

**TOWN OF OLD ORCHARD BEACH  
SPECIAL TOWN COUNCIL MEETING  
Wednesday, March 14, 2007  
7:00 p.m.**

**I am hereby calling a Special Town Council Meeting on Wednesday, March 14, 2007, at 7:00 p.m. at Town Hall for the following reasons:**

**The following were in attendance:**

**Chairman Joseph Kline  
Vice Chairman Shawn O'Neill  
Councilor Roxanne Frenette  
Councilor Robin Dayton  
Councilor James Long  
Town Manager, James Thomas  
Assistant Town Manager, Louise Reid  
Legal Counsel – Chris Vaniotis**

**LIQUOR LICENSE PUBLIC HEARING:**            **Jeanne Lachance dba/JJ's Eatery (306-5-1-B), 12 B Old Orchard Street, malt, spirituous and vinous in a Restaurant.**

**MOTION:**    **Councilor Long motioned and Councilor Frenette seconded to approve the license as read.**

**VOTE:**        **Unanimous.**

**SPECIAL AMUSEMENT PERMIT:**            **Jeanne Lachance dba/JJ's Eatery (306-5-1-B), 12B Old Orchard Street, malt, spirituous and vinous in a Restaurant.**

**MOTION:**    **Councilor Long motioned and Councilor Frenette seconded to approve the Special Amusement Permit as read.**

**VOTE:**        **Unanimous.**

**NEW BUSINESS:**

**# 1088 Discussion with Action:** **Engage the service of Martin L. Wilk, Esquire, in connection with a personnel matter.**

**MOTION:**    **Councilor Long motioned and Councilor Dayton seconded to engage the services of Martin L. Wilk, Esquire, in connection with a personnel matter.**

**# 1089 Workshop Discussion with Town Attorney on powers, rights and duties of Town Councilors (all or part of discussion may occur in Executive Session pursuant to 1. M. R. S. A. Section 405 (6) (E).)**

**Chairman Joseph Kline**

Christopher L. Vaniotis, Esquire of Bernstein Shur, Counselors at Law, presented a Municipal Officials Workshop in which he discussed several items relating to Home Rule, some with historical background of the law while answering concerns raised by the Councilors in attendance. He specifically discussed powers granted to the municipalities by the State of Maine. He discussed the legislative Intent of Section 401, what are public proceedings, executive sessions, indicating that the definition of public proceedings is deliberately broad. He explained that executive sessions are the opposite of open meetings as the public can be excluded subject to the rules set forth in Section 405. Several of the Councilors asked specific questions relating to litigation, interpretation of Section 405-6-E – legal opinions, rules of order, majority vote of the Council, questions of law, etc. He discussed binding arbitration, the right to know, the fact that in executive sessions there is never a vote. He spent a great deal of time on the confidentiality of the executive session, a matter of trust and relationships between the public officials.

Attorney Vaniotis discussed the concerns of Councilors Long and Dayton regarding “the public being locked out of its own business,” and the subject matter of the executive session was not accurately described in the agenda which stated that the Council was going into executive session as permitted under Maine law to discuss the acquisition of property. Attorney Vaniotis indicated that Town Councils may go into executive sessions upon a vote of three-fifth of its members. Maine law sets only a few circumstances for which an executive session is permitted and a motion to go into executive session must indicate the precise nature of the private meeting. Attorney Vaniotis gave the example that the Portland Sea Dogs were negotiating privately with the City of Portland for the use of Hadlock Field because talking publicly would prejudice the bargaining position. He also indicated that often negotiating in public might prohibit frank discussions with business and a business representative would not be able to disclose certain proprietary aspects. Councilor Long stated that the government needed to be responsible to its voters. He pointed out that we are responsible to the citizens, protecting the public’s interest. He said that is the overriding legitimacy of any government and not private, personal. Councilor O’Neill indicated that apparently it has become personal. Councilor Frenette indicated that although Councilors do not always agree on matters we have to agree to disagree and not take the disagreements to the streets.

**MOTION:** Councilor Frenette motioned and Councilor O’Neill seconded to go into Executive Session Personnel Matter Defined Under M.R.S.A., Title 1, Section 405, Subsection 6 (a) and (e) to confer with the Town Attorney concerning the legal rights and duties of the Town with relation thereto.

**VOTE:** Yea: Chairman Kline, Councilors Long, O’Neill and Frenette  
Nea: Councilor Long

**EXECUTIVE SESSION**

**Councilor Long did not remain for the Executive Session.**

**MOTION:** Councilor Frenette motioned and Councilor Dayton seconded to close the Executive Session at 10:00 p.m.

**VOTE:** Yea: Councilors Dayton, Frenette, O'Neill and Chairman Kline  
Unanimous of the four who attended the meeting.

**ADJOURNMENT**

**MOTION:** Councilor Frenette motioned and Councilor Dayton seconded to close the Special Town Council Meeting at 10:01 p.m.

**VOTE:** Yea: Councilors Dayton, Frenette, O'Neill and Chairman Kline  
Unanimous of the four who attended the meeting.

**Respectfully submitted.**

**V. Louise Reid  
Secretary to the Town Council**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, do hereby certify that the foregoing document consisting of three (3) pages is a true copy of the original Minutes of the Executive Session held on March 14, 2007.**

**V. Louise Reid**