

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
Tuesday, June 15, 2010  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, June 15, 2010. Chair MacDonald opened the meeting at 7:01 p.m.**

**The following were in attendance:**

**Chair Sharri MacDonald  
Vice Chair Michael Tousignant  
Councilor Robin Dayton  
Councilor Laura Bolduc  
Town Manager Jack Turcotte  
Assistant Town Manager Louise Reid**

**Absent: Councilor Shawn O'Neill**

**Pledge to the Flag  
Roll Call**

**EMERGENCY ITEM: Vice Chair Tousignant motioned and Councilor Dayton seconded to add an Emergency Item under Public Hearing Business Licenses and Approval: Matthew Rogers dba/Matthew Rogers Famous Lobstah Lawg (306-1-2-N), 1 East Grand Avenue, Kiosk N, Victualers with Preparation.**

**VOTE: Unanimous.**

**ACKNOWLEDGEMENTS:**

**ACCEPTANCE OF MINUTES: Town Council Workshop Minutes of May 27, 2010;  
Town Council Meeting Minutes of June 1, 2010;  
and Town Council Workshop Minutes of June 1,  
2010.**

**MOTION: Councilor Bolduc motioned and Vice Chair Tousignant seconded to accept the Town Council Workshop Minutes of May 27, 2010; Town Council Meeting Minutes of June 1, 2010; and Town Council Workshop Minutes of June 1, 2010.**

**VOTE: Unanimous.**

**CHAIR: I open the Public Hearing at 7:07 p.m.**

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

**Andy O'Hara dba/Andy's Ice Cream – Ice Cream Truck; Paul Meade (205-8-7), 23 Wintergreen Street, one year round rental; Ace Holdings LLC dba/The Whistling Sands Motel (302-7-3), 160 East Grand Avenue, five year round rentals; Tracey Chambers dba/RE Salon (306-1-2-A), 1 East Grand Avenue, Suite A, Massage Establishment & Personal Service; Michael Hurley dba/Bama BBQ (306-1-2-L), 1 East Grand Avenue, Kiosk L, Victualers with Preparation; Dunegrass By the Sea LLC dba/Dunegrass By the Sea (307-1-3), 27 West Grand Avenue, Victualers with Preparation with Beer, Wine and/or Liquor on Premises; Wayne & Shirley Snell (307-1-7-33), 2 Fernald Street, Unit 33, one year round rental; Michael Roberge dba/Cottage Décor (309-10-5), 57 Saco Avenue, Retail; Barbara J. Roberts (311-1-11), 136 Union Avenue, one year round rental; Joe Riley (311-19-1), 40 Evergreen Avenue, one year round rental; David Shea, Jr. (312-15-12), 48 Atlantic Avenue, one year round rental; Alicia Curtis-Blanchard (315-12-9), 30 Seaview Avenue, one seasonal rental; Jerry Lamm (318-8-6-52), 146 West Grand Avenue, Unit 52, one year round rental; Heather Kile (319-4-2), 3 Tunis Avenue, one seasonal rental; Robert Mount (319-11-3), 21 Reggio Avenue, one seasonal rental; Fred Turner (321-17-9), 1 Casco Avenue, two year round rentals; and Matthew Rogers dba/Matthew Rogers Famous Lobstah Lawg (306-1-2-N), 1 East Grand Avenue, Kiosk N, Victualers with Preparation.**

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

**VOTE: Unanimous.**

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

**PUBLIC HEARING LIQUOR LICENSE:**

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

**Domenic Pugliares dba/Dunegrass by the Sea (307-1-3), 27 West Grand Avenue, m-v- in a Restaurant.**

**MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to approve the Liquor Licenses as read.**

**VOTE: Unanimous.**

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

**PUBLIC HEARING SPECIAL AMUSEMENT PERMIT AND APPROVAL:**

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

**Portland Avenue Associates dba/Grand Beach Inn (202-3-5), 198 East Grand Avenue,**  
**TV/Radio/Live non-amplified Inside 6:30 a.m. to 11:00 p.m.**

**MOTION;** Councilor Dayton motioned and Councilor Bolduc seconded to approve  
the Special Amusement Permit as read.

**VOTE:** Unanimous.

**CHAIR:**I close this Public Hearing at 7:11 p.m.

**TOWN MANAGER'S REPORT:**

1. A number of special event review meetings.
2. Public Works Negotiations
3. Police Building Construction Meeting
4. Met with the Amtrak Train Representatives
5. Credit Card Company
6. Met with State of Maine Grant Manager resulting from the Governor's visit two months ago
7. Waste Water negotiations
8. John Weaver – on Pay as you Throw Program
9. Hosted a York County Town Managers Meeting
10. Attended the Ballpark Commission Meeting
11. Number of Department Head meetings working on the reduced budget proposal.
12. Groundbreaking Ceremony for the new Police Station.

**Item # 5500** Discussion with Action: Reappoint Jacqui Deveneau as a Regular Member of the Recycling Committee, term to expire June 30, 2013; and Appoint Dr. Reza Namin as an Alternate Member of the Finance Committee, term to expire December 31, 2012.

**MOTION:** Councilor Bolduc motioned and Vice Chair Tousignant seconded to Reappoint Jacqui Deveneau as a Regular Member of the Recycling Committee, term to expire June 30, 2013; and Appoint Dr. Reza Namin as an Alternate Member of the Finance Committee, term to expire December 31, 2012.

**VOTE:** Unanimous.

**Item # 5501** Discussion with Action: Grant a Blanket Letter of Approval for Beano/Bingo to the Pinehirst RV Resort, 7 Oregon Avenue, to expire December 31, 2011.

**MOTION: Councilor Bolduc motioned and Vice Chair Tousignant seconded to Grant a Blanket Letter of Approval for Beano/Bingo to the Pinehirst RV Resort, 7 Oregon Avenue, to expire December 31, 2011.**

**Vote: Unanimous.**

**Item # 5502 Discussion with Action: Amend Chapter 26, Environment, Article I, in General, Article III – Noise, Section 26-56, Section 26-58 through and including 26-59, Section 26-62 through and including Sections 26-66, and Delete Article II, Litter.**

**MAJOR DONALD OSMAN: He raised the issue of sound registering and the accuracies of the readings.**

**CHIEF DANA KELLEY: He explained that there has always been cooperation between the Town and The Salvation Army and that the reading is done at the time of the arrival of the Police Officer.**

**COUNCILOR DAYTON: She questioned the 10:00 p.m. ending time in the ordinance and the fact that it is a residential area and people do have the right to sleep.**

**CHERYL POULOPOLUS: As the Director of the Pavilion she indicated that the adhere to the 9:00 ending time for concerts and performances and hopefully everyone is out of the Pavilion by 10:00. We monitor this very closely and it is spelled out in the contract.**

**MOTION: Vice Chair Tousignant motioned and Councilor Bolduc seconded to Amend Chapter 26, Environment, Article I, in General, Article III – Noise, Section 26-56, Section 26-58 through and including 26-59, Section 26-62 through and including Sections 26-66, and Delete Article II, Litter.**

**VOTE: Yea: Councilor Bolduc, Vice Chair Tousignant, Chair MacDonald  
Nea: Councilor Dayton**

**Item # 5503 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 accept the seizure money should it be awarded by the Courts.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant 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 accept the seizure money should it be awarded by the Courts.**

**VOTE: Unanimous.**

**Item # 5504 Discussion with Action: Approve the Application for the 2010 Edward Byrne Memorial Justice Assistance Grant in the amount of \$14,069 for Purchase of ten Dell Computers funded by the Department of Justice with no matching funds from the Town of Old Orchard Beach.**

**CHIEF KELLEY:** The Old Orchard Beach Police Department is applying for the 2010 Edward Byrne Memorial Justice Assistance Award Grant through the Department of Justice. The award of the grants is \$14,069 and would be used for the purpose of upgrading computers for the new Police Station. If awarded, this grant would be fully funded by the Department of Justice and requires no matching funds from the Town of Old Orchard Beach. We are asking the Council's support and approval of this grant application being submitted by the Old orchard Beach Police Department to the Department of Justice.

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Approve the Application for the 2010 Edward Byrne Memorial Justice Assistance Grant in the amount of \$14,069 for Purchase of ten Dell Computers funded by the Department of Justice with no matching funds from the Town of Old Orchard Beach.

**VOTE:** Unanimous.

**Item # 5505 Discussion with Action: Authorize the Town Attorney and Town Staff to institute necessary action to eliminate the blight conditions at 11 East Grand Avenue and the adjacent buildings on the same parcel (Assessor's Map 305, Block 1, Lot 4). The Owners are Henriette Chalom etals and Esther Chalom from North Bergen, New Jersey.**

**MIKE NUGENT:** Going back to the 1980's, The Town of Old Orchard Beach has been trying to persuade the owners of the above properties (Henriette Chalom etals and Esther Chalom from North Bergen, N.J.) to maintain, improve and use the buildings. Many business owners and residents have complained about the conditions of the buildings. The Town has the two following options: (1) bring an enforcement action under Rule 80K of the Maine Rules of Civil Procedure, and/or (2) bring a dangerous building action pursuant to 17 M.R.S.A. §2851 et seq. The remedy employed will be determined based on its applicability to each of the properties in question. For example, if the house is structurally sound we would not use the dangerous building statute to address the status of the house. The first step in either case would be to obtain an Administrative Inspection Warrant, as allowed by Rule 80E of the Maine Rules of Civil Procedure. The expense for preparing the paperwork for an Administrative Inspection Warrant and attending court hearings could easily take 5 – 10 hours. We need to determine the structural integrity of the buildings. It appears that Allied Engineering has written an engineering report indicating that the buildings are stable; if you are comfortable that Allied's report is accurate, it may not be wise to pursue a dangerous building action. In addition to the expense of obtaining an Administrative Inspection Warrant, a dangerous building action on its own could take 10-15 hours. A Rule 80K enforcement action could easily take 20 hours, if not more. And in both instances, enforcing a court (or Council) decision against a non-compliant land owner will take additional time. In the case of the 80K, the additional work would include filing a motion for contempt with the court and attending a hearing on that motion. This could be another 5 – 10 hours. Enforcing a dangerous

building order of the Council would probably take about the same amount of time. Additionally, there is the possibility that the Chalom family would file an appeal in Superior Court; responding to such an appeal could take another 10-15 hours. The unpredictability of enforcement actions and dangerous building actions, it is difficult to provide a precise estimate on how much time we would need to spend working on the case. We cannot predict how the opposition or the courts will react, which causes a great deal of unpredictability. The estimates above are my best effort at giving you a ballpark estimate. Additionally, the Council should note that it has the ability to direct the extent to which the town will pursue an enforcement action once such an action has begun. (In other words, if for whatever reason the Council decides it is most prudent to abandon an action, the Council may instruct us accordingly.) Presumably, however, the Council prefers not to undertake an action unless it intends to see the matter through to completion.

**CHAIR MACDONALD:** She indicated that this has been an issue of concern for many years and it is time to move action forward.

**MOTION:** Councilor Bolduc motioned and Vice Chair Tousignant seconded to Authorize the Town Attorney and Town Staff to institute necessary action to eliminate the blight conditions at 11 East Grand Avenue and the adjacent buildings on the same parcel (Assessor's Map 305, Block 1, Lot 4). The Owners are Henriette Chalom etals and Esther Chalom from North Bergen, New Jersey.

**VOTE:** Unanimous.

**Item #5506 Discussion with Action:** Accept the bid from Sugarloaf Ambulance/Rescue Vehicles of Carrabassett Valley, Maine, for a new "PL Custom" Ambulance as specified by the Fire/Rescue Department in the amount of \$154,166 from Account Number 30141/50807 – Rescue Vehicle Purchase, with a balance of \$279,921.

**BACKGROUND:** The Town of Old Orchard Beach solicited bids for an ambulance from late April to May 28<sup>th</sup>, 2010. This purchase is a planned purchase from a previously approved five year equipment replacement policy. Four manufacturers submitted bids for a factory built type 3, Ford ambulancem based upon our provided specifications which all ambulance manufacturers could meet. The vehicle being replaced has also been evaluated by all submitting companies for trade-in purposes. Many of our staff personnel drove and rode in each model bid to assess suitability. Two demo models of two of the submitting manufacturers were also considered.

**Exhibits: 4 Bid Sheets**

Sugarloaf Ambulance/Rescue Vehicles	\$ (12,000) Trade In 154,166 Final Price
Quality Emergency Vehicles, Inc.	\$ 164,370.00 Final Price
Specialty Vehicles, Inc.	\$ (12,000) Trade In (5,800) Ford FIN Concession 164,315 Final Price

**Recommendation:** Chief Glass and his staff reviewed the bid submittals and make the following recommendation. The Town of Old Orchard Beach should accept the \$154,166.00 bid from Sugarloaf Ambulanc/Rescue Vehicles of Carrabasset Valley, Maine for a new "PL Custom" ambulance which includes \$12,000.00 for a trade in of an existing Town owned ambulance. This dealer has competitively sought our business for many years and is a proven supplier of quality vehicles in the industry.

**MOTION:** Vice Chair Tousignant motioned and Councilor Dayton seconded to Accept the bid from Sugarloaf Ambulance/Rescue Vehicles of Carrabasset Valley, Maine, for a new "PL Custom" Ambulance as specified by the Fire/Rescue Department in the amount of \$154,166 from Account Number 3014/50807 – Rescue Vehicle Purchase, with a balance of \$279,921.

**VOTE:** Unanimous.

**Item # 5507 Discussion with Action:** Approve the Special Event Permit application for The Salvation Army to use the Ballpark for parking vehicles on Sunday, August 29, 2010, from 4:00 p.m. to 9:30 p.m. for Seaside Pavilion Event; and a request to waive the fee.

**COUNCILOR DAYTON:** She asked if a donation was being given. She reminded everyone that expenses for the Ballpark are relevant and that charges or donations for parking should be a consideration.

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

**VOTE;** Unanimous.

**Item # 5508 Discussion with Action:** Approve the Special Event Permit application for the Beachwood Motel to have a cookout and erect a 20 by 40 foot tent in front of the Motel on Saturday, June 19, 2010 from 12:00 noon to 8:00 p.m.

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

**VOTE:** Unanimous.

**#5500 Discussion with Action:** Authorize the Town Manager to prepare amendments to the Town Ordinances, Chapter 46 – Solid Waste, proposing to establish a pay-as-you-throw program of waste disposal in Old Orchard Beach.

**MIKE NUGENT:** While employed by the City of Portland, I was part of the working group that successfully implemented a “Pay per Bag” waste collection and curbside recycling program. The following are some of the concepts on which the program was founded:

- 1) The cost of refuse collection and recycling as associated collateral enforcement should be wholly supported by the “blue bag” revenues.
- 2) All refuse placed at curbside for collection must be in approved bags except recyclables which was in designated provided recycling containers.
- 3) All refuse NOT in appropriate containers/bags is not collected and must be removed in a timely fashion, by the owner or occupant of the building.
- 4) The owners/occupants of the building are motivated to recycle to save the cost of “pay per bags”.
- 5) Public education prior to the implementation of the program is the key to the program’s success.

The following are some of the regulatory challenges that accompany this program in a Town like ours:

- 1) With the large number of absentee owner/rental properties, compliance is often an issue requiring follow up by the enforcement authority. This is time consuming, especially at the on set of the program. When non-compliant refuse is left by the collection agent, the owner needs to be notified immediately, to remove the refuse and properly bag it for a subsequent collection.
- 2) Illegal dumping increases in secluded area, in public and private waste containers and in other locations. Illegally dumped refuse can often be traced to the generator and enforcement can occur.

I have provided the Portland and Sanford’s ordinances and look for direction from the Council and The Recycling Committee. .

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Authorize the Town Manager to prepare amendments to the Town Ordinances, Chapter 46 – Solid Waste, proposing to establish a pay-as-you-throw program of waste disposal in Old Orchard Beach.

**VOTE:** Unanimous.

## **GOOD AND WELFARE**

**CHAIR MACDONALD:** She presented information on the Balloon festival scheduled in town for the weekend of June 25, 26, 27. She mentioned the contributions made by businesses in Town to bring this exciting event to our community.



**VICE CHAIR TOUSIGNANT:** He also indicated that at a cost of over \$35,000 contributed by businesses, this is a community event that will bring hundreds to our community and he thanks all those who have participated and invited citizens to enjoy this excellent opportunity to participate.

**ADJOURNMENT**

**MOTION:** Vice Chair Tousignant motioned and Councilor Dayton seconded to adjourn the meeting at 8:00 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 nine (9) pages is a true copy of the original Minutes of the Town Council Meeting of June 15, 2010.**

**V. Louise Reid**