

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, MARCH 17, 2009 - 7:00 P.M.
TOWN HALL CHAMBERS**

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, March 17, 2009 in the Town Hall Chamber. The Chairman opened the meeting at 7:05 p.m.

Pledge to the Flag and Roll Call:

Present: Chair Sharri MacDonald
Vice Chair Robin Dayton
Councilor Laura Bolduc
Councilor Mike Tousignant
Town Manager Steve Gunty
Assistant Town Manager V. Louise Reid

Absent: Councilor Shawn O'Neill

ACKNOWLEDGEMENTS:

COUNCILOR TOUSIGNANT: The Old Orchard Beach Alumni Scholarship Fundraiser is scheduled for Saturday, April 4th at 8:00 p.m. at the Saco Elk's Club. It will be a great night with the Alumni's DJ's spinning hits from the 50th through the 80th and you will have a chance on the dance floor to do the Twist, the Stroll, the Limbo Rock, the Watusi, Hokey Pokey, Cha-Cha, Swim and the Frog and if you are really good – the Waltz. Tickets are \$10 per person and are available at MacDonald's Garage in Old Orchard, Prime Toyota in Saco, and Brady's Screenprint in Biddeford. There are openings for positions on the Finance Committee and any citizen interested in serving can pick up an application at the Town Clerk's office.

ACCEPTANCE OF MINUTES: Town Council Minutes of March 3, 2009; Town Council Workshop of March 3, 2009; Special Town Council Meeting of March 4, 2009; and Special Town Council Meeting of March 10, 2009.

MOTION: Councilor Bolduc motioned and Councilor Dayton seconded to Table the Minutes of the Town Council Meeting of March 3, 2009 and the Town Council Workshop of March 3, 2009.

VOTE: Unanimous.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Table the Minutes of the Special Town Council Minutes of March 4, 2009 and the Special Town Council Minutes of March 10, 2009.

VOTE: Unanimous.

**PRESENTATION: FISCAL YEAR 2010 TOWN OF OLD ORCHARD BEACH
BUDGET BY THE TOWN MANAGER, STEPHEN GUNTY**

TOWN MANAGER: I would like to apprise the public and audience that there are copies of my presentation on the table in back of me. We will deliver the budget book to the Council at the end of the meeting this weekend.

INTRODUCTION

Whereas last year I was inserted into the Budget process toward the 11th hour, I've now had the advantage of working with the Departments for the past year. I've held individual Budget review meetings with each Department to discuss all issues pertinent to their operations and Town services. Both Assistant Town Manager Louise Reid and Treasurer/Finance Director Jill Eastman did a terrific job working closely with the entire Staff to bring together the necessary financial and operational information found in this document. This information along with Staff and Council input has been the basis for decision-making in the Manager's recommendation. The Town Council has been very considerate of the needs of the Staff and Manager during this Budget preparation process.

Treasurer/Finance Director Jill Eastman conscientiously assembled numerous financial scenarios and has provided expert financial advice as well as the new Budget format used in this Budget that provides more line-item detail than before. Both Town Clerk Kim McLaughlin and RSU Board Member Gary Curtis provided key insight on the School Budget process. Of particular note, has been the role and cooperation of all of the Department Directors in light of the particular demands of our declining national/state economy. Their commitment to this Town and a conservative Budgeting approach should be noted and is deeply appreciated. It has helped us to reach this workable Budget solution without any layoffs proposed.

BUDGET APPROACH

The Manager's recommendation is presented in the attached FY10 Budget and is a collaborative result of this participative process. The attached Budget is preliminary, subject to review and adoption by the Town Council, and is summarized in this memo.

Most major Budget line items are explained on separate detail sheets following the spreadsheet summary of each department's request. Significant changes in either new personnel, added programs/services or substantial increases from last year will be explained either in this summary, the detail sheets or during the Budget process.

Through a series of Council Budget Workshops, the Town Manager and Staff will partner with the Council providing advice and direction through the difficult choices necessary in order to facilitate the best long term outcome possible for our community within the fiscal constraints it faces.

Since the operational Budgets are generally similar to last year, we encourage the Council to focus its attention on the major highlights, such as capital improvements (major equipment and infrastructure needs), new employee requests and new programs/services.

Councilors are encouraged to contact the Town Manager through the Council Chair to help answer any advance questions you may have prior to the Budget Workshops.

The intent is for each Director to be present at the Budget Workshop corresponding with their Department and to provide additional information or insight on operations, new employee requests, and equipment or vehicle purchases. The CIP will be covered in the first Saturday Budget Workshop along with a brief Revenue and Staffing overview. The School Budget process is independent and different this year and will be explained separately. The Library also handles its own Budget line items, including salaries, within the overall amount approved by the Town Council.

SCHOOLS

Because the School Budget is currently unknown due to the recent formation of the RSU, this municipal Budget projects a hypothetical flat-line (i.e. the same level of funding as last year) to the School for purposes of calculating a projected tax rate. Any changes on the School side of the budget equation may affect the overall tax rate projected in this preliminary Budget. The Council can adjust the municipal Budget accordingly to achieve a final scenario consistent with its objectives for the community.

EMPLOYEE WAGES & STAFFING ISSUES / IMPACTS

Budgeted compensation for Union employees (Police, Dispatch, Fire, Public Works and WWTF) reflects current labor contracts in effect. Cost of Living Adjustment (C.O.L.A.) if contracted is reflected, otherwise strictly for Budget purposes, we projected a 0% increase for Union employees. Compensation Budgeted for Union employees is subject to bargaining for successor labor contracts and the Budget document is typically not to be construed as actual Town intention or commitment to settle at the Budgeted amounts.

However, this year may be the exception. No requests for wage increases, while absolutely deserved, were given in this Budget either for Union or for non-Union staff. Unfortunately but for the sake of consistency, this was applied across the board even to positions that we are finding difficult to recruit for. Everyone's forbearance is requested, expected and appreciated in these troubling wage/benefit matters and difficult times.

While initially the need for layoffs was considered, after reviewing the financial resources of the Town and the proactive Budgeting that occurred in FY09 (with the creation of the \$400,000 overlay), it was determined that other cuts could be made and that other resources such as the Sewer fund and Surplus fund could be applied to appropriate cost centers such as the CIP. This allows the Town to minimize any reduction to its staffing, which could adversely affect the provision of services to the community and further contribute to the declining local and regional economy. Only if unknown variables materialize to severely impact Town fiscal resources should structural staffing reductions be considered and only after all other alternatives are explored.

Additionally, the Manager's recommended Budget does not intend at this junction to re-open any settled Union contracts for purposes of seeking un-negotiated financial concessions. This Budget is built upon a premise of zero C.O.L.A for non-Union employees as well as for any labor contracts currently due for negotiation. While seemingly unfair at first glance, the entire municipal organization is reminded that labor contracts should not be compared to one another because of the different circumstances that led to their agreement. What was appropriate last year may not be appropriate this year, however it

doesn't negate the agreements that were reached in good faith at that time. Many Union contracts addressed market wage inequities and employee turnover.

In return for financial concessions, management received other valuable considerations and increased insurance contributions from the Unions as well. All Union contracts now have health insurance contribution requirements in the 15% to 18% range versus the non-Union 10% required contribution. In light of continuing escalation of Employee Health Insurance premiums, projected to increase 10% in FY10, these Union concessions have proven helpful to the Town.

This is just to illustrate that such comparisons are not apples to apples. It should be pointed out that the non-Union workforce by and large received as a whole, unprecedented market wage adjustments as well during last year's Budget due to the Manager addressing those inequities with the Council. While we were not able to address the full extent of the market inequities discovered, it is hoped that future years will allow a return to normalcy and the economic rewards that better times help fund.

Our approach to future wage adjustments will be critically important in order to encourage employee morale and retain and attract the best talent possible. Our goal should be to keep municipal wages reasonably current within the regional market for similar positions and consistent within the internal hierarchy.

Here's a snapshot of the Staffing issues affecting this Budget and how we solved these needs. An overriding goal was to address the need for back-up and cross-training of any critical job function. We achieved it at no additional cost by re-organizing some job functions and reducing some seasonal positions or changing full-time status to part-time.

Overview of Staffing issues

- **FINANCE:** requested 1 Full-time Deputy Finance Director. Approved through savings gained by re-structuring RECREATION and POLICE.
 - note: Auditors recommend this position for financial safeguards. Additionally, without this key position the Town is at extreme risk due to lack of cross-training in payroll, accounts payable and accounting.
- **POLICE:** a reduction of 25% of the Seasonal Workforce is budgeted resulting in 10 less reserve officers during the peak summer season, i.e. from 40 to 30.
- **RECREATION:** requested 1 Part-time Program Coordinator. Approved through re-structuring duties of current Part-time Finance Clerk and reducing current Full-time Recreation Clerk to Part-time at no additional cost.
- **CLERK:** requested 1 Part-time Deputy position for scanning & counter back-up. Approved through re-structuring duties of Voter Registrar at no additional cost.
- **WWTF:** requested one laborer to free up the Maintenance Foreman for Project Management / Inspection duties during the Bond Project upgrades. While recognizing the merit of this approach, it was not approved for financial reasons.

- **DISPATCH:** operations continue “as is”, however new Emergency Medical Dispatch requirements may suggest exploring future regional consolidation.
- **LIFEGUARDS:** additional hours approved to allow 2 weeks startup & training.

FINANCIAL PICTURE

Assessed Value

The Assessed Value says the same as last year. \$1,465,153,538 estimated taxable Total Assessed Value [increase of \$-0- or 0.0%]

Revenues

TOTAL Budgeted Town revenues [decrease of \$435,434 or 8.6%], major categories:

- Excise Tax [decrease of \$155,500 or 10.7%]
- State Revenue Sharing [decrease of \$86,500 or 10.0%]
- Investment Income [decrease of \$75,000 or 33.3%]
- Water Treatment Fees (Poland Springs) [decrease of \$160,000 or 100%]
- Permit Fees [decrease of \$23,000 or 56.6%]
- State School Funding [unknown: Budget forthcoming from RSU]

Expenditures

Town Dept Budget requests (excluding CIP,D/S,County)[increase of \$120,468 or 1.1%]

Manager recommended Dept Budget Expenditures [decrease of \$119,216 or 1.1%]

Manager recommended Grand Total Budget Expenditures [increase of \$-0- or 0%]

Tax Rate

This will stay the same as last year. FY10 projected tax rate is \$12.94 per \$1,000 of Assessed Value [increase of \$-0- or 0%]

[This is a flat-lined tax impact scenario; i.e. no increase from FY09]

- on a \$100,000 home this equals \$1,294 in taxes

Fund Balance

This is a 40% reduction of the Town’s net Undesignated Fund Balance (SURPLUS to \$640,000), yet the Town’s required \$2.9 million Fund Balance reserves remain.

Additionally, the Town has approximately \$1.6 million in dedicated reserves (including Sewer, Rescue Call Fees, School, and general infrastructure), mostly obligated for specific ongoing and future projects. Of note is that the drawdown of a Town’s Undesignated Fund Balance is appropriate for reducing the tax rate, paying for major equipment or CIP items, but not to support the Department operating Budgets. This Budget meets those requirements.

This Budget proposal allocates \$441,000 of the Town’s SURPLUS Funds and \$300,000 of the Sewer Fund to help fund needed Capital Improvements.

Carry-forward projects

The Budget is based on the past practice of carrying forward any unspent CIP funds available on 6/30/09 into the FY10 fiscal year. This requires Council action, typically in

September. If this does not happen, projects requiring completion in FY10 may be at risk of under-funding. This carry-forward practice prevents having to raid Fund Balance or to re-Budget for the remainder of a project as taxes were already levied for these in FY09.

Rescue Call Fees Fund

\$225,000 of current Rescue Fees on-hand will be utilized, with no impact to Tax Rate, to partially fund Public Safety operations including the Rescue Fund Billing position.

A study completed on the Public Safety Building showed detrimental size and condition. Suggested solutions ranged between \$866,000 for short-term improvements to \$4.7 million for a longer-term investment. If plans for a new Police Building materialize, it's anticipated that the Rescue Call Fees Fund will fund future Debt Service toward a new Police Building. Even if construction would begin this year, there is no financial reliance on this Fund until FY11. Once a building design is decided and cost determined, an amortization schedule will be developed, however preliminary review suggests that this Fund will support the Debt Service for a Bond up to \$3 million. Of note is that the Fire Department is pursuing a FIRE ACT grant for \$2.25 million to handle remodeling of the existing building that they would inherit if a new Police Building is built. Code compliance issues alone total \$900,000 and will need to be addressed by the Rescue Call Fees Fund as well if the FIRE ACT grant application is not successful.

FY10 Budget Highlights of Interest

- Curtailment of all major vehicle and equipment purchases
- Eliminate Tops in Blue concert (reduction of \$3,000)
- Elimination of Fireworks @ \$10,000
- Continue Conservation Commission (Memorial Park) @ \$50,000 (\$109,385 FY09)
- Internalize Police SWAT Team (saving \$4,900)
- Continue Dispatch Ops (exploring consolidation possible due to new EMD req's)
- Contract Animal Shelter to Animal Welfare Society (increased cost of \$10,000 offset by Bldg Maintenance savings)
- Continue Lease of Police Substation @ \$15,000 (lease renewal talks underway)

Capital Improvements Plan (CIP)

The Manager recommended CIP is a 4% increase (\$38,110) over last year with \$993,110 of projects funded by the Tax Levy, SURPLUS Funds and Sewer Fund. Highlights are:

- Road maintenance @ \$350,000 [increase of \$150,000 or 75%]
- Stormwater maintenance @ \$135,000 [increase of \$105,000 or 350%]
- Sidewalks @ \$110,000 [increase of \$110,000 or 100%]
- Sewer @\$ 75,000 [increase of \$75,000 or 100%]
- WWTF @ \$138,000 [increase of \$38,000 or 38%]
- Continue Town Clerk records scan project (via carry-forward funds)
- Continue major GIS system upgrade @ \$50,000 (reduction of \$30,000)
- Continue major computer upgrade @ \$40,000 (reduction of \$20,000)
- Skate Park phase 1 @ \$15,000
- Recreation Office improvement @ \$5,000
- Comp plan @ \$15,000

- Fire Dept equipment @ \$35,000

Note: CIP Stormwater alternatives to address the LITTLE RIVER / Walnut / Milliken Street problems are listed in the Budget. The first part of the solution at approximately \$50,000 would be appropriate planning / engineering / permitting that is Budgeted in FY10. The actual project chosen will depend on Council approval from the list of alternatives below with construction envisioned in later years.

Bonding

CIP Funding has typically been pay-as-you-go via use of SURPLUS Funds, dedicated reserves for special projects or assigned cost centers, and Tax Levy. Long-term bonding that spreads cost across future residents benefiting from such projects is typically a sound strategy to address staggering CIP and infrastructure needs. Bonding will likely be on future years agendas. Postponing needed capital improvements typically increases future costs when extreme deterioration is a factor. Paying cash for costly long-term improvements limits the amount of projects that the Town can do. The Town's current Total Bond Debt at \$12.3 million (0.8% of Assessed Value) is well below the maximum indebtedness of 15%, allowing future flexibility for longer-term financing strategies.

Other possible financial strategies to explore include; sewer use fees, deferring infrastructure projects, utilization of undesignated fund balance, raising revenue through service fee increases or sale of town equipment or property, or increasing the tax levy.

FY09 Bond Projects

In FY09 the Town Bonded six major infrastructure projects totaling \$5.3 million. Most projects will start in FY10. The Roundabout Traffic Improvement Project is facing increased costs resulting in uncertainty and is slated for further Council review.

- West Grand Stormwater/Road Reconstruction \$1,850,000
- Ross Road Culvert \$350,000
- Ocean/Seaview Sewer Rehabilitation \$800,000
- Summit Street Sewer Rehabilitation \$900,000
- Halfway Roundabout ROW Acquisition/Pre-Design \$200,000
- West Grand Pump Station \$1,200,000

CONCLUSION

A review of forthcoming projects in this Budget while conservative, still suggests that the Town of Old Orchard Beach is making significant improvement in its quality of life and infrastructure development. These positive conditions should help poise the Town for further economic development prospects. How the Town handles its future Capital Improvement planning and Economic Development efforts is of prime importance at this stage to help stimulate growth of the Town's Tax Base, its employment sector and tourism prospects.

On behalf of the entire Town Staff, we look forward to partnering with the Town Council on positive solutions to the Town's needs.

In your budget book there is also a schedule of our budget discussions beginning this Saturday at 9:30 a.m. to 1:00 p.m.; staffing and wage charts, organization charts, overview

with expenses and revenues, and department budgets. Copies for the public will be available on request in the Town Clerk's office tomorrow. I thank the Council for the opportunity to present this to you this evening and both the staff and myself look forward to working with the Council in a team work approach as we all know these are difficult times. I would be happy to answer any questions that you have.

CHAIR MACDONALD: This is the first time we have seen your budget presentation so it is a little premature for us to make comments and it is going to be a tough year as well and we are bracing for it. We look forward to working together as well.

CHAIR MACDONALD: I open this Public Hearing at 7:34 p.m. Shall We Amend Section 54 –Regulatory Powers (b)(5) – Establish Specific Parking Spaces for Lifeguards to Park during the Hours of 9:00 a.m. and 5:00 p.m. between the Friday before Memorial Day and Labor Day; Amend Sections 54-44 (Penalty); 54-159(Passenger and Loading Zones); and Add Sections 54-114 (Milliken Street Parking Lot) and 54-115 (Memorial Park Parking Lot)?

CHIEF KELLEY: Good evening, Council. We had a discussion back when we had a workshop and this is a follow up to that. Are there any specific questions?

CHAIR MACDONALD: Can you give us an idea of what you are asking to be changed.

CHIEF DANA KELLEY: This is a housekeeping item giving me permission to assign regulator powers to Section 54 - -Regulatory Powers (b)(5) – Establish Specific Parking Spaces for Lifeguards to Park during the Hours of 9:00 a.m. and 5:00 p.m. between the Friday before Memorial Day and Labor Day. Again, I have been doing this but this just defines the regulatory power. The second one is to Amend Sections 54-44 (Penalty); 54-159(Passenger and Loading Zones), came about from one of the Taxi Cab company requesting for dropping off passengers – discharging only. The Memorial Parking and Milliken Street Parking provides us to legally address parking fines. The question of how many spaces in the Memorial Park I have also addressed. There have always been five spaces but I think it was just a misunderstanding.

CHAIR MACDONALD: Thank you Chief Kelley. Any comments from the public?

NEAL WEINSTEIN: In the light of our desire to encourage tourism and bring tourists and visitors to our community I would like to point out that this is the highest penalty fee in the State and probably in all of New England with the exception of handicapped parking or fire hydrant fines. It should not be more than \$15. I have had many come and complained to me when they have been visiting Old Orchard Beach and have been fined that they paid the fine but won't come back to Old Orchard. The Town Manager says he wants this to be a tourist friendly town but this is not the way to do that. It is a negative way and discourages tourism. I also don't know why you don't allow parking in Milliken Street parking lot from 2:00 a.m. to 6:00 a.m. and if you charged \$5 for the that time frame you could bring in an additional \$35,000 for the ten week period.

COUNCILOR BOLDOC: Requested correction of 54-114 –J as it reflects the 5 parking spaces in Memorial Park.

CHAIR MACDONALD: I close this Public Hearing at 7:40 p.m.

PUBLIC HEARING: Shall We Amend Section 42-173 (Surfing- Areas Where Prohibited); and Add Sections 42-112 (Beach Rules) and 42-113 (Fishing)?

CHAIR MACDONALD: I open this Public Hearing at 7:41 p.m. Shall We Amend Section 42-173 (Surfing- Areas Where Prohibited); and Add Sections 42-112 (Beach Rules) and 42-113 (Fishing)?

CHIEF GLASS: We have wanted to address some issues that were not covered under Ordinances but were previously addressed under Beach Rules. The Lifeguards enforced these as rules but they have never been listed as Ordinances and to give some weight to following through on the rules we felt the Ordinance would give us that extra means to see rules were followed. For instance there is a policy of no fishing between the hours of 9:00 a.m. and 5:00 p.m. from Memorial Day to Labor Day but the rules was never an ordinance. If someone breaks a beach rule there are no legal consequences. Making these rules part of the Town Ordinances would help the lifeguards by making the fishing rule, as well as other rules, more enforceable. Other rules that he discussed were no animals on the beach between 10:00 a.m. and 5:00 p.m. from Memorial Day to Labor Day, no boats within 100 feet of swimmers, no pedal or motorized bikes on the beach and no deep holes in the sand. We have been requested to see the ordinance when we have tried to enforce the rules.

CHAIR MACDONALD. I have had several phone calls on this including questions about not being able to fish and not being able to ride a bike on the beach or to dig holes in the beach. Can you explain why you want to implement those rules?

CHIEF GLASS: I will ask the Chief Lifeguard, Keith Willett and Lt. Philip Bourassa to speak about this.

KEITH WILLETT: He spoke about the difficulties they have had in the past that the proposed ordinances would help ensure safety on the beach. He explained about the surfing change which would move it to a less congested area for safety reasons. If it is a very busy day we may not allow surfing and we need to be able to make that determination. He explained about the danger of bikes when there are small children and low tide, this is when accidents happen – running from hard sand to soft sand. For obvious reasons he said they do not allow motorized vehicles on the beach. Fishing is a problem when the beaches are busy and children do not see the lines and it is a safety issue. The dangerous games provide us problems sometime like a volleyball net and the balls are hitting elderly or children and we get complaints. It is all to the lifeguards discretion. The boat issue is already addressed in our ordinance. We ran into issues last year with boats coming into shore that we were not even informed of their location in our area.

COUNCILOR TOUSIGNANT: We did discuss that this would not be on rainy days for fishing. Is it the same with surfing?

KEITH WILLETT: It is up to the discretion of the lifeguard and we do not have issues with people fishing but if you have people coming into the water it is a safety issue. The same with surfing.

COUNCILOR BOLDUC: No wording in the ordinance for the time of year; for instance is this just involved in the summer.

KEITH WILLETT: This is for the summer and I did not address for other seasons.

COUNCILOR BOLDUC: I think it should be consistent and time frames indicated in all instances. I have one other question. When do your lifeguards go on duty?

KEITH WILLETT: Last two weeks of June till the end of Labor Day.

COUNCILOR BOLDUC: I would ask that the dates of the lifeguards being on duty should be noted as well.

PETER TOOHEY: He indicated he that he first felt that these public meetings should be held when seasonal people could attend. It would be a shame to rush any changes of these rules or add rules just so we can go our “do not have fun” signs made in time for Memorial Day. He agreed that rules without enforceable legal consequences are not workable but thought the proposed ordinance was too restrictive. We should not make inflexible rules. He felt you should not make inflexible rules that punish folks that have common sense and have every right to be on the beach. Taking the rights away from people is not right – we need to give you those rights.

WILLIAM EVANGELISTA: I want to voice my loud disapproval of your rules to limit fishing. My tax dollars, your tax dollars, go to the upkeep of Old Orchard Beach and it should be fair game. I think it should be governed by the lifeguards on duty. Common sense seems more sensible here. As an avid fisherman I don’t have a desire to fish during the hours that the beach is full but I don’t believe an ordinance should be in effect to limit my rights to the use beach. I would like to know how many incidents there have actually been and the fines involved. Most of the people that break those rules are tourists. I fish with a small group of men down there and we have never seen a problem down where we fish. Overcast or rainy day – what is the definition of that? I have been down there on overcast days when even early there have been people on the beach.

NEAL WEINSTEIN: My family has been here since 1883 and we have fished, swam, played baseball, football and a host of other things we have done on the beach and I don’t remember any problems that have necessitated these kind of ordinances. A lot of people come here because they love to surf and now people are making laws that limit there right to have a good time. They are restricting surfacing to one place is ridiculous. Even where you are saying there are many crowds is not always the case. Some people have soft surfboards and to restrict to an area is making it difficult for people to surf on Walnut which has a year round surfing business. June is empty on the beach. If you are going to pass these laws at least make them in July not June. It is not fun when you have to avoid people so common sense rules here. I am a member of the Surf Rider Foundation, a non profit foundation that monitors and makes legislation for OOB. There is no reason to have these ordinances; the crowds are minimal in the area where people want to surf. We have a fishing shop on Route One and bring in the fishing and the surfing people and we can pass some laws that make sense. If you do something it should not be in effect until July.

COUNCILOR TOUSIGNANT: I have some request to read some messages from people who could not be here. In addition the Assistant Town Manager has also indicated she has one to be included in the records. All these are below:

TOM HALL: 5 Elm Street, Old Orchard Beach: I would like to comment on the ordinances below. As a taxpayer in Old Orchard Beach, as a registered voter, and a full time resident, I do not wish to see the Beach used unsafely, but I also think that restricting use as outlined in the following ordinances could have unintended economic implications: Article IV, Town Beach, Division 1, Section 42-112; Article IV, Town Beach Division 1, Section 42-113; and Article IV, Town Beach, Division 3, Section 42-173. Much of what is wonderful about the Beach is the personal choice associated with how we all wish to use the Beach. If the use of the Beach is too restrictive patrons will choose other beaches. During the current economic downturn, discouraging beach use and patronage of our Town is not in the best interest of the residents. Ensuring the local businesses can compete during difficult economic times should be our primary concern, not restricting beach use and driving away beach patrons and potential customers for local beachfront businesses, area hotels and local restaurants. Unsafe beach use can already be addressed by enforcing existing laws. Specifying beach use in these ordinances and then being forced to allocate the resources to enforce these ordinances will further stress the municipal budget. Let's focus on more important issues other than where people fish and the size of holes kids can dig in the same. We are in a resort town in an economic downturn. We survive on the discretionary spending of others. Let's not discourage these visitors and their dollars.

MARGARET BARNEY - East Grand Avenue: It is fortuitous to choose a time of the year when many of the residents are on vacation and away from Old Orchard Beach to bring up controversial issues concerning the use of the beach during the summer months? This gives no opportunity for many of the residents who live on the beach to be heard, because they do not have access to town information during the time they are away. Yet, these absent residents pay taxes, contribute to the betterment of Old Orchard, and are entitled to certain rights as residents of Old Orchard Beach. Perhaps restricting surfing and restricting fishing during daytime hours in the heavily summer-visitor populated areas south of DuRocher Street would be in the best interests of the Town. In other areas, fishing is a pretty harmless sport. Logically, no intelligent person fishes where swimmers are swimming. Swimmers scare off the fish. To specify a linear measurement for surfing is absurd. I don't believe surfers measure feet while in the water, or on a surfboard. And after all, 150 feet is less than 1/2 percent of our six mile long beach. Digging holes has been something that has been done forever. Digging to China we used to call it. However, pleasure always demands some responsibility, and all holes should be filled in before leaving the beach. Do we need Life Guards to remind us to be courteous? The Town hired Life Guards to guard the lives of swimmers, and to ensure that conditions are safe for swimmers. Again, common sense and common courtesy. However many of the homeowners along our beautiful beach own sailfish, kayaks and the like. Because of past inconsiderate actions of a few persons in the heavily populated areas must all residents suffer? My family has lived in Old Orchard for nearly 90 years. My brothers and sister and I were raised on the beach. My children were raised on the beach. We all grew up without benefit of all these proposed restrictions. My grandchildren love playing on the beach, swimming in the ocean, and yes, they are learning to surf cast and to use a surf board in front of our home, located in the grand Beach area of Old Orchard Beach. They learn to be courteous and considerate of those with whom we share our beach. That is just part and parcel of having the privilege of enjoying the beach. Moreover, that is the way they learn to become responsible and courteous adults. We have many taxpaying homeowners that reside in the condominiums along the northern end of our beautiful beach. Are we going to disappoint them now with unnecessary regulations and perhaps

encourage them to find summer residences elsewhere? It would be too bad to ruin the opportunity for our residents to enjoy some of the activities that the beach affords due to our Council being overly restrictive as a result of the hyper concerns of a few individuals. Let's start helping our younger generation to make good choices and become responsible adults. Thanks for your attention.

JIM AND BROOKE ALLEN: We recently received an email from a friend about some new Old Orchard Beach ordinances that the Town is considering. I am very much against these new ordinances especially the one stipulating no grills on the beach. Having dinner on the beach while we play with our friends and family is one of our favorite summer activities. There are already rules on the beach for pets. If I want to take my dog for a walk on the beach I go after 5:00 p.m. The new rules I read that were sent to me looked a little vague. No deep holes? The beach is where you can dig. No fishing? This is Maine, if you have a license, you can fish. What is the problem with kayaks and rafts? What constitutes a dangerous game? Who decides what is dangerous? Bocce Ball? Volleyball? Football? Frisbee? Sticks? Sharp Shells? You know what the biggest problem at our beach is? Millions of cigarette butts. There ought to be an ordinance against littering our beach with filthy cigarette butts. What about all the second hand smoke I have to inhale at the beach? That seems pretty dangerous to me. In fact, haven't there been studies on just how dangerous it is? I'm sure all of our vacationers will appreciate being told they can't play at the beach because the lifeguard has decided it's too dangerous. Or that you can't ride a bike along the packed sand, because why? Are they noisy? Do they spread fumes? The Town should concentrate on some of the real problems we have and leave how we play alone, God knows we need a little recreation and less rules these days.

ROGER MORIN – 5 Roussin Street: Here are my comments about proposed changes to the ordinances.

Proposed Article IV, Town Beach Division 1, Section 42-113 (Fishing on the Beach)

Comments: Many people who live or vacation in the area enjoy fishing on the beach. The proposed Article IV, Town Beach, Division 1, Section 42-113, provided to me by the Town Clerk, prohibits fishing on the beach between 9AM – 5PM from Memorial Day through Labor Day.

I believe that the Memorial Day start time proposed is too restrictive because:

- There are very few people swimming or sun bathing on the beach in early June.
- Similar beach activity restrictions in the same Town Ordinance, are not in effect in Section 42-144 (c), (d), (g)(1), & (g)(2) until June 21. This Section pertains to prohibitions and restrictions on motor toys, boats, surfboards, etc., which are more of a threat to swimmers and beachgoers than fishing.
- The Town does not provide beach lifeguard services in early June, therefore the June 21 date would be more meaningful and consistent.

I recommend that the June 21 date be also applicable for beach fishing.

Proposed Article IV, Town Beach, Division 1, Section 42-112 (Beach Rules)

Comments: The new rules provided are needed and should be covered in Town Ordinances. I believe that the subject of animals on the beach is already well covered in Chapter 14, Section 14-6(a). I recommend that Chapter 14 simply be referenced in the New Proposed Section 42-113. The start date for the remaining new Beach Rules proposed in this Section is also not very meaningful and is not consistent with other Sections of the Ordinance as previously mentioned in my comments to Section 42-113. Additionally, as written, the proposed 42-112(b) is not appropriate as lifeguard staff is not assigned and on station starting on Memorial Day. I recommend that the June 21 date be also applicable to this Section.

ADDITIONAL COMMENTS CONCERNING BEACH CLEANLINESS

Trash Barrels on the Beach: Comments: The Town historically has provided trash receptacles (barrels) on the beach to allow beachgoers to dispose of their trash and in effect keeps OOB's main attraction (THE BEACH) clean. I could not find where the subject of beach trash is covered in any Town Ordinance. I have observed many instances over the past couple of years, where trash was strewn all over the beach adjacent to the barrels. This was primarily caused by; not enough barrels in certain areas, people depositing large amounts of trash from their homes, rentals, or businesses into the barrels, and/or seagulls going through the barrels when they are not emptied in a timely manner. In any case, I am certain that the Town Council does not want our beach littered with trash during the peak tourist season or at any other time. The Public Works Department currently oversees the beach trash program. Collection of beach trash has been contracted out over the recent past. Public Works does a GREAT job of raking the beach regularly to remove seaweed and residual trash left behind! They also have been receptive in placing additional barrels in high traffic areas when the need is identified. I would think that an Ordinance could state that the barrels are there for beachgoers trash ONLY and that it is unlawful to deposit household or business trash into these barrels. The Ordinance could also state that violators would be subjected to fines. I am not inferring that beach trash barrels be monitored, but if certain areas continue to be problems, something could be legally done to identify and correct them. This again would demonstrate the Town's commitment to keep the beach clean and attractive to everyone.

Dogs on the Beach: Comments: The Town does a nice job with posting signs next to beach entrances stating that dog owners are responsible for picking up after their dogs. Additionally the Town has conveniently provided plastic bag dispensers to assist dog owners in picking up after their dogs. Ordinance Section 14-7 states that is unlawful to fail to remove and dispose of dog feces left on the beach. It does not however indicate that dog owners could be fined for such neglect. The Ordinance does state that fines may be levied for dog owners who allow their dogs to run loose (Section 14-3).

I understand that policing this issue is difficult, but levying a few fines could go a long way in raising awareness of the Towns commitment of maintaining the beach clean for residents and visitor beachgoers.

JOHN SPENDER - Stripercoast Surfcasters: I am writing you in reference to the link posted below that mentions the possible ordinance for OOB. I can tell you that if that was to pass the couple of thousand dollars that I personally spend in that area while fishing for striped bass will be gone. I know of hundreds if not thousands of striper fishermen that would cease to visit as well. With the economy in such shambles I would strongly suggest you consider this fully before passing. While your popularity with the wealthy home owners may drop; realize that in these times they are becoming a minority. With Striper fishing being over a billion dollar industry and the fact that a few shops along OOB actually rent fishing equipment you would affectively deliver a nice financial blow to your own community by passing that bill. Not to mention I would love to point it out to the local news if said happened, to show that politicians are financially motivated up there and do not have their residents best interests in mind. That is how strongly I feel about this and I live 5 hours away. Keep in mind the numbers of us fishermen; if you are unaware I strongly suggest you take a look at the numbers to see how many surfcasters exist and the money we spend. Without questions it's many times larger than the amount of tax revenue you receive from the wealthy home owners complaining about someone fishing on "their" beach.

I also forgot to point this out....the beach is in public trust and therefore the rights to fishing, fowling, and navigating are protected. I have faced this issue before with wealthy land owners in Mass and won. As much as I don't have time for it I would love another win. In all actuality you could pass that ordinance and it would be completely ineffective.

MIKE TOUSIGNANT: I would also like to mention that we have also been in touch with some stripper fishermen in Massachusetts who say they will take us to court and it will be an easy win for them. Thank you.

CHIEF GLASS: These rules have been in the works for years so that when we go up to that unreasonable person will argue that he does not have to comply with the rules. "I don't have to do anything." If there is no ordinance on the books we have nothing to show him to enforce that ordinance. If everyone was reasonable we would not have to ask for these changes. We are just trying to get more teeth in the law to be able to enforce the rules when we have an unreasonable person. We all know that it is the one person who ruins it for everyone.

NEAL WEINSTEIN: Back when the land in Maine was granted from the King it was reserved for fishing and the challenges that have taken place is that even private land makes it not possible to restrain people from fishing in the water – fishing and clamming – and it has been upheld in the State Supreme Court. OOB is unique because the beach was taken by eminent domain for a park – place of entertainment – exercises and games on the beach – it was o.k. back then in the 1990's and it is no more crowded today. There were no rules then and I see no need for rules now.

KEITH WILLETT: I think you are misunderstanding what we are trying to do here. We are not trying to change any regulations, etc. None of that is being changed. We just need some teeth. Our last lifeguard is at the Friendship Motel. That lifeguard covers a mile-and-a-half.

What goes on there is not going to change. Last year, the fourth of July, we had an individual fishing in Ocean Park. We responded and asked him to leave the Beach. The Police tried to remove him but they had no teeth to enforce the rules. Things turned ugly in front of children and families. Children can't predict where those lines are. Nothing is different than last year. There was an incident where someone died when a deeply dug hole caved in, and another incident where a person was so tightly buried that lifeguards had to call the Public Works Department to dig him out.

PAUL ROGERS: I would like to know if there are incident reports on these issues; do they record them and do they have any support for what they are asking for? I also feel that individuals who are not here in the fall and winter should be able to be here so these kinds of changes should not

CHAIR MACDONALD: As you know the Council cannot change any ordinance without a setting a public hearing and notifying the public; having a public hearing where input is given and if changes are requested then it goes to another Workshop and another Public Hearing. Staff is doing their due diligence; children swimming when people are fishing and if there is an accident that is a real problem; our laws must cover those who do not have good common sense. I close this Public Hearing at 8:22 p.m.

PUBLIC HEARING: Shall We Amend Sections 34-26 (Definitions); 34-91 (Occupancy Requirements); and 34-286 (Required: Criteria for Issuance on Conversion of Seasonal Structures to Year Round Dwellings)?

CHAIR MACDONALD: I open this next Public Hearing at 8:23 p.m. Shall We Amend Sections 34-26 (Definitions); 34-91 (Occupancy Requirements); and 34-286 (Required: Criteria for Issuance on Conversion of Seasonal Structures to Year Round Dwellings)?

MIKE NUGENT: I requested this revision be made to the Zoning Ordinance to improve the Zoning Board of Appeals and permitting process. Those affected are :

Sec. 78-142 Exemption of accessibility ramps from nonconforming status. As it currently stands in the Ordinance, accessibility ramps for physically disabled individuals require a Variance from the Zoning Board of Appeals if the ramp is located in setback areas of the lot (which they almost always are). The proposed amendment to Sec. 78-178 (a) will make accessibility ramps exempt from this process. This revision will make the installation of accessibility ramps for disabled individuals an easier process and will only require a simply building permit, without appearing before the ZBA. When the accessibility ramp is no longer needed by the disabled individual, it will lose this nonconformity exemption.

Sec. 78-178 Reconstruction of a nonconforming structure within the previously existing building footprint: According to the current Ordinance, the reconstruction of a nonconforming structure within the nonconforming footprint requires a Variance from the Zoning Board of Appeals. For the last several years, Code Enforcement Staff allowed these structures to be rebuilt without obtaining a Variance from the ZBA (ignoring this Ordinance requirement). Current staff has been enforcing this regulation for a nearly a year, and it has consumed a significant amount of staff and Board time. This restriction in the Ordinance also discourages property owners from making necessary improvements and inhibits the correction of blighted properties. This revision will encourage

improvements for nonconforming properties and will make the process easier for property owners, Town staff and Board members.

Amnesty provision for structures with nonconforming locations. There are several buildings in Town that are in violation of the Space and Bulk requirements of the Zoning Ordinance in affect at the time of their construction. Often times Building Permits were issued for these structures (against the restrictions in the Ordinance) and today Town staff cannot accept these structures as legal. Since this is not the fault of the property owner and the fault of former Town staff, the Town is put in a difficult position. We need a provision in the Ordinance for dealing with these misplaced structures. This proposed Ordinance Revision will provide amnesty for this type of nonconforming structure that was constructed with a building permit prior to February 3, 1998 (the same date for Miscellaneous Appeal cut-off).

Sec. 78-1381 & 78-1 - 5ft setback requirements for sheds 120sf or less. Currently each Zoning District treats sheds differently, with most Districts allowing all sheds a 10ft setback from side and rear property lines. Property owners frequently complain about this restriction and nonconforming shed locations are common. This proposed revision would allow sheds no larger than 120sf to be set 5ft from the side and rear property lines in all districts.

Definition and setback requirements for membrane-covered structures. Structures composed of a rigid framework with a membrane roof covering used for storage, sometimes referred to as “little green garages”, are currently not defined in the Ordinance. By default we are required to classify these structures as buildings and require that they maintain the building setbacks within each Zoning District. This proposed revision would add a definition specifically for these structures and allow them to follow a 50% reduction in the side and rear setback of the District they are located.

Sec. 78-212 Exemption from Site Plan Review for commercial/multi-family construction 240 sf or less with no impact on parking requirements. All additions and construction projects for nonresidential and multi-family residential structures that are 1000sf or less are required to undergo Administrative Site Plan Review [per sec. 78-213(b)(3)]. Many of the small projects that fall within this category include the construction of decks, sheds, the removal of or alteration of exterior stairways, sunrooms, etc. These projects meet Space and Bulk requirement and have minimal impact on abutting properties. Staff recommends that the smallest projects be exempt from the Administrative Site Plan Review process. This proposed revision makes construction of new structures and additions to existing structures that are 240sf or less and do not increase the need for additional parking may be exempt from Administrative Site Plan Review. This revision will save the time of the applicant as well as Town staff.

Chapter 34 of the Town of Old Orchard Beach Code of Ordinances entitled Housing, sections 26, 91 and 286, shall be amended by deleting the strikethrough language and adding the underscored language as shown below:

Section 34-26 Definitions.

Students traveling with a J-1 Cultural Exchange Work Visa means non-immigrant students visiting with a J-1 visa from May to October of the calendar year.

Section 34-91 Occupancy requirements

(c) Students traveling with a J-1 Cultural Exchange Work Visa, cClubs, dormitories, sorority and fraternity houses. Where sleeping quarters are furnished for ~~more than 5~~ persons in a club, dormitory or sorority or fraternity house or students traveling with a J-1 Cultural Exchange Work Visa, the number of occupants in any habitable room occupied for sleeping purposes shall be limited to the number determined on the basis of the floor area, in square feet, of the room divided by ~~50~~ 75 square feet per occupant.

Section 34-286 Required; criteria for issuance.

(b) The building inspector shall issue a seasonal structure conversion permit only upon making a written determination that the dwelling, after conversion, will conform to all land use regulations applicable to residential dwellings in the zoning district where the dwelling is located at the time of conversion. Where a lot or structure is lawfully nonconforming with respect to dimensional standards of chapter 78, such nonconformity shall not prevent conversion otherwise permitted under this article, except that the dwelling, after conversion, must comply with the ~~lot area per family and parking space per dwelling unit~~ requirements of chapter 78.

NEAL WEINSTEIN: I think it is a good idea to relax the ordinance so it does not have to go to the Zoning Board of Appeals. The one I don't agree with is the 75 square feet per occupant per bedroom. A bedroom is usually 10 by 12, 120 square feet but if you put a double bed in there it is two people because you would need 150 square feet; or you can't have a bunk bed or you can't put two in there. We need these young people in our town; our businesses need them. I realize if it is a safety issue the CEO can go in and remove some of those individuals. This makes no sense at all from this point of view.

MIKE NUGENT: That is a good question. Density is that you take all the spaces except closet and bathrooms. You get credit for the livingroom, etc. The law makes us know how to measure the room.

ROBIN DAYTON: In reading the ordinance it does say that where sleeping quarters are furnished the number of occupants in any habitable room occupied for sleeping purposes shall be limited to the number determined on the basis of the floor area, in square feet of the room divided by 75 square feet per occupant. I think that is where the confusion is – it says room. We should strike the word room and submit habitable space?

MIKE NUGENT: I shall take a look at that wording.

CHAIR MACDONALD: I closet this Public Hearing at 8:31 p.m.

BUSINESS LICENSES: Paul R. Dionne (104-2-9-4), 42 Walnut Street, #4, one year round rental; Susan Mayer (205-7-9), 10 ½ Imperial Street, one year round rental; and Elizabeth & Steven Shore (323-14-17), 44 Temple Avenue, A&B, two year round rentals.

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

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: JJ's Eatery LLC dba/JJ's Eatery Too (306-5-1), 12B Old Orchard Street, Entertainment & Dancing; and Dimitri, Inc. dba/Jimmy the Greek's (211-9-1), 215 Saco Avenue, Entertainment & Dancing.

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

VOTE: Unanimous.

TOWN MANAGER'S REPORT: I have already submitted my report to the Council last Friday.

NEW BUSINESS:

5131 Discussion with Action: Approve the Liquor License Renewals for JJ's Eatery LLC dba/JJ's Eatery Too (306-5-1), 12B Old Orchard Street, s-m-v in a Restaurant/Lounge; and Dimitri, Inc. dba/Jimmy the Greek's (211-9-1), 215 Saco Avenue, s-m-v in a Restaurant/Lounge.

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

VOTE: Unanimous.

5132 Discussion with Action: Approve the Special Event Permit Application for the Old Orchard Beach Lifeguards to host the New England Lifeguard Competition on the beach, on the south side of the Pier, on Thursday, July 30, 2009 from 8:00 am. to 5:00 p.m.

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

VOTE: Unanimous.

5133 Discussion with Action: Appoint Donald Cote as a Regular Member of the Planning Board, term to expire 12/31/2010.

MOTION: Councilor Bolduc motioned and Councilor Dayton seconded to appoint Donald Cote as a Regular Member of the Planning Board, term to Expire 12/31/2010.

VOTE: Unanimous.

5134 Discussion with Action: Accept Resignation, with regret, of Daniel Patry from the Recycling Committee; and Appoint John Weaver as a Regular Member of the Recycling Committee, term to expire 6/30/2012.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Accept Resignation, with regret, of Daniel Patry from the Recycling Committee; and Appoint John Weaver as a Regular Member of the Recycling Committee, term to expire 6/30/2012.

VOTE: Unanimous.

5135 Discussion with Action: Accept the Bid for the Staples Street Sidewalk Improvement Contract to Grinding and Sons for a total of \$76,318.50; with \$53,422.95 being paid directly by a Maine Department of Transportation Enhancement Grant; and the balance of \$22,895.55 from Account Number 21003-50800 – MDOT Match, with a balance remaining of \$25,000.

COUNCILOR BOLDUC: I saw no information in the Fiscal 2009 budget or in the listing of projects and I am wondering how it came to fruition and I did not see the account number as listed. If I could have an explanation of that it would be appreciated.

MARY ANN CONROY: I reviewed the progress with beginning date of spring 2006 to the present time as shown in the Council Overview – Detailed Financial Breakdown sheet given to Council with their packets. Account 21003-5088 is a designated account with a CDBG Grant title. It does not specifically state “Staples Street” in the match money account. This project is being funded by the Maine Department of Transportation (MEDOT) via the Enhancement Program, through PACTS, as well as with Town of Old Orchard Beach matching funds. The MDOT grant is for \$95,000 with a 70/30 match – MDOT will cover the first 70% of the proposed contract with RJ Grondin for a total of \$53,422.95 and the remaining balance of \$22,895.55 has been budgeted in the DPW Designated Account #21003-50800. Public Works recommends awarding the contract to RJ Grondin and Sons for a total of \$76,318.50 as the successful low bidder on this project and all work must be substantially completed between April 1, 2009 and July 1, 2009. Sidewalk improvements for Staples Street span from Saco Street to Depot Square (First Street) for a total project length of approximately 730 feet. The project is scheduled to begin on April 1, 2009 (weather pending) and is anticipated to be substantially complete by May 22, 2009. This section of Staples Street is located in a high priority downtown area. The sidewalk condition has been in deplorable state for a number of years; no local funding was available for updating sidewalks. Our former Town Planner presented this project, along with the First Street Sidewalk, to the regional transportation funding group, PACTS, for consideration in 2005. Through PACTS, MDOT approved this project for funding in December 2006. During the design process the costs increased requiring a reduction in the scope of work. Funding today only covers Staples Street sidewalk. The First Street section is on a current list at MDOT for future available funding. I provided you a more detail list by date of updates to this project.

COUNCILOR BOLDUC: In your award letter to R. J. Grondin you mentioned “disadvantaged business enterprises of DBE”. What is meant by that?

MARY ANN CONROY: There is a Federal requirement to award a certain percentage of the contract work to a minority business. R. J. Grondin will need to comply with this requirement as part of their contract whether it be as flaggers, testing or other subcontracts within the project.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Accept the Bid for the Staples Street Sidewalk Improvement Contract to Grondin and Sons for a total of \$76,318.50; with \$53,422.95 being paid directly by a Maine Department of Transportation Enhancement Grant; and the balance of \$22,895.55 from Account Number 21003-50800- MDOT Match, with a balance of \$25,000.

COUNCILOR BOLDOC: I see it lists a remaining balance. How do we verify that is the remaining balance?

SECRETARY: Those numbers are confirmed to me by the Finance Director and that is the amount in the account at this time which means that once that is paid there will be a balance of \$2,104.45. The Finance Director will provide me that account balance at the present time because the item has not been approved to show the remaining balance.

VOTE: Unanimous.

5136 Discussion with Action: Accept the Bid for the E. Emerson Cummings Boulevard Sidewalk Improvement Contract in the amount of \$104,727.60 to be paid by a Maine Department of Transportation Safe Routes to School Grant; in addition \$115,000 of Town In-Kind Services and Material; and \$59,750 from the FY2010 CIP – Road Maintenance/Improvements – Account Number 20203-50506 pending Town Council Budget Approval.

MARY ANN CONROY: We have been working with the Schools for the past few years, April 2006. It was put into process by an Infrastructure Groups and the Health community. Sidewalk improvements for E. Emerson Cummings Boulevard span from Dirigo Road to Ballpark Way for a total project length of approximately 2,000 feet. The new sidewalk will be a shared use path for both pedestrian and bicycle traffic. We have been working with the School, former Superintendent Rick Matthews, Jameson parents with their playground projects, etc., so there has been a joint project. Project Approved through the Safe Routes to School Grant program, a collaborative program between health professionals and infrastructure experts. The overall goal is to encourage more active, (6-8 wks this summer). * FY10 Budget Consideration - If the Council does not approve the healthy lifestyles in the fight against obesity. Our program works closely with the 5210 school health program. After extensive public process with the assistance of Richardson & Associates, the cost estimate increased considerably due to a different design, increased construction costs, and extensive landscaping components. If the bids do not come in under the projected estimates, we have the option of doing the entire project with our crews or funding the balance (our entire crew will need to be dedicated to this project for capital paving budget for at least the amount shown below,) MDOT may not move forward with the project. It is an exciting project for us. This is Phase I and there is a Phase II project as well.

CHAIR MACDONALD: Please explain the matching funds concept.

MARY ANN CONROY: Matching Funds is actual cash dollars the Town contributes to the project. In -Kind match or matching Services are different. This is the portion of the contract that is done by using our crews, equipment or contributing materials. The materials are either already in stock or are purchased for the project. In construction/grant applications “in-kind and matching services” language is very common. The Matching Materials for \$63,000 was always included in the project as in-kind services. This is considered as no cost to the Town as it is already budgeted time, equipment and materials (budgeted to be used on Town projects.) This is not a new amount since the spring 2006 as noted on the Council Overview sheet given to the Council with their packets.

COUNCILOR BOLDUC: When did this project start to cost us money? At a School Board meeting you said this would not cost us anything? Didn't you say the project would be finished in 2008?

MARY ANN CONROY: After the committee work and final design were completed in 2008 the design changed to be ten feet from the existing curb line instead of along the roadway. I may have said it would be finished in 2008 however the design was not ready for the short construction period available for this project – basically the months of July and August.

CHAIR MACDONALD: If we do not address this tonight what will happen?

MARY ANN CONROY: We would have to go out to bid again.

TOWN MANAGER: We have been told that with the stimulus packages going out there will probably be a spike in costs for services as well as the inability to hire construction groups because of the demands.

CHAIR MACDONALD: I can't support money when we haven't even looked at the budget yet. We just saw the budget tonight.

COUNCILOR DAYTON: How long is the bid good for?

MARY ANN CONROY: Probably 30 days, I am not sure as I have not had this happen before with any council in OOB for to award a project.

COUNCILOR DAYTON: I want to make sure that this project does not compete with what the Conservation Committee is trying to do. I see Andrea in the audience. Can you speak to this Andrea?

ANDREA BERLIN: No it does not conflict with our goals for the leaf program.

COUNCILOR DAYTON: I have to commend you for your perseverance and working very hard on this. I publicly say it has come a long way and I hope that you don't give up.

MARY ANN CONROY: If it could come back to Council within the next two weeks, I believe I could convince the contractor to wait.

TOWN MANAGER: If there is any concern that the project be stalled, we could take the necessary funds for pavement out of the undesignated fund now.

COUNCILOR TOUSIGNANT: I can't give any consideration at this time and I am not comfortable in presenting the project in parts. It needs to be completed in the year it is done. I am sorry.

MARY ANN CONROY: We can remove the landscaping. Our committee decided to utilize the Landscape Architects to add the desired landscaping for future planning. The landscaping portion was never included in the original scope of the grant. The Conservation Commission has a new tree leaf program where citizens can buy a tree as a memorial and Andrea and I are working on some of those memorials being used for the tree canopy on this project as well as future Tree Canopy Grants. The School Department also has the opportunity to donate a tree program for each graduating class.

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to Remove without prejudice the Bid for the E. Emerson Cummings Boulevard Sidewalk Improvement Contract in the amount of \$104,727.60 to be paid by a Maine Department of Transportation Safe Routes to School Grant; in addition \$115,000 of Town In-Kind Services and Material; and \$59,750 from the FY2010 CIP – Road Maintenance Improvements – Account Number 20203-50506, pending Council approval.

COUNCILOR DAYTON: I would have preferred that this be Tabled rather than Removed without Prejudice. I believe Mary Ann deserves us giving her more definitive answer than we have. As a result I will vote No.

VOTE: Yea: Councilors Bolduc, Tousignant and Chair MacDonald.
Nea: Councilor Dayton

5138 Discussion with Action: Authorize the Town Manager to sign an Agreement between Ecomaine and the Town of Old Orchard Beach for recycling services for seven years commencing on April 5, 2009 unless sooner terminated under the agreed terms.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Remove this Agenda Item Without Prejudice to be given to our Recycling Committee and to give us a complete set of recommendation after their review.

COUNCILOR TOUSIGNANT: I would ask that this be dealt with as quickly as possible because we are looking at a \$2,500 increase each month. I appreciate the Recycling Committee and I don't know how it got there without this going to the Recycling Committee.

COUNCILOR DAYTON: I appreciate Councilor Tousignant's comments and I agree we certainly have motivation to move forward expeditiously but I also don't want to rush the Recycling Committee and press their good judgment. They are well versed in many contracts and I believe the Town Administration and the Recycling Committee will work hand in hand to move this forward. We still have to go out for bid.

COUNCILOR TOUSIGNANT: How long will it take this process to go out bid? I will defer to our Public Works Director as she has been very involved in this process. I mean the Recycling Contract.

MARY ANN CONROY: We can do the Recycling Process in three months because there are only three companies that can do that.

COUNCILOR DAYTON: I believe this will come back to the Council in a workshop.

COUNCILOR TOUSIGNANT: I don't want to waste money and I want to move this forward.

COUNCILOR DAYTON: I just want to remind everyone that this has to go out to bid for both the Trash and the Recycling.

COUNCILOR BOLDUC: I want this to be studied well so I don't believe this will take more than a month.

COUNCILOR TOUSIGNANT: I want a timeline and I conduct my business and I believe that we should conduct Town business that way as well.

COUNCILOR DAYTON: How do we know what they are going to do when we haven't gone out to bid?

JOHN BIRD: I appreciate this being brought back to us and we will do our best to get this back to the Council as quickly as possible.

COUNCILOR TOUSIGNANT: I appreciate all the work that will be done by the Recycling Committee and their willingness to move this forward quickly.

VOTE: Unanimous.

5139 Discussion with Action: Approve the Project Canopy Tree Planting and Maintenance Grant submitted by the Conservation Commission for Matching Funds in the amount of \$3,000 from Account Number 20118-50350 – Contingency, with a balance of \$41,602.

ANDREA BERLIN: The Conservation Commission is applying for the 2009 Canopy Tree, Matching Funds Grant through the Maine Forest Service. This year our project title is "Pedestrian Canopies". We are applying for this grant in conjunction with the Ocean Park Association. They will not be asking for any assistance from the town. Their objective in coming to the conservation commission is to join with us in submitting a unified grant since two grants aren't usually accepted from one community. By doing this they have a better chance of having their grant accepted because they wouldn't be in direct competition with the town of Old Orchard Beach. The Ocean Park Association has a 501 C non-profit status, as such, they are eligible to apply to project canopy for assistance. If our proposal is accepted, the Ocean Park Association will fund the 50% match that they are seeking for their privately owned land. They would like to replace the tree canopy they lost many years ago around the library. "Pedestrian Canopies" objective this year is to provide shade from summer heat and sun, block undesirable views and buffer noise. In addition to the trees at

the Ocean Park Library, we would like to plant 6 trees in the Veteran's Memorial Park. We are planning to place 2 trees between the basketball courts and the parking lot, 2 trees between the basketball courts and the playground, and 2 trees in front of the small dog park, which is being developed into an exhibit rain garden with the help of Joe Anderson from the York County Soil and Water Conservation District and the University of Maine Co-Operative Extension Master Gardener Program. We would also like to place two trees on Atlantic Ave., reestablishing the tree canopy in this existing public park. We have a community event planned on Armed Service Day – May 16th. We will soon be advertising for community participation. While we are requesting \$ 3,000 from the council, the maximum match to be awarded this year is \$ 8,000. This is down from \$ 10,000 in previous years. All of our previous requests have been for 5,000. We are asking for a commitment from council of \$ 3,000 this year and will make up any additional match from donated labor, materials, and equipment. In addition I would like to address an issue that was raised during Candidate's Night and clarify rumors that the trees we are planting in the Park are too expensive. Following the damage by the kids the newspapers and television networks ran stories. They quoted the replacement prices of the trees not the actual prices. Many in the community took this to be the price that we paid for the trees. Most of the area nurseries give the Town a discount over the retail price. The average price of a tree planted in the Park varies between \$200 to \$300 dollars depending on the variety. We look for trees that are not common in the residential landscape. As an example of Metasequoia we planted last year to honor of the 2008 Olympics being held in China. This tree was first brought to the United States from China following an expedition in 1944 by the Arnold arboretum of Harvard University. Fossilized remains indicate that the tree has been growing for 50 million years. But that does not compare to the Ginkgo one of the damaged trees. It was the first tree we planted in the Park in 2004. It is referred to as the dinosaur of trees growing 150 million years ago. At one time it was native to North America. One and one-half inch was \$276 and today a 2 inch is \$530.

COUNCILOR BOLDUC: Are you part of the budget process and will you be requesting trees when you come before the Council? Have you received the grant?

ANDREA BERLIN: Yes we do propose a budget and no we do not have assurance of the grant but we must apply before the end of March.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Approve The Project Canopy Tree Planting and Maintenance Grant submitted by the Conservation Commission with a matching funds in the amount of \$ 3,000 from Account Number Account Number 20118-50350 – Contingency, with a balance of \$41,602.

VOTE: Unanimous.

5140 Discussion with Action: Authorize the Town Manager to sign the State of Maine awarded contract with Maine Information Network (MIN) authorizing MIN to carry out the business of InforME for the next ten years as it involves the Rapid Renewal Service Level Agreement and Online Boat Registration Renewal.

COUNCILOR BOLDUC: What is the cost to this?

SECRETARY: InforME proposes to provide to the Town of Old Orchard Beach access to the enterprise online Maine Boat Registration Renewal Services (new this year) and the Rapid Renewal Program. The Rapid Renewal services was developed through a partnership between InforME and the Bureau of Motor Vehicles. The application allows the Town to perform administrative functions including data uploads to InforME and will allow citizens of the Town to renew their vehicle registrations online, including electronic payment. The Town has provided this service before and it has been well received by citizens who can register their vehicle from anywhere at anytime of the day or night and receive their car registration within three days. The Boat Registration Renewal Service works in the same way but is new and will afford boat owners the same swift and economical means of renewing their registration without coming into Town Hall. We are one of many municipalities who provide this service to their citizens. The Town does not pay a fee for this service. For those registrations done on line the Town loses the \$3.00 fee that we would collect if the citizen came in to Town Hall. InforME gets that fee instead. If the citizen uses a credit card the Town loses approximately 2% of the excise tax for this service. If the citizen pays by electronic check, we lose nothing. The money collected is credited to the Town's checking account everyday that it is used. There is rarely a day that goes by that does not have at least one rapid renewal transaction and most days there are multiple ones. This service allows us to be more flexible for our residents that have a hard time getting to Town Hall due to work schedules, etc.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Authorize the Town Manager to sign the State of Maine awarded contract with Maine Information Network (MIN) authorizing MIN to carry out the business of InforME for the next ten years as it involves the Rapid Renewal Service Level Agreement and Online Boat Registration Renewal.

VOTE: Unanimous.

5141 Discussion with Action: Set a Public Hearing date of April 7, 2009 to Amend the Town of Old Orchard Code of Ordinance, Chapter 30, Article V – Privately Owned Fire Hydrants.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing date of April 7, 2009 to Amend the Town of Old Orchard Code of Ordinance, Chapter 30, Article V – Privately Owned Fire Hydrants.

VOTE: Unanimous.

5142 Discussion with Action: Set a Public Hearing of Date of April 7, 2009 to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 18, Businesses, Section 521, 522, 524 through 531; and Chapter 78 – Zoning, Sections 1, 1222, 1224, 1225 and 1229.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing

Date of April 7, 2009 to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 18, Businesses, Section 521, 522, 524 through 531; and Chapter 78 – Zoning, Sections 1, 1222, 1224, 1225 and 1229.

VOTE: Unanimous.

5143 Discussion with Action: Set a Public Hearing date of April 7, 2009 to Amend the Town of Old Orchard Code of Ordinances, Chapter 74, Subdivisions, Sections 153, 207,233, and Chapter 78 – Zoning, Section 215.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing date of April 7, 2009 to Amend the Town of Old Orchard Code of Ordinances, Chapter 74, Subdivisions, Sections 153, 207,233, and Chapter 78 – Zoning, Section 215.

VOTE: Unanimous

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing date of April 7, 2009 to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78 – Zoning, Sections 1, 142, 178, 212, and 1381.

VOTE: Unanimous.

5145 Discussion with Action: Sign Old Orchard Beach Town Council Order Adopting Old Orchard Beach Emergency Medical Service (EMS) Red Flag-Identity Theft Prevention Program.

COUNCILOR BOLDUC: What would the cost and implementation of this be?

CHIEF GLASS: No cost as it will be mostly in house training.

CHAIR MACDONALD: Do we have to do this? Is it a State mandate?

CHIEF GLASS: Must be in place by May 1st of this year. It is a Federal mandate. We purchased a template and had our legal counsel review it. That was the least expensive way to go.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Sign Old Orchard Beach Town Council Order Adopting Old Orchard Beach Emergency Medical Service (EMS) Red Flag-Identity Theft Prevention Program.

VOTE: Unanimous.

5146 Discussion with Action: Approve the Maine State Planning Office – “Maine Recycling Toolkit” submitted by the Recycling Committee for Matching Funds in the amount of \$500 to be used to promote Recycling

**Using Materials from their “Toolkit,” in an outreach program
from Account Number 20117-50549 - Miscellaneous, with a balance of \$60,547.**

MR. BIRD: This will permit us to have material to use in the educational program for teaching about recycling.

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Approve the Maine State Planning Office – “Maine Recycling Toolkit” submitted by the Recycling Committee for Matching Funds in the amount of \$500 to be used to promote Recycling Using Materials for their “Toolkit,” in an outreach program from Account Number 20117-50549 – Miscellaneous, with a balance of \$60,547.

VOTE: Unanimous.

GOOD AND WELFARE:

ADJOURNMENT:

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to adjourn at 10:25 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 twenty-seven (27) is a true copy of the original Minutes of the Town Council Meeting of March 17, 2009.

V. Louise Reid