

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, MAY 5, 2009 - 7:00 P.M.
TOWN HALL CHAMBERS**

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

Pledge to the Flag and Roll Call:

Present:

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

ACKNOWLEDGEMENTS:

COUNCILOR DAYTON: Many thanks to the citizens under the umbrella of the Community Watch Council including many Neighborhood Watch Groups and other citizens who participated in Clean Up Day two weeks ago. We appreciated the leadership of Helene Whittaker in this endeavor. To the Public Works Department for their assistance, our appreciation as well.

COUNCILOR TOUSIGNANT: To all those who participated in the OOB365 event this past weekend and the hours of planning by an enormously ambitious group of business owners and citizens under the leadership of Ken Shupe, thanks for the first of what we believe will be many exciting year round happenings in our community. To all the participants who had tables of their wares, the adults and children who participated in all the events, town staff members, the Fire, Police and Public Works departments, and to each and every individual who made this successful – thanks for getting a great “taste of OOB.”

COUNCILOR DAYTON: Congratulations to the Planning Department and particularly to Jessica Wagner for OOB receiving the 2009 CDBG Community Enterprise Program Grant of \$150,000. These awards don't come without an enormous amount of work and personal effort and commitment and to Jessica and all who assisted her, our sincere thanks. Congratulations to our Fire Chief and the Call Force for the fabulous Fire Department Sale on Saturday. A lot of holiday shopping was done. For all those whose efforts added to the successful day – many thanks.

ACCEPTANCE OF MINUTES: Town Council Meeting of April 21, 2009; Town Council Workshop of April 28, 2009; and Town Council Workshop of April 29, 2009.

MOTION: Councilor Bolduc motioned and Councilor Tousignant seconded to approve the Minutes as read.

VOTE: Unanimous.

BUSINESS LICENSES: Hershel & Gina Kuykendall (105A-2-3-6), 6 Pine Valley Road, one year round rental; Alison McCormick dba/Grand Beach Inn Café (202-3-5-A), 198 East Grand Avenue, Victualers; John P. Griffin dba/Oceanside Computer Sales & Service (205-3-5-46), 46 Old Orchard Street, Unit 2, personal service; Mark Nickerson & Stephen Smith (205-7-11), 3 Francis Street, two year round rentals; Michael Douglas (205-11-7), 8B Carll Avenue, one year round rental; Paul Jacques (206-2-4B), 4 Laurene Drive, one year round rental; Dan Parker (206-11-4), 11 Cottage Avenue, three year round rentals; Bob Moser dba/Ideal Cottage Sales LLC (208-3-2), 179 Saco Avenue, Display Sales Area; Sharon Pratt (210-2-24-3), 1 Jeanette Avenue, #3, one year round rental; Joaquin C. Fernandes (301-3-1-307), 189 East Grand Avenue, # 307, one year round rental; Susan M. Fisher (301-6-1-205), 191 East Grand Avenue, #205, one year round rental; Margaret Dorsey (306-2-1-40), 31 East Grand Avenue, # 40, one year round rental; Joe Palmieri dba/Chicago Dogs (306-1-2-N&O), 1 East Grand Avenue, Units 2 & 3, Victualers; Soyeb Patel aka Shai Patel dba/Shai Smoke Shop & Novelty (306-5-2), 6 East Grand Avenue, Novelty Store & Smoke Shop – no guns nor knives no paraphernalia; Gertrude Martone & Theodore MacKenzie (309-9-21), 20 Hillcrest Avenue, one year round rental; Timothy & Norma Brennan (316-3-1), 1 Odena Avenue, one year round rental; ASAC Investments dba/Club Oasis (306-5-3), 8 East Grand Avenue, Victualers, Entertainment & Dancing; and Mark Lindquist (206-7-2), 8 Eden Lane, one year round rental.

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

VOTE: Unanimous.

PUBLIC HEARING: ASAC Investments dba/Club Oasis (306-5-3), 8 East Grand Avenue, s-m-v in a Class A. Lounge

MOTION: Councilor Dayton motioned and Councilor O’Neill seconded to approve the Liquor License as read.

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Vacancy Pub, Inc. dba/Vacancy Pub, Inc. (210-10-4), 17 Ocean Park Road, Karaoke; ASAC Investments dba/Club Oasis (306-5-3), 8 East Grand Avenue, Music & Dancing; Mimi Vattes & Dani Sisson dba/The Galaxy (306-5-4), 10 East Grand Avenue, Music & Dancing; and Maria Spirounias dba/Chas’ Sports Pub (208-3-3), 181 Saco Avenue, Music & Dancing.

MOTION: Councilor Tousignant motioned and Councilor O’Neill seconded to approve the Special Amusement Permits as read.

VOTE: Unanimous.

TOWN MANAGER’S REPORT: The Town Manager updated citizens on the flu epidemic and directed them to information provided by our Emergency Management Director, John Glass, encouraging individuals to follow safety issues in providing protection for themselves. He also reported on a possible consideration by the Council to a referendum question on the November ballot regarding the requirement to advertise the agendas and public hearing notices which cost the Town approximately \$9,000 a year and which could be advertised on our web site and in the Town Hall. Other municipalities such as Saco do not expend advertising funds but rather use their web and City locations to advertise these agendas and public hearings.

NEW BUSINESS:

5177 Discussion: Budgetary Process – Fiscal Year – 2009 – 20010.

Chair MacDonald gave an update to the citizens of the Budget process which is ongoing and at a Budget Workshop on Monday, May 11, 2009 and again after the School Budget Workshop on Tuesday, May 12, 2009 will continue discussions about the fiscal year budget of 2009-20010; the process will continue and one of the key considerations that is still forthcoming will be the RSU budget request for the Town Schools. The process now will be to look at the bigger picture.

**# 5178 Discussion with Action: Amend the General Assistance Ordinance.
Amend Section 6.8 a) Food**

No. of Household	<u>CURRENT</u> <u>WEEKLY</u>	<u>PROPOSED</u> <u>WEEKLY</u>	<u>CURRENT</u> <u>MONTHLY</u>	<u>PROPOSED</u> <u>MONTHLY</u>
1	\$40.93	<u>\$46.51</u>	\$176.00	<u>\$200.00</u>
2	\$75.12	<u>\$85.35</u>	\$323.00	<u>\$367.00</u>
3	\$107.67	<u>\$122.33</u>	\$463.00	<u>\$526.00</u>
4	\$136.74	<u>\$155.35</u>	\$588.00	<u>\$668.00</u>
5	\$162.33	<u>\$184.42</u>	\$698.00	<u>\$793.00</u>
6	\$194.88	<u>\$221.40</u>	\$838.00	<u>\$952.00</u>
7	\$215.35	<u>\$244.65</u>	\$926.00	<u>\$1,052.00</u>
8	\$246.05	<u>\$279.53</u>	\$1,059.00	<u>\$1,202.00</u>

Increase Additional persons from \$132.00 to \$150.00 per month.

MOTION: Councilor O’Neill motioned and Councilor Dayton seconded to Amend the General Assistance Ordinance.

VOTE: Unanimous.

5179 Discussion: Update on Bill LD 1119 presented to the Maine Legislature by Representative George Hogan Regarding the Saco Bay Boundary Issue.

The Chair acknowledged the presence of Representative George Hogan who thanked the Council, the Planner and all those who participated in the Hearing in Augusta. The Chair then acknowledged the Planner, Gary Lamb, who presented the following report to the Council:

GARY LAMB: It has been my pleasure to work with Saco City Planner Bob Hamblen, state and local officials and six OOB residents to produce the Saco Bay Working Group report delivered to you Jan 2009. This group did its job as best we could.

- It outlined areas of agreement and disagreement and was not easy to put in one report. We learned it was easy to verify OOB boundaries because the town was so new, being formed in 1883. We learned that we cannot find a legislative history as to where Saco's seaward boundary is located, since Saco was created before Maine became a state. We also learned that both the AG's office and Submerged Lands staff agree that Saco's seaward boundary is at low water.
- However, when opinions differ and facts are inconclusive, Political solutions are tough
- Hence, here we are debating a bill that only fixes half the boundary problem, that being an OOB boundary change.
- If that is what we accomplish with LD 1119, so be it because it is a step in the right direction. OOB needs this boundary extension for proper protection of our beach economy...and the LD 1119 request is reasonable.

1. Recognition and thanks

- Rep. George Hogan for his tireless efforts representing OOB citizens
- Senator Barry Hobbins for his 2007 initial stand on this issue
- Sen. Hobbins went to his home town City Council Sept 2007 and stated Saco was wrong to issue a lease of state owned submerged lands...because they lacked right, title and interest to do so...right then and right today.
- I will count on Sen. Hobbins to support the same sense of right and wrong as LD 1119 moves through the Senate...and hope that Sen. Courtney and Simpson will join him in supporting and protecting OOB's economic and community interests

As details are worked out, I would respectfully ask that LD 1119 move forward separate from any possible future Saco Bay Commission studies that could take years to complete. If there should be discussion of a Saco Bay commission, this should be totally separate from LD 1119. A four town Commission is a worthwhile idea to investigate...but would take 1-2 years to prepare for legislative creation. As a model, the Saco River Corridor Commission is a good vehicle to consistently enforce shore land zoning laws in the 20 towns of Saco River watershed. This is for development review for land based projects and mostly on private land. A Saco Bay commission is very different:

- It would create new municipal zoning where little or none exists now
- All on or over state owned submerged lands and waters and not private property
- State and municipalities would probably be asked to give up some regulatory authority that exists today
- This is very different from SRCC and would probably be a time consuming endeavor to organize...but it could be investigated.

In conclusion, I would respectfully ask for a unanimous Ought to Pass recommendation from this Committee. The reasons are simple and common sense.

- OOB needs a boundary extension to protect itself and its beach economy
- OOB needs jurisdictional protection and the ability for the OOB Planning Board and Town Council to review offshore projects, not those of Saco

Thanks to Rep. Beaudette and Committee for their time and attention...answer Q's?

REPRESENTATIVE GEORGE HOGAN: He expressed his appreciation to the Council for their support and also thanked the Saco Bay Committee and particularly Gary Lamb for the hours of preparation and presentation he has put into the promotion of this bill.

PHIL DENNISON: Expressed his appreciation to the Committee and urged the Council to proceed with securing a positive end to the Bill. He complimented the Committee for the work that was completed and also for those who spoke at the Committee Hearing in Augusta.

BUD HARMON: Spoke as a member of the Saco Bay Committee but also a Director of the Chamber of Commerce and the importance of this Bill for the protection of our beach which is our greatest asset. He recommended some discussion between the Council and Senator Hobbins to see where he stands on this issue as his support should be encouraged.

There was a consensus from the Council that connection with Senator Hobbins should be made.

5180 Discussion with Action: Set a Public Hearing Date of May 19, 2009 on a proposed ordinance entitled "Ordinance Prohibiting Operation of Chem-Free Dances in Drinking Establishments" (which would repeal and replace the current ordinance in Chapter 6, Article IV, "Chem-free Dances in Drinking Establishments Restricted.")

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

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

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

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

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

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

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

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

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

I. Definitions.

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

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

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

II. Chem-free dances in drinking establishments prohibited.

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

III. Violations, penalties, remedies.

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

IV. Enforcement.

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

V. Purpose.

The purpose of this Ordinance is not to control the sale, service or consumption of alcoholic beverages, but to regulate conduct in drinking establishments during those times

when the establishments are not serving alcoholic beverages, so that minors under the legal drinking age are not congregating in an establishment which customarily serves alcoholic beverages.

VI. Applicability.

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

VII. Repeal of prior ordinance.

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

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

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

Sec. 6-156. Definitions.

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

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

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

(Ord. of 3-6-2007(1), § I)

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

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

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

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

(2) ~~Attendance at any chem-free dance shall be restricted to one of two age groups, either ages 13 through 16 or ages 17 through 20, and at no time shall attendees from both age~~

~~groups be present during a chem-free dance. This paragraph does not apply to persons employed in connection with the operation of the chem-free dance or to parents of attendees.~~

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

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

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

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

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

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

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

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

Sec. 6-159. Enforcement.

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

(Ord. of 3-6-2007(1), § IV)

Sec. 6-160. Purpose.

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

(Ord. of 3-6-2007(1), § V)

Sec. 6-161. Applicability.

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

(Ord. of 3-6-2007(1), § VI)

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

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

Amend Chapter 18 Businesses by adding:

ARTICLE XI Chem-free club/nonalcoholic establishment

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

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

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

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

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

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

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Set a Public Hearing Date of May 19, 2009 on a proposed ordinance entitled "Ordinance Prohibiting Operation of Chem-Free Dances in Drinking Establishments" (which would repeal and replace the current ordinance in Chapter 6, Article IV, "Chem-free Dances in Drinking Establishments Restricted.")

VOTE: Unanimous.

5181 Discussion with Action: Set a Public Hearing Date of May 19, 2009 to Adopt the Ordinance entitled "Closing of Ways (Temporary Road Postings to Weight Limits)."

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

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

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

1. Findings; purpose; statutory authority.

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

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

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

2. Definitions.

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

3. Restrictions and notices.

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

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

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

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

4. Designation of ways and bridges.

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

5. Signs.

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

6. Exemptions.

The following vehicles are exempt from this article:

- A. Any two-axle vehicle while delivering home heating fuel.**
- B. Any emergency vehicle (such as fire-fighting apparatus or ambulances) while responding to an emergency or routine training or maintenance activities.**
- C. Any vehicle while engaged in highway maintenance or repair under the direction of the city or state.**
- D. Any school transportation vehicle while transporting students.**
- E. Any public utility vehicle while providing emergency service or repairs.**
- F. Any vehicle whose owner or operator holds a valid permit from the Director of Public Works or his/her designee as provided herein.**

7. Permits.

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

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

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

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

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

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

8. Administration and enforcement.

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

9. Violations and penalties.

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

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

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to Set a Public Hearing Date of May 19, 2009 to Adopt the Ordinance entitled "Closing of Ways (Temporary Road Postings to Weight Limits)."

VOTE: Unanimous.

5182 Discussion with Action: Approve the Special Event Permit Application for the Erskine Academy, Class of 1994, to hold their reunion on the beach at the end of Walnut Street on June 13, 2009 from 8:00 a.m. to 4:00 p.m.; and no alcohol to be consumed on the beach.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to : Approve the Special Event Permit Application for the Erskine Academy, Class of 1994, to hold their reunion on the beach at the end of Walnut Street on June 13, 2009 from 8:00 a.m. to 4:00 p.m.; and no alcohol to be consumed on the beach.

VOTE: Unanimous.

5183 Discussion with Action: Approve the Special Event Permit Application for the Surfrider Foundation to hold International Surf Day 2009 on the beach at the end of Union Avenue, to include a bonfire, on June 20, 2009 from 6:00 p.m. to 9:00 p.m.; and a request to waive the fee.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Special Event Permit Application for the Surfrider Foundation to hold International Surf Day 2009 on the beach at the end of Union Avenue, to include a bonfire, on June 20, 2009 from 6:00 p.m. to 9:00 p.m.; and a request to waive the fee.

VOTE: Unanimous.

5184 Discussion with Action: Approve the Special Event Permit Application to authorize The Salvation Army to close a portion of Church Street on May 9, 2009

from 10:00 a.m. to 2:00 p.m. to hold a Family Health and Safety Fun Fair; and a request to waive the fee.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to Approve the Special Event Permit Application to authorize The Salvation Army to close a portion of Church Street on May 9, 2009 from 10:00 a.m. to 2:00 p.m. to hold a Family Health and Safety Fun Fair; and a request to waive the fee.

VOTE: Unanimous.

5185 Discussion with Action: Approve the waiving of the Conditional Use Application fee of \$1,500 for the reapplication to the Planning Board by Hid'n Pines Campground.

GARY LAMB: Hid'n Pines Campground at 8 Cascade Road filed an Application to the Planning Board to expand the existing campground by adding 55 new campsites on the adjacent parcel in October 2008. This Application requires Conditional Use & Site Plan Review approval by the Planning Board. The Applicant paid the required Conditional Use application fee of \$1,500 on September 25, 2008. On October 9, 2008, the Planning Board reviewed this Application and determined the Application as incomplete. It was also discovered at this time that the Ordinance pertaining to campgrounds needed to be revised to allow for a reasonable distance between full-service campsites and bathrooms. Planning staff recommended that the Applicant wait for this Ordinance revision to be complete before continuing with the Planning Board review process. The Applicant willingly withdrew their Application from the November 2008 Planning Board Meeting agenda. This campground Ordinance revision was approved by Council on April 21, 2009. With this updated Ordinance now in place, the Applicant would like to move forward with the Application process started 7 months earlier. Due to a staff oversight of the Ordinance, the six-month deadline to resubmit has passed and the Applicant is now required to file a new Application to the Board. The Applicant has filed a new Application in order to restart this Planning Board review process. Planning staff is requesting that the \$1,500 application fee be waived for this reapplication, since it was the recommendation of Town staff to delay the Planning Board review process. Staff should have made the Applicant aware of this timeframe and the Ordinance revision should have been conducted more quickly to ensure the Applicant could resubmit within the six-month timeframe.

MOTION: Councilor Dayton motioned and Councilor Tousignant seconded to approve the waiving of the Conditional Use Application fee of \$1,500 for the reapplication to the Planning Board by Hid'n Pines Campground.

VOTE: Unanimous.

5186 Discussion with Action: Approve the Liquor License Renewals for Vacancy Pub, Inc., dba/Vacancy Pub Inc. (210-10-4), 17 Ocean Park Road, s-m-v in a

Class A Lounge; Lesa M. Watson & William M. Watson dba/Watson's Restaurant & Catering dba/Pierre's Restaurant (305-4-4), 47 East Grand Avenue, s-m-v in a Restaurant; Mimi Vattes & Dani Sisson dba/The Galaxy (306-5-4), 10 East Grand Avenue, s-m-v in a Class A Lounge; and Maria Spirounias dba/Chas' Sports Pub (208-3-3), 181 Saco Avenue, m in a Restaurant/Lounge.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to approve the Liquor License Renewals as read.

VOTE: Unanimous.

5187 Discussion with Action: Award the contract for E. Emerson Cummings Boulevard Sidewalk Project (Maine Department of Transportation [MDOT] Grant Program) to Peters Constructions in the amount of \$104,727.60; total amount of contract paid 100% by MDOT directly to contractor.

MARY ANN CONROY: The Public Works Director explained the sidewalk improvements for E. Emerson Cummings Boulevard span from Dirigo Road to Ballpark Way for a total project length of approximately 2,000 feet. The new sidewalk will be a shared use path for both pedestrian and bicycle traffic. The project will consist of the following components:

- new eight-foot wide gravel shared use path with portions curbed,
- creation of a landscaped esplanade along portions of the new path,
- installation of nine handicap detectable warning devices and four raised asphalt crosswalks,
- disturbed areas will be finely graded, loamed, and seeded.

This project is being funded by the Maine Department of Transportation (MeDOT) via the Safe Routes to School Program. The total amount of this contract will be paid 100% by MDOT directly to the contractor. The MDOT has confirmed that the paving component IS NOT a requirement of this grant and the Town of OOB can choose to install the paving top coat at a later date or not at all. Their main concern is that this project be completed in this construction season. The Public Works Director recommended awarding the contract to Peters Construction for a total of \$104,727.60 is the successful bidder on this project and all work must be completed between July 1, 2009 and August 21, 2009.

There were a number of questions that were raised to the Public Works Director including:

CHAIR MACDONALD: How wide is that path?

COUNCILOR TOUSIGNANT: The width of the road – looks like it got narrower?

MARY ANN CONROY: It is 8 feet and can be plowed with our truck. It matches the Maine Department of Transportation standard specifications for a shared path.

COUNCILOR O'NEILL: Would we save money by making it narrower?

MARY ANN CONROY: Actually widening it by another 1.5 feet would cost less to pave it as the contractor could use regular paving equipment (as used on roadways), in lieu of the hand-placed machine used for sidewalks.

COUNCILOR TOUSIGNANT: On that map two dotted line showing existing road. The two black lines I thought were as they are today.

MARY ANN CONROY: The double black line is the new curb. It is still handicapped accessible.

COUNCILOR BOLDUC: In another packet that we got there are some colored photos that show parking areas and it is not this particular area here but it looks like current green space and that will become paved parking lot. I believe there was a fourth option where you changed EEC to a one-way road because it was only 22 feet wide, mentioning Jameson Hill Road, which is already a one way roadway. You said you worked with the Principals of the Schools, all three schools? What will you do with the trees? I have been very opposed from the very beginning and have been outspoken to the design issue. It doesn't make sense as far as safety. I think Jameson Hill Road is twenty two feet and E. Emerson Cummings Road is to be twenty one feet and I believe that at the beginning you mentioned that it would be a one way street. Is the \$32,000 contingency coming out of another account?

MARY ANN CONROY: I would never recommend EEC as a one way roadway and Jameson Hill Road is intended to stay as it is now. I have no recollection of ever suggesting that it be a one way street.

MARY ANN CONROY: I need to know if this first part of the project is a yes or no. The value of our dollars is the \$63,000. The paving was the additional \$60,000 that was taken out of the budget tonight but is still part of my desire in our next budget. I still think the landscaping is optional and believe in time we might be able to accomplish it. The total on this project is \$290,000. The contingency is part of the same account and is intended for unforeseen changes to the contract work.

CHAIR MACDONALD: We are still adding the 104,000 DOT grant – and appreciate your hard work in getting this - and also \$60,000 in kind and \$60,000 in the paving so now it is 104,000 plus the in kind service.

MARY ANN CONROY: We do a lot of in kind services for shared costs. If we have the equipment to do it it comes out of our operations.

CHAIR MACDONALD: Labor is not what the citizens are paying for. The Council is aware of what in-kind service is and what labor is.

MARY ANN CONROY: I just need to have a yes or no from the council. This contract was opened on February 11th and has not been awarded. I support it but whatever you want.

COUNNCILOR BOLDUC: There are several numbers here for phase one, phase two . I believe we have done some “fuzzy math” to make it look different.

COUNCILOR O'NEILL: “Fussy math” is not an appropriate way to phrase what is being done here. Council has not approved this. I am appalled that a gravel side walk comes back before us when we have new housing developments crying for sidewalks and the

sidewalk needs repair. It was substandard when I was in School and it is substandard now. It is appalling to me that we talk about putting in a gravel sidewalk. This project was worked on by the prior Council and the grant obtained through the work of Representative George Hogan who got us the project and by staff and staff sees the need. They should have taken no but we led them to believe there might be a glimmer of light and they brought it back. I would like to see this project move forward; do we need it? – we do - and the people living out there feel we need it. Let's just get this done. If we choose not to pave the road – the project stops. Let's capture the State money while we have a chance to take it. We are not wealthy enough to snub our noses at this free money opportunity.

MARY ANN CONROY: Due to the MDOT grant award, the contractors work was presented to the Council separately for their approval. The paving was taken out separately because operating budget funds for after July 1st were not yet approved by the Council.

COUNCILOR TOUSIGNANT: I think the landscaping be added to the Capital budget even though it was not recommended by the Department of Public Works.

COUNCILOR DAYTON: I don't understand why this agenda item has been so difficult. This will provide a safer way for the children and the seniors that live out near the High School. It will provide a shared bike and foot path. The Maine Department of Transportation does not give free money away easily.

CHAIR MACDONALD: I cannot vote for this considering the hard times that we are in and the \$60,000 in in-kind work could go toward other projects in our community which are in immediate need of attention. I appreciate what the Public Works Director has done to get this grant but I cannot vote for it at this time. We are not guaranteed any more State money. I have a problem allocating money for future projects to future Councils. I have issues with allocating money that we don't know if we have it. I would love to see it go through but we can't afford it. We did not direct Public Works to gravel it. There was no direction by anyone not to pave it. My gut says not to vote for it.

COUNCILOR O'NEILL: I am a little confused where we are allocating the \$340,000 for the project. It is not on the agenda and all that is on the agenda is the sidewalk. If that is all that they get – that is all they get. Where do you see that we are committing Town Councils down the road to additional plan?

CHAIR MACDONALD: It is in the 2010 capital projects.

COUNCILOR O'NEILL: Yes, it is in the 2010 capital projects budget but we are not voting on it tonight.

CHAIR MACDONALD: We have a multitude of unfinished projects and that is where my reservation comes from.

COUNCILOR DAYTON: When anyone presents something to me to make our kids safer I have a hard time voting against it. I do not feel it has to be eight feet. I understand the explanation. I have the same concern about gravel sidewalk. Explain gravel to me.

MARY ANN CONROY: The paths will be similar whether we use stone dust or reclaim product. They could be plowed, but it is again recommended by the DPW to pave the shared path.

MOTION: Councilor O'Neill motioned and Councilor Dayton Award the contract for E. Emerson Cummings Boulevard Sidewalk Project (Maine Department of Transportation [MDOT] Grant Program) to Peters Constructions in the amount of \$104,727.60; total amount of contract paid 100% by MDOT directly to contractor.

VOTE: Yea: Councilors O'Neill and Dayton.
Nea: Councilors Tousignant, Bolduc and Chair MacDonald.

5188 Discussion with Action: Award the contract to Peters Construction in the amount of \$192,244.75 from Account Number 31141-50869 – Capital Expense - Ross Road Reconstruction, with a balance of \$345,095.08.

MARY ANN CONROY: The Public Works Director explained the road improvements include removal of the existing undersized culvert on Ross Road with three, 72 inch diameter culverts. This new installation has been designed to accommodate a 50 year rainfall event, and prevent road washouts. Reconstruction work also includes rebuilding and raising 600 linear feet of paved road that passes over Mill Brook, and other miscellaneous work. Sixteen bids were received and reviewed by Wright-Pierce and the Director of Public Works at a public bid opening on March 26, 2009. A detailed bid package review, background checks, and confirmation on pricing was completed by Wright-Pierce; their findings support our recommendation to award this contract to the low bidder, Peters Construction. Their bid came in 40% below the engineer's estimate; we attribute this to the lack of work available to contractors at this time. This project is being funded by the bond package approved by the voters of OOB with a total budget not to exceed \$350,000. In accordance with the DEP permit, all in-stream work must be completed between July 1, 2009 and October 1, 2009; however, other related road reconstruction work can begin earlier. The public meeting went well on April 22nd and the residents are anxious to get this project started as soon as possible. One lane of traffic will be maintained for all but one week of this project. DPW has made some preliminary arrangements for mail delivery, emergency response and trash/recycling pick up; we will respond to any other specific needs of the homeowners in this area for the one week the road will need to be closed to all traffic.

Construction Cost Estimate: Funded with BOND FUNDS, as approved by the OOB voters.

Construction =	\$318,000
<u>Contingency =</u>	<u>\$32,000</u>
Total	= \$350,000

CHAIR MACDONALD: I am pleased to see this project move forward. The conditions on that road have been dire and the work needs to move forward in a timely manner.

MARY ANN CONROY: The construction bid of \$192,000 to replace an undersized culvert at Mill Brook with three 72-inch diameter culverts. The new system is expected to prevent road washouts. It will also provide for fish passage in accordance with requirements from the U.S.

Army Corps of Engineers, Federal Environmental Protection Agency, and Maine Department of Environmental Protection regulations. The project will also include 600 feet of road and installation of new guardrails.

COUNCILOR TOUSIGNANT: The money approved for the project was \$350,000. This agenda item notes the cost of \$192,244.75. You say you are accounting for overages. The number is not realistic. The contract is over \$150,000 not being used for this project.

MARY ANN CONROY: It is not overages. It is emergency changes that are required. The \$350,000 includes money for construction, engineering and inspection. The amount you are approving tonight is for the contract for the construction. The final project will not go over \$350,000. The total amount at this time that may be spent on this project is the \$350,000. The engineering, contractor and inspection costs all total the \$350,000. The contractor's bid came in 40% lower than the engineers estimate for the contractor's portion of the work to be completed. Change orders may occur in the field, such as the one that came up with the public meeting, and I would approve those on an as needed basis in the field. There is not enough time for each change order to a contract to go back to the Council. Similar occurrences will also happen for all the other bond projects. For example, Staples Street Sidewalk project has one change order for additional concrete work that totaled approximately \$3,500. We approved that change in the field and the total price for the project was not exceeded due to the contingency balance.

COUNCILOR DAYTON: We can't pay the bond back early but if we have left over funds – we can use those funds to pay back the bond or can go back to the voters to use any left over money from the bond. Use the money to pay back the bond – or go back to the people in referendum.

MOTION: Councilor Tousignant motioned and Councilor Dayton seconded to Award the Contract to Peters Construction in the amount of \$192,244.75 from Account Number 31141- 50869 – Capital Expense - Ross Road Reconstruction, with a balance of \$345,095.08.

VOTE: Unanimous.

5189 Discussion with Action: Authorize the Town to sign the Interlocal Stormwater Working Group (ISWG) Agreement Renewal along with a membership fee in the amount of \$7,500 from Account Number 20151-50508 – DPW Operating Fund – Sewer Maintenance, with a balance of \$8,320.98.

MARY ANN CONROY: The Public Works Director indicated that the Town of Old Orchard Beach is one of 28 municipalities in the State of Maine that is regulated for the discharge of stormwater from its municipal separate storm sewer system as a Stormwater Phase II community. The Stormwater Phase II program is an unfunded, federal mandate under the Clean Water Act to help preserve, protect, and improve the Nation's water resources from polluted stormwater runoff. The Town of Old Orchard Beach was issued a five year General Permit from DEP on June 3, 2008. Coverage under this General Permit expires on June 2, 2012. The regulated MS4s in Maine have found it beneficial and cost effective to work cooperatively on aspects of their Stormwater Phase II programs by creating regional stormwater working groups. In previous

years, the Town of Old Orchard Beach participated in the ISWG from the Planning Department's involvement; however, for various reasons participation dwindled until they were no longer considered active members and were dropped from the list. It is recommended that the Town of Old Orchard Beach rejoin the ISWG which will display a willingness to participate in stormwater planning on a regional level. Although it is not required, the Maine DEP hopes the Town will become involved again with the ISWG.

Annual Fee for ISWG Membership

Total Cost: \$ 7,500.00

MOTION: Councilor Dayton motioned and CouncilorTousignant seconded to Authorize the Town Manager to sign the Interlocal Stormwater Working Group (ISWG) Agreement Renewal along with a membership fee in the amount of \$7,500 from Account Number 20151-50508 – DPW Operating Fund – Sewer Maintenance, with a balance of \$8,320.98.

VOTE: Unanimous.

5190 Discussion with Action: Enactment of Emergency Ordinance Establishing Moratorium on “Head Shops.”

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

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

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

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

WHEREAS, the Town's current ordinances do not provide an adequate mechanism to regulate and control head shops; and **WHEREAS,** the Town's existing ordinances are inadequate to prevent the potential for serious public harm from the establishment and operation of head shops.

WHEREAS, the Town Council concludes that these circumstances constitute a public emergency within the meaning of Section 410.1 of the Old Orchard Beach Town Charter. **NOW THEREFORE,** be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings: “Drug Paraphernalia” has the meaning as in 17-A M.R.S.A. § 1111-A.

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

2. ESTABLISHMENT AND OPERATION OF HEAD SHOPS PROHIBITED. During the time this Ordinance is in effect, no person shall establish or operate a head shop.

3. APPLICATIONS NOT TO BE ACCEPTED OR ACTED UPON. During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Old Orchard Beach shall accept, process or act upon any application for any approval relating to the establishment or operation of a head shop.

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

5. EFFECTIVE DATE. This Ordinance takes effect immediately upon adoption and shall expire on the 61st day thereafter, unless earlier extended, repealed or modified by the Old Orchard Beach Town Council.

6. APPLICABILITY. Notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall apply to any proposal to establish or operate a head shop, whether or not an application or a proceeding to establish or operate a head shop would be deemed a pending proceeding under 1 M.R.S.A. § 302. **7. SEVERABILITY.** Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

MOTION: Councilor Dayton motioned and Councilor O’Neill seconded to Enact Emergency Town Ordinance Establishing Moratorium on “Head Shops.”

VOTE: Unanimous.

5191 Discussion with Action: Approve the Purchase of a Supervisory Control and Data Acquisition System (SCADA) from Results Engineering in the amount of \$363,400 from Account Number 21004-50846 – Capital – Waste Water, with a balance of \$497,527.

CHRIS WHITE: SCADA is a remote control and monitoring system that incorporates numerous pieces of electronic equipment communicating over a wireless frequency allowing employees to view the operational functions of the pump stations from a central location. Employees will have the option to adjust alarm parameters to suit the existing flow, weather or ‘seasonal population’ of the community. All alarms that occur outside of normal shift

hours at the pump stations or wastewater facility will be sent directly to employees via an auto-dialer that includes an accurate description of the alarm condition. The SCADA equipment specified as part of this proposal is consistent with that already in use and will be expandable for future upgrades. In October of 2008, the SCADA preliminary design report (PDR) was completed by Wright-Pierce and the total project cost was estimated to be \$510,000 using the traditional construction method. By discussing the data contained in the PDR and through joint meetings, I am pleased to present a proposal by Results Engineering to complete the design, construction and implementation for a cost of \$363,400. This project will forego the traditional role and cost of a general contractor as well as some of the oversight costs normally incurred by an engineering company. Both OOBWW staff and Results Engineering will be cooperating in the role of general contractor with Wright-Pierce acting as consultants. OOBWW staff will have input in final design and deliver a project that not only benefits the community, but saves on engineering and contractor overhead costs. Routine checking of pump stations will be reduced and staff will have the benefit of real time information before responding to alarms. As part of this particular project, pump station control panels will be mounted inside a painted steel 'traffic style' cabinets that will properly protect employees from electrical and weather hazards that now exist. Currently, most of the control panels lack as-built drawings due to age or prior repairs; blue prints will be furnished as part of the project. Having this information will make repairs easier, faster and safer. The funds for this project will be taken out of capital account #21004-50846 with a current balance of \$497,527. This account was created from past capital that was not expended and it is not a 'replenishing' account. Results Engineering will complete the final design, control panel construction, control panel testing prior to installation, coordination of construction phase, training and providing as-built drawings. Results Engineering is located in Saco, Maine; they have been building, programming and implementing control and monitoring systems for various clients in the New England area for 21 years. They were responsible for the installation of new Variable Frequency Drives (VFD's) at the Dune Grass pump stations and have consulted with town staff on the facility and West Grand pump station upgrades. They are currently the systems integrator for SCADA control at the Portland Water and Wastewater District. Their location creates a 'built-in' cost advantage to other purveyors of similar equipment during and after the project. Wright-Pierce has been consulted throughout the design process, review of final design and consultation throughout the construction process. Wright-Pierce is located in Portland, Maine and is currently working on the Comprehensive Wastewater Facility Study and West Grand pump station upgrade. Because of their prior knowledge, they were able to put together a preliminary design report (PDR) relating to the SCADA project that was completed in October of 2008. To date, these have been the only funds dispersed as part of this project. Nova Electric: All electrical services with assistance from OOBWW staff. Nova Electric has recently been designated for performing electrical repairs for the WW department. Tim Goulet is the owner and 30 years experience as a Master electrician. He has the ability to combine his services with other well qualified electricians if necessary, but prefers to work without the high overhead costs of other electrical companies that provide similar services. OOBWW staff will complete all posts, bracing and concrete construction and assisting Nova Electric with all electrical work. Staff will be required to maintain normal operations by using portable pumps while the changeovers are being performed. The OOBWW staff consists of seven full time employees, including the Superintendent. Construction and coordination will be the responsibility of the Superintendent and the Facility Foreman, Mike Hersey. Results Engineering will be designing, building and testing the entire SCADA system at their home office over the next twelve (12) weeks. After the design is finished, OOBWW staff will be pouring the cement and building the frames by which the control panels are mounted. The actual installation,

integration and programming will take place within a four (4) week period in September. During this time, OOBWW staff will be monitoring pump station operations by operating portable pumps while the changeovers take place. It will be necessary to acquire electrician services on a full time basis during these weeks and Mr. Goulet has indicated that he would accept somebody from OOBWW staff to work as his assistant. As time permits, Nova Electric will be performing work outside the SCADA project for this department or possibly in a consulting capacity for other town departments.

CHAIR MACDONALD: How much money do we save by getting rid of the monitoring fees and leased telephone lines?

CHRIS WHITE: I would estimate approximately \$5,000 annually.

CHAIR MACDONALD: Will the project reduce manpower needs?

CHRIS WHITE: Yes, as employees will now be monitoring the pump station operations from a central location.

COUNCILOR BOLDOC: What about training for use of this equipment?

CHRIS WHITE:

MOTION: Councilor Dayton motioned and Councilor Bolduc seconded to Approve the Purchase of a Supervisory Control and Data Acquisition System (SCADA) from Results Engineering in the amount of \$363,400 from Account Number 21004-50846 – Capital – Waste Water, with a balance of \$497,527.

VOTE: Unanimous.

5192 Discussion with Action: Accept un-audited March 2009 Financial Statement.

MOTION: Councilor Bolduc motioned and Councilor Dayton seconded to accept receipt of the un-audited March 2009 Financial Statement.

COUNCILOR O'NEILL: I do not understand the purpose of this item. We are presented the financials each month and I do not feel such a motion is necessary.

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

5193 Discussion with Action: Approve hours of Voter Registration office to be open in connection with the Regional School Unit Budget Validation Referendum to be held on June 9, 2009 as follows: Tuesday, June 2 from 8:00 a.m. to 6:00 p.m.; Wednesday, Thursday and Friday, June 3, 4, and 5 from 8:00 a.m. to 4:00 p.m.; and Monday, June 8 from 8:00 to 4:00 p.m.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to approve the Voter Registration hours as read.

VOTE: Unanimous.

GOOD AND WELFARE:

KEN SHUPE: Representing the OOB 365 Committee he expressed his appreciation to all who assisted and attended the recent OOB 365 event in the downtown. He thanked the Police, Fire, Public Works and staff for their assistance; the Council for their support; and the many business and citizen vendors who made this such an exciting and successful event. He spoke about the service provided by Rick Bryant who provided both of the bed trucks for the use by the bands and thanked the musical performers for their excellent entertainment.

MIKE TOUSIGNANT: He expressed everyone's appreciation for this outstanding event as well and wished the Committee continued success in their upcoming planned events.

PERRY CUNNINGHAM: Mr. Cunningham spoke about the deplorable condition of Puffin Street and Sea Breeze and the enormous drainage problems that are evident and the promised that has been made for at least three years that the problem will be taken care of but nothing has been done. He encouraged the Council to expend the funds to provide the means to curb the drainage problems that exist. Mr. Cunningham then introduced his granddaughter, Amanda Landry who was asked to read a letter from another neighbor.

AMANDA LANDRY: I would like to read a letter from Lois and David Silver of 4 Sea Breeze Avenue. "To the Town Councilors. Thank you for the opportunity to express the urgency of fixing the drainage problem in this particular area. We live at 4 Sea Breeze Avenue. The minute a rain shower or downpour of any kind begins, our driveway immediately fills up with water. Very often water goes into our basement. In order for us to get into our automobile we end up standing in a pool of water surrounding our car. This problem has persisted for many, many years and has caused a lot of damage to many of the surrounding homes. We have brought this matter to the attention of Public Works without any action being taken on their part. Thank you for your consideration. Sincerely, Lois and David Silver."

BOB GREENBLOTT: I live at 15 Puffin and I concur with everything that has been said and raid and the problem continues to persist. I would ask that you give immediate attention to our concerns.

MICHAEL KAPLAN: I live at 11 Puffin Street. I can't tell you what a problem this has been for our neighborhood. The problem has gotten worse every year and nothing has been done to address it so we have come tonight to ask that immediate consideration be given to addressing our problems.

CHAIR MACDONALD: We have heard you loud and clear and although

ADJOURNMENT:

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Adjourn.

VOTE: Unanimous.

Respectfully Submitted,

**V. Louise Reid
Town Council Secretary**

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of twenty-four (24) is a true copy of the original Minutes of the Town Council Meeting of May 5, 2009.

V. Louise Reid