

**TOWN OF OLD ORCHARD BEACH
REGULAR TOWN COUNCIL MEETING
TUESDAY, MAY 20, 2008 – 7:00 P.M.
TOWN HALL CHAMBERS
AGENDA**

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, May 20, 2008 in the Town Hall Chamber. The Chairman opened the meeting at 7:02 p.m.

Pledge of Allegiance

Chairman James Long announced that the Pledge of Allegiance would be presented this evening by Old Orchard Beach's Webelos 1 Group of Pack 350 including Noah Doucette, Max Belfance and Josh Martin with their Den Leader, Barbara Doucette; Pack Committee Chair Shannon Belfance; and Cub Master Jeff Belfance. The Assistant Town Manager Louise Reid conducted a Citizens Badge Study in Town Hall prior to this meeting in which the Town Employees participated as well.

Roll Call:

Present were:

**Chairman James Long
Vice Chairman Shawn O'Neill
Councilor Roxanne Frenette
Councilor Robin Dayton
Councilor Sharri MacDonald
Town Manager Stephen Gunty
Assistant Town Manager V. Louise Reid**

ACKNOWLEDGEMENTS: Councilor Roxanne Frenette expressed appreciation to Councilor Robin Dayton, to the Old Orchard Conservation Commission, the Community Watch Council (CWC), and the Old Campground Neighborhood Watch Association who teamed up to organize the 4th Annual Volunteer Clean up day for Old Orchard Beach this past weekend. The Assistant Town Manager indicated there were about thirty volunteers spread throughout the Town. Councilor Dayton deserves credit for bringing this project time together and has done so over the last four years. Councilor Dayton particularly mentioned the work of Chris and Roger from Public Works and to them and the host of volunteers we express our sincere thanks and appreciation. In addition to mention particularly the newly established Neighborhood Watch at Pine Brook Terrace who participated in the clean up of their area under the direction of Helene Whittaker and the CWC. It takes this kind of working together to accomplish community projects. Councilor Dayton responded that there were a number of individuals who attended and she looked forward to next year. She also recognized the Cub Scout troop indicated above and thanks for their participation in the

Chairman Long recognized the presence of members of the Veterans of Foreign Wars and expressed the municipality's appreciation for their service to the community particularly at this time of the upcoming Memorial Day celebration. It is my pleasure to introduce the former Chairman of the Town Council, Joseph Kline.

PRESENTATION:

**Presentation and Dedication of the 2006-2007
Annual Report by Former Town Council
Former Town Council Chair Joseph Kline**

Dedicated to: ROBERT MCNALLY

“Bob” is our “Man for all seasons.” It is with great respect and love that we dedicate this Annual Report to a citizen of our beloved Old Orchard Beach who has made his mark and continues to give back in dedicated service. A native of Worcester, Massachusetts, nothing has ever deterred him from patriotism to the land he loves. After hearing about the attack at Pearl Harbor on December 7, 1941, he, at the age of 15 and under the legal age of 18 for military service, proceeded to Boston determined to be processed into the Army Air Corps. Always able to meet any challenge he confessed, “I had rehearsed this for so long that it didn’t matter what they asked; I had an answer for it that fit.” He went to basic and technical training for his new job as an aircraft radio operator, but he wasn’t able to keep his secret long when at 16 he called his mother to tell her had volunteered to serve overseas. His mother made some calls to military leaders and wrote to President Roosevelt. Bob soon found himself in his commander’s office eloquently pleading his cause. It must have worked because he was allowed to stay in the Air Corps and on flying status, where he served more than four years before returning home at the age of 20. He never lost his love for the military and is a member and officer of the Veteran’s of Foreign Wars Post 7997. His responsibility for the annual Memorial Day Parade, one of the largest in the State, which takes place in our town every year, is successful as a result of the planning and coordination of Bob McNally. Bob has said, “I am proud of everybody who is in the service. There is nothing more important than serving your country in its time of need.” His wife, Eileen, and children, are extremely proud of what Bob has done in a life lived amidst the devotion to patriotism, but Eileen said that her greatest pride in what he has done was when he took on solving the issues revolving around the McKin Company Hazardous Waste Site in Gray, Maine. Often standing alone and speaking out on the groundwater contamination, the long hours and dedication Bob devoted to this environmental disaster was, in large measure, responsible for getting this site listed on the National Super Fund List and resulted in the state-supervised removal of liquid waste from the site and the extension of public water lines to the affected neighborhood. His service in this community as the organizer of the Memorial Day parade has been known by us all and the Parade itself is known as the best in our State. We are proud to know Bob McNally and to share this well deserved honor with him.

ACCEPTANCE OF MINUTES: Town Council Workshop of April 29, 2008; Special Town Council Minutes Executive Session of May 5, 2008; Town Council Workshop of May 5, 2008; Town Council Minutes of May 6, 2008; and Special Town Council Meeting Minutes of May 7, 2008.

MOTION: Councilor Dayton motioned and Councilors Frenette O’Neill seconded to approve the Town Council Workshop Minutes of April 29, 2008; Special Town Council Executive Session of May 5, 2008; Town Council Workshop of May 5, 2008; Town Council Minutes of May 6, 2008; and Special Town Council Meeting Minutes of May 7, 2008.

VOTE: Unanimous.

PUBLIC HEARING: Public Hearing: Referendum Question No. 2.

CHAIRMAN LONG: I open this Public Hearing at 7:15 p.m.

This is a second public hearing on the referendum question, due to a discrepancy concerning the skateboard park in the notice for the original public hearing on May 7th. The question on the ballot includes the skateboard park as part of the land the Council would be authorized to sell. The public hearing on May 20th will be limited to comments concerning the inclusion of the skateboard park in the land covered by the referendum question.

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

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on May 20, 2008, at 7:00 p.m. to consider the following:

Referendum Question #2:

Shall the Town Council of the Town of Old Orchard Beach be authorized to sell property described below on such terms and conditions as the Council deems to be in the best interests of the Town, provided that the Town Council shall not sell any of the playing fields located on Map 207, Block 3, Lot 1 and that a portion of the property shall be retained by the Town for future public use?

- The land and buildings commonly known as “the Ballpark,” identified in the Town Assessor’s records as Map 207, Block 3, Lot 6; and
- Town-owned property adjacent to the Ballpark, consisting of those portions of Assessor’s Map 207, Block 3, Lot 1 shown on the plan entitled “Plan of Land for Sale of Ballpark and Adjacent Land” on file in the office of the Town Clerk.

EXPLANATION.

Section 409.16 of the Town Charter requires a referendum vote before the Council can sell Town-owned property (other than tax acquired property). Approval of this question would enable the Council to explore options for the sale and reuse of the Ballpark and certain adjacent property which is currently unutilized. Approval of this question would not authorize sale of any of the existing playing fields, and would require the Town Council to retain some portion of the land for future public use. Approval of this question would not require the Town Council to sell any property, but would give the Council authority to sell property on terms and conditions deemed by the Council to be in the best interests of the Town.

RECOMMENDATION: The Town Council recommends a “yes” vote.

CHAIRMAN LONG: I close this Public Hearing at 7:16 p.m.

PUBLIC HEARING NUMBER TWO: Shall We Amend Chapter 78, Article VI, Division 9, General Business District 2, Section 78-833, Conditional Uses, of the Old Orchard Beach Code of Ordinances by adding the following language: (5) Home Occupations?

**CHAIRMAN LONG: I open this Public Hearing at 7:16 p.m.
PUBLIC HEARING NUMBER TWO**

AGENDA ITEM: Shall We Amend Chapter 78, Article VI, Division 9, Section 78-833, - Conditional Uses, of the Old Orchard Beach Code of Ordinances by adding the following language: (5) Home Occupations.

On May 8, 2008 the Planning Board will hold a public hearing and take a vote to recommend an ordinance revision to the Town Council. The proposed change in the ordinance would allow Home Occupations as Conditional Uses in the GB2 District.

In the past four months, there have been two separate requests to establish service based Home Occupations in the GB2 district on Saco Ave. In both cases, the applications have been denied because the ordinance does not allow Home Occupations or Personal Services in the GB2 district.

Sec. 78-831(b) states the purpose of the GB2 district is: “With the density of the settlement pattern of this area, the GB-2 district is primarily designed to encourage conversion of existing residential structures to small office and retail operations that generate relatively lighter trip generation and parking demand”. The purpose of this district seems to encourage home occupations.

As a Conditional Use, all requests for Home Occupations will be required to go before Planning Board and meet the Ordinance regulations for Home Occupations (Sec. 78-1240 & 78-1267).

This chart shows which Districts currently allow Home Occupations, and which Districts allow Personal Services. Notice that the GB2 District does not allow either use:

Zone	Home Occupation	Personal Services
R 1- R 5	Conditional Use	
D D		Permitted Use

1		
D D 2		Permitted Use
G B 1		Permitted Use
G B 2		
N C D	Conditional Use	
I D		
R D	Conditional Use	
B R D	Conditional Use	
R B D	Conditional Use	
P M U D		

**NOTICE
OF
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OF THE
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The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on May 20, 2008, at 7:00 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend Chapter 78, Article VI, Division 9, Section 78-833, Conditional Uses, of the Old Orchard Beach Code of Ordinances by adding the following language:

(5) Home Occupations

CHAIRMAN LONG: I close this Public Hearing at 7:18 p.m.

PUBLIC HEARING NUMBER THREE: Shall We Repeal the Memorial Park Advisory Committee Ordinance, adopted March 4, 2003?

CHAIRMAN LONG: I open this Public Hearing at 7:17 p.m.

Currently the Memorial Park Advisory Committee, per ordinance, is an advisory committee to the Town Council. It is the purpose of the Conservation Commission that once up and running the

Memorial Park Advisory Committee would be a sub-committee of the Conservation Commission. The Conservation Commission, per charter, is in charge of the Parks. The Conservation Commission now has a full complement of members and is ready to take on that responsibility.

DIVISION 4. MEMORIAL PARK ADVISORY COMMITTEE*

*Cross references: Parks and recreation, ch. 42.

Sec. 2-291. Purpose.

The purpose of this division shall be to establish a committee whose principle function is to advise the town council as to the design, programming, use, operation, and maintenance of Memorial Park. The Memorial Park Advisory Committee shall know the desires and needs of the citizens of the community with regard to Memorial Park; and shall advise the town council how to plan and promote the use of Memorial Park for the good of the community.

(Ord. of 3-4-2003)

Sec. 2-292. Number and terms of members.

(a) The Memorial Park Advisory Committee shall be comprised of seven regular members and four alternate members appointed by the town council. In an effort to represent the interests of the various demographic and user groups in the community, membership preference shall be granted to two veterans of the United States armed services, one citizen 55 years of age or older, and one representative from the school department or recreation committee. The terms shall be staggered and shall expire on December 31 of the appropriate year. Each member and alternate shall be appointed for a three-year term except for initial appointment to the committee, which shall be as follows:

- (1) One member and one alternate for a one-year term to expire December 31, 2003;
 - (2) Two members and one alternate for a two-year term to expire December 31, 2004;
 - (3) Four members and two alternates for a three-year term to expire December 31, 2005.
- (b) Any vacancy on the committee shall be filled for the remainder of the term vacated.

(Ord. of 3-4-2003, § 2)

Sec. 2-293. Responsibilities.

(a) The Memorial Park Advisory Committee shall be responsible for the development and periodic amendment of a master plan for the rehabilitation and/or redevelopment of Memorial Park as a passive and active recreational resource for the community. Such amended plans shall be submitted to the town council for consideration and implementation.

(b) In addition to capital improvement planning, the committee shall also advise the town council on the programming of events, uses, concessions and user fees, parking, and all other activities occurring in or related to the operation of Memorial Park.

(c) The committee shall from time to time, no less than twice a year, report to the town council and keep the town council appraised as to what is being considered for the park and monument.

(d) The committee shall have the authority to solicit volunteer, corporate, and/or governmental assistance either as in-kind services, grants, or cash donations for development and/or maintenance of the park. All monetary donations and grants must be approved by the town council, and funds shall be administered through the town administration.

(Ord. of 3-4-2003, § 4)

Sec. 2-294. Meetings and procedures.

The Memorial Park Advisory Committee shall conduct public meetings on a regular basis and shall conduct such meetings in compliance with the provisions of the town of ordinance governing advisory boards and committees and the town Charter.

(Ord. of 3-4-2003, § 5)

Sec. 2-295. Expenditures.

All expenditures of the Memorial Park Advisory Committee shall be approved through the budget process by the town council and the committee shall not expend nor approve any contracts unless approved by the town council.
(Ord. of 3-4-2003, § 6)

CHAIRMAN LONG: I close this Public Hearing at 7:19 p.m.

BUSINESS LICENSES: Teriann & Keith Rafal (306-3-5-3), 2 Kinney Avenue, #3, one year round rental; Andrew & Christine Bellino dba/AMP Bellino (205-1-23), 6 Portland Avenue, Bed and Breakfast; Danielle L. Perreault dba/The Deep Blue (306-1-2-H), 1 East Grand Avenue, Unit H, Jewelry Gift Store; June H. Hunnefield & John R. Vancelette (301-3-1-110), 189 East Grand Avenue, #110, one year round rental; Brad Barone (202-2-3-(2A)), 207 East Grand Avenue, A2, one year round rental; Richard & Kristin Moore (322-10-8), 70 Randall Avenue, one year round rental; Michael Dickinson dba/Saltwater Moose dba/Dickinson's Candy (205-3-5), Novelty Store; Marc Jacques & Carolyn Mehlman (206-11-13), 58 Saco Avenue (upstairs), one year round rental; Michael Dickinson dba/Top This (206-31-9), 41 Old Orchard Street, Novelty Store; Paul Rousseau dba/Beach Gardens Motel (305-6-5), 44 East Grand Avenue, 13 year round rentals; Steven Fowler dba/Sadies Shortcake & Jac's (306-1-2-P&Q), 1 East Grand Avenue, Units P & Q, Victualers; Jesse Fowler dba/Bayside Burgers & Bayside Pitas (306-1-2-N&O), 1 East Grand Avenue, Units N & O, Victualers; William Danton dba/Cool Licks (306-1-2-L), 1 East Grand Avenue, Unit L, Ice Cream Stand; William Danton dba/Spinner's Pizzeria (306-1-2-M), 1 East Grand Avenue, Unit M, Victualers; Jesse Fowler dba/Bayside Tackle (306-1-2-R), 1 East Grand Avenue, Unit R, Novelty Store (Fishing Tackle); and John Barnett dba/Wholesale Book Warehouse (206-32-1-C), 15 Old Orchard Street, wholesale/retail book sales.

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

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Mimi Vattes & Danny Sisson dba The Galaxy (306-5-4), 12 East Grand Avenue, Entertaining & Dancing; and Vacancy Pub Inc dba/Vacancy Pub, Inc., (210-10-4), 17 Ocean Park Road, Entertaining & Dancing.

MOTION: Councilor Frenette motioned and Councilor MacDonald seconded to have these reviewed separately.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Mimi Vattes & Danny Sisson/dba The Galaxy (306-5-4), 12 East Grand Avenue, Entertaining & Dancing.

DAVID SPELLMAN: I am President of Grand Victorian and I am disappointed while I have met many of you that I am here tonight to indicate our concern about this license. I want to present a letter to the Council. I present the following letter to the Council:

Grand Victorian Condominium Association – One East Grand Avenue, Old Orchard Beach, Maine 04064 – 934-6100: To Whom it May Concern: I am writing on behalf of the 51 units at the Grand Victorian in the heart of Old Orchard Beach to communicate the problems of excessive noise, public intoxication and general disorderly conduct on the other side of East Grand Avenue. While we are all for people enjoying amusements and having fun, the disruptions without abandon and in an insulting manner at the Galaxy are simply not acceptable. It is highly offensive that the means of attracting customers is for the Galaxy to “crank up” music to deafening decibels – and leave the front door open for all to hear, whether they want to hear it or not. Most living in the neighborhood certainly would prefer not hearing it. It is highly ironic that many people go elsewhere because the music is too loud. Make no mistake, we enjoy great music and fun, but it isn’t great and it isn’t fun to sit (windows and doors shut) and be unable to carry on a conversation in your home. A simple positive move would be to close the front door and there is no doubt that potential patrons will still be able to hear the music from outside without any problems. It is also offensive to think that a “chem-free” night for patrons under the age of 21 in a bar where drinking alcohol is gloried can possibly be viewed as a redeeming value. Attracting under-age and teenage children to a venue that is better known for as a hard-drinking bar is beyond the pale, particularly if anyone could pretend that such activity could be viewed as anything but a negative. Drawing our young people to a watering hold, often frequently by undesirables, simply is unacceptable. If it is possible to prohibit teen nights in otherwise adult drinking establishments, we would support such action. We know of no other municipality in the area that would license a liquor establishment and allow “chem-free” in an adult atmosphere and cannot image why the Town of Old Orchard Beach would allow it. It is even more offensive that large, uncontrollable crowds (presumably patrons) would loiter for extended periods of time in front of the Galaxy and other drinking establishments, doing nothing but smoking and engaging in exceedingly loud profane conversation – which of course is forced to be exceedingly loud due to the excessively loud music, unrestrained by open doors. It is also not unusual for such crowds to act in threatening manner to our residents and renters. We can also produce witnesses to specific events occurring in public outside our building, including urination and vomiting on our vehicles, violence and fights, dealing of illegal substances both in and around Galaxy. These all happen with frequent regularity after midnight as the crowd hangs around and slowly disburges from the club. This very negative activity is not consistent with the family oriented atmosphere the Town has worked so hard to create and that the Grand Victorian is seeking to further. Imagine if you felt too threatened to simply take a walk outside your home. I suggest you would be just as indignant as I. Imagine if you had to worry about public drunks either urinating or vomiting on your car, or stepping over their discarded trash or avoiding verbal threats on the way to the door. Perhaps a little cooperation in having patrons smoke out behind the building is possible. This move would take a great deal of pressure off the East Grand Avenue and reduce the hazard to pedestrians being forced to walk in the street when side walks are completely full of smokers and loiterers. Statutes in place against loitering in public places, public drunkenness and other disorderly conduct should be enforced. Allow me to reiterate. We’re all for fun and otherwise would not have made significant investments in downtown Old Orchard Beach – but the out-of-control conduct outside of the Galaxy simply has to stop. I can assure you, it isn’t a “Shore Thing.” We can also confirm that with the level of unacceptable behavior demonstrated by the Galaxy over the past year, our preference would be for no alcohol license to be renewed given the atmosphere has been out of control. We believe in Old Orchard Beach, live here, work here, and collectively have staked tends of millions of dollars to that believe. We have a premier property on one of the best beaches on the Eastern seaboard. We suggest it is not asking too much for basic standards of decency and respect to be upheld. Thank you for your attention to this matter. David S. Spellman – President – Grand Victorian Condominium Association.

Mr. Spellman also presented another letter which read: I apologize that I could not attend the meeting tonight. Please accept this written note as an expression of my thoughts. I live at the Grand Victorian Condominium on nearly a full time basis. My unit is directly across the street from the Galaxy. In the evening the noise is unacceptable as a result of two actions, first the doors are always left open and thus the music permeates the street. Second, the crowd tends to loiter on the side walk instead of being inside. This is particularly true on “chem-free” nights. Last summer I asked my 18 year old son to go over to the Galaxy during a chem-free event and check out what was going on. He returned shortly with one comment, “There is nothing chemical free about this place.” Drugs and alcohol were readily available. Is this how you want the teens of Old Orchard Beach and surrounding Towns to spend their time? I ask that you vote tonight against issuing the Galaxy their license. At minimum, restrict their ability to hold chem-free events for the under-aged crowds. A Grand Victorian Unit Owner.

NANCY LOMBARD: I am an owner at the Grand Victorian and agree with Mr. Spellman in favor of what he has said. The teen night is out of control – the noise is unbearable – have a unit at beginning of Grand Victorian – I can’t open my doors or sit out on my deck. The people on the sidewalk are disgusting and I am concerned and disappointed and wanted to bring this to the Council’s attention this evening and ask that you not renew this permit. f view.

DANNY SISSON: I am Danny Sisson owner of the Galaxy. Every time we have a police officer, sometimes two. Ask them if we had any problems, whether they see anything irregular and they will tell you they do not. That is the reason I am not in front of the Administrative Board of Review. The only violation was the money owed the Town and we have gone through hard times and with all due respect to our new neighbors - - you move next to a pig farm do not complain about the smell. If there are noise complaints we have not been notified. They move in town and pay \$700,000 and \$500,000 and suddenly businesses that have been in business for years are supposed to go out of business. When you had an emergency hearing we weren’t even notified. We cover all the liquor inside. They don’t want us in their new building. We have always worked with the Town. It looks like we are being targeted. What about the Pier, Cocktails, etc. If you say that I have a bad job I would say o.k. but show me one violation that I have against me that I did not abide by the rules. They want to push us small guys out. We have been here many years. We lock all the alcohol – and please bring me any officer that has a complaint against us. I signed a document saying that I would pay by Tuesday.

NANCY LOMBARD: We are not trying to put anybody out of business. We are concerned about what has been going on and in the last two weeks as I stand out on my deck – no officers that I have seen at the Galaxy – when it has been opened. I have witnesses – maybe I should have taken pictures – I am up here to say what I have seen. We are not trying to take anybody out of business. I am disappointed in his comments to the Grand Victorian.

COUNCILOR FRENETTE: I asked for this to be separated because of the money that is owed. There was no Administrative Board here. Apparently he has made a deal with the staff here and I believe this makes it necessary for us to have a deal with someone else. We have been going through this for four years. Their concerns were expressed at the time of the building of the Grand Victorian. The only way to get past the license portion is to complain when the issue happens, sign the complaints, and then we will have an Administrative Hearing. I don’t want people treated differently and this is a problem for me. I don’t agree

that we should give him a license to operate over the weekend. This is crazy. I acknowledge your problems – we had problems for you. Is it chem-free – should it be in a bar? So I understand all your concerns. The only way to get past the license portion is to complain when the incident happens, document and sign and action will be taken when there is three or more complaints.

COUNCILOR DAYTON: For clarification. I am not clear whether this is associated with a Special Amusement Permit? So Mr. Sisson already has a business license, so I am not even clear that the funding part of this is associated with the Special Amusement Permit.

COUNCILOR FRENETTE: Money owed is money owed and if this is the leverage – we use it.

GARY LAMB: I don't disagree with Councilor Frenette. I went through 24 registered complaints but in looking through them with the Chief of Police we found issues with the Galaxy involved less than three and most were outside their business and in the parking lot. We prepared a letter agreement with Mr. Sisson in which we indicated that Old Orchard Beach agrees to hold the business license renewal application until a later date, specifically that the License Administrator, Gary Lamb, will hold the renewal application until May 27, 2008, in an effort to allow the Galaxy a reasonable opportunity to pay the large amount of delinquent fees totaling \$7,580.00. Mr. Sisson has agreed to deliver a check dated May 27, 2008, for the amount of \$7580.00 prior to the May 20, 2008 Council Meeting. This check will be held by the License Administrator and deposited on May 27, 2008. This is being done with the understanding that if the check bounces upon deposit, the License Administrator will immediately recommend to the Town Council that the business license renewal be denied, thereby effectively closing the doors of the business. Otherwise, upon the check clearing, the business license will be renewed. Additionally, if the check bounces, the Town would be able to prosecute the case criminally and pursue collection of the debt. There are pretty serious results if it is not paid. I also told Mr. Sisson if he did not make enough money this weekend to cover the check he better make arrangements to have it paid.

TOWN MANAGER: This came at the suggestion and endorsement of our attorney as one option that would not be setting a priority.

COUNCILOR DAYTON: I want to clarify – the Galaxy has a current business license – and this is for a special amusement license, correct? It is the business license that would come into issue should there be three complaints? I would like to say to the citizens that brought their complaints here tonight – there must be written complaints. There are three separate items here, Chairman Long and Town Manager, if there is a problem the business license can be called into question.

CHAIRMAN LONG: I would just like to go over some of the issues involved here: We have a business license ordinance, special amusement license ordinance is separate. Both are important and the Council has the right to suspend either when requiring such action. We also have an Administrative Review Board which has been very active and successful in dealing with issues. We had 44 hearings in the past four years and only two came before the Council and I, having been on the Council six years, have a great deal of trust in the Administrative Board. If there are serious concerns we can suspend a license – we don't have to wait for three complaints. We are talking about a situation that has gone to court. The resolution of that issue was in place before adopting the ordinance change where the town is owed money. There is an outstanding balance. Those are the issues before us.

NANCY LOMBARD: I did call the Police Department to make a complaint and they told me they could not take a complaint over the phone. I was told OOB Police and make a complaint the Galaxy – myself and another member of the Grand Victorian did so – Police Department – could not make a complaint over the phone. I don't know what I was supposed to do.

COUNCILOR FRENETTE: There are forms in the Building and Planning Department office that you can fill out and file.

CHAIRMAN LONG: I would make the suggestion which has been successful in the past and that is calling the Assistant Town Manager – Louise Reid – and she seems to have a way of getting complaints documented and action on them. The Galaxy is required by this consent agreement. We are certainly sensitive and want people to enjoy the property and not to have to deal with these unfortunate experiences.

COUNCILOR O'NEILL: I am frustrated where we need to make a decision where our attorney puts us in an uncomfortable situation. The timing is not off this evening – you have ever right to speak against this. The money owed is owed to the Town of Old Orchard Beach. It has nothing to do with the police being there or not being there. They owed the money to the Town. So I am not going to support this tonight and it is because of the money owed. We have done our due diligence to the community. Once the money is paid he will be able to open. I assure you to continue your discussions with the Galaxy.

MOTION: Councilor Frenette motioned and Councilor MacDonald seconded to deny the Special Amusement Permit until the debt is paid.

COUNCILOR O'NEILL: If we deny – we have a meeting tomorrow night and if the bill is paid it may be best to remove without prejudice and consider an emergency meeting tomorrow night.

MOTION: Councilor MacDonald removed the previous motion and Councilor Frenette seconded.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to remove this item without prejudice.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Vacancy Pub Inc dba/Vacancy Pub, Inc., (210-10-4), 17 Ocean Park Road, Entertaining & Dancing.

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

VOTE: Unanimous.

NEW BUSINESS:

#4064 Discussion with Action: Acceptance of the Annual Report.

MOTION: Councilor Dayton motioned and Councilor O'Neill motioned to accept the Annual Report for 2006 – 2007.

VOTE: Unanimous.

#4065 Discussion with Action: Correct Minutes of April 8, 2008 Council Meeting by removing the reference to Skateboard Park in the "Explanation" Section of Order #4028.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to correct Minutes of April 8, 2008 Council Meeting by removing the reference to Skateboard Park in the "Explanation Section of Order # 4028.

VOTE: Unanimous.

#4066 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a 4th of July Parade on July 4, 2008 from 9:30 a.m. to 11:30 a.m. in Ocean Park. Request to waive the fee.

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

VOTE: Unanimous.

#4067 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a Square Dance on July 4, 2008 on Temple Avenue between West Grand Avenue and Seaside Avenue from 7 p.m. to 9:30 p.m. Request to waive the fee.

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

VOTE: Unanimous.

#4068 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold an Ocean Park 5K Race on July 25, 2008 from 5 p.m. to 8 p.m. in Ocean Park. Request to waive the fee.

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

VOTE: Unanimous.

#4069 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold Illumination Night on August 2, 2008 from 5:30 p.m. to 10:30 p.m. on Temple Avenue between West Grand Avenue and Seaside Avenue. Request to waive the fee.

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

VOTE: Unanimous.

#4070 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a Christian Youth Conference Block Dance on August 16, 2008 from 7:30 p.m. to 11:00 p.m. on Temple Avenue between West Grand Avenue and Seaside Avenue. Request to waive the fee.

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

VOTE: Unanimous.

4071 Discussion with Action: Approve the Special Event Permit Application for a Wedding on the Beach in front of the Brunswick Motel on October 18, 2008.

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

VOTE: Unanimous.

#4072 Discussion with Action: Approve the Special Event Permit Application for the Surfrider Foundation to hold an International Surfing Day on June 20, 2008 from 6:00 p.m. to 9:00 p.m. on the Beach in front of the Ocean Tripp Inn on Union Avenue, to include a band, bonfire, volleyball, barbecue and surf lessons; and a request to waive the fee.

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

VOTE: Unanimous.

Question on insurance, cleaning,

#4073 Discussion with Action: Approve the Special Event Permit Application for the Kora Shriners to Hold a Parade on June 7, 2008 from 9:00 a.m. to 10:00 a.m. from Saco and Union Avenue, down Saco Avenue, right onto Old Orchard Street and ending at 1st Street; request to use the Ballpark for loading and unloading the Shriner Units; and a request to waive the fee.

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

VOTE: Unanimous.

#4074 Discussion with Action: Approve the Special Event Permit Application for Inca Son to play soft instrumental music in the Square in front of the water fountain on June 28th, July 4th and July 13, 2008, from 5:00 p.m. to 9:00 p.m.

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

VOTE: Unanimous.

#4075 Discussion with Action: Approve the Liquor License Renewals for Jeanne LaChance dba/JJ's Eatery (307-3-4), 2 West Grand Avenue, s-m-v in a Tavern; Mimi Vattes & Danny Sisson dba/The Galaxy (306-5-4), 12 East Grand Avenue, s-m-v in a Class A Lounge; Vacancy Pub, Inc. dba/Vacancy Pub, Inc. (210-10-4), 17 Ocean Park Road, s-m-v in a Class A Lounge; and William S. & Lisa M. Watson dba/Watson's Restaurant dba/Pierre's Restaurant (305-4-4), vinous in a Restaurant.

MOTION: Councilor Frenette and Councilor Dayton seconded to approve the Liquor License Renewals as read.

VOTE: Unanimous.

#4076 Discussion with Action: Appoint Keith Babin as a Regular Member of the Recreation Committee, term to expire 12/31/2010.

MOTION: Councilor Frenette motioned and Councilor Dayton seconded to appoint Keith Babin as a Regular Member of the Recreation Committee, term to expire 12/31/2010.

VOTE: Unanimous.

#4077 Discussion with Action: Approve the transfer of the Defendant in Rem, or any portion thereof, pursuant to 15 M.R.S.A., Section 5824(3) and Section 5826(6) and accept the seizure money should be awarded by the Courts.

CHAIRMAN LONG: This is a housekeeping item for the Police Department.

MOTION: Councilor Dayton motioned and Councilor Frenette seconded to Approve the transfer of the Defendant in Rem, or any portion thereof, pursuant to 15 M.R.S.A., Section 5824(3) and Section 5826(6) and accept the seizure money should be awarded by the Courts.

VOTE: Unanimous.

#4078 Discussion with Action: Approve the Dates and Hours for Voter Registration for the June Election.

Tuesday, June 3	8 a.m. to 6 p.m.
Wednesday, June 4	8 a.m. to 4 p.m.
Thursday, June 5	8 a.m. to 4 p.m.
Friday, June 6	8 a.m. to 4 p.m.
Monday, June 9	8 a.m. to 4 p.m.

Election Day is June 10, 2008. Polls are open from 8:00 a.m. to 8 a.m.

MOTION: Councilor O'Neill motioned and Councilor Frenette seconded to approve the days and hours as read for the Voter Registration Office to be open.

VOTE: Unanimous.

4079 Discussion with Action: Approve the purchase of a used 2006 14-Yard Dump Truck from Weirs Motor Sales in the amount of \$59,500 with \$35,947.57 from Account Number 20203-50835 – PWD Vehicles Capital Expense, leaving a zero balance and the remaining \$23,552.43 from Account Number 10013/30100 – Undesignated Fund, with a balance of \$4,783,247.

Public Works would like to replace the 1984 GMC 14yd Dump Truck that we currently use for snow removal and seaweed pick up. We have been repeatedly repairing this vehicle prior to beach season each year. With this years review, the repairs are extensive and we have been researching the option of an upgraded used vehicle. The attached report from our lead mechanic, Jim Fish, details the repair cost and two proposals for moving forward: (1) Replace the cab and chassis and repair the body and sub-frame, and (2) purchasing a “new to us” used vehicle. Repairing the existing cab, chassis, body, and sub-frame is not recommended by DPW. Proposal 1 will cost approximately \$35,000 plus the repair/labor cost of retrofitting the existing body and other related work. Proposal 2 will cost approximately from \$39,900 - \$59,500.

Quotes were received from the following equipment companies:

- 1. Weirs Motor Sales(2006 GMC) \$59,500.00**
- 2. Whited Truck Center (1999 Sterling) \$49,980.00**
- 3. O'Connor Motor Company (1998 Volvo)
\$39,900.00**

Public Works recommends purchasing the 2006 14yard dump body from Weirs Motor Sales for a total of \$59,500.00. For the difference in cost from a 1999 to a 2006 model vehicle, the upgrade will better serve DPW for the next 10-15 years. The 1998 Volvo is not recommended due to the manual transmission and cost of repair parts in the future.

COUNCILOR FRENETTE: Is it the biggest one we have. Are you getting a smaller one.

PUBLIC WORKS DIRECTOR: We are planning to get the same size, but used.

COUNCILOR FRENETTE: Did you have this in your budget for this year?

PUBLIC WORKS DIRECTOR: No. We looked at it when repairs to it became such an expense that we had to review our decision. Not having to come back to the plant each time will save us fuel money.

CHAIRMAN LONG: Because of the size it reduces the number of trips and makes it more efficient as our other trucks are half the size of this. I believe the need has been stated and I concur with the Public Works Director in her decision. I congratulate the Public Works Director in finding us a used vehicle.

COUNCILOR MACDONALD: Wouldn't it be smarter and take it out of the new budget for next year rather than taking it out of the undesignated fund. In the past this Council or the previous Council has tried not to take it out of Undesignated Fund, two weeks before we close the budget.

COUNCILOR FRENETTE: Two weeks ago we gave \$50,000 to Memorial Park and no one batted an eye and we are looking at giving them more money in the future. We need the truck now so I will support this now.

CHAIRMAN LONG: I considered Councilor MacDonald's comments but we have a truck that is available and significantly less than a new vehicle.

COUNCILOR DAYTON: How long ago did we use this truck? When was it taken off line? I think we have had plenty of time to include this in the budget process. I don't equate this to Memorial Park when we have had a chance since December to include in our capital budget and I support Councilor MacDonald's comments. I can't support this at this time and it should be part of the capital budget and I would feel more comfortable dealing with it at that time.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to Approve the purchase of a used 2006 14-Yard Dump Truck from Weirs Motor Sales in the amount of \$59,500 with \$35,947.57 from Account Number 20203-50835 – PWD Vehicles Capital Expense, leaving a zero balance and the remaining \$23,552.43 from Account Number 10018/30100 – Undesignated Fund, with a balance of \$4,783,247.

COUNCILOR O'NEILL: It is half a dozen of one and another – but it will obviously come from the Undesignated Fund.

VOTE: Yea: Councilors Frenette, O'Neill and Chairman Long.
Nea: Councilors MacDonald and Dayton.

4080 Discussion with Action: Approve a PACTS Grant for 2,685 feet of new sidewalk from Rite Aid (north of Staples Street) to Union Avenue in the Town of Old Orchard Beach with the State requirement of a minimum cost of share of 25% totaling \$46,745, with the 75% State share of \$140,235 equaling a total of \$186,980 from Account Number 20203-50507 – CIP – Public Works Sidewalk Maintenance Improvement for FY2010.

Request to approve a PACTS Grant for 2,685 feet of new sidewalk from Rite Aid (north of Staples Street) to Union Avenue in the Town of Old Orchard Beach. The State requirement is a minimum cost of share of 25% totaling \$46,745.00 with the 75% State share of \$140,235.00 equaling the total of \$186,980.00 from Account Number 20203-50507 – CIP – Public Works Sidewalk Maintenance

Improvement for FY10. In 2006, Old Orchard Beach received a PACTS Grant for the amount of \$127,910.16 to develop 3,565 feet of new sidewalk on the western side of Saco Avenue from Adelaide Road to E. Emerson Cummings Boulevard. The Department of Public works is now applying to PACTS to receive money to assist in the development of a new sidewalk on the eastern side of Saco Avenue from Rite Aid (north of Staples Street) to Union Avenue. Current sub-standard infrastructure creates safety issue and inhibits connectivity and this merits this type of grant. The Town is seriously addressing these issues in order to promote increased ridership on inter-city bus services and to improve pedestrian circulation on Saco Avenue. In a series of neighborhood meetings held in 2004, residents requested the Town to provide new sidewalks and better sidewalks. This improvement will increase the mobility, safety and accessibility for pedestrians and bicyclists on Saco Avenue. Improved accessibility will encourage residents and visitors to utilize public transportation thereby reducing automobile usage resulting in improved air quality. The lack of handicap ramps at street corners limits accessibility by the handicapped population who mainly rely on alternative modes of transportation, such as motorized-scooters. Residents and visitors that depend on public transportation to satisfy their needs will be able to link with multiple services throughout Town. These improvements will support the Town's efforts to promote community and neighborhood livability and economic redevelopment on a year round basis.

APPENDIX A
Municipal Endorsement
Town of Old Orchard Beach, Maine
May 20, 2008

At the Old Orchard Beach Town Council Meeting will be presented with the grant proposal on April 15th, 2008, the following motion proposed to be approved:

“Move to approve a PACTS Grant for 2,685 feet of new sidewalk from Rite Aid (north of Staples Street) to Union Avenue in the Town of Old Orchard Beach. The State requirement is a minimum cost of share of 25% totaling \$ 46,745.00 with the 75% State share of \$ 140,235.00 equaling the total of \$186,980.00 from Account Number 20203-50507 – CIP – Public Works Sidewalk Maintenance Improvement for FY10.”

Date: _____

Municipality: Old Orchard Beach

Signed by a Majority of Municipal Officers:

COUNCILOR FRENETTE: I asked to have this put on the agenda. It is very important. We already received the grant for the other side of the street. Both sides are very bad and sidewalks are in disarray. Both sides are in poor condition and 75% free money is a beautiful thing. If we do this we can do it both sides of the street.

PUBLIC WORKS DIRECTOR: This will be and has been a public process. It is obvious that doing both sides of the street at the same time. It has not been designed and different areas will have a design process with the DOT and public input will be priority.

COUNCILOR FRENETTE: This is a State Road and don't they plow it?

PUBLIC WORKS DIRECTOR: They pay us to do the plowing. Certainly the State has responsibilities but with the PACTS process – the sidewalk and the intersections we decide and they decide the roads. We have competed with 15 communities for this money.

DAYTON: I appreciate the work that Public Works and Planning to get grant money and don't mean to give the impression that grant money be turned down. We had \$75,000 in this year's budget and is not being done. I thought Washington Avenue was to be done and now the money is being diverted to Walnut. I think it is important to fix the sidewalks in dire needs so I cannot support this.

COUNCILOR MACDONALD: I cannot support a big pot of money when we have had no input in and have no plans drawn. I didn't know anything about the other side of the street and there has been no formal hearings on it. I would support grant money if we have a plan but we are allocating our own money. I am concerned and would rather talk about it in a workshop and not just do piece meal projects. We have to replace a lot of things and if the sewers are not done will we have to tear up the sidewalks.

COUNCILOR FRENETTE: There is a brand new sidewalk on Walnut Street.

PUBLIC WORKS DIRECTOR: No we did not.

COUNCILOR FRENETTE: It is not up to the Town Council to design sidewalks and not to take grant money for one side and not take it for the others. If we hold one to State standards and not the other – we are going to be held accountable by the State. This is the most ridiculous – we are supposed to set policy. I think we should treat everyone the same and I am sure that they take into consideration sewer and roads.

COUNCILOR O'NEILL: It is unfortunate the process does not allow us the foresight to have a better plan before the application process comes before us. We have to apply before any plan comes into motion. Do we really want to do one side and go back in a couple of years later and do the other? That does not make sense. It is disheartening that we are not approving this grant because the Washington Avenue sidewalks did not get done. \$147,000 money is a lot of money for our Town and it is the gateway to our downtown and our Memorial Park. Let's follow the curb appeal that we have been following up to now.

CHAIRMAN LONG: Although I agree that Washington Avenue is in need of repair; over the past six years since I have been on Council we have seen sidewalks improved. We have a long way to go. One of my concerns with this is understanding PACTS. It is not free money, it is federal money that comes through the State and we have to fight with 15 municipalities like Scarborough, Saco, Falmouth, Portland and it is significant to how to even get on the list and for us to have made it to this place is a really big thing. The loss of the \$147,000 is a big thing in my estimation. When issue of sidewalks came up in the past it was not handled well. We can make accommodations with curb cuts; we will enhance businesses and do not see it as a way of forcing customers away from a business. I spent a lot of time on this issue and I find it hard to tell our citizens that we are going to turn down \$147,000 of PACTS money. Sidewalks are an issue that we have to address as effectively as we can. There are a lot of options at our use.

COUNCILOR DAYTON: I am not suggesting that I want to turn away PACTS money. What I am trying to nail down here is how we decide where PACTS money is to go. I have worked hard to get money directed toward Washington Avenue. I was never told – we were never told – no one mentioned it to any of us. I happen to know that the busses go down Washington Avenue and they have difficulty because of access to the bus. I am frustrated that the money has already been used for Walnut Street and not for Washington Avenue.

PUBLIC WORKS DIRECTOR: Washington Avenue could not compete for this money.

MOTION: Councilor Frenette motioned and Councilor O'Neill seconded to Approve a PACTS Grant for 2,685 feet of new sidewalk from Rite Aid (north of Staples Street) to Union Avenue in the Town of Old Orchard Beach with the State requirement of a minimum cost of share of 25% totaling \$46,745, with the 75% State share of \$140,235 equaling a total of \$186,980 from Account Number 20203-50507 – CIP -Public Works Sidewalk Maintenance Improvement for FY2010.

VOTE: Yea: Councilors O'Neill, Frenette and Chairman Long
Nea: Councilors MacDonald and Councilor Dayton

#4081 Discussion: Off-Premises Farm Stand Signs.

Councilor Roxanne Frenette has requested this to be on the Agenda. This is about the ability of a Greenhouse to place sandwich-style sign boards on (or near) private property with owner's permission which is apparently in line with State Statutes to that effect. This request emanates out of the Pine Acre Greenhouse issue on Portland Avenue who has Radley Market's permission to place a sign board there. The Town's signboard related ordinance which prohibits such use. Because the ordinance was established originally to address the proliferation of restaurant and retail shop signboard use downtown, it appears that this State Statute is of interest in this particular case, as it may suggest that such agricultural use is exempted. At issue is whether the State Statute applies and if so, does it apply in this instance. If not, the Council will discuss with action the possibility of redressing the sign ordinance.

The black text below shows how our ordinance chapter 78 is amended. A public hearing is first held by the Planning Board with proper 14 day and 7 day legal notice in town hall and the papers. Then the Council can certainly hold another public hearing if they so choose (which I think is a good idea)....and then they vote on the amendment.

The planning board needs to look into this question. Their next workshop is June 5 and next regular meeting is June 12. The schedule of Planning is heavy at this time and both Councilor Frenette and the business owner understands that this is something that probably will not be finalize or determined this summer but rather on the agenda for further discussion and action.

The state statute does not prohibit a town from having a more restrictive ordinance, so if the OOB ordinance does not currently allow the off-premises agricultural sign, then the town's ordinance would have to be amended--if the town wishes to allow it. The town, on the other hand, cannot be more permissive than the state statute, the relevant portion of which I have reproduced below:

23 §1913-A. Categorical signs

2. Types of signs outside the right-of-way.

The following signs may be erected and maintained outside of the public right-of-way without license or permit under this chapter as follows:

G. Signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to

that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 5 miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 4 signs pursuant to this paragraph and the total number of signs erected by that producer under this paragraph and section 1911, subsection 2 may not exceed 6.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

*Cross references: Administration, ch. 2.

DIVISION 1. GENERALLY

Sec. 78-31. Amendments to chapter.

(a) This chapter may be amended from time to time as the needs of the town require after public hearing on a proposed amendment held by the planning board and following posting and publishing of notice of the hearing.

(b) Such notice shall be posted in the town office at least 14 days before the public hearing and shall be published at least two times in a newspaper of general circulation in the town. The date of the first publication must be at least 14 days before the hearing, and the date of the second publication must be at least seven days before the hearing.

(c) Amendments to this chapter shall be adopted only after favorable vote of a majority of the members of the town council.

(Ord. of 9-18-2001, § 1.7)

COUNCILOR FRENETTE: I would ask the Planning Department to look into consideration of this request and to have a workshop in the coming months. We recognize that this will not be in place this summer but perhaps in the future summers it could be addressed.

GOOD AND WELFARE:

NANCY KELLEY: When I founded "HUGS of LOVE-REMEMBER OUR TROOPS" it was an extension of our Memorial Run in this special way, to honor the soldiers serving our nation and to support their families here at home. The unit I adopted last August of 2007, along with 4 other soldiers have been a huge part of our Hugs family. They are the from the 65th PAOC, from the Massachusetts National Guard and Rhode Island National Guard with some troops from other states such as John Frenette from here in Old Orchard Beach. I have been told by Lt. Colonel Charles Perenick, Jr., and his wife, that at least 4 families will be coming to our race day, as they are due home in the states the first week of June. Two families are signed up already. We also have another family from Saco, Maine, the Viger family, where Tom Viger is at Fort Dix, New Jersey for his service to country. They will be running the race as well. Bob and I have a very special "SURPRISE" welcome for

them at our race as we hold a special tribute to all of the military who attend our event each year at the Awards Ceremony. We are so excited about meeting them in person.

HELENE WHITTAKER: Forgive me for a little grumpy but I was awoken at 4:30 this morning by the BBI Truck.

COUNCILOR O'NEILL: 4:00 is the start up time.

HELENE WHITTAKER: Why are they allowed to do this?

CHAIRMAN LONG: We will address this.

COUNCILOR DAYTON: Remember – recycling is this week. On our website is a listing of what you can recycle and I hope you take advantage of doing this.

ADJOURNMENT:

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-one (21) pages is a true copy of the original Minutes of the Town Council Meeting of May 20, 2008.

V. Louise Reid