 (amd).]**

**R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; and [2005, c. 240, §5 (amd).]**

**S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules. [2005, c. 240, §6 (new).]**

[2005, c. 148, §1 (amd); c. 240, §§4-6 (amd).]

6. Septage and sludge permits issued by the Department of Environmental Protection. **A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.**

[1997, c. 38, §1 (amd).]

7. Natural resources protection laws. **A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the State Planning Office under section 4453 as familiar with court procedures, may enforce the provisions of the natural resources protection laws, Title 38, chapter 3, subchapter I, article 5-A and Title 38, section 420-C, by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.**

[1997, c. 296, §8 (amd).]

PL 1989, Ch. 104, §A45, C10 (NEW).

PL 1989, Ch. 287, §3, 4 (AMD).

PL 1989, Ch. 727, §1 (AMD).

PL 1991, Ch. 548, §D6 (AMD).

PL 1991, Ch. 732, §1-4 (AMD).

PL 1993, Ch. 23, §1, 2 (AMD).

RR 1993, Ch. 1, §77 (COR).

PL 1995, Ch. 58, §1 (AMD).

PL 1995, Ch. 704, §B1 (AMD).

PL 1995, Ch. 704, §C2 (AFF).

PL 1997, Ch. 38, §1 (AMD).

PL 1997, Ch. 296, §8 (AMD).

PL 1997, Ch. 794, §A1 (AMD).

PL 1999, Ch. 127, §A46 (AMD).

PL 1999, Ch. 370, §1 (AMD).

PL 2003, Ch. 689, §B6 (REV).

PL 2005, Ch. 148, §1 (AMD).

PL 2005, Ch. 240, §4-6 (AMD).



**CHAIRMAN KLINE:** There was always an argument about security; smashed windows, etc. The other issue that was brought up in the past was why move the boards when nothing is happening downtown and I don't believe that is the case any more. I am sponsoring this at the request of some business owners. I believe we can bring this up because there are new materials that can be used instead of boarding up.

**COUNCILOR FRENETTE:** Our last workshop we were talking about different ways to board up and I am not in favor of taking away the right of a business owner to board up their business.

**MIKE DICKINSON:** As a business owner I am going to stay open year round as of March 31<sup>st</sup>. I think it would be more enticing for other businesses to open their doors if the boarding up were different than what is done at this moment. I am willing to research and come up with some solutions. It doesn't look like a year round community with boarding up. I believe there should be more strict regulations to benefit those that wish to stay open all year long. I understand the need and right to protect the business but I do believe there is a more appropriate way to protect a business. Sometimes it just looks dark and dingy. It does not look like an enthusiastic year-round community.

**CHAIRMAN KLINE:** There are some businesses that have boarded up that look really good. There are some that are really terrible looking. 80% of our tax burden is carried by the residences. So it is time for the business owners to wake up and realize that this is not the 1980's. Because you get a windshield smashed doesn't mean you don't drive your car. You don't need some cheap stuff such as plywood to put up on your business which affects the businesses that are trying to make their business look good. We have people at the top and the bottom of the hill are trying to put their business, open all year long, attractive to those who come to town. I believe now is the time to remove these boards and come up with another measure of safety.

**TIM SWENSON:** I congratulate Chairman Kline for standing up and saying what he thinks and stand behind it. Anything that we can do to make our town a season

**JEANNE LACHANCE:** Owner of J J's Eatery at the corner of West Grand Avenue said she has placed a sheet of painted plywood over his picture window for the winter. It is an uninsulated building and I cover this to protect it from vandalism and the stray rocks that shoot up from the plow trucks. I would support a regulation requiring business owners to match the over-all décor of their buildings when covering up windows and doors for the winter but I don't think the town has the right to prohibit the practice altogether. I do believe we need to board up because of security reasons. I do believe in boarding up. I think Code Enforcement should enforce what is on the books. Even though I am going to open year round I still want to make sure that my business is safe. BRASS has not taken a position but I believe that the boarding up ordinance in place now should stay in place and that enforcement should be upgraded.

**COUNCILOR FRENETTE:** I don't think taking away a person's rights is the answer to our situation. We need to take what we have and apply it.

**CHAIRMAN KLINE:** It is the appearance that we are not open for business. A solution would be to remove the non-transparent boarding up and replace it with transparent boarding up measures. One business owner has drapes inside even though he is not open year round. You can't see into the window so the change of robbery is not there but the

outside looks really good from the outside. Boarding up also does not permit the police from knowing if someone is sleeping in a building that has been boarded up. We are not taking your privilege away to keep your building safe but we are asking for it to be more transparent so that people will think that we are open year round, even if we are not. Businesses that are looking to come to Old Orchard are turned off by the boarded up businesses. We need to make the buildings look habitable. That is another rationale as to why we should make the change.

**PAUL GOLDZBEIN:** You are right – this is a start. Roxanne is right also – there is the right of the people to protect their building. It would be a great thing to have a year round community but remember that everyone has their own opinion. Can the person afford to do it with the new materials or safety measure. A good vision but we need a few more steps in there.

**CHAIRMAN KLINE:** You are right. This is the beginning of the change and there is a need for change.

**JAMES ALBERT:** I have been trying to take all this in. It is a very mixed bag. I do support it because it is part of the year round vision. I do understand the business owner concerns. I would have concerns about the security aspect of it. Is there a zoning criteria – perhaps Main Street is not allowed to board up but East and West Grand Avenue can? What aesthetics are you going to allow and will the Town support or give some financial help to the businesses doing this. A strategically set camera would be a good thing also.

**COUNCILOR DAYTON:** I am new to this. I have a question. In addition the Town may remove material that is not in accordance to the Ordinance. I would like to know from the public how they feel about that.

**CHAIRMAN KLINE:** This is under land use law and has been in existence since the 1700's. Most people will take that option because that is cheaper.

**COUNCILOR DAYTON:** What if there was a storm that came in. Who is responsible the Town or the business owner. Isn't there something less drastic that they can do? Does the Town notify?

**CHAIRMAN KLINE:** There is due process, of course.

**COUNCILOR FRENETTE:** This does not show the changes from the last Workshop. I would like to see it. When we have changed an ordinance before, we have seen both. Why do we not have both this time? All we have to do is take what we have and apply it.

**CHAIRMAN KLINE:** This is a repeal and you start from the beginning. This would be a new ordinance. I want to repeal the former ordinance and start from scratch. With the new materials to board up such as high strength plastic and with more and more year round businesses, it was time to think about changing the ordinance. This decision came up after gathering information from the business community, the Town Manager, the Town Planner, the Code Enforcement officers and others that have discussed this with me.

**COUNCILOR DAYTON:** The package was delivered on Friday and I don't think this is unreasonable.

**COUNCILOR FRENETTE:** Councilor Dayton has never seen what is being repealed.

**JEROME BECKER:** I appreciate the effort to make this a year-round effort. Whenever a person comes up with an objection there should be a solution. State of the art digital camera could easily be applied to the downtown. In order to eliminate private property liability the town can post materials when they have been notified that the business is closing up. Whenever someone comes up with an objection, we need a solution as well.

**CHAIRMAN KLINE:** There are many alternative methods of correcting these issues. What is happened here is that someone outside our building – we have become conditioned to what we have seen for so many years but for the new business owners and those who are investing in our community they are looking for something to make our town look better.

**WILLIAM DANTON:** A year-and-a-half ago the Grand Victorian was proposed and we contributed by donating land and we were encouraged by the administration and Town Council that changes would be made. The Town would be cleaned up and we would go forward. The changes that the Chairman has proposed are the way to go. We bring people into the retail space that we are trying to get business owners to consider – and what they say is that they look at you at times to see if you are serious. They look down the main street and see what they are getting. There is no way possible that people will be attracted to a town that is three-fourth boarded up. It is impossible – you virtually have no chance to rent. Even with nice letters from the Town Manager to enhance the offers to have businesses come in to town – it doesn't work. You have 14 age girls competing with 19 year old girls to get into a place at night. You have them saying they closed the business down in Portland and so they come to Old Orchard Beach. If you really want to encourage people to come to Old Orchard Beach it is your responsibility to make these changes to attract people to this community. We are doing the best we can to attract people but we are coming up short. If it is your intent – your goal – then put into effect some changes and modifications to make this town pleasant to look at.

**MISSY SHUPE:** I just want you to know about the feedback coming into my shop. I have tourists thankful for their children to buy. Most important the response that I have gotten from local residents – a gentleman stopped at Christmas time and said “Thank you for being here.” They like to shop in their own town. I urge you to do everything that you can to encourage this to be a year round

**FRED KENNEDY:** Thank you for the opportunity to speak. My name is Fred Kennedy. I am a business owner here in town and I am also pleased to serve as the President of the Old Orchard Beach Chamber of Commerce. My wife, Anne, and I own two hotels on East Grand Avenue and I am a part owner of two storefronts located on Old Orchard Beach Street. None of the businesses in which I have an interest are boarded, nor have they ever been since my family came to Old Orchard some seven years ago. I am part of a business group known as the Friends of Old orchard Street. This is a group made up of area businessmen including Pierre Janelle of the Edgewater, Harlan Zenahlik of the Gull Motel, Danny Lafayette of the Waves and Viking hotels, and the late Jim Pouravelis of the Ocean House. In February 2004, almost three years ago, the Friends of Old orchard Street made a decision to invest in the downtown district of Old Orchard. You might say we put our money where our mouths were, buying a run down and vacant building at 38 Old Orchard Street, demolishing it and building in its place the first new building to go up

on the Main Street of Old Orchard in quite a long time. Most recently the new #38, with its fresh look and distinctive clock in the upper façade, has been home to two new good businesses for our downtown; the Casta Vida Restaurant and Del Sol gifts. After the 38 Old Orchard Street project, we have seen other private businesspeople also invest ideas and their own hard earned money in revitalizing our downtown district including the renovation of the old Dynamite building, the brand new Dynamite business plaza, Dickenson's Candy and its associated stores and of course the Grand Victorian project as well as other building projects on East and West Grand Avenue. These projects and the businesspeople responsible for them have improved the appearance of our downtown, added significantly to our tax base, provided needed jobs for our people and I would argue advance the overall good of Old Orchard Beach. I am 100 percent supportive of all reasonable efforts to continue to brighten the "curb appeal" of our Town and enhance the attractiveness and livability of Old Orchard as a year round community. I don't like to see boarded up buildings; I don't like to see closed buildings for that matter. Dark buildings and an empty Main Street mean no commerce, no cash flow, no jobs, no generation of sales taxes. It discourages new investment dollars and contributes to a lowering of civic pride in our community. Count me among those who think Old Orchard Beach is way too great a place to hibernate for six months out of the year. Despite all this, is I had a vote on this new draft ordinance outlawing "boarding up" I would have to vote no. I think the ordinance, as presently crafted, is not as much a bad idea as it is simply bad law. We know of and appreciate fully the reasoning behind it and the good intentions of the law's supporters. The Chamber shares the goal that we continue to breathe new life and vitality into our downtown business district. I am pleased to see this ordinance's supporters taking the lead in moving towards this goal. However there are provisions within the proposed regulation that appear both arbitrary and to lack a rational basis to any legitimate government interest. It is our belief that in the final analysis, the decision of how best to secure their investments and protect their inventory is a decision that should be left in the hands of the individual business owners. We wish that the idea suggested in the drafting of this law was just as easy as implied by the legislations – that we could simply by the stroke of a pen, transform Old Orchard into the Town we know it should be and can be. If that was the case, I'd borrow that pen and in the same way make my business twice as profitable as it actually is. But unfortunately it will take a little more work than that. "Boarding up" is not so much a cause of underdevelopment as it is simply a reminder that there is a lot more than we can do to promote and invigorate business downtown. The best way to make Old Orchard light up from October to April when the fun begins again, is to make conditions ripe for new business. Reduce government regulation that inhibits or scares off new investment and ideas. Make Old Orchard known not just as "business friendly" but rather the friendliest to business of any community in Maine. Lights will come on at first gradually and then not so gradually in locations which today are blacked out businesses. But the lights will come on only when there is an economic reason to operate the business, not because any Town Council so directs. The challenge to both our local town government as well as the existing business community and community at large should be to foster and nourish responsible growth within the downtown that creates a center of commerce after the summer tourists leave. Members of the Council, rather than a headline in paper saying Town Council outlaws business boarding up – which is not a business friendly headline, I would rather see a headline, Old Orchard welcomes new businesses; Old Orchard institutes ice skating in the park; Old Orchard gives economic incentive to new business park; Old Orchard promoted business by -- you finish the headline. Thank you for the time to address you; I offer the support of our Chamber of Commerce to work together with you to promote and further our common goals for this fine community.

**CHAIRMAN KLINE:** They don't show up to Memorial Weekend. If we repeal this ordinance then we have until November to come up with something more appropriate. The one that we have is not being enforced. I thank you for those comments.

**PAULA POURAVELIS:** I just think there are a few basic points I would like the Council to consider. There are some rights of business owners that you do not have the right to tell us what we can do – to make those decisions. Free enterprise – supply and demand – will carry to making us a four season community. If the Town chooses by Ordinance to prohibit a property owner to board up – is the Town going to assume the liability if something does happen to my building. Do I call the Department of Public Works to come and fix the light that is broken? I believe that as a business owner – you have the right to protect your building. When you talk about the current ordinance on the books – I don't see where that was a problem with the ordinance – but the problem was with enforcement. There was a permitting process in place; pictures of our buildings; submitted to the Town; processed their recommendations; got site plan review; and then after that initial process it was an annual process until it became an ordinance on the book that was not enforced.

**CHAIRMAN KLINE:** That process was so cumbersome – there were complaints that the season was too short to go into this cumbersome process. The Municipality is the people – and the people determine what and how to do business in Old Orchard Beach. So the government does make the rules of engagement and our news of engagement need to change – not to have non-transparent boarding up material. There are other ways of protecting your businesses. It is very difficult to enforce these ordinances. The only resolution is to go to the court proceeding so by repealing we can adapt a new and simpler ordinance to allow for enforcement. The use of plastics is something that is used now that was never used before. You don't need to have blighted coverings on your windows.

**KEN SHUPE:** Code Enforcement Officer. The current ordinance not being enforced is not correct. We usually have pictures of the building through the Planning Department. What we are left with is that when these materials deteriorate we have blight. Plastic or glass can do a lot more. We do enforce the current ordinance.

**COUNCILOR DAYTON:** Damaged building – 30 days for a fire – certainly the owner would be able to extend that date.

**KEN SHUPE:** Code enforcement has been very receptive when they have had many problems including sign issues, boarding up. The structure was boarded up longer than necessary because of insurance and fire investigators to complete their process. We have been enforcing the boarding up policy and assigned permits. The current materials being used, plywood and composite material, deteriorates quickly and I would support glass or plastic. In my opinion boarding up is just one step above blight.

**CHAIRMAN KLINE:** Yes, this is just something we are considered. This was not just written by Joe Kline or our attorneys. I was hoping that there would be an opportunity to get something done and in the works for the next season.

**COUNCILOR DAYTON:** Perhaps we need to add a section about what we prefer as far as boarding up material. Something that defines what we are looking for. I also think we need to allow for extensions for 30 days or 5 days.

**JAMES HARMON:** Executive Director of the Chamber of Commerce. I don't need to address the Chamber's position. Is this related to just one zoning section? Who put this ordinance together? To implement this ordinance because of a few who are not following the rules. The day that the Town comes on my property you are opening yourself up to a law suit by any private owner of property. I believe this has to be sent to a workshop again because I believe that you are setting the Town up for law suits. Even the ocean front places boarded up. When you have a good climate working with Town government why put that in jeopardy. I reiterate that I see a problem as an enforcement issue. I suggest again that a workshop be scheduled to talk about changing it if that is what the Council is intending. To implement this type of ordinance for the sake of a few people that aren't following the existing ordinance does not make sense. I know that business owners can understand the town wanting to make Old Orchard Street appear welcoming in the slower winter months but it doesn't make sense to ask businesses on East and West Grand Avenue not to board up. Between 40 and 50 percent of the business or building owners on Old orchard Street are people who live out of town in the winter. Their business model is to try to open in Old Orchard in the summer and then maybe in Florida or New York in the winter.

**COUNCILOR KLINE:** This has been generated over the past six months. I don't disagree that this needs to be work shopped again. Originally this was to get rid of the ordinance to board up at all. Of course this was not possible. Contingencies were added on emergencies. All these other things were discussed. I agree that this needs to be work shopped to include issues that you have raised.

**JAMES HARMON:** That is why I say keep the boarding up ordinance on the books until we come up with something that will work.

**CHAIRMAN KLINE:** I close the Public Hearing at 8:24 p.m.

**CHAIRMAN KLINE:** I open the Public Hearing at 8:25 p.m.

**PUBLIC HEARING:** Shall the Town Council support the submittal of a pre-application request for a Business Assistance Grant from the Maine Department of Economic and Community Development (CDBG funds) by the Pier Leasing Company, Inc.? In the event that Pier Leasing Company, Inc. is awarded these grant funds, it is understood that review and approval by municipal committees and boards, shall be contingent upon the applicant acquiring any and all State and Federal approvals and permits.

The Town of Old Orchard Beach will hold a Public Hearing on January 16, 2007 at 7:00 p.m. at the Town Hall Council Chambers to discuss a pre-application being submitted to the State of Maine CDBG program for a Business Assistance Grant (BA). The purpose of the request is to construct a banquet facility on the Pier. Public comments will be solicited at this Hearing and will be submitted as part of the pre-application. All persons wishing to make comments or ask questions about the proposal are invited to attend this Public Hearing. Comments may be submitted in writing to: Caroline Segalla, 1 Portland Avenue Old Orchard Beach, ME 04064 at any time prior to the Public Hearing. TD/TTY users may call 711. If you are physically unable to access any of the Town's programs or services, please call 207-934-5714 ext. 226, so that accommodations can be made.

**SANDRA MOWERY:** Pier Leasing Company, Inc., the owner/developer, is requesting Council support for a Business Assistance Grant from the Maine Department of Economic and Community Development (CDBG funds) for the purpose of constructing a Banquet and Events Center on the existing pier. CDBG requires the applicant to have Town support at this time, in order for the grant application to proceed. Pier Leasing Company, Inc. believes the new banquet and events center, strategically located above the main entrance to the pier, will support other businesses currently working toward a year-round economy. There are no current facilities of this kind located in the downtown district; additionally the project will create permanent jobs for low to moderate income persons. In the event that Pier Leasing Company, Inc. is awarded these grant funds, it is understood that review and approval by municipal committees and boards, shall be contingent upon the applicant acquiring any and all State and Federal approvals and permits. Citizen participation is a requirement of this application; therefore the public hearing minutes shall be copied and forwarded with the pre-application.

**3. Citizen Participation (15 Points) - Describe how business groups, local citizens, community groups and others were involved in the identification of the problems/needs and solutions discussed in the application. Local citizens, groups, boards, agencies, etc. are essential to any successful project. It is important that you show how these various groups were involved in bringing problems or needs to the attention of the community. The OCD views the involvement of local citizens in focusing on problems/ and solutions as a key element in a successful program application as well as in successful implementation of a project. Review is divided into two areas. Following each area are topics, information, or ideas that must be included in Citizen Participation.**

**Public Hearing Process (8 points)**

- Describe how citizen participation contributed to the actual development of this application, including how the required public hearing contributed to the process. (Submit a public hearing record consisting of the published public hearing notice, hearing minutes, and attendance list with the original and all five copies of the application.)

**Business/Local Involvement (7 points)**

- Outline other input from businesses, chambers of commerce, development organizations, local groups and individuals have had in increasing the citizen participation process for the proposed project.
- Highlight how the use of any media (TV, radio, newspapers, etc.) increased public awareness and participation in the EDP project.

The owner of the Pier, Paul Globulin is hoping to get a Community Development Block Grant from the State to build a 5,000 square foot banquet center over the Hooligan's Landing and Pier Pizza restaurants on the Pier. The project is estimated to cost approximately \$500,000. The Council will not take a formal vote on the projects but the public hearing is required before Golzbein can apply for a grant from the Community Development program. The maximum amount Golzbein could get under a Business Assistance Grant is \$400,000. That type of community development grant is awarded to local business owners who wish to make real property improvements or rehabilitate commercial buildings or structures. To get \$300,000 or more from the Community Development Block Grant program Golzbein would need to commit to creating at least 15 full time jobs or the equivalent mix of part time and full

time positions. The first phase of the process is called the pre-application phase in which the proposed project and the results of the public hearing are reviewed by the State. The second phase is the actual application for grant money. Then, if the grant were awarded, the project would come back to the Old Orchard Beach Planning Board and Design Review Committee for final approval. The Design Review Committee has already recommended that the Planning Board approve Goldstein's plans to refurbish the front entrance.

**COUNCILOR FRENETTE:** Usually Caroline Rodman looks for these grants. Is this a façade grant?

**SANDRA MOWERY:** Yes, we are here to serve the community and we bring these grants forward to any building. This is a business grant.

**COUNCILOR LONG:** I am a CBDG Committee and they have applied under the façade grant program for another grant.

**JACK ALBERT:** The Banquet and Event Center should be able to hold about 300 people and would help stimulate the Town's attempt of creating a year round economy. The plan would be to build the banquet center over the tunnel which already enclosed the Hooligan's Landing and Pier Pizza restaurants. There would also be elevator access and the center would include glass windows on both sides. We feel there is a need and there are lots of potential clients for this. The sky is really the limit. We could rent the center out for weddings, corporate functions, and even other town events. In addition to the banquet center Goltzbein also plans to make improvements to the façade of the Pier. The front entrance would be changed to better mimic the Grand Victorian hotel-condominium which abuts the Pier. We plan to replace the cone-shaped cupolas with dome-shaped roofs. The new cupolas would have pennants flying during the season and an observation deck would be added over the front entrance. There would also be a new stairway with new railings added to the north side of the Pier. Cedar shingles in Nantucket gray would replace the current siding on the front entrance to The Pier and new arched signs would be added to give the entrance a more Victorian look. We want to make the entrance somewhat elegant. If the Planning Board approves the façade, construction on a new front entrance to the Pier could begin within 30 to 45 days, definitely in time for the opening of the summer season. As I explained we would build a second story addition to the pier and build a 5,000 square foot function hall that would hold up to 300 people. The hall would be located at the front of the pier above Hooligans Restaurant and the Pier Pizza and Fish Company with glass walls on the sides abutting the beach.

**CHAIRMAN KLINE:** You have indicated in the past that there would be upgrades to the Pier. What was your decision to change the elevation? You indicated glass at the front – What would you address that. You will lose the visibility. My concern is this would cut off the ocean view.

**JACK ALBERT:** The height will not be higher than the current height of the pier. We are also considering constructing office space in the middle of the Pier. We are hoping to attract businesses that might not otherwise come to Old Orchard Beach.

**PAUL GOLDZBEING:** This is a good start for year round business. We need your support and opinions. The new developments and refurbishments on the pier would help create an old fashioned look that would recreate the style of the original pier. The color scheme would be the same as the Grand Victorian. We don't have a banquet center. We though this would be upscale and bring year round business to this community. The Pier is only as big as it is.



**TOM LEMMON:** Thank you for giving us this opportunity speak. I have worked in the service industry for the past 15 years and have a lot of people working for us in the summer and this would give us a form for them to work year round. It is hard to go out and look for work after the summer but this would give us an opportunity to be a full time, year round employee and make that goal possible.

**TIM SWENSON:** Grand Victorian. I have some concerns about this. One is the current engineers report on the Pier itself – can it support this new structure. Parking, where are these people going to park – if the parking lots are closed, where will they park. Water line and sewer lines need to be address. Trash removal needs to be addressed. Access to the Pier. Current use of the Pier – is that the best use of the Pier – are we looking for more bars. What are the people who have invested in the Grand Victorian going to say about this. I do not support this idea. I believe they have jumped too fast on this project.

**COUNCILOR FRENETTE:** I love you Mr. Swenson but we want to encourage clean up. I am surprised at your lack of support for this considering all the support for your project. I remind you of the difficulties you had when you decided to develop and make improvements in the town. As soon as someone says it, everyone’s against you. Remember?

**WARD MCGOVERN:** Would love to work here year round. I have been here 24 years and I believe that this would be a great thing.

**PAUL GOLZBEIN:** We have an easement; if there are more people year round, parking lots will probably stay open.

**CHAIRMAN KLINE:** Typically people propose a project and it goes through the Planning Board. There were questions raised about zoning, structural limitations – what happens if they award this grant and the Planning process says there are too many other issues to approve it.

**SANDRA MOWERY:** This is a pre application only. They would have to come back to the Planning Board.

**CAROLINE:** This is basically just to gather input from the community and how the community is involved – one of the requirements of the pre application process.

**SONIA SIMPSON GARDINER:** For years we have been trying to get the Pier spruced up and as far as parking is concerned – the town parking lot would be an alternative. As far as height goes – I lost my view of the ocean with the Grand Victorian going up – so I don’t believe that what Mr. Golzbein is

**MISSY SHUPE:** If we want people to come to OO and new business, I support this. The ball hasn’t been launched yet and once it is we will see others jumping on and this is a good opportunity to launch that ball.

**FRED KENNEDY:** I am speaking on my own behalf but as far as I am concerned I am all for it. I agree with Missy Shupe – take changes and move ahead. Here is a private business owner coming up with a great idea. The Planning department is supporting our business owners which are great.

**THOMAS REDMOND:** I too offer my support and encouragement for this effort and investment in our community.

**COUNCILOR LONG:** I support this having seen the grant application for the façade and it is evident they are investing a great deal of money into updating the Pier. This is the next logical step. In reading the application as a land use issue, Planning Board will take great care in seeing that these are all correct and followed through. We know this would involve millions of dollars of investment – what we are doing is encouraging a business owner who is willing to invest his own money and build are community. I also know there have been discussions about a new Pier. It would be great to have two Piers and they would feed off each other and more sustainable financially. I ask the Council to support this because we are supporting an application. The State is becoming more aggressive in supporting the tourist's areas of the State and encouraging growth in the economy. Just by supporting the application, we are not securing the grant, we are giving them our support to go ahead and apply for the grant.

**PAMELA FRANCIS:** I am depressed after Labor Day. I listened to the things about windows. Anything that happens down there would be great. As a resident – anything that will draw people down town would be great and I would be happy to see anything happen down there. I know these kinds of grants are difficult and any one that takes the time and the effort to go after one of these grants is a smart way to go.

**COUNCILOR DAYTON:** I do support this application. I have a couple of quick questions. The banquet facility would seat up to 300? Do we have that type of facility in the downtown area?

**JACK ALBERT:** Yes it would be.

**COUNCILOR DAYTON:** I do support this and I encourage you to go forward no matter what happens, whether you get the grant or not.

**JEANNE LACHANCE:** I support anything that will let the town grow and I only question the height.

**JACK ALBERT:** I would like to address the height issue – it will not be any higher than the original height of the pier. You are talking adding a story to the back. We had consultations with engineers about the structural integrity of the Pier and they have indicated there is nothing that would say the second level could not be built. We would work out a private lot for parking or perhaps the town lot – a mutual hand in hand thing – perhaps shuttle service as well. The Planning Department has been wonderful to work with – very progressive.

**COUNCILOR FRENETTE:** I would like to thank you for your vision. I think you are going to have good luck. Thanks also to Mike Dickinson and Missy Shupe for their positive and enthusiastic efforts.

**JACK SARNO:** I don't have a problem with the application. I have a problem with the parking issue. If this gets passed I would ask that we have workshops with construction about the noise level, etc. impacting the Walnut Street area with foot and traffic area.

**CHAIRMAN KLINE:** What are the plans for the bars?

**JACK ALBERT:** I believe the market will address this issue. Hooligans is a good mix of drink and good food and the Pizza place is an element of food. We are seeing a difference in the diversity of those who come to Old Orchard Beach. We are playing right into the hands of the State's goals in economic development.

**COUNCILOR O'NEILL:** Best of luck to the Paul and Jack on this good plan. I believe the winds of change are happening and this is a positive effort. There are many who would love to get married on the water and this would be a great opportunity for more business opportunities.

**CHAIRMAN KLINE:** I close this Public Hearing at 9:06 p.m.

**BUSINESS LICENSES:** Beverly A. Lavigne (311-10-3), 14 Maplewood Avenue, one seasonal rental; Jackie Fitzpatrick (318-8-1), 29 Reggio Avenue, one year round rental; Krongsak Vattanasil (210-2-15-6), 2 Ryefield Drive, one year round rental; Gary & Janice Kwasnik (305-6-11-4), 66 East Grand Avenue, Unit 4, one year round rental; Terry & Nancy Norton (314-14-1), 97 Union Avenue, three year round rentals; Kevin Beaulieu & Cary Seamans (309-9-1-12-13-21), 7 Heath Street, Units 12, 13, 21, three year round rentals; and Peter & Donna Bolling (314-15-4), 93 Union Avenue, one year round rental, added third unit to existing license.

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

**VOTE:** Unanimous.

**NEW BUSINESS:**

# 1059 Discussion with Action: Appointment of the following committee members: Design Review Committee—Lee Koenigs, regular member, term to expire 12/31/08; Ray DeLeo, regular member, term to expire 12/31/08. Community Development Block Grant Committee—Kim Schwickrath, Business Façade Grant, term to expire 06/30/07. Finance Committee—David Hodges, regular member, term to expire 12/31/08; Planning Board—Robert Quinn, regular member, term to expire 12/31/08; Donald Cote, regular member, term to expire 12/31/08; Mark Koenigs, second alternate member, term to expire 12/31/08. Recreation Committee—Dean Plante, regular member, term to expire 12/31/07. Zoning Board of Appeals —Howard Evans, regular member, term to expire 12/31/09; Philip Weyenberg, associate member, term to expire 12/31/09. Recycling Committee—Fred Dolgon, regular member, term to expire 6/30/07. Administrative Board—Tina Englert, citizen member, term to expire 12/31/08; Daniel Blaney, business member, term to expire 12/31/08. Board of Assessment Review—Steve Bergeron, regular member, term to expire 12/31/09.

**MOTION:** Councilor Frenette motioned and Councilor Long seconded to approve the

**appointments of Committee Members as read.**

**COUNCILOR LONG: It is critical to have volunteers such as those who have been willing to serve on these Committees. Without you we could not function administratively.**

**VOTE: Unanimous.**

**# 1060 Discussion with Action: Appoint 2007 annual appointments as follows: General Assistance Director – Patricia Saunders; Tax Collector – Deborah Mulherin; Finance Director/Treasurer – Jill Eastman; Code Enforcement Officer – Kenneth Shupe; Deputy Code Enforcement Officers – Alan Borg, Matthew Leconte; Plumbing Inspector – Kenneth Shupe; Electrical Inspector – Kenneth Shupe; Alternate Electrical Inspector – William Southwick; Animal Control Officer – William Watson; and Lifeguard Captain – Keith Willett.**

**MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to approve the 2007 annual appointments as read.**

**VOTE: Unanimous.**

**# 1061 Discussion with Action: Appoint Beth Gilman as Registrar of Voters, term to expire 12/31/2008.**

**MOTION: Councilor Long motioned and Councilor Frenette seconded to approve the Appointment of Beth Gilman as Registrar of Voters, term to expire 12/31/2008.**

**VOTE: Unanimous.**

**# 1062 Discussion with Action: Appoint Paramedic Fire Fighter, Mario Byram, as the Forest Fire Warden for the Municipality of Old Orchard Beach, for an indefinite term and subject to removal by the State.**

**MOTION: Councilor O'Neill motioned and Councilor Long seconded to approve the appointment of Paramedic Fire Fighter, Mario Byram as the Forest Fire Warden for the Municipality of Old orchard Beach for an indefinite term and subject to removal by the State.**

**VOTE: Unanimous.**

**# 1063 Presentation of the Fiscal Year 2006 Audit Report by Roger Lebreux from Runyan, Kersteen & Ouellette.**

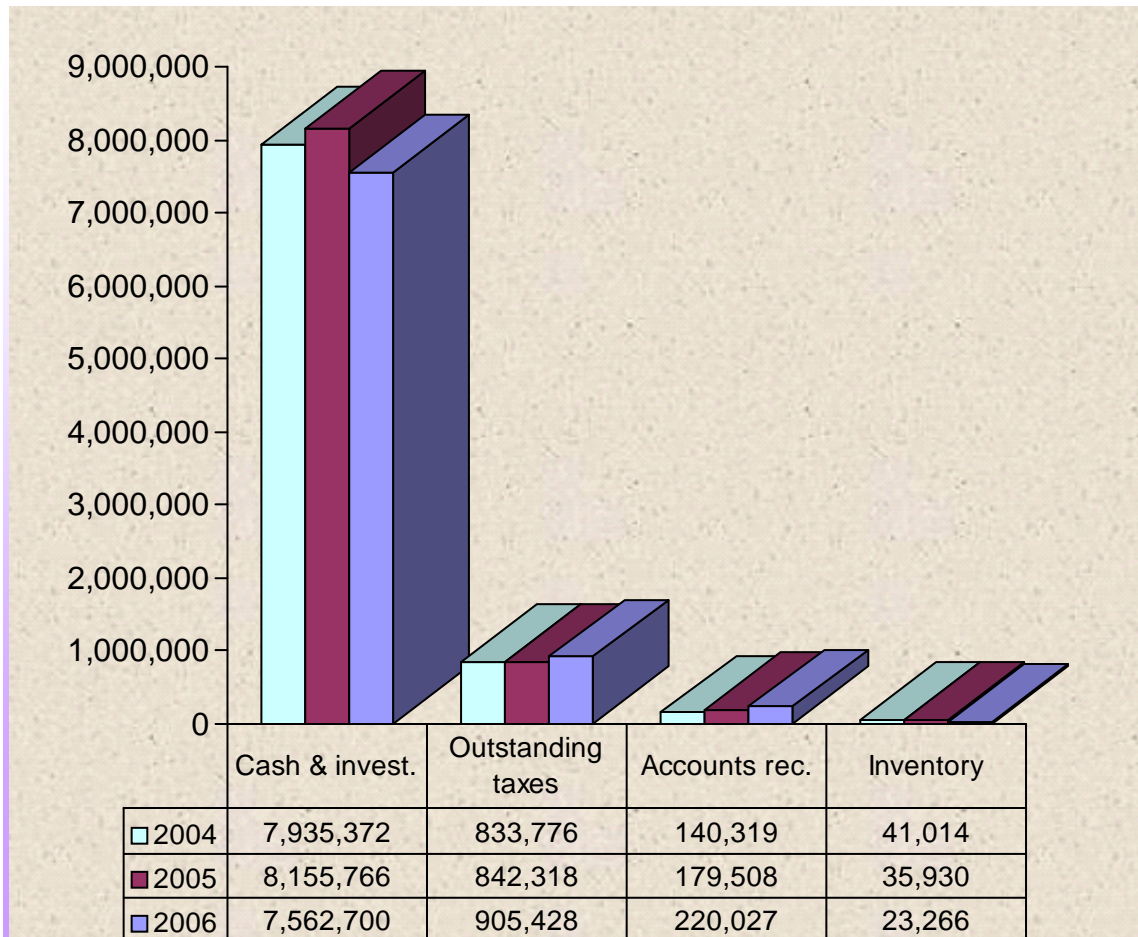
**Financial Overview**

**Presented by:**

**Roger Lebreux - Principal**

**RUNYON KERSTEEN OUELLETTE**

Recently, the Town of Old Orchard Beach completed the financial audit process. Once again the Town has received an unqualified opinion. The remainder of this publication is dedicated to providing you with the financial results for fiscal year 2006 as well as trend information for certain areas. We hope you find this information useful and understandable. Finally, we wish to express our appreciation to all the members of the Town's staff who were so helpful to us during the audit process.



# TOWN OF OLD ORCHARD BEACH

## FINANCIAL STATEMENT PRESENTATION

June 30, 2006

### Financial Overview

Presented by:  
Roger Lebreux - Principal  
RUNYON KERSTEEN OUELLETTE

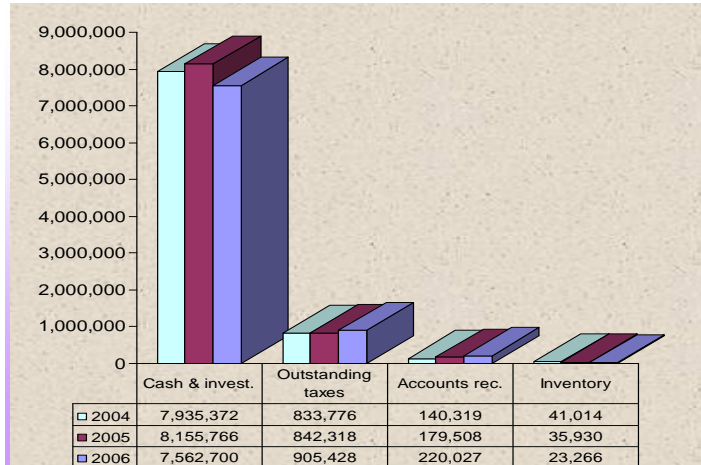
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### Key Performance Indicators

#### GENERAL FUND ASSETS



### INSIDE

1. Assets
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13. Debt and Conclusion

### SUMMARY OF SIGNIFICANT CHANGES

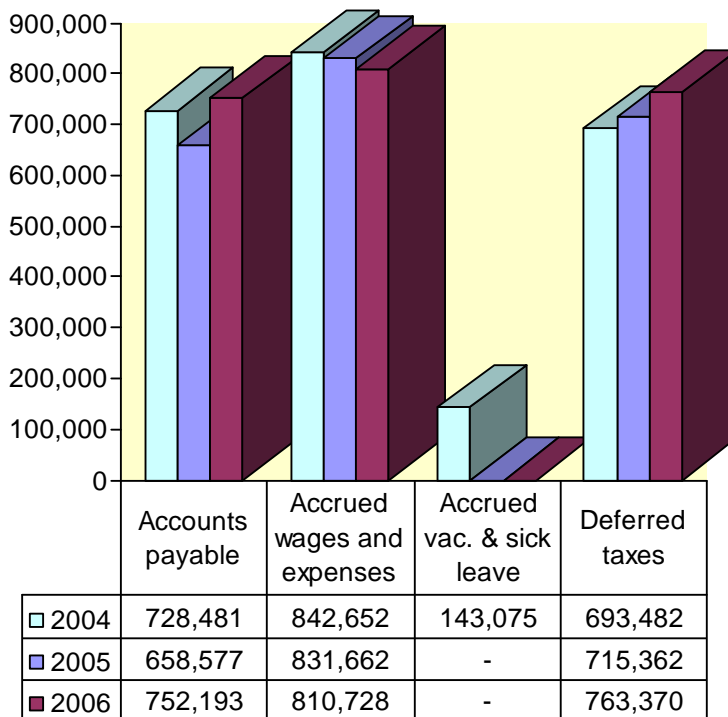
- Cash and Investments has decreased over last year by approx. \$593k.
- Outstanding taxes and liens receivable have increased despite the collection rate remaining unchanged.
- Inventory decreased over last year by \$13k and consists mostly of fuel and trash bags which are held for resale.

Runyon  
Kersteen  
Ouellette

Town of Old Orchard Beach

# TOWN OF OLD ORCHARD BEACH

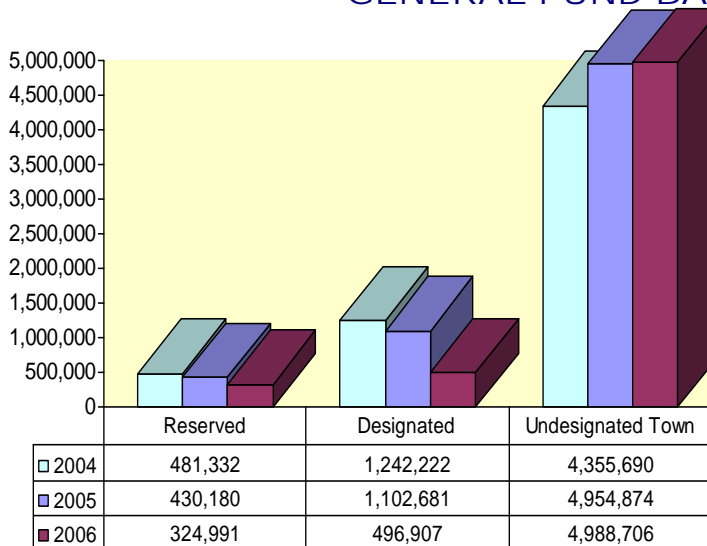
## GENERAL FUND LIABILITIES



### SUMMARY OF SIGNIFICANT CHANGES

- Accounts payable, which represents amounts due to others at year end increased as a result of timing differences.
- Deferred revenue represents taxes still unpaid 60 days after the end of the year. These amounts are not recognized as revenues in the current year.
- Accrued wages and expenses decreased by \$21k in 2006. This amount represents payroll earned in June of 2006 but paid in July or August 2006.
- Accrued vacation and sick no longer get recorded in the general fund due to a change in the accounting standards.

## GENERAL FUND BALANCES



### SUMMARY OF SIGNIFICANT CHANGES

- Reserved fund balance consists primarily of amounts reserved for education.
- Designated fund balance includes unspent capital improvement projects. Details can be found on page 40 of the Financial Statements.
- Undesignated fund balance increased from \$4,954,874 in 2005 to \$4,988,706 in 2006. This amount includes \$128,368 for the school.

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Town of Old Orchard Beach, L

# TOWN OF OLD ORCHARD BEACH

## GENERAL FUND REVENUES

	2006		
	Budget	Actual	Variance
Property taxes	15,872,090	16,265,640	393,550
Excise taxes and other	1,643,500	1,649,581	6,081
Licenses, permits	1,065,800	1,164,742	98,942
State Revenue sharing	950,000	851,766	(98,234)
State Education Subsidy	1,320,668	1,360,397	39,729
Other intergov.	304,335	258,664	(45,671)
Interest	100,000	224,977	124,977
Other	113,000	92,151	(20,849)
Transfers in	434,334	434,334	-
Use of surplus	300,000	-	(300,000)
<b>Total Revenue</b>	<b>22,103,727</b>	<b>22,302,252</b>	<b>198,525</b>

### SUMMARY OF SIGNIFICANT CHANGES

- Licenses and permits exceeded budget in business licenses, building/electrical permits and other permits and fees but came in under budget in parking fees. All significantly exceeded expectations due to an increase in activity as well as fee increases.
- Property taxes appears to have exceeded budget due to overlay of \$441k which is not budgeted as well as an unfavorable change in deferred taxes of (\$48k).
- State revenue sharing is under budget due to state cut backs. Budget was calculated on historical amounts.
- Interest exceeded budget due to an increase in the average rate of return. 3.65% in 2005 vs. 4.28% in 2006.

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# TOWN OF OLD ORCHARD BEACH

## GENERAL FUND EXPENDITURES

	2006		
	<i>Budget</i>	<i>Actual</i>	<i>Variance</i>
<i>General government</i>	1,983,206	1,797,347	185,859
<i>Public safety</i>	3,848,942	3,844,767	4,175
<i>Health and welfare</i>	65,415	70,732	(5,317)
<i>Park and recreation</i>	447,674	443,249	4,425
<i>Education</i>	9,097,161	8,920,688	176,473
<i>Public works</i>	1,180,230	1,127,144	53,086
<i>Sanitation</i>	1,675,394	1,677,526	(2,132)
<i>County tax</i>	536,815	536,815	-
<i>Debt service</i>	1,616,750	1,616,746	4
<i>Transfers out</i>	59,680	59,680	-
<i>Capital outlays</i>	1,532,460	2,710,375	(1,177,915)
<i>Abatements, write offs</i>	60,000	62,492	(2,492)
<b><i>Total expenditures</i></b>	<b>22,103,727</b>	<b>22,867,561</b>	<b>(763,834)</b>

### SUMMARY OF SIGNIFICANT CHANGES

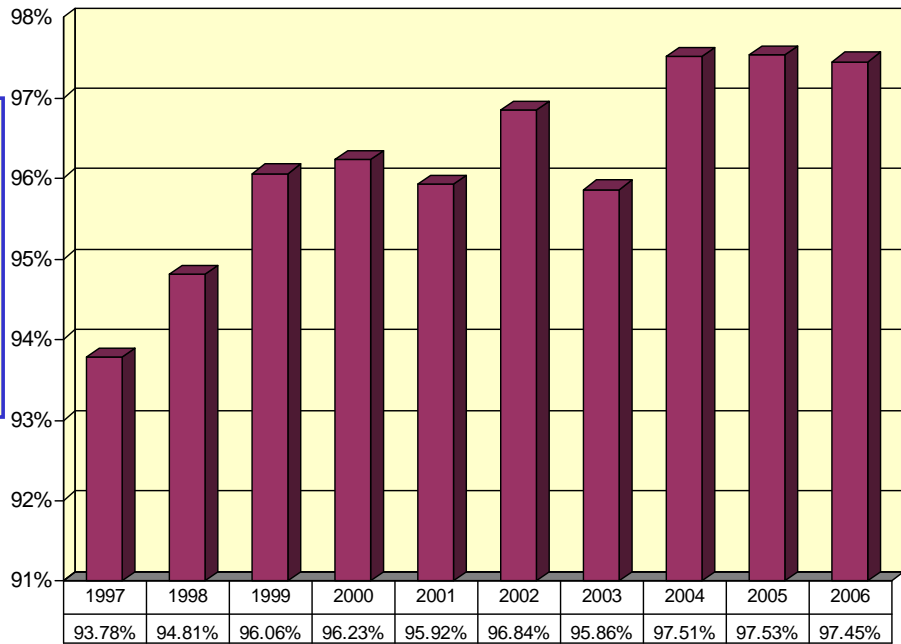
- Capital outlay appears to be over budget. These represent large on-going projects with the remaining balances being designated at year end. These also represent amounts being spent from designated fund balance.
- General government is under budget due to unspent contingencies of approx. \$66k, savings on workers comp premiums and less than expected need for legal services.
- Public works was under budget mostly due to delays in construction/maintenance projects. PW director position was vacant for most of the summer which happens to be the time when most of these projects get completed.

# TOWN OF OLD ORCHARD BEACH

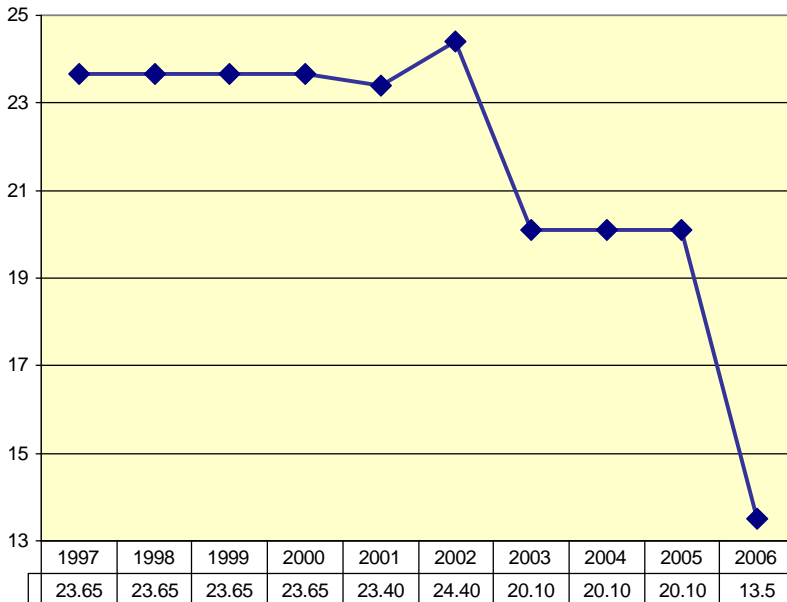
## PROPERTY TAX COLLECTION RATES

**OBSERVATIONS**

- The collection rate remained consistent for the past three years. The collections rate is at its highest point within the last ten years.



## PROPERTY TAX RATES



**OBSERVATIONS**

- The Town's property tax rates decreased substantially in 2003 and again in 2006 due to revaluations.



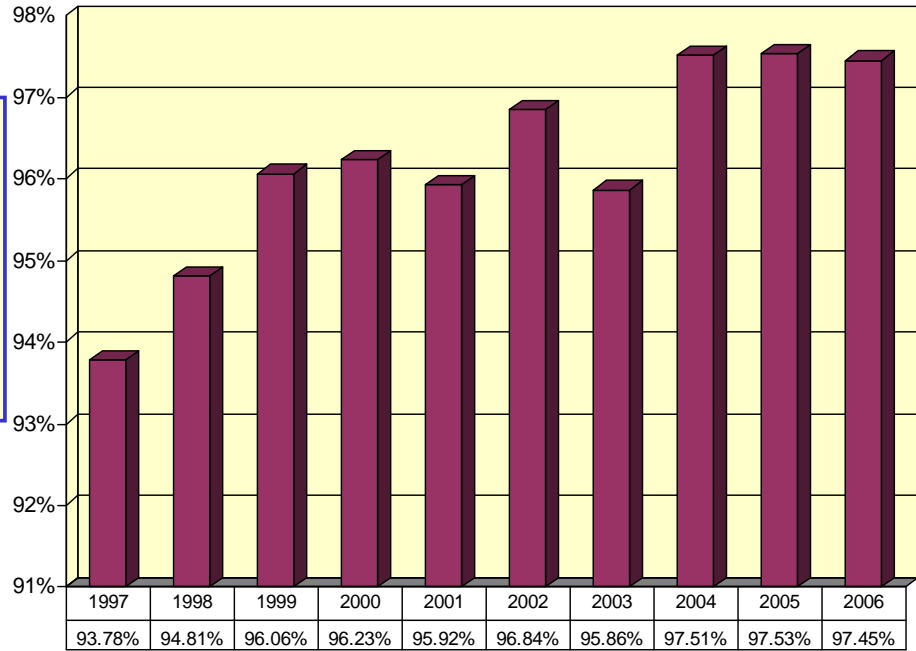
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# TOWN OF OLD ORCHARD BEACH

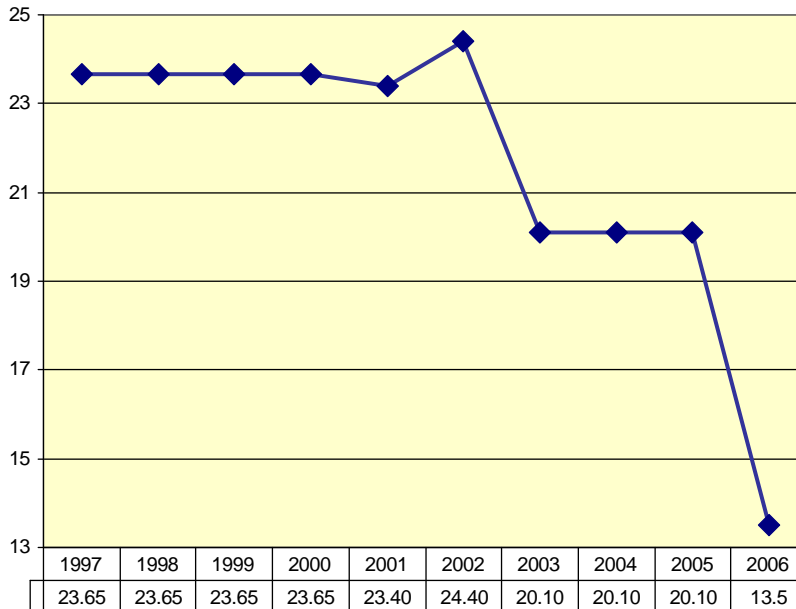
## PROPERTY TAX COLLECTION RATES

### OBSERVATIONS

•The collection rate remained consistent for the past three years. The collections rate is at its highest point within the last ten years.



## PROPERTY TAX RATES



### OBSERVATIONS

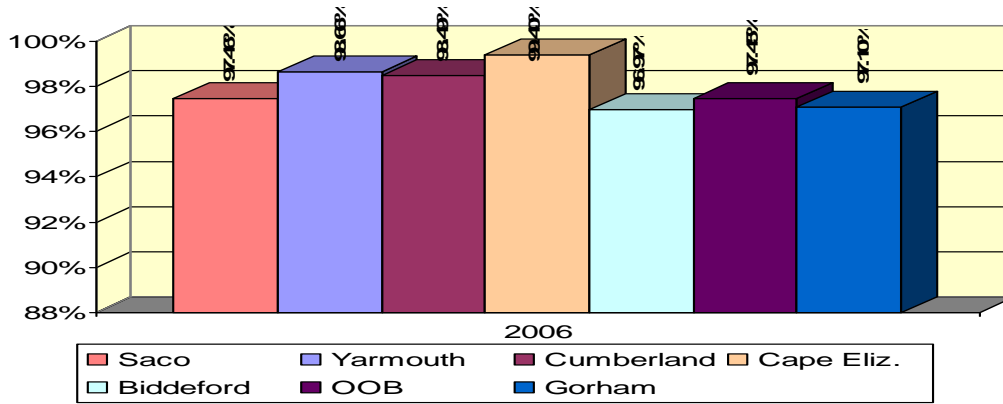
•The Town's property tax rates decreased substantially in 2003 and again in 2006 due to revaluations.

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# TOWN OF OLD ORCHARD BEACH

## TAX COLLECTION RATES COMPARED TO SIMILAR SIZED COMMUNITIES



**OBSERVATION**

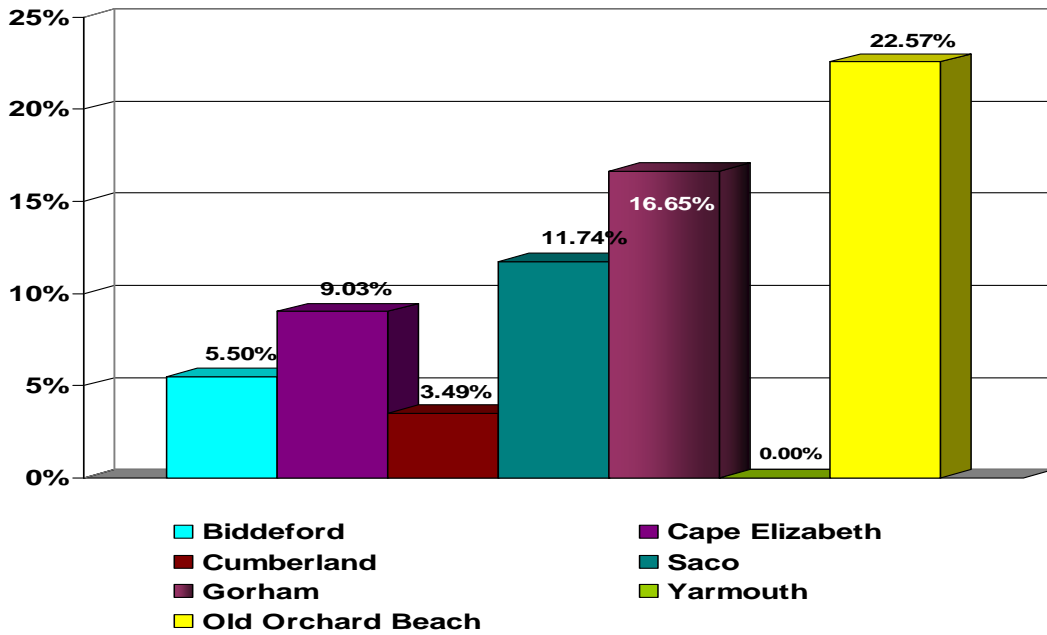
- The Town's FY '06 collection rate of 97.45% has improved over the last ten years and remains consistent with the surrounding and similar sized communities.

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# TOWN OF OLD ORCHARD BEACH

## UNDESIGNATED FUND BALANCE COMPARED TO OTHER COMMUNITIES AS A PERCENT OF BUDGET



**OBSERVATION**

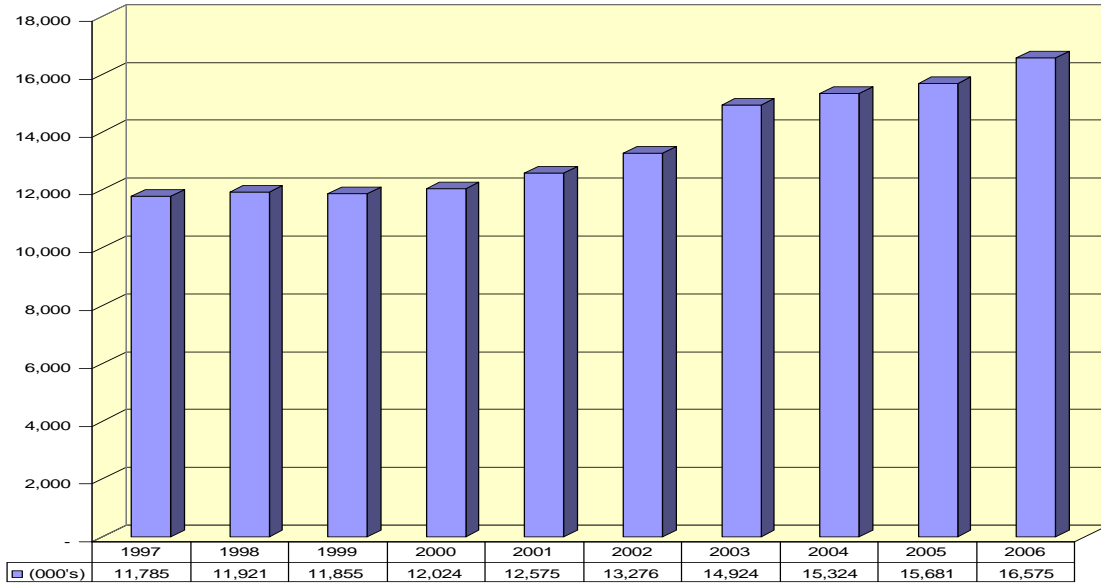
- Undesignated fund balances vary widely across the State. Old Orchard Beach is carrying a little less than 3 months of expenditures in its undesignated fund balance and its policy calls for 1½ months of expenditures.

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# TOWN OF OLD ORCHARD BEACH

## TAX COMMITMENT

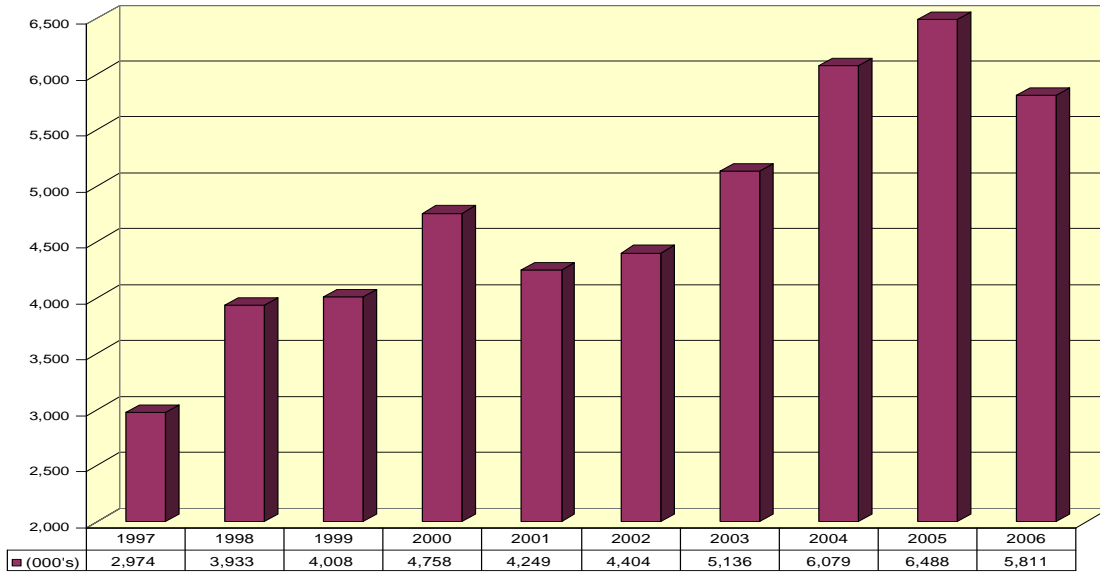


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# TOWN OF OLD ORCHARD BEACH

## TOTAL FUND BALANCE

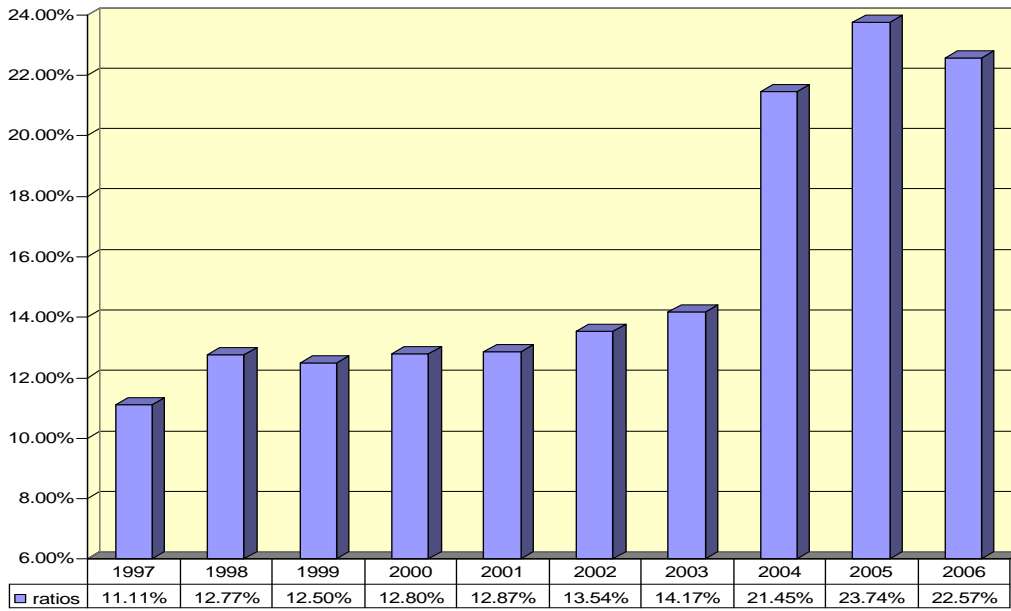


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# TOWN OF OLD ORCHARD BEACH

## UNDESIGNATED FUND BALANCE AS A % OF BUDGET



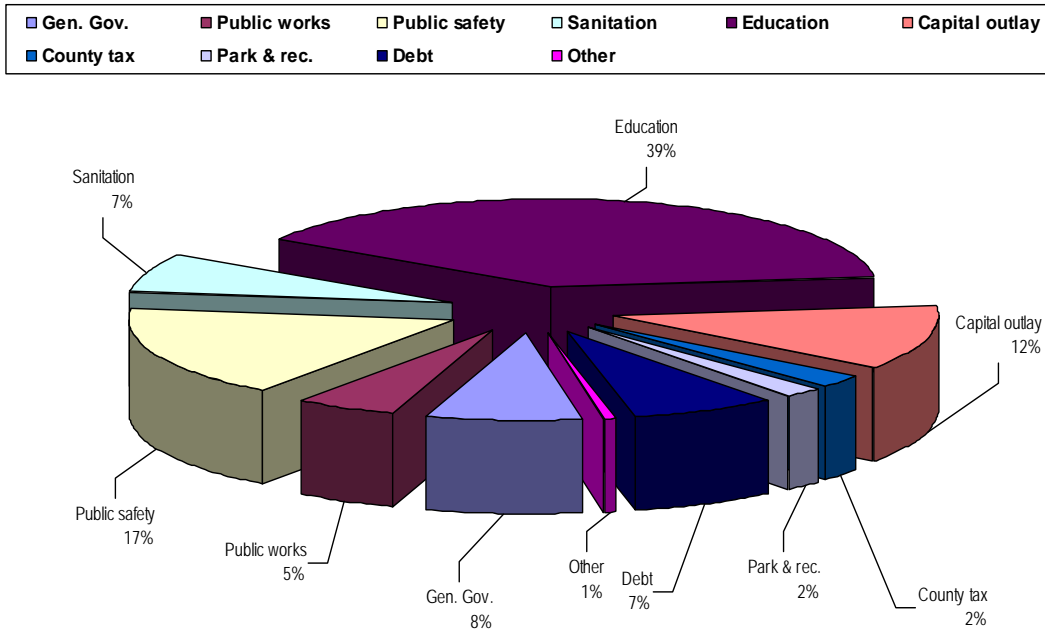
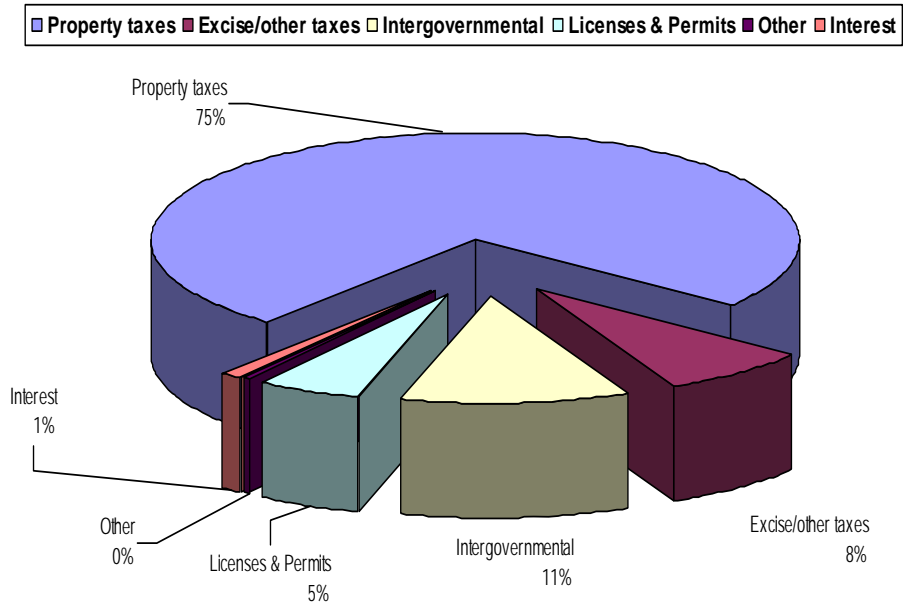
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# TOWN OF OLD ORCHARD BEACH

## 2006 REVENUES AND EXPENDITURES - GENERAL FUND

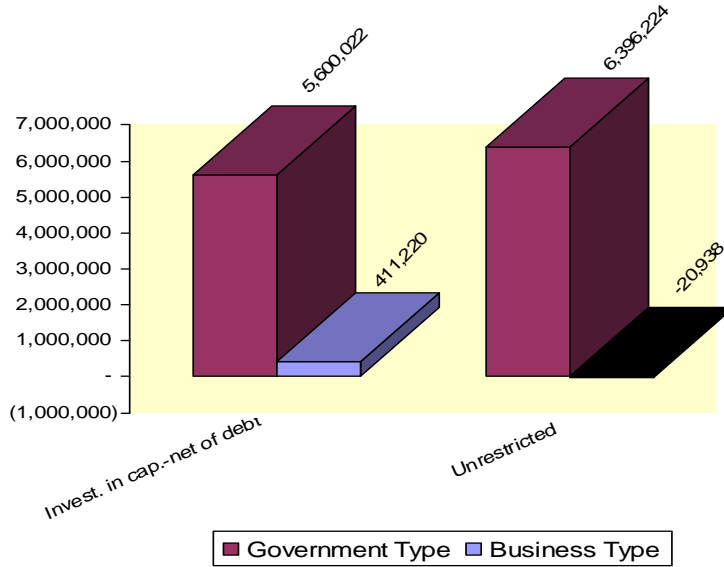


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# TOWN OF OLD ORCHARD BEACH

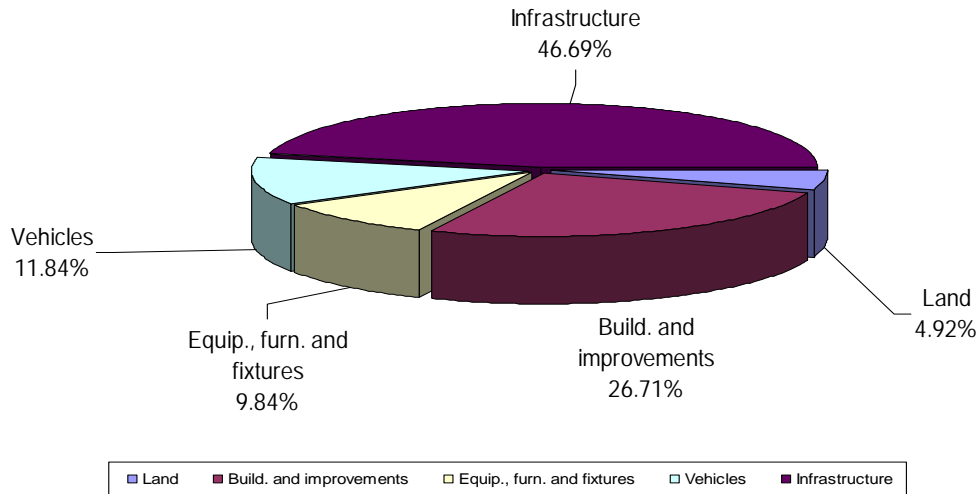
## COMPONENTS OF NET ASSETS



**SIGNIFICANT RECONCILING GASB 34 ADJUSTMENTS**

- Recording fixed assets net of accumulated depreciation.
- Eliminating interfund balances.
- Eliminating deferred revenue.
- Recording long-term debt, landfill liability and accrued vacation/sick.

## CAPITAL ASSETS

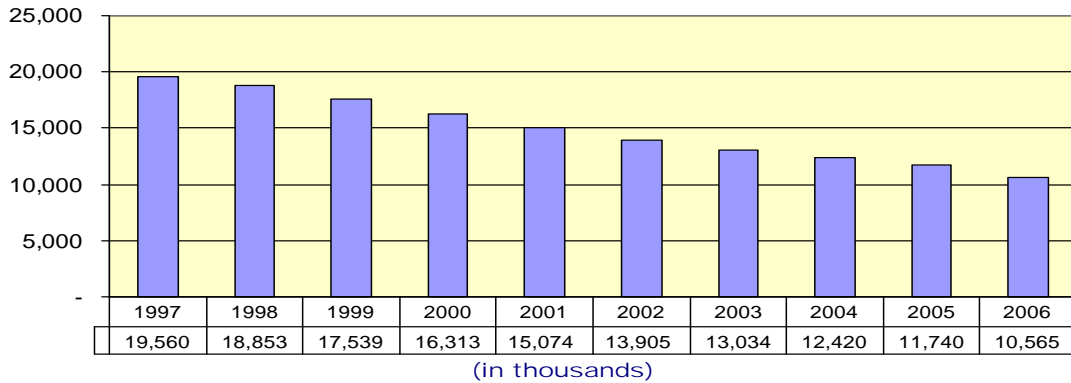


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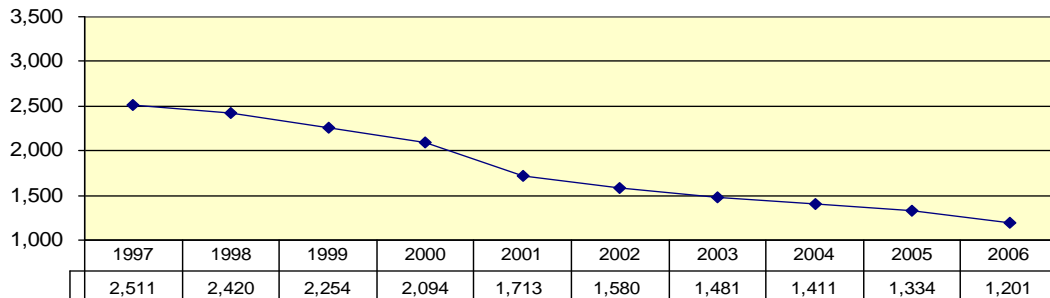
Town of Old Orchard Beach 15

# TOWN OF OLD ORCHARD BEACH

## GENERAL LONG TERM DEBT



## DEBT PER CAPITA



## FINAL WORDS

This presentation is intended as a tool to assist the Town Council and management in understanding its financial operating results.

The information contained in this publication should be read in conjunction with the audited financial statements and related disclosures and should not be used for any other purposes without the expressed consent of

**RUNYON KERSTEEN OUELLETTE**

Please contact us at 207-773-2986 or 1-800-486-1784  
20 Long Creek Drive, South Portland, ME 04106

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*Town of Old Orchard Beach 14*

**ROGER LEBREUX:** You have asked about the school department expenditures' % of total budget. In most towns the school is in the low 50% and the graph showed ours at 39%. If you take out our capital expenditures (because most towns have a separate fund for capital expenditures) it would be more in line with all other towns.

**COUNCILOR KLINE:** We don't have control over those, so they should be taken out to tell the operating accounts and what percentage the school is that way.

**ROGER LEBREUX:** If you take out capital, debt interest and county tax (which I just did on a graph I have) the school shows at 54% of total expenditures. I think they just wanted

to make it clear that the Town of OOB is right in line with other municipalities throughout the state on the % that is spent on education

# 1064 Discussion with Action: Set a Town Council Workshop for January 23, 2007 at 6:30 p.m. to discuss parking permits.

MOTION: Councilor Long motioned and Councilor O'Neill seconded to set a Town Council Workshop for January 23, 2007 at 6:30 p.m. to discuss Parking permits.

VOTE: Unanimous.

# 1065 Discussion with Action: Authorize the Purchase of computers, software, and related equipment from the State Bid List for Emergency Medical Service reporting requirements in the amount of \$11,400 from Account Number 20202/50839 – CIP – Fire Rescue, Ambulance Services, with a current balance of \$12,000.

TOWN MANAGER: The State of Maine Emergency Medical Service (EMS) is requiring each ambulance health provider serve to begin to integrate electronic run reporting into our EMS system this year. This will allow ambulance run reports to be completed on laptop computers and the data can then be transmitted electronically to Maine EMS for quality assurance review as well as to our ambulance billing department for processing. The implementation of this new technology will help to eliminate reporting errors and reduce the problem of incomplete information thereby making ambulance billing more efficient. The Fire/Rescue Department requested \$12,000 in the FY 2007 budget to purchase licensing software, laptop computers for both ambulances to make this transition. The request was granted and these funds will be spent in the following manner.

Field Bridge Software Licensing		
and 1 year support fees for 2 ambulances	\$	1,600.00
Two (2) Panasonic XP Tough book Tablet PC's		6,000.00
Printers		1,500.00
Mounting Hardware		2,000.00
Incidentals (Printer Paper, notepads, wiring)		<u>300.00</u>
	\$	11,400.00

Balance remaining in the account would be \$600.

MOTION: Councilor Long motioned and Councilor Frenette seconded to Authorize the purchase of computers, software, and related equipment from the State Bid List for Emergency Medical Service reporting requirements in the amount of \$11,400 from Account Number 20202/50839 – CIP – Fire, Rescue, Ambulance Services, with a current balance of \$12,000.

VOTE: Unanimous.

#1066 Discussion with Action: Accept the resignation of James F. Long from the Eastern Trail Alliance, as alternate.

**MOTION:** Councilor O'Neill motioned and Councilor Frenette seconded to Accept the resignation of James F. Long from the Eastern Trail Alliance, as Alternate.

**VOTE:** Unanimous.

**#1067 Discussion with Action:** Appoint Robin Dayton as alternate to the Eastern Trail Alliance.

**MOTION:** Councilor Long motioned and Councilor O'Neill seconded to Appoint Robin Dayton as alternate to the Eastern Trail Alliance.

**VOTE:** Unanimous.

**#1068 Discussion with Action:** Accept the resignation of Joseph Kline from the Biddeford/Saco/Old Orchard Beach Transit Committee.

**MOTION:** Councilor Frenette motioned and Councilor Dayton seconded to Accept the resignation of Joseph Kline from the Biddeford/Saco/Old Orchard Beach Transit Committee.

**VOTE:** Unanimous.

**#1069 Discussion with Action:** Appoint James F. Long to the Biddeford/Saco/Old Orchard Beach Transit Committee.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to Appoint James F. Long to the Biddeford/Saco/Old Orchard Beach Transit Committee.

**VOTE:** Unanimous.

### **GOOD AND WELFARE**

**SONIA SIMPSON GARDINER:** 55 year resident of Old Orchard Beach. I wanted to address the bar owners and the citizens of Old Orchard Beach. I would like them to sit their children down and listen to this. I am sorry that my grandson is here so late but he is the face of innocence.

**Councilor Secretary's Notes:** Dictated over the phone to Louise Reid, Assistant Town Manager, by Sonia Simpson Gardiner and requesting that Louise Reid read it under Good and Welfare on January 16, 2007. The Assistant Town Manager said she would send the request to the Council. Council requested it be read by a friend or family member.

Sonia also mentioned that Officer Jami-Ellen Foshay who came to her house to tell her about the overdose was extremely sensitive and caring and should be recognized for the manner in which she handled this very difficult circumstance.

**January 2, 2007**

**Respective Council, Town Manager and Citizens of Old Orchard Beach:**

**I come to you under Good and Welfare to try to prevent our children from continually being murdered here in Old Orchard Beach and for the rest of my living days I will fight to get the drug dealers out of Old Orchard Beach and anywhere else in this State. On January 1, 2007 we were told by Police Officer Jami-Ellen Foshay, of the death of our beloved nephew, Jon Kiernan, due to the drug related cause. The man who provided him with these drugs was a convicted felon who is still permitted to roam the streets with juveniles and others – a 40 year old man.**

**We are often told that these are accidental overdoses. There is no accident for the elder members of our community to be providing drugs to the children of our community. This is a deliberate act to make themselves rich and it should not be tolerated. This man's parole officer was notified way beforehand and told of his gun possession and drug activity and because it was his felon's wife issuing the complaint the parole officer indicated that she was bitter due to a pending divorce. Because of this man's ignorance my sister has now lost a son and I have a lost a precious gift of life, my nephew.**

**Please , I come to you begging the administration of this community, to the citizens of this community, to do what you can to rid our community of these greedy, hateful and uncaring people and I come to those people and ask them to please find a new way of life to get rich. Stop using and killing our children. I know that I will make it my mission to fight for the life and the rights of these kids. And anyone that knows of the last 13 hours of Jon Kiernan's life – go to the Police – they need to get information on what really happened.**

**I express my appreciation to Jim Long and Louise Reid for their support as well.**

**Thank you.  
Sonia Simpson Gardiner**

**MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to adjourn the Town Council Meeting at 9:50 p.m.**

**VOTE: Unanimous.**

**Respectfully Submitted,**

**V. Louise Reid  
Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of thirty-nine (39) pages is a true copy of the original Minutes of the Town Council Meeting of January 16, 2007.**  
**V. Louise Reid**