

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, NOVEMBER 17, 2009  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, November 17, 2009 following the Town Council Meeting. Chair Sharri MacDonald opened the meeting at 7:03 p.m.**

**The following were in attendance:**

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

**Absent: Councilor Shawn O'Neill**

**Pledge to the Flag  
Roll Call**

**CHAIR MACDONALD: We have suffered a tragedy in our community and the support of each of us for those involved and their families is important. I would ask at this time that we have a moment of silence in their memory this evening.**

**ACCEPTANCE OF MINUTES: Special Town Council Minutes of October 5, 2009; Town Council Minutes of October 20, 2009; and Special Town Council Meeting and Workshop Minutes of October 27, 2009.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to accept the Minutes as read.**

**VOTE: Unanimous.**

**BUSINESS LICENSES: Stephen M. Smith (205-6-6), 6 Imperial Street, Unit 11, one year round rental; Kristen Barbee (207-2-13-105), 161 Saco Avenue, Unit 105, one year round rental; Denise Kuusela (210-2-6-11), 18 Smithwheel Road, Unit 11, one year round rental; Ocean Pizza Inc., dba/Ocean Pizza (210-2-51), 2 Ocean Park Road, Victualers, Entertainment, and Dancing; Rino Levesque (301-6-1-605), 191 East Grand Avenue, Unit 605, one year round rental; and JoAnna P. Holmes (315-11-2), 73B Ocean Avenue, one year round rental.**

**MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to**

approve the Business License as read.

**VOTE: Unanimous.**

**SPECIAL AMUSEMENT PERMIT:** The Captain's Galley Restaurant Inc., dba/The Captain's Galley Restaurant (208-1-6), 169 Saco Avenue, Disc Jockey, Dancing, 11:00 a.m. to 11:30 p.m.

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded\ to approve the Special Amusement License as read.

**VOTE: Yea:** Councilor Dayton, Vice Chair Tousignant and Chair MacDonald.  
**Abstain:** Councilor Bolduc

#### **INTERIM TOWN MANAGER'S REPORT:**

We congratulate the ten business who were awarded the Façade Improvement Grant Awards including Creative Image, Big Licks/Bernies Beach Club, Baseball Card Shop, Diesel Dogs/Rinaldi's, Oasis Restaurant, Mr. Goodbar, Seabreeze Motel, Paradise Beachwear, two vacant store fronts, Beach Bagels, and the Libby Memorial Library. Our thanks also to the Old Orchard Beach Façade Improvement Committee and Jessica Wagner for their dedicated time and efforts. We want to thank the Town Clerk, Kim McLaughlin, our Voter Registrar, Beth Gilman, and their entire staff for the excellent job done during the election process. We also want to thank Kim and her committee that pulled off a great Whoofstock event. I continue to spend many hours on the Ballpark Development. I attend many meetings. Since the ballpark is not a private undertaking, all major decisions require Town input. In the future we will bring many different contracts (such as Pepsi Vendor Contracts) to the Town Council. I also anticipate the Council being asked to approve upcoming events to be held in the spring at the Stadium. The time I spend on issues and in meetings are extremely positive. Attending on Wednesday, November 18<sup>th</sup> a free ½ day clinic sponsored by Bernstein & Shur in Portland with a number of other department heads on new municipal labor and employment law issues. Spending many hours on personnel matters. The Chair and I met with the Public Works negotiations team on Tuesday, November 10<sup>th</sup>. Spent a morning in Sanford with Councilor Robin Dayton and Linda Jenkins talking to Marcel Bluin on ballpark management. I have attended an OOB 365 meeting. Gary Lamb and I met with the OOB Library Board and listened to a presentation by their Architect, Scott Teas. I have had a meeting with Wright Pierce Engineering Head, John Edgerton, and discussed all town projects, past, present and future. Also have had a meeting with Tom LeChance update on the ballfield. In addition I have met separately with Linda Jenkins and Andréa Berlin on the 50 Acre and Ballpark issues. There have also been a handful of individual Council member meetings, department head meetings, and a RSU meeting.

#### **NEW BUSINESS:**

# 5335 Discussion with Action: Approve the Special Event Permit Application for the New England Parkinson's Ride to hold their annual bicycle ride on September 11, 2010 from 6:30 a.m. to 5 p.m. from Loranger Middle School to the Pier; and a request to waive the fee.

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

**VOTE:** Unanimous.

# 5336 Discussion with Action: Approve the Liquor License Renewal for The Captain's Galley Restaurant Inc., dba/The Captain's Galley Restaurant (208-1-6), 169 Saco Avenue, s-m-v in a Restaurant.

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to approve the Liquor License Renewal as read.

**VOTE:** Unanimous.

# 5337 Discussion with Action: Set a Public Hearing Date of December 1, 2009 to Amend Section 78-1 of the Town of Old Orchard Beach Zoning Ordinance to define Drug Paraphernalia and Head Shops.

**MIKE NUGENT:** The Town of Old Orchard Beach wishes to prohibit the sale of drug paraphernalia. The easiest way to disallow head shops is to define them in the Zoning ordinance and then not list them as a permitted or conditional use in any zoning district.

Proposed amendment to Section 78-1 of the Zoning Ordinance to include the following definitions:

"Drug Paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, section 2383-B, subsection 5, to the extent the drug paraphernalia is required for that person's medical use of marijuana. It includes, but is not limited to:

- A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived;
- B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs;
- C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug;
- D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs;
- E. Scales and balances used or intended for use in weighing or measuring scheduled drugs;
- F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs;
- G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

- H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs;**
- I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs;**
- J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and**
- K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:**
  - (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;**
  - (2) Water pipes;**
  - (3) Carburetion tubes and devices;**
  - (4) Smoking and carburetion masks;**
  - (5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;**
  - (6) Miniature cocaine spoons and cocaine vials;**
  - (7) Chamber pipes;**
  - (8) Carburetor pipes;**
  - (9) Electric pipes;**
  - (10) Air-driven pipes;**
  - (11) Chillums;**
  - (12) Bongs; or**
  - (13) Ice pipes or chillers.**

**“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.**

**PLANNING BOARD ACTION:** The Board will hold a public hearing and vote on a recommendation to Council on November 12, 2009.

**MOTION:** Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing Date of December 1, 2009 to Amend Section 78-1 of the Town of Old Orchard Beach Zoning Ordinance to define Drug Paraphernalia and Head Shops.

**VOTE:** Unanimous.

**# 5338 Discussion with Action:** Act on the Sewer Appeal of Moshe Agam, 28 Old Orchard Street, (206-4-3), Pursuant to Section 58-124 of the Utilities Ordinance.

**MIKE NUGENT:** In April of 2008, Mr. Agam and the Town agreed to split the cost (\$5,100 each) of sewer repairs in conjunction with the construction of his new building at 26 Old Orchard St. (attached is the agreement). In September, 2008 while planning to

build out the second floor for four apartments, Mr. Agam was advised that the sewer permit fee would be \$13,200.00. In October of 2008, Mr. Agam was granted a credit for his contribution (\$5,100) by the Town Council. He recently has advised staff that he would be constructing the units in the spring of 2010. He brought forth information , while applying for his permit for the 4- three bedroom apartments above his store, that there were 21 rooming units above the building they demo'ed in 2007. I confirm this in the Assessor's records. The old Sandbar Inn had 21 rooms and three baths. It is unknown when the rooms were last used. The following are the design flows based on the State of Maine Subsurface Waste Disposal Rules for the past and proposed uses:

The former "Sandbar Inn's" 21 rooms generated 810 gallons per day.

The one bedroom cottage that is being discontinued generates 180 gallons per day.

Total 990 GPD

The 4- three bedroom units will generate 1080 gallons per day.

Net Increase 90 gallons per day.

The Sewer impact fee schedule for a change of use assesses a \$4.25 per gallon per day impact fee. The fee for this would be \$382.50.

Section 58-151.2 classifies this as a new discharge, requiring a sewer "impact" fee.

We originally assessed a charge of \$13,200 for the four units, for which the Council granted a \$5100. discount on appeal, based on work done on Imperial St. and paid for by Mr. Agam. At that time we were not aware of the prior uses on the property. It appears that he should be credited more, but the Fee Schedule states:

(12) Whenever more than one of subsection (1) through (9) of this subsection applies, in full or in part, the required fee shall be determined by applying the subsection or combination of subsections which results in the largest fee.

Because the original \$5,100.00 appeal granted to Mr. Agam exceeds the above fee, (\$382.50) the Council could wave the remainder of the fee.

**COUNCILOR BOLDOC:** She indicated she had a concern about this setting a precedent. She also discussed historical documentation and grandfathering as it affects future waiving of fees and the impact that would have. She also asked if the request was for seasonal or year round rentals.

**VICE CHAIR TOUSIGNANT:** He also raised questions on the historical and grandfathering issue and also about the number of units; and questioned if the many units had ever been rented. He also mentioned the number of waiving of fee issues is becoming more requests that in the past.

**COUNCILOR DAYTON:** Raised the question on the wording of the motion.

**MOTION:** Vice Chair Tousignant motioned and Councilor Bolduc seconded to require the payment of the \$8,100 sewer impact fee.

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

# 5339 Discussion with Action: Waive any and all fees for the new RSU 23 - Alternative Education building at Old Orchard Beach High School. Such fees include, but are not limited to, Site Plan Review application to Planning Board (\$300), sewer connection fee (\$3,300), street opening permit (\$100 - although one year \$1,000

bond will remain in effect), and other miscellaneous building, electrical, and plumbing permits as needed.

**GARY LAMB:** Per ordinance section 78-212, any new non-residential structure or use must obtain site plan review approval from the planning board, even if it is a municipal building. The RSU has made application to the planning board for this alternative education building, and the first meeting to hear this application is Nov 12 2009. If the application is determined complete, a site walk may be scheduled for December 3, and public hearing and possible vote on final project approval at the Dec 10<sup>th</sup> meeting. Staff has been advised by the town attorney that only the Town Council has the authority to waive fees, and that is why this agenda item is before Council. As you can see by the list in the agenda, these fees will total approximately four thousand dollars, with the sewer connection fee (\$3300) being the largest portion thereof. Staff endorses waiving these fees for this school project that will service OOB students, but we lack the authority to do so. (Now that we have an Ordinance Review Committee and Charter Commission, Council and staff can create criteria whereby automatic fee exemptions are clearly stated and endorsed for municipal or other selected projects. This would be a great idea that would save staff and Council man-hours.)

**VICE CHAIR TOUSIGNANT:** He discussed the fact that this is for the welfare of the students of Old Orchard Beach but did raise questions on what had been done to this point and what had to be done to the completion of the project. He also indicated it really doesn't make a difference if we waive the fee; if the fee is not waived the cost would be charged back to us by the RSU.

**CHAIR MACDONALD:** She said she had had several calls from residents in the area of the Adult Education modular unit, concerns had been raised, and felt that we were making exceptions that had not been made in the past on the documentation and formulation of materials requires before approval of requests.

**COUNCILOR BOLDOC:** She asked if, since the site visit and the Planning Board meeting is not until the 10<sup>th</sup> of December, could this not wait until December 15<sup>th</sup> meeting? She also gave a scenario about the egress from the parking area of the modular unit including students driving at high speeds which would definitely affect the neighbors.

**INTERIM TOWN MANAGER:** He also gave some history about why the location of this unit and the fact that the adult education needs to be separate from the school but at the same time have the ability to use the cafeteria, the library, etc.

**GARY LAMB:** He indicated that if the Planning Board does not approve the unit could be removed. He also indicated he believe it was feasible to wave the fee. He also indicated that there will be little impact on the area and that you don't need a permit to build a hole and no hook ups have been done.

**JOHN BIRD:** He indicated that he believed the time line process that others had to adhere to should also be followed in this case. He also raised financial concerns about costs.

**COUNCILOR DAYTON:** She asked when the modular would be in use; what was the plan for it to be actively used by students; and recognized services had been previously done at the Lions Club.

**GARY LAMB:** He indicated that it would be operational in January.

**GARY CURTIS:** He indicated that the RSU had followed the procedure for approval of the modular classroom; making application to the Planning Board as soon as the Modular became available; filled out the site plan with supporting documents; and delivered a check for \$300 to initiate the process; and at this point we were told to approach the Council about a waiver. We also met with Gordon Weeks of Birch Hill at the Principal's office and when we left we felt positive about the plan. We were also told that we could dig a trench to "stub a connection" to the sewer, but hook nothing up to the building and we did not. There has been no bending of the rules that I am aware of.

Discussion continued about interested individuals attending the site walk on the 10<sup>th</sup> of December and then this item being removed without prejudiced, rather than being tabled; therefore it would go on the 15<sup>th</sup> of December agenda.

**MOTION:** Vice Chair Tousignant moved and Councilor Dayton seconded Remove Without Prejudice to Waive any and all fees for the new RSU 23 - Alternative Education building at Old Orchard Beach High School. Such fees include, but are not limited to, Site Plan Review application to Planning Board (\$300), sewer connection fee (\$3,300), street opening permit (\$100 - although one year \$1,000 bond will remain in effect), and other miscellaneous building, electrical, and plumbing permits as needed and include it as an agenda item on December 15, 2009.

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

**# 5340 Discussion with Action:** Set a Public Hearing Date of December 1, 2009 to Amend Sections 78-1, 78-607, 78-609, 78-962, 78-964, 78-1022 through 78-1028 and Add Chapter 78, Article VIII, Division 12 of the Zoning Code to permit changes needed to allow anemometer wind power test towers in the PMUD, R-5, Rural Districts.

**MIKE NUGENT:** The proposed zoning amendments define and allow temporary anemometer wind test towers in the PMUD, R-5, Rural districts.

The following sections of ordinance must be revised:

Amend: Secs. 78-1, 78-607, 78-609, 78-962, 78-964, 78- 1022 through 78-1028.

Add: Chapter 78 Article VIII Division 12.

Underlined text is new language, ~~strikethrough~~ text is being deleted.

Please amend Section 78-1 by adding the following definition:

**Temporary Anemometer Tower** A structure, including all accessory facilities, temporarily erected for a period of one year or less, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of wind power generation of electricity.

The following amends the permitted or conditional uses in R-5, RD and PMUD Districts to include this as a permitted use and specify space and bulk standards for this use.

**Division 6. Single-Family Private Dwelling District (R-5):**

**Sec. 78-607. Permitted uses.**

The following categories of use are permitted in the single-family private dwelling district (R-5):

- (1) Single-family dwellings detached.
- (2) Accessory buildings, structures, or uses.
- (3) Municipal uses.
- (4) Community living arrangements.
- (5) Temporary anemometer tower**  
(Ord. of 9-18-2001, § 6.5.1)

**Sec. 78-609. Space and bulk requirements.**

Space and bulk requirements in the single-family private dwelling district (R-5) are as follows:

**TABLE INSET:**

Zoning District	Residential Uses
Minimum lot area	20,000 sq. ft./NDD*
Minimum net lot area per family unit	20,000 sq. ft.
Net lot area	5,000 sq. ft.
Minimum buildable area	5,000 sq. ft.
Minimum lot frontage	160 ft.
Minimum lot width	160 ft.
Maximum building coverage	35%
Maximum principal building height	35 ft.
Maximum accessory building height	20 ft.
Minimum front yard setback: all structures	20 ft.
Minimum side yard setback: principal structures and detached garages	15 ft.
Minimum side yard setback: accessory structures, excluding garages	10 ft.
Minimum rear yard setback: principal structures and detached garages	20 ft.
Minimum rear yard setback: accessory structures, excluding garages	10 ft.
<b><u>Maximum height of temporary anemometer tower</u></b>	<b><u>125 feet</u></b>

**Division 12. Rural District (RD)**

**Sec. 78-962. Permitted uses.**

The following categories of uses are permitted in the rural district (RD):

- (1) Single-family dwellings, detached.
- (2) Accessory buildings, structures or uses customarily incidental or subordinate to a conforming or legally nonconforming principal building or use.
- (3) Municipal uses, provided there is no overnight parking of vehicles or machinery in the open and that no structure shall be located within 50 feet of a residential lot line.



- (4) Churches or parish houses.
  - (5) Agriculture uses.
  - (6) Forestry and timber harvesting.
  - (7) Community living arrangements.
  - (8) Temporary anemometer tower
- (Ord. of 9-18-2001, § 9.1.1)

**Sec. 78-964. Space and bulk regulations.**

Space and bulk regulations for the rural district (RD) are as follows:

**TABLE INSET:**

<b>Zoning District</b>		<b>All Uses</b>
<b>Minimum lot size</b>		<b>75,000 sq. ft./NDD*</b>
<b>Minimum lot size w/sewer or water</b>		<b>40,000 sq. ft.</b>
<b>Minimum lot frontage</b>		<b>200 ft.</b>
	<b>*On a cul-de-sac</b>	<b>125 ft.</b>
<b>Minimum lot width</b>		<b>200 ft.</b>
<b>Net lot area:</b>		
	<b>Without public sewer or water</b>	<b>40,000 sq. ft.</b>
	<b>With public sewer or water</b>	<b>30,000 sq. ft.</b>
<b>Minimum estate lot size:</b>		
	<b>Without public sewer or water</b>	<b>80,000 sq. ft. plus area of access strip</b>
	<b>With public sewer or water</b>	<b>60,000 sq. ft. plus area of access strip</b>
<b>Net estate lot area:</b>		
	<b>Without public sewer or water</b>	<b>60,000 sq. ft.</b>
	<b>With public sewer or water</b>	<b>40,000 sq. ft.</b>
<b>Minimum estate lot frontage and access strip width</b>		<b>50 ft.</b>
<b>Maximum driveway length from street to house</b>		<b>700 ft.</b>
<b>Minimum separation between estate lot driveways</b>		<b>200 ft.</b>
<b>Maximum number of estate lot driveways on a standard 65-foot radius cul-de-sac</b>		<b>2</b>
<b>Maximum building coverage</b>		<b>20%</b>
<b>Maximum height: principal buildings</b>		<b>35 ft.</b>
<b>Maximum height: principal buildings for agricultural uses and decorative elements</b>		<b>50 ft.</b>
<b>Maximum height accessory buildings</b>		<b>35 ft.</b>
<b>Minimum front yard setback: all structures</b>		<b>50 ft.</b>
<b>Minimum side yard setback: principal structures and detached garages</b>		<b>25 ft.</b>

Minimum side yard setback: accessory structures, excluding garages	25 ft.
Minimum rear yard setback: principal structures and detached garages	25 ft.
Minimum rear yard setback: accessory structures, excluding garages	25 ft.
<u>Maximum height of temporary anemometer tower</u>	<u>125 feet</u>

**Division 14. Planned Mixed Use Development (PMUD)**

**Sec 78- 1022 Permitted uses**

**(1) Temporary anemometer tower**

**Sec. 78-10223. Conditional uses.**

Notwithstanding article VII of this chapter, the following conditional uses may be permitted in the planned mixed use development (PMUD) zone:

- (1) Corporate, professional, and governmental offices.
- (2) Light manufacturing, research, and assembly operations.
- (3) Retail uses of less than 5,000 gross leasable area.
- (4) Schools.
- (5) Sports and performing arts centers, golf courses, clubhouses and similar recreational facilities.
- (6) Lodging establishments.
- (7) Convention centers and banquet facilities.
- (8) Nursing homes and congregate care facilities.
- (9) Single-family, two-family, multifamily dwellings, and community living arrangements.
- (10) Municipal uses.
- (11) Agriculture and aquaculture.
- (12) Accessory buildings, structures, or uses customarily incidental or subordinate to a conforming or legally nonconforming building or use.
- (13) Manufacturing, processing and treatment, exclusive of processes cited as prohibited uses.
- (14) Light manufacturing.
- (15) Retail uses in excess of 5,000 gross sales area, provided:
  - a. The primary target market for the proposed use consists of the occupants and residents of the PMUD project.
  - b. The nature of the proposed use complements the primary mixture of uses within the project.
  - c. The design of the proposed use is compatible with the scale and architectural character of the PMUD community.
- (16) Warehousing, providing the following:
  - a. The total gross floor area of all warehouse facilities within the PMUD does not exceed 25 percent of the nonresidential floor area of the project. Warehouse facilities ancillary to an on-site manufacturing or retail use shall be excluded from the floor area restrictions of this division.
  - b. The proposed use complies with the following performance standards:
    1. The use is sited within the project away from incompatible uses.
    2. The use does not pose an immediate danger to surrounding uses by fire, explosion, chemical spills, or biological or gaseous release nor does the use generate odorous, offensive, or caustic emissions, persistent noise, or other nuisances that will negatively impact the quality of life or property values of surrounding uses.
    3. Truck traffic is either routed directly to an arterial street from the site or is limited to ten trips per 24-hour period.
    4. All material that produces dust, debris, emissions, or odors shall be stored in an enclosed building.
    5. Adequate provisions are taken to contain and prevent any petroleum product, pesticide, chemical solution or solvent, salts or any compound from infiltrating and contaminating groundwater resources.
    6. No use shall be permitted to discharge waste or wastewater into the municipal sewer that will adversely impact the ability of the municipal wastewater treatment plant to comply with provisions of the federal Clean Water Act.
- (17) Public/private utility facility.
- (18) Wireless telecommunications facilities.

**Sec. 78-10234 Prohibited uses.**

Prohibited uses in the planned mixed use development (PMUD) are as follows:

- (1) Modular homes.
- (2) Automodular sales.
- (3) Salvage facilities.
- (4) Campgrounds.
- (5) Truck terminals/motor freight business.
- (6) Adult business.

**Sec. 78-10245. Space and bulk requirements.**

Space and bulk requirements for the planned mixed use development (PMUD) are as follows:

**TABLE INSET:**

Zoning Standard	Without Sewer	With Sewer
Minimum project area (lots of record after 1/1/94)	19 acres	19 acres
Minimum project area (lots of record prior to 1/1/94)	5 acres	2 acres
Minimum project setback from all property lines	50 feet	25 ft. plus 10 ft. for every building story above 1 story
Maximum impervious surface	35%	60%
Density: general residential	1 unit per 40,000 sq. ft. net development density	1 unit per 20,000 sq. ft. net development density
Density: elderly housing or age-restricted housing	2 units per 40,000 sq. ft. net development density	6 units per 40,000 sq. ft. net development density
Density: congregate care housing	1 unit per 5,000 sq. ft. net development density	1 unit per 1,000 sq. ft. net development density
Density: nonresidential	1,000 sq. ft. GLA/6,000 sq. ft.	1,000 sq. ft. GLA/4,000 sq. ft.
Maximum building height	70 feet	70 feet
<u>Maximum height of temporary anemometer tower</u>	<u>125 feet</u>	<u>125 feet</u>

**Sec. 78-10256. Distribution of uses.**

- (a) No single use type (single-family detached, office, industrial, etc.) shall exceed 75 percent of the total building square footage permitted for the planned mixed use development (PMUD) project, unless the planning board determines that the size of the project parcel is inadequate to effectively support multiple uses.
  - (b) A minimum of 35 percent of the project parcel shall be retained in dedicated permanent open space. Roads, parking lots, utility facilities and easements shall not be eligible for open space designation.
  - (c) Contiguous lots of record held in the same ownership shall be considered one parcel under the provisions of the PMUD district.
- (Ord. of 9-18-2001, § 9.3.4)

**Sec. 78-10267. Performance standards.**

- (a) Site layout. Standards for site layout in the planned mixed use development (PMUD) are as follows:
  - (1) The project shall be designed with sensitivity to the natural topography, important vegetative stands, site features, critical wildlife habitats, and the visual character of the site.
  - (2) Uses shall be arranged within the project in distinct neighborhoods and located in proximity to other uses based on the functional and visual interrelationship of those uses.
  - (3) Community facilities such as recreational facilities, retail centers, or institutional/public facilities should be centrally located within the project.

- (4) Dedicated permanent open space required under subsection 78-1025(b) shall be integrated into the overall design of the PMUD project and shall be accessible to the public and/or the PMUD residents from multiple access points.
- (b) **Traffic and circulation.** Standards for traffic and circulation are as follows:
- (1) The PMUD project shall be designed to minimize off-site traffic impacts to existing town roads. All traffic mitigation measures required to maintain acceptable LOS (level of service) intersection performance and road capacity standards shall be borne by the project developer.
  - (2) Internal circulation shall provide for the free movement and circulation of vehicles within the project.
  - (3) Through traffic flow shall not be routed through residential neighborhoods.
  - (4) All off-street parking and loading facilities shall conform to division 4 of article VIII of this chapter if the applicant demonstrates that, because of differing hours of peak demand, the same parking space may be used by multiple uses to meet the requirements of division 4 of article VIII of this chapter.
- (c) **Water resource protection.** Standards for water resource protection are as follows:
- (1) Stormwater management facilities shall be designed to produce zero peak runoff into all off-site waterbodies and watercourses.
  - (2) All title and maintenance responsibilities of stormwater detention or retention facilities shall reside with any other entity other than the town.
- (d) **Wastewater treatment.** All proposed sewer PMUD projects shall demonstrate that adequate capacity is available at the municipal wastewater treatment plant to accommodate the volume and nature of the wastewater generated by the project.
- (e) **Site amenities.** Standards for site amenities are as follows:
- (1) Residential neighborhoods containing in excess of 50 units shall provide neighborhood facilities designed to service the recreational needs of the residents. Such facilities may be designed for indoor or outdoor use and for passive or active recreational activities. Recreational amenities within the outdoor or indoor facility shall be designed to service the varied age groups of the residents.
  - (2) Neighborhood recreational facilities shall not be required when project recreational facilities are located within 600 linear feet of all units within the residential neighborhood.
  - (3) Project-wide facilities and amenities shall be available to all residents and occupants of the PMUD project and shall be centrally located.
  - (4) In order to encourage pedestrian travel and to ensure the safety and convenience of PMUD residents, sidewalks shall be provided along all major pedestrian corridors, all residential streets, and between recreational/site amenities and residential or nonresidential users.
- (f) **Parking.** The parking performance standards of division 4 of article VIII of this chapter shall apply to the PMUD district.
- (g) **Signage.** The planning board and the applicant shall attempt to reach agreement on the details of the design and allocation of signage within a PMUD project; if negotiated agreement cannot be reached, the planning board shall determine signage design and allocation. In order to create a "sense of place" for the project and define it as a coordinated development, all signage should have common elements in materials, design, size, color, or style. In addition to division 5 of article VIII of this chapter, signage shall conform to the following base performance standards:
- (1) **Sign area.** Sign area shall not exceed one square foot of sign area for every two linear feet of building frontage on a public street or a private way. Sign area may be transferable between buildings and properties within the PMUD project, pending planning board approval.
  - (2) **Freestanding signs.** Freestanding signs shall not exceed 15 feet in height and shall not exceed the allowable square footage, unless the planning board finds that a sign of greater elevation is compatible with the elevation of surrounding structures and does not detract from the visual quality of the surrounding neighborhood. Square footage of signage allocated for the freestanding sign shall be subtracted from the maximum allowable square footage.
- (h) **Site lighting.** Standards for site lighting are as follows:
- (1) Site lighting from a nonresidential use shall not shed more than 0.2 footcandle onto surrounding residential properties.
  - (2) All freestanding lighting shall consist of shielded downlights and shall not exceed the height of the principal building served by the lighting fixture. Recreational facilities and sports stadiums requiring lighting for evening use shall be exempted from these height requirements at the discretion of the planning board.
  - (3) Streetlights along private ways should provide an average 1.0 footcandle of illumination on the road or sidewalk surface and should not exceed 15 feet in height.
  - (4) No site lighting shall be directed or installed to produce glare, visual discomfort, or nuisance to motorists or residential properties.
- (i) **Landscaping and setbacks.** Basic landscaping within the PMUD project shall conform to all applicable sections established in division 7 of article VIII of this chapter. The planning board may require additional

landscaping and building setbacks from adjoining on-site or off-site properties in order to separate incompatible uses, minimize impacts of incompatible uses, abate noise and visual impacts, or maintain solar access.

**Sec. 78-10278. Approval process for projects.**

(a) Generally. All proposed development in the planned mixed use development (PMUD) district shall receive approvals prior to the issuance of building permits in accordance with the schedule in this section.

(b) Concept plan approval. Prior to submitting a subdivision or site plan review application to the planning board, all proposed projects within the PMUD shall receive conceptual plan approval from the planning board.

(1) Concept plan submission. Proposed projects in the PMUD district shall submit the following materials in support of a conceptual plan approval:

a. Conceptual site plan showing the proposed layout of all roads, parking lots, building lots, and recreational or common facilities, and connections to off-site utilities.

b. Location, type, and total building area of proposed uses.

c. Physical and functional relationship of roads and land uses to existing facilities on adjacent properties.

d. Proposed space and bulk data including maximum building area, common or open space area, number of parking spaces, amount of proposed impervious surface, net residential area totals, and other pertinent site data.

e. Location of important site features such as streams, wetlands, slopes in excess of 20 percent, rock outcrops, significant tree stands.

f. Phasing plan for project. If the applicant either owns or has a partial title interest in an adjacent property, the applicant shall provide a conceptual plan illustrating the common scheme of future development for all abutting properties

(2) Planning board action. Upon receipt of a conceptual plan application, the planning board will evaluate the proposed concept and approve or deny the proposed project based on the following criteria:

a. The project conforms to the intent and purpose of the PMUD district as expressed in this division.

b. The mixture of proposed uses and the layout of such uses maintain the character of the surrounding properties and neighborhood.

c. The project can secure reasonable access to off-site utilities and public roads.

d. The mixture of proposed uses and open space conforms to this division.

(c) Subdivision approval. All projects containing a subdivision of land or buildings into three or more lots or units of record or any project involving multiple phases of development on the same parcel or adjacent properties in common ownership shall be subject to the subdivision approval process as specified in chapter 74. Any project within the PMUD district not qualifying as a subdivision under chapter 74 and not involving multiple phases shall proceed to site plan review as specified in subsection (d) of this section and article IV of this chapter.

(d) Site plan review required. Upon receipt of a subdivision approval from the planning board, development of individual lots, phases, or sections of the approved project shall obtain a site plan approval from the planning board prior to the issuance of building permits.

Please amend Chapter 78 Article VIII Performance Standards by adding Division 12:

**Division 12: Temporary Anemometer Towers**

**78-2122 Temporary Anemometer towers shall comply with all of the following standards:**

**1) Minimum Site Area**

**The minimum site area for an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required setbacks and any other standards of this ordinance.**

**2) Setbacks**

**An anemometer tower shall, whenever feasible, be set back at least a distance equal to the height of the tower from the nearest lot line. When this setback is not feasible, the tower shall be set back a distance of at least the height of the tower from the nearest structures, whether such structures are on an abutting parcel or the property on which the tower is located.**

**3) Maximum Height**

**The maximum height of an anemometer tower shall be 125 feet.**

**4) Permit required/Expiration of permit**

**(a) Required. No Temporary Anemometer towers shall be erected or structurally altered without a permit issued by the code enforcement officer.**

**(b) Expiration. Expiration of Temporary Anemometer tower permits is as follows:**

**(i) If the work described in any Temporary Anemometer tower permit has not begun within 180 days from the date of issuance thereof, the permit shall expire.**

**(ii) The permit shall expire one year from the date of completion of the temporary Anemometer tower. The Code Enforcement Officer is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause shall be demonstrated. The Temporary Anemometer tower shall be removed within 90 days of the permit expiration.**

**5) State or Federal Requirements**

**Any proposed anemometer tower shall meet or exceed any standards and regulations of the FAA and any other agency of the state or federal government with the authority to regulate other tall structures in effect at the time the special approval is granted.**

**6) Structural Standards**

**Any proposed anemometer tower shall meet or exceed the standards of the Town of Old Orchard Beach Building Code.**

**MOTION: Councilor Dayton motioned and Vice Chair Tousignant seconded to Set a Public Hearing Date of December 1, 2009 to Amend Sections 78-1, 78-607, 78-609, 78-962, 78-964, 78-1022 through 78-1028 and Add Chapter 78, Article VIII, Division 12 of the Zoning Code to permit changes needed to allow anemometer wind power test towers in the PMUD, R-5, Rural Districts.**

**VOTE: Unanimous.**

**# 5341 Discussion with Action: Set a Public Hearing for December 1, 2009 to Amend the General Assistance Ordinance, Section 6.8, Overall maximum levels of assistance and maximum amounts allowed for housing.**

**INTERIM TOWN MANAGER:**

**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 December 1<sup>st</sup>, 2009 at 7:00 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the General Assistance Ordinance by changing the dollar amounts allowed for Basic Necessities; Maximum levels of assistance, and maximum amounts allowed for housing, adopting the underscored amounts, as follows:

Amend Section 6.8 Basic necessities; Overall maximum levels of assistance

No. in Household	CURRENT WEEKLY	<u>PROPOSED WEEKLY</u>	CURRENT MONTHLY	<u>PROPOSED MONTHLY</u>
1	\$189.75	<u>\$198.00</u>	\$759.00	<u>\$793.00</u>
2	\$225.75	<u>\$235.50</u>	\$903.00	<u>\$942.00</u>
3	\$292.50	<u>\$305.00</u>	\$1170.00	<u>\$1220.00</u>
4	\$368.25	<u>\$384.00</u>	\$1473.00	<u>\$1537.00</u>

5                      \$394.75                      \$410.75                      \$1579.00                      \$1647.00

**Amend Section 6.8 Basic necessities; Housing maximums**

**UNHEATED**

<b>Bedrooms</b>	<b>CURRENT WEEKLY</b>	<b><u>PROPOSED WEEKLY</u></b>	<b>CURRENT MONTHLY</b>	<b><u>PROPOSED MONTHLY</u></b>
0	77.00	<u>90.00</u>	330.00	<u>387.00</u>
1	85.00	<u>101.00</u>	360.00	<u>434.00</u>
2	115.00	<u>138.00</u>	494.00	<u>593.00</u>
3	140.00	<u>170.00</u>	600.00	<u>780.00</u>
4	152.00	<u>185.00</u>	653.00	<u>795.00</u>

**HEATED**

<b>Bedrooms</b>	<b>CURRENT WEEKLY</b>	<b><u>PROPOSED WEEKLY</u></b>	<b>CURRENT MONTHLY</b>	<b><u>PROPOSED MONTHLY</u></b>
0	85.00	<u>98.00</u>	360.00	<u>420.00</u>
1	96.00	<u>115.00</u>	412.00	<u>484.00</u>
2	128.00	<u>145.00</u>	550.00	<u>623.00</u>
3	160.00	<u>177.00</u>	675.00	<u>761.00</u>
4	175.00	<u>188.00</u>	745.00	<u>809.00</u>

**MOTION:** Councilor Dayton motioned and Councilor Bolduc seconded to Set a Public Hearing for December 1, 2009 to Amend the General Assistance Ordinance, Section 6.8, Overall maximum levels of assistance and maximum amounts allowed for housing.

**VOTE:** Unanimous.

**GOOD & WELFARE:**

**JEROME BEGERT:** Recommended the Council do what is best in the interest of the students. He discussed talked about the ability of the Adult Education student to take advantage of the many activities in the area of the high school; the need reintegration. He talked about the Charter Commission and his concern at the timeliness of minutes being on the web for citizen review and the advertising of meetings so that citizens are aware and can be actively involved in participation. He talked about transparency and the ability of citizen involvement in all activities of the town.

**#5342 Discussion with Action: Discuss Labor Contracts (Note: This item discusses labor contract issues related to the Old Orchard Beach Public Works Department, as defined under Title 1, M.R.S.A. Section 405 (6) (D), and the Council anticipates that the discussion portion will be held in executive session).**

**MOTION:** Councilor Bolduc motioned and Vice Chair Tousignant seconded to enter into discussions on Labor Contracts (Note: This item discusses labor contract issues related to the Old Orchard Beach Public Works Department, as defined under Title 1, M.R.S.A. Section 405 (6) (D), and the Council anticipates that the discussion portion will be held in executive session.)

**VOTE:** Unanimous.

**MOTION: Councilor Bolduc motioned and Vice Chair Tousignant seconded to enter into Executive Session**

**VOTE: Unanimous.**

**ADJOURNMENT**

**MOTION: Councilor Bolduc motioned and Vice Chair Tousignant motioned to adjourn the Executive Session at 8:55 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 sixteen (16) pages is a true copy of the original Minutes of the Town Council Meeting of November 17, 2009.**

**Louise Reid**