

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, JUNE 2, 2009 - 7:00 P.M.
TOWN HALL CHAMBERS**

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, June 2, 2009 in the Town Hall Chamber. The Chairman opened the meeting at 7:12 p.m.

Pledge to the Flag and Roll Call:

Present:

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

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to consider under Special Amusement Permits for Portland Avenue associates dba/Grand Beach Inn (202-3-5), 195 East Grand Avenue, Inside Music; and address separately Oceanside Investment Group LLC dbaMyst Restaurant (306-1-2-I), 1 East Grand Avenue, Unit I., Singer/DJ, Inside and Outside and also under Agenda Item Number 5210 as well.

VOTE: Unanimous.

ACKNOWLEDGEMENTS:

COUNCILOR TOUSIGNANT: I wish to remind citizens of the Special Vote on June 9, 2009 at the High School on the Regional School Unit #23 Budget. The Budget Validation Referendum June 9th. Polls open from 8 a.m. to 8 p.m. at the Old Orchard Beach High School for all Old Orchard Beach registered voters.

COUNCILOR DAYTON: Many thanks to Bob McNally for another wonderful Memorial Day Parade and for all the participants who gave of their time and efforts to celebrate a day of recognition of those who have served and are serving our country.

ACCEPTANCE OF MINUTES: Town Council Minutes of May 19, 2009; and Special Town Council Meeting of May 20, 2009.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to approve the Town Council Minutes of May 19, 2009; and Special Town Council Meeting Minutes of May 20, 2009.

VOTE: Unanimous.

PUBLIC HEARINGS NUMBER ONE:

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

AGENDA ITEM: Shall we Approve a proposed ordinance entitled “Ordinance Prohibiting Operation of Chem-Free Dances in Drinking Establishments” (which would repeal and replace the current ordinance in Chapter 6, Article IV, “Chem-free Dances in Drinking Establishments Restricted?”)

**OLD ORCHARD BEACH ORDINANCE
PROHIBITING OPERATION OF CHEM-FREE DANCES
IN DRINKING ESTABLISHMENTS**

WHEREAS, since 2007 the Town has attempted to control, through the Ordinance Regulating Operation of Chem-Free Dances in Drinking Establishments, the practice whereby drinking establishments suspend the sale, service and consumption of alcoholic beverages for specified periods of time in order to operate so-called “chem-free” dances during those times; and

WHEREAS, such chem-free dances are promoted to attract and do attract attendance by persons under the age of 21, who are not allowed to consume alcoholic beverages under Maine law; and

WHEREAS, such chem-free dances cause young people under the age of 21 to congregate and socialize on premises which are designed, arranged, configured and decorated for the purpose of selling and serving alcoholic beverages and which are ordinarily used for the consumption of alcoholic beverages; and

WHEREAS, such young persons under the age of 21 are not allowed to be present in such drinking establishments without a parent or guardian whenever alcoholic beverages are being served in such establishments; and

WHEREAS, allowing young persons under the legal drinking age to congregate and socialize in an establishment which is ordinarily used for the consumption of alcoholic beverages can have the effect of encouraging such persons under the age of 21 to mimic or imitate the behavior which normally occurs in drinking establishments and can thereby encourage underage drinking; and

WHEREAS, the Old Orchard Beach Town Council finds that the existing Ordinance Prohibiting Operation of Chem-Free Dances in Drinking Establishments has not been effective in eliminating the harmful effects of having young people congregate in and around drinking establishments; and

WHEREAS, the Old Orchard Beach Police Department reports that policing problems and public safety issues have arisen from the operation of chem-free dances in drinking establishments;

NOW, THEREFORE, be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

I. Definitions.

As used in this Ordinance, the following terms have the following meanings:

- A. Chem-free dance means a dance, concert, party or other social event at which no alcoholic beverages are served and which is open to persons under the age of 21.**
- B. Drinking establishment has the same meaning as in Section 78-1 of Chapter 78 of the Code of Ordinances, Town of Old Orchard Beach, Maine and includes, but is not limited to, Class A lounges and taverns, both as defined at 28-A M.R.S.A. § 2.**

II. Chem-free dances in drinking establishments prohibited.

No person, including an owner or lessee of the premises in which a drinking establishment is located and any operator or manager of a drinking establishment, shall operate or permit the operation of a chem-free dance in a drinking establishment.

III. Violations, penalties, remedies.

Any person who violates Section II of this Ordinance commits a civil violation punishable by a civil penalty of no less than \$500 and no greater than \$1,000 for each violation. Each chem-free dance held in violation of this Ordinance is a separate offense and each person who operates or permits the operation of a chem-free dance is separately liable for the penalties set forth in this section. In addition, the Town may enjoin the operation of any chem-free dance planned or proposed in violation of this Ordinance.

IV. Enforcement.

This Ordinance shall be enforced by the Police Department of the Town of Old Orchard Beach.

V. Purpose.

The purpose of this Ordinance is not to control the sale, service or consumption of alcoholic beverages, but to regulate conduct in drinking establishments during those times when the establishments are not serving alcoholic beverages, so that minors under the legal drinking age are not congregating in an establishment which customarily serves alcoholic beverages.

VI. Applicability.

Upon enactment, this Ordinance shall apply to all drinking establishments, existing or proposed.

VII. Repeal of prior ordinance.

This Ordinance repeals and replaces the Old Orchard Beach Ordinance Regulating Operation of Chem-Free Dances in Drinking Establishments.

ARTICLE IV. ~~REGULATING OPERATION~~ PROHIBITION OF CHEM-FREE DANCES IN DRINKING ESTABLISHMENTS*

*Editor's note: Sections I--VI of an ordinance adopted March 6, 2007, did not specifically amend the Code. Therefore, such ordinance has been added as §§ 6-156--6-161 at the editor's discretion.

Sec. 6-156. Definitions.

As used in this article, the following terms have the following meanings:

Chem-free dance means a dance, concert, party or other social event at which no alcoholic beverages are served and which is open to persons under the age of 21.

Drinking establishment has the same meaning as in section 78-1 of the Code of Ordinances, Town of Old Orchard Beach, Maine 1 and includes, but is not limited to, class A lounges and taverns, both as defined at 28-A M.R.S.A. § 2.

(Ord. of 3-6-2007(1), § I)

1 Section 78-1 of Chapter 78 of the Code provides as follows: Drinking establishment means any establishment which is licensed by the state to serve alcoholic beverages for on-premises consumption, unless the establishment (i) is equipped with a separate and complete kitchen and with dining room equipment; (ii) has the capacity to prepare and serve full course meals; and (iii) is primarily and regularly used for the purpose of providing full course meals. The term "full course meals" means meals consisting of a diversified selection of food which ordinarily cannot be consumed without tableware and cannot be conveniently consumed while standing or walking. The term "drinking establishment" does not include an establishment licensed under 28-A M.R.S.A § 1061 et seq. as a hotel, bed and breakfast, golf course or club.

Sec. 6-157. Chem-free dances in drinking establishments ~~restricted~~ prohibited.

No person, including an owner or lessee of the property on which a drinking establishment is located and any operator or manager of a drinking establishment, shall operate or permit the operation of a chem-free dance in a drinking establishment, ~~unless the following restrictions are observed.~~

(1) No alcoholic beverages shall be served, sold or consumed on the a property occupied by the drinking establishment during the time a chem-free club dance is in progress and during the ~~one-half hour periods preceding and following the chem-free dance.~~

(2) ~~Attendance at any chem-free dance shall be restricted to one of two age groups, either ages 13 through 16 or ages 17 through 20, and at no time shall attendees from both age groups be present during a chem-free dance. This paragraph does not apply to persons employed in connection with the operation of the chem-free dance or to parents of attendees.~~

(3) ~~All chem-free dances must end and all attendees must leave the property, including exterior portions of the property, no later than 11:00 p.m. if the chem-free dance is for 13 through 16-year-olds and no later than midnight if the chem-free dance is for 17 through 20-year-olds.~~

(4) ~~All signage, displays or artwork advertising or depicting alcoholic beverages or the consumption of alcoholic beverages, including labels and packaging materials, shall be fully covered or removed from the property so as not to be visible at any time during the chem-free dance and during the one-half hour periods preceding and following the chem-free dance.~~

(5) ~~All alcoholic beverages shall be removed from any portion of the property where persons under the age of 21 are permitted to be present during the chem-free dance and during the one-half hour periods preceding and following the chem-free dance.~~

(6) ~~The person operating the chem-free dance shall provide police protection on the property during the chem-free dance and during the one-half hour periods preceding and following the chem-free dance at that person's expense. The police protection shall be an officer of the Old Orchard Beach Police Department, unless the Old Orchard Beach Police Department cannot provide an officer, in which case the police protection may be another police officer or a security officer approved in advance by the Chief of the Old Orchard Beach Police Department. One officer is required. The person operating the chem-free dance may elect to employ additional officers.~~

~~(Ord. of 3-6-2007(1), § II; Ord. of 1-15-2008; Ord. of 4-1-2008)~~

Sec. 6-158. Violations, penalties, remedies.

Any person who violates section 6-157 of this article commits a civil violation punishable by a civil penalty of no less than \$500.00 and no greater than \$1,000.00 for each violation. Each chem-free dance held in violation of this article is a separate offense and each person who operates or permits the operation of a chem-free dance is separately liable for the penalties set forth in this section. In addition, the town may enjoin the operation of any chem-free dance planned or proposed in violation of this article.

~~(Ord. of 3-6-2007(1), § III; Ord. of 1-15-2008)~~

Sec. 6-159. Enforcement.

This article shall be enforced by the Police Department of the Town of Old Orchard Beach.

~~(Ord. of 3-6-2007(1), § IV)~~

Sec. 6-160. Purpose.

The purpose of this article is not to control the sale, service or consumption of alcoholic beverages, but to ~~regulate conduct in drinking establishments only during those times when the establishments are not serving alcoholic beverages.~~ prohibit chem-free dances in drinking establishments.

~~(Ord. of 3-6-2007(1), § V)~~

Sec. 6-161. Applicability.

Upon enactment, this article shall apply to all drinking establishments, existing or proposed.

(Ord. of 3-6-2007(1), § VI)

Amend Chapter 18 Businesses Section 18-26 Definitions by adding:

Chem-free club/nonalcoholic establishment means a public establishment offering public dancing or live entertainment and serving exclusively nonalcoholic beverages as the primary sales item with the service or sale of food as accessory to the sale of beverages.

Amend Chapter 18 Businesses by adding:

ARTICLE XI Chem-free club/nonalcoholic establishment

(1) Attendance at any chem-free club shall be restricted to one of two age groups, either ages 13 through 16 or ages 17 through 20, and at no time shall attendees from both age groups be present during a chem-free club. This paragraph does not apply to persons employed in connection with the operation of the chem-free club or to parents of attendees.

(2) All chem-free clubs must end and all attendees must leave the property, including exterior portions of the property, no later than 11:00 p.m. if the chem-free club is for 13- through 16-year-olds and no later than midnight if the chem-free club is for 17- through 20-year-olds.

(3) No alcoholic beverages are allowed in any portion of a property where persons under the age of 21 are permitted to be present in a chem-free club.

(4) The person operating the chem-free club shall provide police protection on the property during the chem-free club and during the one-half hour periods preceding and following the chem-free club at that person's expense. The police protection shall be an officer of the Old Orchard Beach Police Department, unless the Old Orchard Beach Police Department cannot provide an officer, in which case the police protection may be another police officer or a security officer approved in advance by the Chief of the Old Orchard Beach Police Department. One officer is required. The person operating the chem-free club may elect to employ additional officers.

Amend APPENDIX A SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES to include:

Chem-free club/nonalcoholic establishment (Fee to be established)

Discussion:

There were many individuals who came and spoke providing their support of the ordinance or speaking against the ordinance.

Those who spoke against the Ordinance included Joseph King; Danny Sisson, owner of the Galaxy; Ricki Letowt; Paul Trynor, Tiffy Delilse, 16, of Biddeford; Robin Rinzoni; and other citizens as well who did not provide their name. Many of their comments included the statement that the Galaxy is a safe place for young people to go; all alcohol is removed; a place where teens came dance, laugh and be themselves; that there is no other place in town for them to go for a night out; the argument made that young people can go to restaurants that serve liquor and there is a bar; that this is a double standard; it appears that it is being discussed to put one business out of chem.-free business; and that it is a good place to go to get off the streets and

away from drugs and alcohol. The suggestion that one does buy a place which everyone knows is noisy and expect it to suddenly be a quiet residential zone.

This who spoke in favor of the Ordinance included Police Chief Dana Kelley who said that the ordinance is not against any particular business but that he felt a bar is not the right place for young people to be; it is a question of whether or not we want to allow that kind of activity in nightclubs. Also speaking in favor of the Ordinance was Todd Bassett, Joseph Bassett, and David Spellman representing residents of the Grand Victorian. Their comments included the philosophical question of the appropriateness of this place for the youth to go and sets in motion continued use of bars in the future; there has been additional fights and disruptive behavior by young people leaving the establishment even though it is not within the facility but rather in the parking lot. Many of the residents of the Grand Victorian, either through letter or in person, expressed displeasure with noise they say comes from the Galaxy. It was indicated that it is far more than a specific location, it is the enticement of getting used to a bar environment in which young people are involved.

It should be noted that this Council Meeting was televised and there is a Tape of the dialogue between all individuals.

CHAIR MACDONALD: I close this meeting at 7:52 p.m.

PUBLIC HEARING NUMBER TWO

AGENDA ITEM: Shall We Adopt the Ordinance entitled “Closing of Ways (Temporary Road Postings to Weight Limits).”

CHAIR MACDONALD: I open this meeting at 7:53 p.m.

BACKGROUND: Spring may seem an odd time to be thinking about closing roads to winter maintenance, but Winter road closure orders must be approved between May 1st and October 1st. In other words, to close a road to winter maintenance next winter, a municipality must act well before winter returns. (Maine Boardsman) We do not currently have an ordinance for posting roads in the Spring. The signs go up but compliance is voluntary. The new ordinance makes it mandatory. We do make exceptions under certain conditions, such as a delivery. A request needs to be made by the truck driver and we have honored several requests this past spring.

NOTICE OF PUBLIC HEARING MUNICIPAL OFFICERS OF THE TOWN OF OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on May 19, 2009, at 7:00 p.m. to consider the following:

**Shall the Town Council of the Town of Old Orchard Beach adopt the ordinance entitled:
Closing of Ways (Temporary Road Postings to Weight Limits)**

1. Findings; purpose; statutory authority.

A. Temporary closings are necessary at different times of the year and are not limited to springtime or mud season.

B. The following rules and regulations are necessary to ensure the proper use and to prevent abuse of all roadways/highways under our maintenance or supervision by motor-driven vehicles for the protection of public safety, health and property, to extend and retain the life expectancy of Town of Old Orchard Beach ways and bridges and to reduce the public expense of their maintenance and/or repair.

C. This article is adopted pursuant to 30-A M.R.S.A. § 3009 and 29A M.R.S.A. § 2395 and 1611.EN

2. Definitions.

The definitions contained in Title 29A of the Maine Revised Statutes Annotated shall govern the construction of words contained in this article. Any words not defined therein shall be given their common and ordinary meaning.

3. Restrictions and notices.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted, unless otherwise exempt as provided herein.

A. The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted and the signature of the posting official.

B. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travel way. Whenever a restriction expires or is lifted; the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

C. No person may remove, obscure or otherwise tamper with any notice so posted, Except as provided herein.

4. Designation of ways and bridges.

The Director of Public Works or his/her designee is hereby directed and authorized to designate such Town of Old Orchard Beach ways and bridges or portions thereof, over which, during such periods of time as he/she may determine are necessary for the protection of such ways and bridges in implementing the within rules for the purpose herein stated.

5. Signs.

The Director of Public Works or his/her designee is further directed and authorized to cause the construction and/or painting of conspicuous signs for the posting of the closed portions of ways and bridges with the information as provided herein.

6. Exemptions.

The following vehicles are exempt from this article:

A. Any two-axle vehicle while delivering home heating fuel.

B. Any emergency vehicle (such as fire-fighting apparatus or ambulances) while responding to an emergency or routine training or maintenance activities.

C. Any vehicle while engaged in highway maintenance or repair under the direction of the city or state.

D. Any school transportation vehicle while transporting students.

E. Any public utility vehicle while providing emergency service or repairs.

F. Any vehicle whose owner or operator holds a valid permit from the Director of Public Works or his/her designee as provided herein.

7. Permits.

A. The owner or operator of any vehicle not otherwise exempt as provided herein may apply, in writing, to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The Director of Public Works or his/her designee may issue a permit only upon all of the following findings:

- (1) No other route is reasonably available to the applicant.**
- (2) It is a matter of economic necessity and not mere convenience that the applicant uses the way or bridge.**
- (3) The applicant has tendered cash, a bond or other suitable security**
- (4) tendered to The Town of Old Orchard Beach in an amount sufficient, in the official's judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of the same.**

B. Even if the Director of Public Works or his/her designee makes the foregoing findings, he/she need not issue a permit if he/she determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. The Director of Public Works or his/her designee may also limit the number of permits issued or outstanding as may, in his/her judgment, be necessary to preserve and protect the roadways/highways.

C. In determining whether to issue a permit, the Director of Public Works or his/her designee shall consider the following factors:

- (1) The gross registered weight of the vehicle.**
- (2) The current and anticipated condition of the way or bridge.**
- (3) The number and frequency of vehicle trips proposed.**
- (4) The cost and availability of materials and equipment for repairs.**
- (5) The extent of use by other exempt vehicles.**
- (6) Such other circumstances as may, in their judgment, be relevant.**

D. The Director of Public Works or his/her designee may issue permits subject to reasonable conditions, including, but not limited to, restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

8. Administration and enforcement.

This article shall be administered and may be enforced by the municipal officers or their duly authorized enforcement designee.

9. Violations and penalties.

A. Any violation of the provisions of this article shall be considered a civil infraction and subject to a minimum mandatory fine of \$250 up to a maximum of \$1,000. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. All penalties shall accrue to the municipality.

B. Prosecution shall be in the name of the Town of Old Orchard Beach and shall be brought in the Maine District Court.

CHAIR MACDONALD: There not being anyone wishing to speak on this, I close this Public Hearing at 7:55 p.m.

PUBLIC HEARING NUMBER THREE

CHAIR MACDONALD: I open this Public Hearing at 7:56 p.m.

AGENDA ITEM: Discussion with Action: Shall We Approve an Ordinance Establishing Moratorium on “Head Shops?”

BACKGROUND:

**NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH**

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on June 2, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that the following Ordinance be adopted by the Town Council:

**TOWN OF OLD ORCHARD BEACH
ORDINANCE ESTABLISHING MORATORIUM
ON “HEAD SHOPS”**

WHEREAS, Town staff have received inquiries concerning the establishment and operation of retail stores which would display, sell or offer to sell merchandise which may meet the definition of “drug paraphernalia” under state law, which stores are sometimes referred to as “head shops”; and

WHEREAS, sale of drug paraphernalia is unlawful under Maine law; and

WHEREAS, head shops raise a number of concerns related to the public health, safety and welfare, including, but not limited to, promotion and encouragement of illicit drug use, adverse secondary effects on the Town’s tourism businesses, adverse secondary effects on neighborhoods and the possibility of significant detrimental changes to neighborhood and community character; and

WHEREAS, the Town’s current ordinances do not provide an adequate mechanism to regulate and control head shops; and

WHEREAS, the Town’s existing ordinances are inadequate to prevent the potential for serious public harm from the establishment and operation of head shops.

NOW THEREFORE, be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings:

“Drug Paraphernalia” has the meaning as in 17-A M.R.S.A. § 1111-A.

“Head Shop” means a building or place where drug paraphernalia is sold or offered for sale or where merchandise is displayed for the purpose of sale and/or for the purpose of promoting sales and where either the nature of the merchandise or the nature of some of the merchandise and the context in which it is displayed would indicate to a reasonably knowledgeable person that some of the merchandise is equipment, products or materials designed or marketed for use as drug paraphernalia. An establishment which meets this definition is considered a head shop, notwithstanding that it may also sell or display other types of merchandise.

2. ESTABLISHMENT AND OPERATION OF HEAD SHOPS PROHIBITED.

During the time this Ordinance is in effect, no person shall establish or operate a head shop.

3. APPLICATIONS NOT TO BE ACCEPTED OR ACTED UPON.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Old Orchard Beach shall accept, process or act upon any application for any approval relating to the establishment or operation of a head shop.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Old Orchard Beach. Any person who violates section 2 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on November 2, 2009, unless earlier extended, repealed or modified by the Old Orchard Beach Town Council.

6. APPLICABILITY.

Notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall apply to any proposal to establish or operate a head shop, whether or not an application or a proceeding to establish or operate a head shop would be deemed a pending proceeding under 1 M.R.S.A. § 302.

7. SEVERABILITY.

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

CHAIR MACDONALD: I close the Public Hearing at 7:59 p.m.

BUSINESS LICENSES: Edward Radley, Jr. (104-2-5A), 121 A Portland Avenue, one year round rental; James Burns (201-1-7-2B), 221 East Grand Avenue, Unit 2B, one year round rental; Richard Belair (201-1-10-512), 215 East Grand Avenue, Unit 512, one year round rental; Ellen Holmes & William Keefe (205-19-35), 2 Willow Creek Lane, one year round rental; Roberta Maddox (211-17-5-10), 6 Hobson Avenue, # 10, one year round rental; Nancy Frisco (302-2-9), 4 Graham Street, one seasonal rental; Trevor Ward (302-7-8-2), 170 East Grand Avenue, Unit 2, one year round rental; Spencer J. Graham (302-7-8-4), 170 East Grand Avenue, Unit 4, one year round rental; Stephen & Ann Page (304-2-6), 8 Walnut Street, one seasonal rental; Wilbur J. Case & Linda Schrader (305-4-1-207), 1 Cleaves Street, Unit 207, one year round rental; Michael Dickinson dba/Dickinson's Candy (306-1-2-H), 1 East Grand Avenue, Unit H, Candy Store; Oceanside Investment Group dba/Myst Restaurant (306-1-2-I), 1 East Grand Avenue, Unit I, Victualers; Ryan Gallagher dba/Ryan's Pizza (306-1-2-M), 1 East Grand Avenue, Unit M, Victualers; William Bui dba/High Thai'd (306-1-2-P), 1 East Grand Avenue, Unit P, Victualers; Dina St. Pierre dba/High O Silver (306-1-2-Q), 1 East Grand Avenue, Unit Q, Jewelry Store; Wayne Gammon (306-4-3C), 19C East Grand Avenue, Bedhead Novelties –no Vending Machines, no Guns, no knives, no paraphernalia; Shawn Tooley (315-14-3), 28 Seacliff Avenue, two year round rentals; La Dolce Vita, LLC dba/La Dolce Vita, LLC (321-16-9), 4 Winona Avenue, one seasonal rental; and Eleanor Hoxie (323-10-12), 44 Randall Avenue, one seasonal rental.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to approve the Business Licenses as read.

VOTE: Unanimous

SPECIAL AMUSEMENT PERMIT

Portland Avenue Associates dba/Grand Beach Inn (202-3-5), 198 East Grand Avenue, Inside Music;

It should be noted that this Council Meeting was televised and there is a Tape of the dialogue between all individuals.

A very large number of Grand Beach residents attended this meeting represented by Harold Pachious, Esquire; W. Barrett Lovejoy, Jr., President of the Diplomat Condominium Association; Maureen Parkin (Pine Point Vista); Michael Masselli (Parcher Avenue); Vic Montminy (Seascape); Barry Lovejoy (Diplomat); Paul Rogers; Mark Boureau, David Baird (Grand Atlantic Condo); David Putnam (Homeowners – East Grand Avenue); David Putnam and Gail Barney; and others that did not provide their name clearly. Also in attendance was King Weinstein, owner of the Grand Beach Inn; and Allison McCormick, who has leased the restaurant at the Grand Beach for this summer. The Planning and Licensing Officer, Gary Lamb, made several comments regarding the present license up for renewal.

In April of 2004 a large group of residence from the Grand Beach area came before the Town Council at that time and as a result of a very lengthy meeting at that time stipulations were put on the licenses of the Grand Beach Inn including: **Liquor License** – The liquor license was amended: Line 17 – Eliminate the Patio Bar, The Sandbar and the Grand Beach Inn. Liquor will only be consumed inside the Restaurant. No liquor served outside. **Special Amusement Permit** – The Special Amusement Permit is limited in the Restaurant to non-amplified music; acoustic instrument, entertainment solely in the Restaurant and it must be contained and only on weekends – Friday, Saturday and Sunday from 11:00 a.m. to 9:00 p.m.; and the **Business License** – The special amusement restrictions are tied to the business license and the Restaurant can be open from 7:00 a.m. to 10:00 p.m. The fact that in 2006, 2007 and 2008 these stipulations were not placed on the license was of great concern to those Attending. The Assistant Town Manager explained that in 2005 the enter staff in the Code Enforcement and Planning/Licensing Department changed and they were not privy to the concerns expressed in 2004 and it would be required that the request be made and justified each year when those licenses came before the Council. Discussion on concerns of the residents continued at length; and Allison McCormick spoke about the hardship that would be placed on her is restrictions were placed on the serving of alcohol in connection with the restaurant. Councilors expressed their concerns that all the facts were being brought forward and also noted that both the Assistant Town Manager and the Chief of Police have had no complaints over the past two years as it regards the outside activities at the Grand Beach. The Licensing Officer indicated that if we followed the Grand Beach abutters philosophy those license restrictions would be in perpetuity, no matter if they were relevant or not to the Grand Beach operations. He said he believed that would not be a legally defensible position.

MOTION: Councilor O'Neill motioned and Councilor Bolduc seconded to Approve the Special Amusement Permit with the Stipulation that this permit is limited to the Restaurant to non-amplified music, acoustic instruments only, and entertainment Solely in the Restaurant.

VOTE: Unanimous.

Oceanside Investment Group LLC dba/Myst Restaurant (306-1-2-I), 1 East Grand Avenue, Unit I, Singer/DJ, Inside and Outside.

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

VOTE: Unanimous.

TOWN MANAGER'S REPORT

We wish to congratulate Mary Ann Conroy and the staff of the Public Works Department for the honor bestowed on them by the Institute of Municipal Engineers. They have received the 2008 Public Works Excellence Award for Large Town/Small City – Category B – from the Maine Chapter of the American Public Works Association/Institute of Municipal Engineers for their work on the St. Margaret's Sidewalk Project. Although coming in Second Place – to be chosen for any recognition from these prestigious institutions is a great honor and we congratulate all concerned.

REPORT BY PLANNER ON SACO BAY BOUNDARY BILL:

A bill to extend Old Orchard Beach's seaward boundary has passed in the House by a vote of 135 to 9. Representative George Hogan sponsored the LD 1119 in early 2008 which was an effort which arose with Saco trying to develop a marina offshore from Old Orchard Beach. In the fall of 2007, the City of Saco, which has long claimed jurisdiction over the waters of Saco Bay, signed a lease agreement with a developer who proposed to create an off-shore marina just beyond the Pier. Representative Hogan felt it was not the right thing to do and to deny Old Orchard Beach the jurisdiction of what lies in front of it. The Bill passed in House but it was unsure how it would go in the Senate. The passage of the Bill is important to the Town of Old Orchard Beach because it would allow Old Orchard Beach's Planning Board and Council to review any future developments off the immediate shores of Old Orchard Beach. The Town Council feels it owes a great deal of thanks to Representative George Hogan for his willingness to fight for our Town. He has done a great public service for his constituents. The proposed bill is opposed by the City of Saco which takes the position that the suggested legislation is an effort to annex Saco territory. The Old Orchard Beach legal opinion is that Saco's seaward boundary ends at low water mark, as municipal boundaries can only be moved seaward by an act of the Legislature. This bill would extend the Town's boundary over State property.

NEW BUSINESS:

5206 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a sand sculpture contest on the beach between Randall and Ancona Avenues on July 3, 2009; and a Request to waive the fee.

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

VOTE: Unanimous

5207 Discussion with Action: Approve the Special Event Permit application for Inkas Wasi to hold summer public concerts in the Square by the water fountain on

August 8th, 15th and 29th, 2009.

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

VOTE: Unanimous

5208 Discussion with Action: Approve the Special Event Permit application for the Stanley/Herman Wedding Ceremony in Memorial Park on July 18th, 2009 from 10 a.m. to 3 p.m.

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

VOTE: Unanimous

5209 Discussion with Action: Approve the Special Event Permit application for the Recreation Department to hold Concerts in Memorial Park on July 9th, 16th, 23rd, 30th and August 6th, 13th and 20th, 2009, from 6:30 p.m. to 8 p.m.; and a Request to Waive the Fee.

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

VOTE: Unanimous

5210 Discussion with Action: Approve the Liquor License Renewals for Portland Avenue Associates dba/Grand Beach Inn (202-3-5), s-m-v in a Hotel-Optional Food; and Oceanside Investment Group LLC dba/Myst Restaurant (306-1-2-I), 1 East Grand Avenue, Unit I, s-m-v in a Restaurant/Lounge.

Discussion – The residents of the Grand Beach area continued to support their position as far as the Liquor License renewal. The same individuals in the Special Amusement Permit Agenda Item spoke again about their concerns about the liquor license and where the liquor should be served.

It should be noted that this Council Meeting was televised and there is a Tape of the dialogue between all individuals.

MOTION: Councilor O'Neill motioned and Councilor Bolduc seconded to approve the Liquor License Renewal for the Portland Avenue associates dba/Grand Beach Inn (202-3-5), s-m-v in a Hotel-Optional Food with the Stipulation that Liquor Be served in the Restaurant and outside patio with Dinner.

VOTE: Unanimous.

Discussion with Action: Approve the Liquor License Renewals for Oceanside Investment Group LLC dba/Myst Restaurant (306-1-2-I), 1 East Grand Avenue, Unit I, s-m-v in a Restaurant/Lounge.

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

VOTE: Unanimous.

5211 Accept the bid of \$38,319 from Tri-Boro Services for the purchase of ten (10) rollers for the belt press from Account Number 30181-50600 – Sewer Reserve Fund, with a balance of \$452,848.22.

CHRIS WHITE: The Waste Water Superintendent, Chris White, indicated that all solids removed from the waste stream are processed through the belt press in preparation for disposal. Within the past three months we have had two (2) rollers fail on the belt press. Although repairing the rollers is not recommended by the factory, it was necessary to repair the first roller on an emergency basis at a cost of \$1,734. Since then, both rollers have been replaced. As a result of this, we had the remaining rollers ‘x-rayed’ and ten (10) out of the eighteen (18) rollers have been compromised and show potential for failure. The belt press is typically run twice a week and any single roller failure could shut down this portion of the operation. If the roller could not be repaired within a one week period; the department would be forced to rent a portable belt press at a cost of about \$10,000 per month. Roller failure during press operation could also cause additional damage to the press if this issue is not addressed. Three quotes were received.

Filter Belts	\$40,232
Tri-Boro Services, LLC	39,519
Tri-Boro Services, LLC	38,319

The Waste Water Superintendent is recommending the purchase of ten (10) rollers from Tri-Boro services for a total of \$38,319 from Sewer Reserve Fund account #30181-50600 with a current balance of \$452,848.22. Under this proposal, the rollers will be kept in stock and replaced by OOBWW staff as time permits or as required.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Accept the bid of \$38,319 from Tri-Boro Services for the purchase of ten (10) rollers for the belt press from Account Number 30181-50600 – Sewer Reserve Fund, with a balance of \$452,848.22.

VOTE: Unanimous.

5212 Discussion with Action: Approve the placement of two porta-toilets on the beach at Walnut Street at a cost of \$100 per month rental fee, which includes one cleaning per week; estimated additional cost ranges from \$20 to \$100 per day depending on the day and other cleanings being done at the same time; and the building of temporary enclosure to cover the porta-toilet at a cost of \$2,100 to come from Account Number 20151-50508 – Sewer Maintenance – Public Works.

Discussion: Several citizens and Councilors spoke against the approval of this Agenda Item. The Town Council denied the beachside port-a-potty on Walnut Street. The portable toilet some claimed was placed at the dunes near the Walnut Street entrance to the beach on a

trial basis last summer and Councilors then were considering whether to fund it for this year along with the addition of a wooden enclosure to deter vandalism. Jack Sarno, resident, indicated that he felt the placement last year had violated laws protecting the dunes and that permanent public bathrooms already existed nearby at Walnut Street and Milliken Street. It was also mentioned that other citizens had requested port-a-potties at other locations on the beach front. Lee Koenigs, a member of the Design Review Committee, said that dunes had been “sacrosanct” for many years and that it appeared as if town officials were not interested in protecting the dunes anymore. She also indicated when told that the Department of Environmental Protection member, Chris Coppi, indicated the dunes had not been violated, “that he must have been on drugs the day he wrote that memo.” She indicated that there is not one person in the administrative position who seems to share that view of protecting the dunes and it is like we have gone back in time to five years ago. She said she cannot Helene Whittaker of Ocean Park suggested that the dunes need to be farther from the water. Town Manager Stephen Gunty said an official with the State Department of environmental Protection had assured him just weeks ago that Town Public Works employees installing the porta-toilets had not encroached on the dunes. No Dunegrass was disturbed and the possibility of more bathrooms was just a preliminary idea. Ricki Letowt disagreed saying that she was there the day before when they were there with shovels. She indicated they dug and built on the dunes. Linda Jenkins indicated that she was in favor of bathrooms on Union Avenue as there are none in that area of the beach but the responsibility of protecting the dunes is primary. Councilor Bolduc mentioned that the type of chemicals used was not brought up and she did not feel that the beach needed urine or feces on the beach when the bathroom is knocked over. Town Councilor Shawn O’Neill said that the costs being considered we peanuts compared with the cost of not offering sufficient facilities on the busy beach during summer. People have requested the port-a-potties and we should have provided them. Councilor Tousignant said he would reject the beach port-a-potty concept as proposed and he would prefer to save money at this time. Councilor Dayton thanks Pier owners, Paul Golzbein, for constructing new bathrooms on the Pier for use by citizens. In the end the Council voted not to approve the portable toilets on the beach at Walnut Street. Also speaking were

The original Motion to approve the placement is denied.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to approve the placement of two porta-toilets on the beach at Walnut Street at a cost of \$100 per month rental fee, which includes one cleaning per week; estimated additional cost ranges from \$20 to \$100 per day depending on the day and other cleanings being done at the same time; and the building of temporary enclosure to cover the porta-toilet at a cost of \$2,100 to come from Account Number 20151-50508 – Sewer Maintenance – Public Works.

VOTE: Nea: Unanimous. – This Agenda Item failed.

5213 Discussion with Action: Set the Public Hearing date of June 16, 2009 to amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187 Restrictions and Prohibitions, Town Hall.

**NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF**

OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on June 16, 2009 at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that the Old Orchard Beach Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187, Town Hall and Veteran's Square, be amended by adding the underlined language listed below.

Town hall. Upper lot parking shall be limited to town hall business only, Monday through Friday. Lower lot parking shall be by parking permit only. Monday through Friday.

Veteran's Square. This refers to the area known as Veteran's Square or that area which runs from Old Orchard Street to Imperial Street. There shall be no entrance onto Veteran's Square from Old Orchard Street, and a right-hand turn only shall be permitted from Veteran's Square onto Portland Avenue. Parking shall be limited to permit parking only. Monday through Friday.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Set the Public Hearing date of June 16, 2009 to amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187 Restrictions and Prohibitions, Town Hall.

VOTE:

GOOD AND WELFARE:

Discussion on the \$42.6 million dollar budget from the RSU was discussed by the Town Council under Good and Welfare. The recommended overall budget of the RSU was broken down into various spending categories in articles for the public to approve. Should this result in a tax increase, John Bird, indicated that he felt the Council should indicate to the public that passage of the budget amount of \$99.2 million (an increased from \$9.11 million last year) is a result of the school budget request. He made the suggestion or request that most of you campaigned on flat tax platform – no increase in taxes – and worked very hard to keep that promise. However, with the RSU passing and the State forcing the RSU to save money – and now we have a higher increase in support for funding for the School. Obviously we may not save money but now you have to cover that cost. Councilor Bolduc was concerned with the debt service that an individual municipality is responsible for their own debt and on Saturday we learned that we are responsible for each others. She encouraged citizens to learn what is myth and what is truth. She said there is no transparency in what we are being given. Councilor Tousignant said that the Council has not finished the budget because we did not have the School Budget. This does not mean that taxes are going up \$.52 cents. He indicated he wasn't sure of the amount but we are not having an increase at this moment. I hope it didn't come from the Administration. Councilor Bolduc said it came from the new Superintendent. Mr. Bird said he felt the tax should go up because of the RSU and people should know it is not the Administration's fault nor is it the Town Council's fault. I encourage you to hold the budget to what you had before. Councilor Tousignant said he felt that would punish the citizens. Mr. Bird said you will have to take it out of municipal services. Councilor Tousignant said we are the only community that has not let people go. Mr. Bird reiterated that you will be taking it out of community services.

Councilor O'Neill indicated he will not vote to cut municipal services in favor of the school services. He asked that citizens to watch what services and positions are cut. Chairman MacDonald said all comments are valid and that she has been against the RSU from the beginning. She also said no positions are going to be cut as of this time. She considers herself being a good steward of the Town' money. She said she did not believe that a tax increase was necessary. We are going to have to get creative and it is our intention to be creative.

ADJOURNMENT:

MOTION: Councilor Bolduc motioned and Councilor O'Neill seconded to Adjourn the meeting at 10:30 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 seventeen (17) pages is a true copy of the original Minutes of the Town Council Meeting of June 2, 2009.

V. Louise Reid