

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, May 3, 2011
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, May 3, 2011. Chair Quinn opened the meeting at 7:05 p.m.

The following were in attendance:

**Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Shawn O'Neill
Councilor Robin Dayton
Councilor Sharri MacDonald
Town Manager Jack Turcotte
Assistant Town Manager V. Louise Reid**

ASSISTANT TOWN MANAGER: Mr. Chairman and Councilors: Our Town Clerk advertised this evening's meeting last Thursday as required by Charter but the Journal Tribune failed to print it in the Monday paper. Our documentation shows the agenda was sent and computer acknowledgement of receipt. As a result of this no official motion to accept or reject items will be done this evening but rather all items will be tabled until the May 11, 2011 meeting. There will, however, be discussion on Agenda Item Number 5397 – the Community Garden. It should also be noted that the two Public Hearings were advertised and meet the legal requirements for them to remain on this evening's agenda and since no vote is taken on these Public Hearing items, the two Public Hearings will continue as indicated. On the May 11, 2011 Special Town Council Meeting, the Council will consider each of the Tabled Items and vote on them accordingly. In addition the Council Chair will request a motion for an Emergency Special Town Council meeting following the adjournment of this meeting to address the request for a Warrant for RSU23 dealing with a window wall replacement project at the Loranger Middle School and the issuance of bonds.

VICE CHAIR TOUSIGNANT: I feel that with all the other items on this agenda being tabled that Agenda Item 5397 should be tabled as well. I don't understand why it should be any different.

ASSISTANT TOWN MANAGER: It was felt there would be a large number of individuals here to speak this evening on the Community Garden.

VICE CHAIR TOUSIGNANT: That may be true but there are people here for other agenda items as well.

CHAIR: In discussions about this it was felt that most of the other items on the agenda could be classified under a consent agenda item. Please call for the vote.

MOTION: Vice Chair Tousignant motioned to table item Number 5397 without discussion until the May 11, 2011 Special Town Council meeting.

VOTE: Yea: Councilors MacDonald, Vice Chair Tousignant and Councilor O'Neill
Nea: Councilors Dayton and Chair Quinn

CHAIR: I ask for a motion to call an Emergency Town Council Meeting following the adjournment of tonight's meeting.

CALL FOR EMERGENCY SPECIAL MEETING

MOTION: Vice Chair Tousignant motioned and Councilor MacDonald seconded to call for an Emergency Special Town Meeting following this evening's Council Meeting to Act on Warrant and Notice of Election calling a Regional School Unit Number 23 Renovation Bond Referendum for June 7, 2011.

VOTE: Unanimous.

PRESENTATIONS:

**Presentation to the Recreation Director
by Members of the Skateboard Park
Project**

Members of the Skateboard Park Project presented a check in the amount of \$1,220.97 to the Recreation Director, Jason Webber. Eric Santos, a member of the Recreation Committee, raised \$1,130.97 and there was an additional \$90 raised through the generosity of the Flatbread staff, the artists and all those who helped during the event.

The Town Manager explained that the Presentation on Solar Energy was cancelled due to a personnel change in the Company making the presentation.

ACKNOWLEDGEMENTS:

VICE CHAIR TOUSIGNANT: Another very successful event for the Town of Old Orchard Beach when we celebrated for the second year – **TASTE OF OLD ORCHARD BEACH**. Good food, great vendors, lots of enjoyable music and many opportunities to meet old friends and new ones. Thanks to OOB 365 for sponsoring this event and for all who participated in the Sunday event. To the Police, Fire and Public Works staff for their assistance, we are grateful.

ASSISTANT TOWN MANAGER: I wish to express sincere appreciation to Mr. David W. C. Putnam who this week again this year presented a check for \$600 to Councilor MacDonald

to be used in connection with our General Assistance Program. I wrote to Mr. Putnam and thanked him for his generosity and reminded him as I do each of us that “When one scatters abroad his or her gifts to the needy, his or her righteousness endures forever; his or her honor will be lifted up; a general man or women will prosper; he or she who refreshes others will find himself or herself refreshed.” In this difficult times, the generosity of those like Mr. Putnam are not taken for granted.

CHAIR QUINN: Thanks to the fifth grade students of Loranger School who graced and will grace our Town Hall as they Celebrate – Junior Achievement Shadowing Day. The four classes will have visited Public Works, Waste Water, Police and Fire before they attended their Town Council Mock Meeting during which time they served as Town Manager, Town Chair, Vice Chair and Councilors. They did themselves proud and it was obvious they had spent an enormous amount of time in preparation. We thank the teachers, the Town Staff, and the remarkable students for their participation as well as Carter and Helene Whittaker who provided sessions on Community Neighborhood Watch issues. This is the fifth year for these events and we continue to promote this as an annual event. I would also like to remind citizens that our next Budget Workshop is scheduled for Wednesday, May 11th at 7:00 p.m. here in Town Hall at which time we will address the Town Manager’s Budget, the Town Council Budget and also staffing issues.

TABLED ITEM: All items on this agenda are noted below and will be considered at a Special Town Council Meeting on May 11, 2011.

ACCEPTANCE OF MINUTES: Town Council Workshop of April 11, 2011; Town Council Workshop of April 14, 2011; Town Council Meeting of April 19, 2011; and Town Council Workshop of April 21, 2011.

PUBLIC HEARING NUMBER ONE: Shall We Amend Chapter 42, Parks and Recreation; Section 141 through and including Section 145; and Section 201 of the Town of Old Orchard Beach Code of Ordinance?

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

DIVISION 2. WATER TOYS

Sec. 42-141. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjacent tidewaters means the ocean waters along the shoreline of the town beach and extending for a distance of 300 feet from the beach, measured from the low water mark.

Commercial use means any no recreational use or any use or operation for profit, including but not limited to the storage or rental of water toys and no motorized watercraft.

No motorized watercraft means inflatable tubes, rafts, surfboards, sailboats, windsurfers, paddleboats and other no motorized floatation devices designed for recreational use.

To park means to put or leave a water toy or no motorized watercraft for a limited time on the town beach.

To store overnight means to put or leave an unattended water toy or no motorized watercraft on the town beach for any time period in excess of six hours or between the hours of 12:00 midnight and 5:00 a.m.

Town beach means that beach area and public parkland taken by the town for a public park on or about April 23, 1935, and May 5, 1935, the records of which are on file in the office of the town clerk.

Water toy means any motorized craft, vehicle, conveyance or device for carrying or transporting persons in or on the water, including but not limited to jet skis, powerboats, amphibious vehicles and rafts or other floatation devices pushed by, pulled behind or towed by a motorized boat.

(Ord. of 4-19-1988, § IV; Ord. of 5-3-1988; Ord. of 3-4-2008)

Sec. 42-142. Purpose.

The purpose of this division is to regulate certain uses of the town beach and adjacent ocean tidewaters, specifically, the use or operation of certain water toys and no motorized watercraft which may create a hazard to the public health, safety and welfare by endangering swimmers, distracting lifeguards from the performance of their duties, contributing to noise and water pollution, and otherwise interfering with the public's use and enjoyment of the town beach and adjacent tidewaters, particularly during the summer months when the town beach is most congested.

(Ord. of 4-19-1988, § III; Ord. of 5-3-1988)

Sec. 42-143. Enforcement.

This division shall be enforced by any lifeguard employed by the town, by any law enforcement officer, or by any other designated town official duly authorized to enforce this division.

(Ord. of 4-19-1988, § VIII; Ord. of 5-3-1988)

Sec. 42-144. Prohibitions and restrictions.

(a) It shall be unlawful and a violation of this division to engage in any commercial use or operation of any water toy or no motorized watercraft on or from the town beach.

(b) It shall be unlawful and a violation of this division to park, launch, use or operate any water toy on or from the town beach and in the adjacent tidewaters during the period June 21 through Labor Day of each year, except between 5:00 p.m. and 9:00 a.m.

(c) It shall be unlawful and a violation of this division to park any no motorized watercraft on the town beach in the area located between Union Avenue and Walnut Street, during the hours of 9:00 a.m. through 5:00 p.m., inclusive, between June 21 through Labor Day of each year.

(d) It shall be unlawful and a violation of this division to store on the town beach any water toy or no motorized watercraft during the period June 21 through Labor Day of each year.

(e) The use of no motorized watercraft other than surfboards is permitted and shall not be a violation of this division on and from the town beach and in the adjacent tidewaters. However, the chief lifeguard may prohibit or restrict the use of such no motorized watercraft when in his judgment factors, including but not limited to crowd conditions, weather conditions and tides, make such action necessary. The use of surfboards is prohibited except as allowed by subsection (f) and (g) of this section.

(f) The use of no motorized surfboards is permitted and shall not be a violation of this division in the following designated area of the town beach and adjacent ocean tidewaters: on the northerly side of the Old Orchard Pier from such pier to a point 125 yards from the pier. Such designated area shall be identified by appropriately placed signs, notices, ropes, buoys and/or other marks.

(g) The use of no motorized surfboards is permitted and shall not be in violation of this division along the entire town beach during the following dates and times:

(1) Between the dates of Labor Day and June 21, at all times; and

(2) Between the dates of June 21 and Labor Day, during the hours from 5:00 p.m. to 9:00 a.m.

(h) This section shall not apply to a marina; a passenger transportation service, such as excursion boats, charter boats, water taxis or water shuttles; ~~or~~ a waterborne amusement ride or a motorized water toy, which is: (i) operated at, to, from or adjacent to the pier or other such location as approved by the town council and; (ii) operated pursuant to an annual license issued by the town council under article II of chapter 18; and (iii) operated only in areas approved by the town council and marked off by buoys, ropes, floats or other devices designed to keep swimmers and bathers from entering the operations area. The town council may approve such an operation only upon finding that it will not create a hazard to the public health, safety or welfare by endangering swimmers, distracting lifeguards from the performance of their duties, contributing to noise or water pollution or otherwise interfering with the public's use and enjoyment of the town beach and adjacent tidewaters, and the town council may impose conditions to ensure compliance with such findings.*

*Notwithstanding the provisions of Title 1, section 302 of the Maine Revised Statutes, this amendment shall affect proceedings pending at the time of its passage.

(Ord. of 4-19-1988, §§ V, X; Ord. of 5-3-1988; Ord. of 6-6-2000; Ord. of 3-4-2008)

Sec. 42-201. Use of the beach areas.

No motorized or vehicular traffic of any kind may enter or use the beach for any purpose, with the exception of public safety vehicles and the town's public works vehicles, designated for public safety or beach cleaning purposes or vehicles authorized by The Town Council pursuant to a special amusement permit or pursuant to an annual license issued by the Town Council under article II of chapter 18.

CHAIR: The Public Hearing this evening is on an important issue and obviously many in the audience wishing to speak on it.

ANTHONY BARBANO: He indicated that he knew the item would fail because of the number of individuals in attendance this evening but that he felt the Councilors were making a big mistake in not permitting the opportunity for a new business opportunity and more entertaining opportunities for tourists and residents of the community.

HELENE WHITTAKER: I'd like to share some information received from DEP and the Fire Marshall's Office and from State Regulations that is important for Council to know.

On April 22, 2011, Pamela Parker of the Boatyard and Marine Compliance Division for the DEP in Maine was asked: "What is a reportable incident to DEP in Maine?" Her response:

"Any release that causes a sheen." Thus, the example used in Workshop of a drop or half gallon being okay because they'd be sucked right up by a boom, is NOT okay. It's a reportable incident and in direct violation of DEP regulations. Also important to note is

there's an explosion hazard when using such an absorption boom. On May 2, 2011 Barbara Parker, Director of Response Services, State of Maine DEP stated these two points:

The flashpoint for Gas is MINUS 50 degrees compared to the flashpoint of Diesel of PLUS 100 degrees. What that means is on the coldest day in Maine, gasoline will still ignite. Because of this, Gas is rated a Class I liquid—it's extremely volatile and requires considerable safety measures be taken. Ms Parker also stated: "Both the Town and the Licensee would be named as responsible parties for any spill that occurred in the water or on the beach. As responsible parties, they would be held responsible for the cost of any clean-up and/or restoration." Stephen Dixon, Sr. Engineering and Technical Services of the State of Maine's Fire Marshall's Office said "There are strict guidelines for the storage of gas in a controlled environment, such as a factory and referred to NFPA 30." Examining NFPA 30 shows these standards require things like specific fire suppression systems, special storage rooms or lockers which must meet standards and pass inspection, mandatory ventilation, and the containers cannot be in direct sunlight. The State hasn't addressed regulations for a commercial business transporting a 210lb container full of Class I flammable gas across a crowded beach, with those containers being exposed to direct sunlight from above and hot sand below. Given the volatile nature of gas and the drifting of gas fumes, other dangers to be addressed are static electricity, an open flame, perhaps from a passerby lighting a cigarette in the area, or even someone simply using their cell phone. A \$1M insurance liability policy must have a pollution rider. Depending on where a spill happens, how much was released, etc., \$1M doesn't go too far. In either case, if the insurance company determines negligence by either the Town, landlord or the insured operator, grounds could be found not to pay any claims that may come from the incident. The State of Maine is careful not to over-regulate activities normally performed by individuals, such as fueling their private jet skis, boats, or filling their lawn mowers from portable storage tanks. "Home Rule" applies. But this is NOT GOOD NEWS. As Ms. Parker said, the Town is responsible. What that means is it's up to the Town to be sure it identifies and plans for every possible incident that may occur, that it studies existing industry standards and common sense practices, and writes appropriate and full safety standards into its ordinance or the Town could leave itself open for a bevy of lawsuits and unpaid insurance claims. What all this tells me is there is much for all of us to consider before allowing this type of activity on the beach. And I thank Council for the time to present this information tonight.

PAT BROWN: I'd like to begin with this quote by the Lifeguard Captain. "There's a two-fold issue confronting the Council. First, do you want to open up the beach to that kind of activity? Secondly, the safety factor. The lifeguards are not hired to see that someone's enterprise is run safely, the ultimate responsibility will be on the Town". That quote was from the Lifeguard Captain in 1982. This very subject was on the Town Council agenda 29 years ago and although there was strong opposition, Council agreed to allow Jet Ski rentals on the beach. This practice abruptly ended in 1987 when Council completely turned around and banned the use of motorized water toys on the beach. What happened? Well, on July 25, 1985, a swimmer was hit by a jet ski. The very next week, at the Town Council meeting a citizen brought forward a complaint, stating "...skis are dangerous to swimmers...the Town should not risk being sued. ...skis are a public nuisance to the average beachgoer in terms of noise, odor and increase the area lifeguards must cover." He asked all motorized water toys be banned. ...we pride ourselves on our beautiful beach and then take 150 feet and say 'you can't swim there because of a small business'. Here we are again, 29 years later, looking at the same issues, harboring the same and even more concerns, and asking the exact same questions. In 1935, 86 property owners gave up their right to the Beach shore in order for the Town to make it a Public Park. People may be tired of hearing about this, but it's at the heart of what should and should not be allowed on the Beach. If those 86 property owners had not given up their rights, they'd still be able to launch whatever they wanted any time they wanted. Instead, beach rules say they must wait until after 5PM. And from watching what goes on during a great weather day on the beach, I totally agree with that rule. This quote states Council's responsibility as it's worded in the current ordinance: "The town council may approve such an operation only upon finding that it will not create a hazard to the public health, safety or welfare by endangering swimmers, distracting lifeguards from the performance of their duties, contributing to noise or water pollution or otherwise interfering with the public's use and enjoyment of the town beach and adjacent tidewaters," Unless Council has every confidence it's complying with this directive, they run the risk of exposing themselves and the Town to lawsuits. Just ask the prior Old Orchard Beach lifeguard and Council Chair who were sued in 1986 by a Jet Ski business owner. Back then suits were in 100's of 1,000's of dollars, today they start in the MILLIONS. Do you believe those 86 people ever envisioned the Town allowing a Commercial operation with the potential of polluting that very shoreline they entrusted to Council to protect? An operation disruptive to swimmers, sunbathers and beach goers alike? What would they think of a business that requires blocking off sections of the shore to the very people they wanted to enjoy it-- the walker, swimmers and sunbathers.

People are riled up enough to want something done right now to protect the original wishes from 1935 and establish safeguards for generations to come. Does Council think this type of operation is any more welcome today than it was 29 years ago? But how do you effectively re-write this ordinance to do that without impeding consideration of ideas with merit? Honestly, I don't know. I thought I did, but every time I wrote something, it had the potential to cause all kinds of "Unintentional Consequences". So instead of stating what I don't know, I'd like to state what I do: First, Town Council needs to eliminate and take all currently proposed changes to this ordinance off the table. Next, Shoreland Zoning must be re-examined for allowed uses that would currently give an entity the right to construct something on the beach.

The Town's attorney identified 3 ordinance changes necessary to allow a Jet Ski rental operation utilizing the beach. For Shoreland Zoning, he proposed adding this footnote:

“Except that functionally water-dependent recreational uses may be allowed on the beach and in the adjacent tidewaters pursuant to a license issued by the Town Council under Article II of Chapter 18.”

Quite a mouthful, isn't it? Well, in plain English, if this footnote change was approved and the jet ski license granted, Item #23 on that very same Table gives the Jet Ski license owner the right to build accessory structures on the beach. He would have the right to put up a hut, or whatever else falls under “accessory structure”.

TALK ABOUT UNINTENTIONAL CONSEQUENCES!

I'm NOW aware of at least two other sections (#20 and #30) that also appear to allow for buildings on the beach. So I am asking Council to first take the option of adding this footnote off the table. And then have the appropriate Town entity specifically explain exactly what is meant and allowed by Sections 20, 23 and 30 in the Land Use Table. Do they allow for building on the beach? If so, who can build, why and is this what we want to allow? Are these conditions clearly written and defined so that anyone sitting on Council for years to come will know what was meant by this document? I ask for the response to each of these questions for each of these sections be presented in writing and in simple terms so we can all understand if our wishes have been met. I am also asking every person who cares about buildings on the beach to take responsibility--be sure you get and understand the answers to these questions. Last, but not least, the real solution in all this is a plan. We won't know what needs to happen to the Ordinance until we have a real plan. I have to admit I got tired of hearing Councilor Dayton asking for a Comprehensive Plan and I apologize for not taking the time to understand the significance until now. Thankfully the process has started. We have a Comprehensive Plan Committee in place so timing is perfect for this final request. Establish a Comprehensive Plan Sub-committee to formally gather and research ideas and suggestions from the public beginning with our own Town residents, being sure to include families who frequent the beach with children, and retirees, as well as businesses dependent on the Beach for their livelihood, and tourists. This Sub-committee would consult and work with, but be independent from, any existing groups in Town. Their research results will be used to formulate concepts to be presented to the Comprehensive Plan Committee. The outcome of such work would be to develop and present a strategy and plan outlining what will ultimately define the landscape of our beach and its shorefront for generations to come. I believe this is the most important thing I have to say this evening. This issue really hit my heart when I heard my 8 yr old Grandson's reaction. Cole was horrified and asked “what's going to happen to the fish?” He's counting on you, Council, to protect this beach now and for all generations to come. Thank you for the opportunity to present this information and I'd like to close with these two quotes: "Americans learn only from catastrophe and not from experience" —Teddy Roosevelt: “Those who fail to learn from history are doomed to repeat it”—Winston Churchill

Specific Points Requested To Be Addressed:

1. **First, Town Council needs to eliminate and take all currently proposed changes to this ordinance off the table.**
2. **Next, Shoreland Zoning must be re-examined for allowed uses that would currently give an entity the right to construct something on the beach. The Town's attorney identified 3 ordinance changes necessary to allow a Jet Ski rental operation utilizing the beach.**
 - a. **For Shoreland Zoning, he proposed adding this footnote: "Except that functionally water-dependent recreational uses may be allowed on the beach and in the adjacent tidewaters pursuant to a license issued by the Town Council under Article II of Chapter 18."**
3. **I am requesting Council to first take the option of adding this footnote off the table.**
4. **have the appropriate Town entity specifically explain exactly what is meant and allowed by Sections 20, 23 and 30 in the Land Use Table.**
 - a. **Do they allow for building on the beach?**
 - b. **If so, who can build, why and is this what we want to allow?**
 - c. **Are these conditions clearly written and defined so that anyone sitting on Council for years to come will know what was meant by this document?**
5. **I ask for the response to each of these questions for each of these sections be presented in writing and in simple terms so we can all understand if our wishes have been met. I am also asking every person who cares about buildings on the beach to take responsibility--be sure you get and understand the answers to these questions.**
6. **Establish a Comprehensive Plan Sub-committee to formally gather and research ideas and suggestions from the public beginning with our own Town residents, being sure to include families who frequent the beach with children, and retirees, as well as businesses dependent on the Beach for their livelihood, and tourists. This Sub-committee would consult and work with, but be independent from, any existing groups in Town. Their research results will be used to formulate concepts to be presented to the Comprehensive Plan Committee. The outcome of such work would be to develop and present a strategy and plan outlining what will ultimately define the landscape of our beach and its shorefront for generations to come.**

ROGER SMITH: I request that Dr. Yamartino's letter be read.

COUNCILOR DAYTON: I am requesting that the letter from Doctor Robert J. Yamartino, PhD, be read in the Minutes. Does it have to be read into the Minutes or can it just be included in the Minutes.

ASSISTANT TO MANAGER: I can put Dr. Yamartino's letter in the Minutes as it appears in his written documentation.

Robert J. Yamartino, Ph.D.
191 East Grand Avenue, Unit 206
Old Orchard Beach, Maine 04064

April 28, 2011

Town Council
Town Hall
1 Portland Avenue
Old Orchard Beach, ME 04064

Dear Councilors,

This letter is in reference to the proposed changes to the Code of Ordinances (COA), Chapter 42, Article IV, Division 2 dealing with "Water Toys" and more specifically personal watercraft (PWC and aka. jet skis).

I have been an owner of a condominium unit in Old Orchard Beach since 1988, and have been a voting Town resident since 2000. Over the years, I have observed that the Town has placed ever-stricter regulations on permitted uses of the Town Beach, most notably: the prohibition of the launching of personally-owned motorized watercraft from the beach and significant restrictions on the use of surfboards. While the COA does not provide a rationale for these restrictions, one might presume that the safety of swimmers was of paramount concern. In the case of the PWC restriction, one might presume that minimization of pollution from noise, operating emissions, and fuel/oil spills provided added rationales. I do know that the added restriction on powered boats caused some owners to sell their condominium units and move elsewhere, so these Ordinance changes do have real impacts.

Now one reads that the Town Council is proposing to consider allowing a commercial venture to rent out PWCs from the beach. This would represent a reversal of the Council's previous objectives of reducing pollution and risk to swimmers. While the shift from two-cycle PWCs to four-cycle models does yield less noise and pollution, the increased weight of these newer PWCs and their longer stopping distances results in greater risks to swimmers. In fact, **allowing operation of rented PWCs would represent an increase in risks far greater than those posed by the already-prohibited, individually-owned boats and PWCs.**

The basis for the above assertion comes primarily from two U.S. Government reports^{1,2} which indicate that:

- PWCs accounted for 22% of 2009 boating accidents, resulting in 878 injuries and 42 deaths.
- Over 60% of PWC-related 2009 deaths resulted from blunt trauma (e.g., hitting a swimmer).
- PWCs become un-steerable projectiles when the throttle is released, a fact not understood by the majority of inexperienced PWC renters; thus, inhibiting them from avoiding collisions.
- Inattention, inexperience, excessive speed, and alcohol rank as the top factors in accidents.
- PWC jumping of waves and boat wakes is a major factor leading to loss of control and accidents.

¹ U.S. Coast Guard, 2010, Recreational Boating Statistics 2009. COMDTPUB P16754.23, Washington, DC, 78 pp.

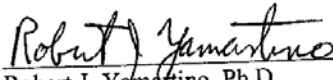
² National Transportation Safety Board, 1998. Safety Study NTSB/SS-98/01. Washington, DC, 98 pp.

I can personally attest to the fact that current PWCs at OOB often engage in wave-jumping well within the legal 200-foot minimum distance from shore. Such wave-jumping activity is almost irresistible for a PWC operator, but is unfortunately very dangerous given the reduced control during such jumps and the proximity to swimmers and bathers. Unfortunately, Old Orchard Beach also lacks the personnel and equipment needed to enforce the 200-foot minimum distance from shore for PWC operation at speeds exceeding headway speed. **In short, having PWC rentals at OOB would combine the personal injury risk factors of (1) inexperienced operators, including first-time PWC users; (2) near-shore waters crowded with swimmers and bathers; and, (3) frequently rough water conditions (e.g., breaking waves) that reduce PWC control particularly within 200 feet of shore and at headway speeds. Any intake of alcohol would, of course, further increase the risk of personal injury.**

Therefore, I request that the Town Council withdraw its support for making this change to its Ordinances.

Thank you for considering my concerns. If you have any questions, I may be reached via email at rjy@maine.rr.com.

Sincerely,


Robert J. Yamartino, Ph.D.
Environmental Physicist

cc: Mr. Jack Turcotte, Town Manager

SEAN MCGRATH: He appealed to the Council to consider this ordinance allowing a personal watercraft rental business which he had proposed with fellow business owner Anthony Barbano.

VICE CHAIR TOUSIGNANT: “It is a moot point.” He explained that before Mr. McGrath had arrived that he had changed his opinion and would not support the proposed ordinance. He indicated that he had received many phone calls, e-mails and letters from citizens concerned about the proposed ordinance change. He said, “My phone hasn’t stopped ringing. I have not had one person call me and tell me it is a good idea.

COUNCILOR SHAWN O’NEILL: He said, “The watercraft issue is dead. It’s not going to happen.”

COUNCILOR MACDONALD: She asked for a description of “water toys” She also indicated that the purpose of discussions was consideration for bringing new business opportunities to our community and at the same time provide more entertainment opportunities for the thousands who visit our community.

CAROL CLEMSON: She asked an explanation of whether there are boat launches in Old Orchard and was told there were none and seemed surprised that we have seven miles of beach where craft cannot land.

COUNCILOR ROBIN DAYTON: She indicated she had received 97 correspondences from citizens regarding the personal watercraft issue and not one person was favorable to the idea. “It certainly shows how important the beach is to the community.” She indicated that she was happy with it dying.

CHAIR: I close this Public Hearing at 7:55 p.m.

PUBLIC HEARING NUMBER TWO: Shall We Revise Chapter 50, Article II, Sidewalks, Amending Sections 50-52, 50-53, 50-58, 50-148, 50-172, 50-241 and 50-243 adding Sections 50-150 and 50-249 of the Town of Old Orchard Beach Code of Ordinances?

CHAIR: I open this Public Hearing at 7:56 p.m.

The Ordinance Committee has finished the review of the above ordinance and recommends the following changes:

Chapter 50 Streets, Sidewalks and other Public Places

Throughout the Ordinance, where the words Public Works Foreman were found, it was replaced with Public Works Director.

Sec. 50-52. Construction by town or abutting landowners. These changes require the owner to obtain three bids. The Town is only responsible for the low bid, but the

owner can hire the high bid and pay the difference. This required Town Council Approval.

Sec. 50-58. Lien procedure. A typo (CUBING) was corrected with "Curbing".

Sec. 50-148. Permanent resurfacing of pavement. Changes to this section better define how a road must be repaired after a street opening as suggested by the Public Works Director.

Sec. 50-150. Excavator license. At the request of the Public Works Director, this section requires a license for excavators that work within the Town Right of Ways.

Sec.50-249. Sidewalk Cafés. This section would allow for restaurants to have sidewalk cafés. We will be asking that the Town Council set the fee at \$100.00 bas plus \$2.00 per sq.ft. of Town sidewalk. (This is the same square footage price as The City of Portland)

Chapter 50 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***Cross references:** Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the town saved from repeal, § 1-9(a)(5); any ordinance establishing and prescribing the street grades of any street in the town saved from repeal, § 1-9(a)(10); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-9(a)(11); department of planning and development, § 2-472; dogs on beach, public streets and sidewalks, § 14-6; environment, ch. 26; urination in public or outdoors, § 38-56; outdoor vending machines, § 38-271 et seq.; parks and recreation, ch. 42; traffic and vehicles, ch. 54; play streets, § 54-103; narrow streets, § 54-150; parades and processions, § 54-246 et seq.; obstructions on public streets, § 54-276; utilities, ch. 58; vehicles for hire, ch. 62; buildings and building regulations, ch. 66; subdivisions, ch. 74; street design and construction standards, § 74-306 et seq.; zoning, ch. 78; street trees, § 78-1771 et seq.; manufactured housing, § 78-2056 et seq.

State law references: Nuisances, 17 M.R.S.A. § 2802; obstructing public ways, 17-A M.R.S.A. § 505; removal of obstructions, 23 M.R.S.A. § 3452.

Article I. In General

Secs. 50-1--50-25. Reserved.

Article II. Sidewalks

Division 1. Generally

Secs. 50-26--50-50. Reserved.

Division 2. Construction and Maintenance

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ARTICLE I. IN GENERAL

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ARTICLE II. SIDEWALKS

DIVISION 1. GENERALLY

Secs. 50-26--50-50. Reserved.

DIVISION 2. CONSTRUCTION AND MAINTENANCE

Sec. 50-51. Sidewalks and curbing required.

Where a nonresidential development or a multifamily residential development, as defined by chapter 78, abuts any accepted street and a sidewalk satisfactory to the public works department has not already been provided, a sidewalk and curbing shall be provided along the entire street frontage of the lot. If either a sidewalk or curbing, but not both, shall exist at such location which is satisfactory to the public works department, only a sidewalk or curbing, as the case may be, shall be provided. In either case, such sidewalk and curbing shall be constructed in accordance with the specifications of chapter 74 and to the satisfaction of the public works department at no cost to the town prior to issuance of any certificate of occupancy for such development.

(Ord. of 3-17-1987, § 1)

Sec. 50-52. Construction by town or abutting landowners.

(a) Notwithstanding section 50-51, the town council may at any time direct the construction of a sidewalk or curbing or both along any accepted street in the town. Such sidewalk or curbing shall be constructed by the town, and the cost thereof shall be borne by the town.

(b) Sidewalks or curbing or both may be ordered by the council upon petition of an abutting landowner, and one-half of the cost thereof shall be assessed to such abutting landowner and shall be collected by the town in the manner provided in sections 50-57 and 50-58. [The landowner is required to submit three competitive bids. The Town Council, based on the recommendation of the Public Works](#)

Director, has the option of selecting to pay half of the lowest bid, but the homeowner has the right to choose any contractor. The Town Council also has the right to reject any and all bids.

Sec. 50-53. Reconstruction; assessment of cost.

(a) The Town Council may at any time direct the reconstruction of any sidewalk or curbing which has been constructed along any accepted street by other than the town and which has not been accepted as the responsibility of the town. Such sidewalk or curbing shall be reconstructed by the town, and the cost thereof shall be borne by the town.

(b) Such improvements may be ordered by the council upon the petition of an abutting landowner, and one-half of the cost thereof shall be assessed to such abutting landowner and shall be collected by the town in the manner provided in sections 50-57 and 50-58. The landowner is required to submit three competitive bids. The Town Council, based on the recommendation of the Public Works Director, has the option of selecting to pay half of the lowest bid, but the homeowner has the right to choose any contractor. The Town Council also has the right to reject any and all bids.

(Ord. of 3-17-1987, § 2)

(Ord. of 3-17-1987, § 3)

Sec. 50-54. Waiver or amendment of requirements.

(a) Except as otherwise provided in this division or in chapter 74, the town council may, upon application to it in writing, waive or amend by order the requirement of sidewalks or curbing when it finds that the circumstances in the specific case warrant such waiver or amendment; however, no such order shall be construed as waiving the requirement of cost apportionment, assessment and collection unless expressly stated therein.

(b) When any multifamily residential development is reviewed by the planning board as a conditional use pursuant to chapter 78, the planning board shall have the authority to waive or amend the requirements of this division in the same manner as the town council is authorized to do by this section. Any waiver or modification by the town council or by the planning board shall be upon a like finding and upon the same terms and conditions as are set forth in section 74-34 pertaining to variances and waivers.

(Ord. of 3-17-1987, § 4)

Sec. 50-55. Substitution of materials.

The public works director may permit the substitution of other types of materials for sidewalks or curbing when, in the sole and exclusive judgment of the public works director, he finds such substituted materials to be equal to or better than the materials required in this division.

(Ord. of 3-17-1987, § 5)

Sec. 50-56. Service ways and curb cuts; removal of sidewalks and curbing.

The design and location of service ways and curb cuts and sidewalks and curbing shall be as approved by the public works department. No additional service ways or curb cuts and no alterations in the existing service ways or curb cuts shall be made without the prior consent of the public works department, and no such sidewalk or curbing shall be removed except by the town through its duly authorized agents or as authorized by a permit issued by the public works department.

(Ord. of 3-17-1987, § 6)

Sec. 50-57. Work done by town; lien.

The public works department is authorized in accordance with this division to construct or reconstruct sidewalks or curbing along any accepted street in the town, provided that appropriation has been made for such purpose, and the town shall have a lien on the abutting property to which one-half of the expense thereof is properly assessable pursuant to this division.

(Ord. of 3-17-1987, § 7)

Sec. 50-58. Lien procedure.

(a) The public works department shall keep an accurate account of the expense of work under this division and shall, as soon as practicable after the completion thereof, make a return showing the following:

- (1) The location of such sidewalk or curbing;
- (2) Its length and width;
- (3) The material of which it is constructed;
- (4) The cost of construction; and
- (5) The names of the owners of the abutting property with the amounts properly chargeable against each.

(b) Within one year after the completion of such work, the town council shall assess upon the abutting properties their just proportion of the cost thereof, and all assessments so made shall constitute a lien on the property in the manner provided for the collection of sewer assessments in the town, except that no owner shall be assessed for more than 200 feet in length of sidewalk or ~~curbing~~ curbing on any one street in front of any unimproved lots or parcels of land.

(Ord. of 3-17-1987, § 8)

Sec. 50-59. Repair and maintenance.

The public works department is authorized as it deems expedient or necessary to repair and maintain, at the sole expense of the town, sidewalks or curbing previously constructed by the town or constructed under this division, provided that any sum expended for such work has been previously appropriated by the town council for such purpose. The public works department is further authorized, whenever it deems such work expedient or necessary because of a dangerous or hazardous condition, to make spot repairs at the sole expense of the town on any type of sidewalk, however constructed, provided sums have been appropriated for such purpose.

(Ord. of 3-17-1987, § 9)

Secs. 50-60--50-85. Reserved.

ARTICLE III. STREETS

DIVISION 1. GENERALLY

Secs. 50-86--50-110. Reserved.

DIVISION 2. NAMING AND NUMBERING

Sec. 50-111. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driveway means any access road to private property that is wholly contained within the boundaries of that property.

Property means any land parcel on which a more or less permanent structure has been erected or could be placed.

Street means a public or private way which affords the principal means of access to abutting properties.

(Ord. of 4-1-1997, § 4)

Cross references: Definitions generally, § 1-2.

Sec. 50-112. Purpose.

The efficient and effective public safety operations are inhibited by the inconsistent street numbering process and the similarity of names of many streets within the town. It is the desire of the town to fully protect the lives and property of the town's residents. The purpose of this division is to facilitate the rapid location of properties by law enforcement, fire, rescue and emergency medical services.

(Ord. of 4-1-1997, § 2)

Sec. 50-113. Enforcement and penalty.

This division shall be enforced by the public safety director, who shall give written notice to any owner or person in charge of a dwelling, place of business or building, advising that person of a date by which the person or owner must comply with this division. If the person to whom the notice is addressed does not correct the violation by the compliance date, such person shall commit a civil violation.

(Ord. of 4-1-1997, § 9)

Sec. 50-114. Designation of street names.

(a) The town council shall assign names to all existing and proposed streets within the town. A street name assigned by the town shall not constitute or imply acceptance of the street as a public way.

(b) No two streets shall be given the same name or similar names (e.g., Pine Lane, Pine Road). If duplication is found in existing street names, precedence shall be accorded the street which has held the name the longest or the one which has the greater number of abutting developed properties. No two streets shall have similar-sounding names (e.g., Beech Street and Peach Street).

(c) Current names of streets shall not be changed unless they are classified as prohibited as specified in subsections (a) and (b) of this section. Whenever practical, names for streets will be selected by the residents and property owners associated with the street when the road does not currently have an acceptable name.

(d) Prior to changing the name of any existing street, the town council shall hold a public hearing, which notice shall be posted and published at least ten days prior to the hearing. The notice shall include the date, time and place of the hearing. All property owners of record relative to the street name change shall be mailed a notice of hearing at least ten days prior to the hearing.

(e) Names shall not contain hyphens, apostrophes or non alphabetic characters and shall not have more than a total of 30 characters and spaces.

(f) The design and style of street name signs and letters of accepted streets within the town shall be provided by the public works department.

(g) The entrance road to a mobile home park will be assigned a name, which it will bear for the entire distance throughout the park. The operator of the mobile park shall not name any street within the park that is not in compliance with this division.

(h) If there are three or more developed parcels that abut a private lane or way, the owners of those lots may petition the town council to name the private way. The assessor shall issue street numbers for that street. It will be the sole responsibility of the owners to maintain a street sign at the entrance to the private way in accordance with the public works department's standards for public road signs. The name of the private way shall not conflict or sound similar to any existing street name.

(Ord. of 4-1-1997, § 5)

Sec. 50-115. Designation of street numbers.

(a) The assessor, after consulting with the police chief, shall assign a street number for each dwelling, place of business or building of any type capable of use or occupancy on any street.

(b) The assessor shall keep a record of all numbers assigned under this division.

(c) Upon assigning a number to any new dwelling, place of business or building, the assessor shall send written notice of the assigned number to the owner, occupant or person in charge of the dwelling, place of business or building. Any owner, occupant or person in charge of a dwelling, place of business or building which is numbered and not in compliance with this division shall also be notified to change the existing number by the procedure set forth in subsection (a) of this section.

(d) Where a building contains more than one dwelling or place of business, the assessor shall determine whether each dwelling, place of business or building shall be assigned its own street number or whether, because of the quantity or configuration of the dwellings or places of businesses, only one street number should be assigned to the building.

(Ord. of 4-1-1997, § 6; Ord. of 1-6-1998)

Sec. 50-116. Display of numbers.

(a) The number of the dwelling, place of business or building shall be displayed upon the front of the building on the side facing the street. The number shall be plainly visible from the street. Houses or buildings that are set back out of view from the road shall have a post or sign at the driveway entrance upon which shall be affixed the specified number.

(b) Numbers shall be in Arabic figures, no less than three inches in height and a one-half inch stroke, and shall contrast in color with the color of the building or background to which they are affixed.

(c) No person shall affix or allow to be affixed a different street number from the one designated by the assessor.

(Ord. of 4-1-1997, § 7)

Sec. 50-117. New or renovated property.

(a) The code enforcement officer shall not grant a building permit for any dwelling, place of business or building until the assessor has assigned a street number to the dwelling, place of business or building.

(b) Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, the requirements of subsection (a) of this section shall apply to applications for subdivision approval, building permits and certificates of occupancy pending on the effective date of the ordinance from which this section derives, except that no such approval, building permit or certificate of occupancy shall be withheld if the assessor has not yet assigned a street number to the property at the time when the application is otherwise in order for approval.

(c) Developers of subdivisions shall be required to erect signs naming streets within each approved subdivision at the onset of the construction phase. Signs shall be approved by the public works director.

(Ord. of 4-1-1997, § 8)

Secs. 50-118--50-145. Reserved.

DIVISION 3. EXCAVATIONS

Subdivision I. In General

Sec. 50-146. Effect of noncompliance.

If for any reason there is noncompliance with this division, by the applicant, of the specifications established by the town, the foreman of public works shall direct that the repair work be done at the expense of the applicant.

(Ord. of 9-18-1984, § IV)

Sec. 50-147. Temporary resurfacing of trench.

Temporary resurfacing of a trench excavation shall be completed within 48 hours of the initial excavation. A 12-inch aggregate sub base to be compacted in six-inch loose depths shall be installed. Existing surfaces of the pavement shall be cleaned, which will be bonded to the temporary pavement. Material shall consist of three-inch grade B hot bituminous concrete or bituminous cold mix during winter months. Temporary pavement shall be maintained smooth and free from potholes

to a required grade for a period of 30 days. Temporary pavement areas shall be periodically inspected and repaired as necessary, especially during winter months when temporary pavement remains in place for an extended period. The public works director shall have the authority to order repairs done by the contractor to areas which, in his opinion, are in unsatisfactory condition.
(Ord. of 9-18-1984, § I(d); Ord. of 3-4-1986)

Sec. 50-148. Permanent resurfacing of pavement.

Permanent resurfacing of a pavement excavation shall be completed within 30 days of the initial excavation. Existing paving shall have edges sawed to provide a vertical bonding face. The contractor will also saw to the depth of 1" the surface pavement course to a minimum of 12" in all directions from the excavation and grind/mill this area to the 1" depth. Existing paving and surface material so cut shall be removed and replaced with a 12-inch aggregate subbase in six-inch loose depth lifts. A tack coat shall be applied to the cut edges, and a two-inch binder course shall be placed over the entire excavated surface and roller compacted. A one-inch state mix shall be applied over the entire excavated surface and the 1' wide minimum surface course beyond the excavation in all directions and roller compacted. All aggregates shall conform to section 704 of state department of transportation specifications. All bituminous hot or cold concrete shall conform to section 702 of state department of transportation specifications.
(Ord. of 9-18-1984, § I(e); Ord. of 12-18-1984; Ord. of 3-4-1986)

Sec. 50-149. Traffic control.

If, in the judgment of the foreman of public works, traffic control is necessary for an excavation, the applicant for the permit required in subdivision II of this division shall, at his cost, provide such control as may be required.
(Ord. of 9-18-1984, § I(g); Ord. of 12-18-1984)
Secs. 50-150--50-170. Reserved.

Sec. 50-150. Excavator license.

No person or utility shall excavate in a public place without holding a valid excavator's license and obtaining a street opening permit as provided in division 2 of this article, for such work from the Town. The public works department shall issue the excavator's license upon receipt of an application therefor and the annual license fee of \$100 after having satisfied himself or herself of the competency and ability of the applicant to carry on the business of excavating. Persons or utilities without a previous work history with the Town may be required at the discretion of the director to submit references from responsible municipal officials from other municipalities. No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit or to do any work under this license; provided, however, that nothing herein shall be construed to prohibit a licensed excavator from doing such work through an authorized agent or employee who is directly and continuously supervised by him while in the performance thereof. A license issued to an excavator may be revoked after notice and hearing, if it is determined by the Town that the licensed

[excavator has willfully disobeyed any portion of this article or the rules and regulations.](#)

Subdivision II. Permit

Sec. 50-171. Required.

It shall be unlawful for any person to dig up, excavate, tunnel, undermine, or in any manner break up any street or to make or cause to be made any excavation in or under the surface of the street for any purpose or to place, deposit, or leave upon any street any earth or other material obstructing or tending to interfere with the free use of the street, unless such person shall have first obtained an excavation permit from the public works department.

(Ord. of 9-18-1984, § I(a))

Sec. 50-172. Application.

(a) No excavation permit shall be issued unless a written application for the issuance of the permit is submitted to the director of public works [for review and approval.](#)

(b) The application shall state the following:

- (1) The name and address of the applicant;
- (2) The nature, location and purpose of the excavation;
- (3) The date of commencement of the excavation; and
- (4) The date of completion of the excavation.

(c) The application shall be accompanied by a plan showing the extent of the proposed excavation work, including its location and the dimensions and elevations of the proposed excavated surfaces and such other information as may be reasonably required by the director of public works.

(d) The application shall be accompanied by proof of notice to the utilities as provided in 23 M.R.S.A. § 3360-A(3).

(Ord. of 9-18-1984, § II; Ord. of 12-18-1984)

Sec. 50-173. Fees.

(a) A deposit shall accompany each written application for an excavation permit and shall be posted and held by the town treasurer until the applicant has complied with all specifications of this division. The deposit shall be in the form of a certified check made payable to the town according to the rates specified in the schedule of license, permit and application fees in appendix A of this Code. The deposit shall be forfeited to the town if the foreman of public works determines that the repair work is not properly accomplished within the specified time period.

(b) An application fee as specified in the schedule of license, permit and application fees in appendix A of this Code shall be paid for each issuance and renewal of the excavation permit.

(c) Public utilities or districts may be exempt from posting a deposit only at the discretion of the public works foreman.

(Ord. of 9-18-1984, § III; Ord. of 12-18-1984; Ord. of 3-4-1986; Ord. of 9-19-1995; Ord. of 4-1-2003, § 2)

Sec. 50-174. Dates limited.

Excavation permits shall only be issued from April 1 to October 31 unless an emergency or special situation exists. A written explanation shall be submitted to the foreman of public works notifying him of the special situation or emergency prior to the issuing of a permit during the months of November 1 through March 31. (Ord. of 9-18-1984, § I(b); Ord. of 12-18-1984)

Sec. 50-175. Starting date.

Excavation work must be started no later than 30 days from the date of issuance of the excavation permit. After the expiration of the 30-day period, such excavation permit shall become null and void and shall be renewed. (Ord. of 9-18-1984, § I(c))

Sec. 50-176. Moratorium after reconstruction.

A three-year moratorium, except for emergency or special situations, on the issuance of any excavation permit is in effect after the completion of a newly reconstructed roadway. (Ord. of 9-18-1984, § I(f))
Secs. 50-177--50-205. Reserved.

DIVISION 4. IMPROVEMENTS

Sec. 50-206. Applicability.

This division shall apply to proposed streets, as defined in section 50-207, shown on a plan or a plat recorded in the county registry of deeds prior to two years before the effective date of the ordinance from which this division derives. (Ord. of 8-15-1989, § B)

Sec. 50-207. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting lot means any lot which is adjacent to and bounded by a proposed street, including lots located at the end of a dead-end street or cul-de-sac.

Accepted means accepted as a town way by the town council.

Construct means to build a roadway in compliance with the requirements of chapter 74 pertaining to subdivision review standards or, when the right-of-way width of the proposed street makes such compliance impossible or impracticable, in compliance with reasonable design and construction specifications approved by the town council.

Current value means the value of land and buildings as determined by the municipal assessor on the most recent assessment date.

Frontage means the horizontal distance between the intersections of the sidelines of a lot with the sideline of the proposed street.

Majority of the abutting lots means any combination of abutting lots which meets both of the following criteria:

- (1) The combined frontage of the lots exceeds 50 percent of the total frontage of all the abutting lots; and
- (2) The total current value of the lots exceeds 50 percent of the total current value of all the abutting lots.

Owner means any person having any right or interest in a proposed street or abutting lot, which right or interest is recorded in the county registry of deeds.

Proposed street means any street, road or right-of-way which appears on a plat or plan recorded in the county registry of deeds prior to two years before effective date of the ordinance from which this division derives which has not been accepted or taken by the town and which has not been constructed, or any portion thereof, which will be accepted or taken subject to apportionment and assessment of costs to construct pursuant to this division.

Taken means laid out and taken as a town way by the town council pursuant to 23 M.R.S.A. §§ 3022 and 3023.

Value means just value of land and buildings as defined in 36 M.R.S.A. § 701-A.

(Ord. of 8-15-1989, § C)

Cross references: Definitions generally, § 1-2.

Sec. 50-208. Authority.

This division is enacted pursuant to the authority of article 8, part 2, section 1 of the state constitution, 30-A M.R.S.A. § 3001 and 23 M.R.S.A. § 3606.

(Ord. of 8-15-1989, § A)

Sec. 50-209. Power of council.

Nothing in this division shall limit the authority of the town council to create a public way by any method provided by law when the cost to construct such way will not be apportioned and assessed pursuant to this division.

(Ord. of 8-15-1989, § G)

Sec. 50-210. No obligations created.

Nothing in this division shall require the town to accept, take or improve a public way unless the town council determines that the public convenience or necessity requires that such public way be accepted, taken or improved.

(Ord. of 8-15-1989, § H)

Sec. 50-211. Conditions.

A proposed street may be accepted or taken as a public way by the town council upon the following conditions:

- (1) If the proposed street is to be accepted upon dedication, owners of a majority of the abutting lots shall convey their interest in the proposed street to the town without claim for damages. Owners of fee interests shall convey their interests by warranty deed. Owners of less than fee interests shall convey their interests by quitclaim deed with covenant.
- (2) If the proposed street is to be taken, owners of a majority of the abutting lots shall petition the town council in writing to lay out and take the proposed street and

in such petition shall waive any damages otherwise payable to them as a result of the taking.

(3) The owners or petitioners shall submit to the town council plans of the proposed street as it will be constructed after it has been accepted or taken, which plans shall include the following:

a. A plot plan drawn when practical to a scale of 40 feet to one inch and to be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. The plot plan shall show the following:

1. The north point;
2. The area of all lots;
3. The length of all lot lines;
4. The location and ownership of all adjoining subdivisions and adjacent acreages;
5. Passageways;
6. Streetlight lines;
7. Buildings;
8. Boundary monuments;
9. Waterways;
10. Topography (USGS vertical datum) and natural drainage courses with the contour at not greater than five-foot intervals;
11. All angles and bearings necessary for the plotting of the proposed street;
12. The distance to the nearest established street line; and
13. Any buildings abutting on the proposed street together with the stations of their sidelines.

b. A profile of the proposed street drawn to a horizontal scale not larger than 50 feet to one inch with a corresponding ten to one ratio vertical scale. The profile shall show the profile of the centerlines of the proposed street and the proposed grades thereof. Any buildings abutting on the proposed street shall be shown on the profile.

c. A cross section of the proposed street drawn to a horizontal scale no larger than five feet to one inch and a vertical scale of one foot to one inch.

d. The location and size of all existing and proposed water mains, storm drains, sanitary sewers, gas mains, culverts, underdrains and underground utilities shall be shown along with the individual building service connections to each.

(4) The owners of a majority of the abutting lots shall petition the town council in writing to construct the proposed street after it has been accepted or taken and in such petition shall agree to pay their just portion of the cost to construct the proposed street. The petition shall be accompanied by an estimate, which has been reviewed and approved by the public works director, of the cost to construct the proposed street.

(Ord. of 8-15-1989, § D)

Sec. 50-212. Procedure for acceptance or taking.

The procedure for acceptance or taking of a proposed street shall be as prescribed in 23 M.R.S.A. ch. 304.

(Ord. of 8-15-1989, § E)

Sec. 50-213. Apportionment and assessment of costs.

After the proposed street has been accepted or taken and has been constructed, the town council shall apportion no more than two-thirds of the cost to construct among the abutting lots in such proportions as, in the opinion of the town council, the values of the lots have been increased by the acceptance or taking and construction and shall assess such apportioned cost upon such lots, all in the manner, and with the same right of appeal provided in 23 M.R.S.A. §§ 3601--3605. The portion of the cost to be assessed upon the abutting lots may be reduced to less than two-thirds by written agreement between the town, the owners of a majority of the abutting lots and any other person who agrees to contribute to the cost.

(Ord. of 8-15-1989, § F)

Secs. 50-214--50-240. Reserved.

ARTICLE IV. OBSTRUCTION OF PUBLIC PLACES

Sec. 50-241. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building entrance means any exterior door, doorway, entryway, portal, portico, threshold, vestibule, foyer or lobby and includes any recessed area adjacent to the doorway.

Enclosed means inside the walls, including windows of the building, and on the interior side of any exterior doors which open inward.

Front means the side of a building or lot in which the building entrance is located. Where a building has entrances facing more than one street, each side on which a building entrance is located shall be considered a front.

Sidewalk Cafe means the establishment of tables and chairs on the public or privately owned sidewalk directly in front of, and accessory to a licensed victualer. Outdoor dining on private property, other than a sidewalk is not regulated by this article, but is regulated by Chapter 78. For the purposes of this article, a sidewalk cafe is not considered an outside display.

Outside display means any deposit, pile, placement, storage or display, outside the enclosed portions of a building, of any goods, wares or merchandise that are offered or available for sale, rental or distribution either inside or outside the building. For the purposes of this article, materials placed in the building entrance as defined in this section, shall be included as an outside display.

Violator means and includes any person who commits, causes or creates a violation of this article; any owner of a business which employs a person who commits, causes or creates a violation of this article on the premises of that business; and any owner of property who permits or allows a violation to occur on that property.

(Ord. of 2-5-1991, § 2; Ord. of 8-16-1994; Ord. Of 4-6-2004)

Cross references: Definitions generally, § 1-2.

Sec. 50-242. Purpose.

This article is intended to facilitate pedestrian traffic across the public sidewalks and in areas adjacent to the sidewalks and streets in order to promote the safety of pedestrians in the town and to improve the appearance of the town, particularly in the downtown area.

(Ord. of 2-5-1991, § 1)

Sec. 50-243. Enforcement.

~~The license inspector or a~~Any officer of the police department shall investigate any alleged violation of this article. Upon verification of the alleged violation, any officer of the police department may issue a citation for a civil violation. Service of the citation may be made upon any violator, as defined in section 50-241 and service on an employee or agent of a violator shall constitute service upon the violator.

(Ord. of 2-5-1991, § 8; Ord. of 2-5-1991; Ord. of 4-6-2004)

Sec. 50-244. Exemptions.

(a) Sections 50-245 and 50-246 do not apply to the following:

(1) The otherwise lawful outside storage, display or sale of new or used motor vehicles, boats or other machinery or equipment customarily stored in a yard or display lot;

(2) The otherwise lawful storage, display or sale of supplies incidental to the rendering of a service at the point of sale, such as motor oil to be dispensed at the gasoline pump island of an automobile service station;

(3) The otherwise lawful nonalcoholic beverage machines and/or ice machines; or

(4) The otherwise lawful, temporary, noncommercial yard sales, garage sales or charitable fundraising events.

(b) Also exempt is a retail sidewalk sale as authorized by the town council. Mobile ice cream trucks shall also be exempt from this article and shall be governed by article VII of chapter 18 pertaining to ice cream trucks.

(Ord. of 2-5-1991, § 10; Ord. of 8-3-1993; Ord. of 8-16-1994; Ord. of 6-15-1999)

Sec. 50-245. Outside displays.

(a) No person shall cause or permit any outside display to exist, except as authorized by subsection (b) of this section.

(b) If a building is set back 35 feet or more from the edge of the blacktopped portion of the street adjacent to the front property line of the lot where located and upon issuance of a license by the town council pursuant to article II of chapter 18 and upon compliance with other applicable laws and ordinances, including chapter 78 pertaining to zoning, outside displays may be located within five feet, measured at right angles, of the front wall of the building, but no closer than five feet, measured parallel to the building, from either side of the building entrance. No parking of vehicles shall be permitted within five feet of any outside display permitted by this subsection.

(Ord. of 2-5-1991, §§ 3, 4; Ord. of 5-4-1993)

Sec. 50-246. Outside solicitation of sales.

No person shall engage in the solicitation, sale or rental of any goods, wares or merchandise outside the enclosed portion of a building.
(Ord. of 2-5-1991, § 5)

Sec. 50-247. Obstruction of public passage.

No person shall hinder or impede the free and uninterrupted passage of pedestrians on, upon, across, or over any sidewalk, walkway, pathway or any other area, public or private, which is customarily used by the public for access to or passage by any business, public place or public building.
(Ord. of 2-5-1991, § 6; Ord. of 4-6-2004)

Sec. 50-248. Placement of posters.

No person shall place or cause to be placed any advertising poster or notice on any utility pole or other pole or on any tree located on town property or on any public way, unless such poster or notice is expressly permitted by statute or ordinance.

(Ord. of 2-5-1991, § 7)

Secs. 50-249--50-270. Reserved.

Sec.50-249. Sidewalk Cafés

No person shall expand a food service establishment to the outside on any sidewalk in the Town except under a duly authorized outdoor dining permit issued provisions of this division.

a) Regulations and Restrictions

1. Sidewalk cafés are only allowed for restaurants and food-serving establishments.

2. Sidewalk cafés shall be contiguous with the establishment with which they are associated .

3. Sidewalk cafés can project no more than 7' onto town property provided a minimum width of six (6) feet of sidewalk is left unoccupied and unobstructed in order to allow adequate pedestrian movement. The width of the sidewalk is measured from the property line to curbside obstacles, including but not limited to trees, parking meters, light poles, flag poles, utility poles, and fire hydrants.

4. Sidewalk Café Permits are valid from April 1st to October 31st of each year. Chairs, tables and appurtenances may only be located on the sidewalk area during the time period.

5. No permanent structure or device shall be erected or placed in, on, or about any public sidewalk; however, temporary poles, railings, or similar supports or dividers may be anchored to the building but not in the sidewalk.

6. Any damage done to the public right-of-way by the applicant or by its patrons shall be repaired promptly by the applicant.

7. Refuse receptacles shall be covered at all times.

8. Litter emanating from the sidewalk café area, and from whatever area to which it may flow, shall be collected by the permittee as often as may be required to keep the sidewalk clear of litter and debris.

9. Sidewalks shall be swept and cleaned at the close of business each day.

10. There shall be no outdoor music associated with any eating establishment that is wholly or partially on municipal property.

11. There shall be no additional signage for the outdoor dining.

11. Aside from individual table lighting, such as candles, there shall be no additional exterior lighting installed.

Failure to adhere to these standards may result in the revocation of the permit until such time that the violation has been corrected.

b) Permit Procedures

1. The applicant shall apply for a Café Permit from the Code Enforcement Officer on an annual basis.

2. The applicant shall provide a plan showing the area intended for outdoor dining, the proposed seating, the barrier fencing and the ingress and egress. In addition, the plan shall also include the dimensions of the seating area, the projection onto the town sidewalk or walkway and the distance from the barrier fencing to any curbside obstacles.

3. The applicant shall also provide a Certificate of Liability Insurance covering the effective dates of the permit in the amount of \$500,000. In addition, the Town of Old Orchard Beach shall be named as an additional insured.

4. In the event alcoholic beverages are to be sold, a copy of a valid and current liquor permit from the State Liquor Commission shall be presented.

5. Café Permits effective as of May 1st 2010 are subject to an annual application fee as set forth in appendix A of this Code.

ARTICLE V. OPERATION OF NOISE-CREATING DEVICES ON PUBLIC RIGHTS-OF-WAY*

*Cross references: Noise, § 26-56 et seq.; traffic and vehicles, ch. 54.

Sec. 50-271. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motorcycle means an unenclosed motor vehicle, having a saddle for the use of the operator, with two or three wheels in contact with the ground, including, but not limited to, motorscooters and minibikes.

Noise-creating device means any electrical, mechanical or chemical device or instrument, or combination thereof, that creates noise during its operation by a person.

Operation means actual control by a person.

Public right-of-way means any street, roadway, alley, sidewalk or other area deeded or dedicated for public travel or transportation purposes.

Straight pipe exhaust system means any muffler that does not contain baffles, including, but not limited to, glass packs, steel packs, straight pipes and drag pipes.

(Ord. of 5-20-2003, § b)

Cross references: Definitions generally, § 1-2.

Sec. 50-272. Purpose and policy.

(a) The town council finds that excessive noise on public ways may:

- (1) Cause distraction to other drivers which impairs the safe operation of motor vehicles;
- (2) Unreasonably disturb the quiet and normal functioning of the town's residential neighborhoods;
- (3) Threaten and intimidate pedestrians; and
- (4) Project a negative image of the town, all to the detriment of the health, welfare and safety of the citizens and guests.

(b) Accordingly, it is the policy of the town to prohibit unnecessary, excessive, annoying or distracting noise on public rights-of-way within the town.

(Ord. of 5-20-2003, § a)

Sec. 50-273. Certain noises prohibited.

(a) No person, while occupying any public right-of-way in the town, shall operate any noise-creating device in such a manner that the level of noise causes the public's attention to be drawn to the source of the noise, subject to the exceptions provided in section 50-274.

(b) The prohibition of this section shall include, but not be limited to, the following activity or conduct:

- (1) Discharging fireworks or any exploding device;
- (2) Firing a starter pistol or firearm;
- (3) Sounding a bell or whistle, alarm or horn for so extended a period of time as to cause annoyance to others;
- (4) Rapid throttle advance and/or revving of an internal combustion engine resulting in increased noise from the engine and exhaust system, including the [so-called] practice of motorcycle "blipping"; and
- (5) Operation of an unmuffled motor vehicle or a motor vehicle, including motorcycles, with a straight pipe exhaust system, an exhaust system with a cutout, bypass or similar device or an exhaust system that does not meet the requirements of state law, including, but not limited to, 29-A M.R.S.A. § 1912.

(Ord. of 5-20-2003, § c)

Sec. 50-274. Exceptions.

The provisions of this article shall not apply to the following activities or conduct:

- (1) Expression or communication protected by the United States Constitution, including the First Amendment, or the state constitution.

- (2) Any activity or conduct the regulation of which has been preempted by state statute.
 - (3) Any noise created by a governmental entity in the performance of an official duty.
 - (4) Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit.
 - (5) The sounding of any signaling device permitted by law.
 - (6) Properly licensed common carriers and service vehicles in the performance of their customary duties.
- (Ord. of 5-20-2003, § d)

There were minimal discussions on this although Councilor Dayton and John Bird spoke about the commercialization of public property; need for license inspector and police department involvement in enforcement; and an addendum to the liquor license before permit is given. Questions were raised on the excavator license; who is giving the license; what is the process and criteria and Bill Robertson explained his understanding of the process. Councilor Dayton said she was not questioning the process but details are missing that need to be documented such as has been done on the permitting of sidewalk cafes. She said consistency is vital. Chair Quinn discussed the additional fee and said he did not favor the increased fee. He said it is a short season and the cost should only cover the cost of the administration's time. The question of a map being provided was expressed but the Town Code Enforcement Officer indicated that they have one but that to be seen it is difficult to run it off but rather needs to be viewed on the GIS mapping system.

CHAIR: I close this Public Hearing at 8:13 p.m.

TABLED ITEM: All items on this agenda are noted below and will be considered at a Special Town Council Meeting on May 11, 2011.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

Brian Robillard (101-1-14), 175 Portland Avenue, two year round rentals; Jay Martin (202-2-3), 207 East Grand Avenue, 4C, one year round rental; Jumpin Jakes LLC dba/Jumpin Jakes (208-3-3), 181 Saco Avenue, Victualers with Preparation and Alcohol; Michelle & Steve Sanborn (210-1-20-2), 39 Smithwheel Road, #2, one year round rental; Sharon A. Binette (304-7-7), 94 East Grand Avenue, one year round rental – 1st floor only; Charles Gordon (305-2-1-42), 31 East Grand Avenue, #42, one year round rental; Carolyn M. Sarno (305-4-1-607), 1 Cleaves Street, Unit 607, one year round rental; Susan M. Fisher (305-2-1-24), 31 East Grand Avenue, #24, one year round rental; Ron Cloutier (312-5-7), 17 West Old Orchard Avenue, one year round rental; and Walter & Donna Satkus (313-2-4-2), 15 Bay Avenue, #2, one year round rental.

PUBLIC HEARING LIQUOR LICENSES AND APPROVAL:

Jumpin Jakes LLC dba/Jumpin Jakes Restaurant (208-3-3), 181 Saco Avenue, s-m-v in a Restaurant; and Hoss & Mary Co. dba/Hoss & Mary's Tasty Grub (307-1-3), 27 West Grand Avenue, m-v in a Restaurant.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT AND APPROVAL:

Jumpin Jakes LLC dba/Jumpin Jakes Restaurant (208-3-3), 181 Saco Avenue, Live Jazz/Live Folk/Live Comedy – Inside and Outside – 12:00 p.m. to 12:00 a.m.; Mimi Vattes & Dani Sisson (306-5-4), 10 East Grand Avenue, Dance/Music with DJ – Amplified, Inside – 9:00 p.m. to 1:00 a.m.; J. G. Cutter LLC dba/Barefoot Boy (305-4-5), 45 East Grand Avenue, Band (Amplified) – Inside – 9:00 a.m. to 12:00 a.m.; Christopher B. Small dba/Oasis Bar & Grille, Inc. (306-5-3), 8 East Grand Avenue, Acoustic Solo & Duo Entertainers, DJ – Inside and Outside – 9:00 a.m. to 1:00 a.m.

TABLED ITEM: # 5367 - Discussion with Action: Accept the bid for a Contract with Ocean Park Cleaning, Inc. for Cleaning Services for the Police Department not to exceed \$18,500 from Account Number 20129-50310 – New Police Station- Service Contracts, with a balance of \$15,000.

TOWN MANAGER'S REPORT

A very busy two weeks including a trip to Portsmouth on a Public Works matter. Three Budget workshops; one including a review of the Waste Water Facilities Plant report of 2009 by Wright Pierce. Continual activities with the Ballpark getting ready for the summer program. We have yet to fully transition into the organization plan; However, Jenn DeRice at Recreation is doing a fantastic job getting started. Fire Negotiations and Police Negotiations with internal related staff meetings. Continue to work on the Dispatch transition. Spent more time on the Solar Energy project. Had numerous meetings on the proposed school budget. Met with Extreme Clean and working on a proposal to discuss with the Town Council. Participate in the Junior Achievement Day. Participated in the Taste of Old Orchard Beach. Spent a couple of Saturday mornings at the Ballpark.

NEW BUSINESS:

TABLED ITEM: All items on this agenda are noted below and will be considered at a Special Town Council Meeting on May 11, 2011.

5384 Discussion with Action: Approve the Special Event Permit application from the Veteran's Memorial Park Committee to hold a Candlelight Remembrance in Memorial Park on Sunday, May 29th, 2011, from 7 p.m. to 8 p.m. Illumination Bags to be sold in the Square and Memorial Park all day, and at Town Hall prior to the event; and a request to waive the fee.

- # 5385 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a sand sculpture contest on the beach between Randall and Ancona Avenues on Sunday, July 3, 2011, from 3:00 p.m. to 5:00 p.m.; and a request to waive the fee.**
- # 5386 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a parade on Monday, July 4, 2011 from 9:30 a.m. to 11:30 a.m. on Temple Avenue; and a request to waive the fee.**
- # 5387 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a Christian Youth Conference Block Dance on Saturday, August 13, 2011 from 7:30 p.m. to 11:00 p.m. in Ocean Park; and a request to waive the fee.**
- # 5388 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold Square and Line Dances in the Ocean Park Square on Monday, July 4, 2011 and Saturday, September 3, 2011 from 7:00 p.m. to 9:30 p.m.; and a request to waive the fee.**
- # 5389 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold Illumination Night on Saturday, August 6, 2011 from 5:00 p.m. to 10:30 p.m. in Ocean Park; and a request to waive the fee.**
- # 5390 Discussion with Action: Approve the Special Event Permit application for the Ocean Park Association to hold a Christian Youth Conference Block Dance on Saturday, August 13, 2011 from 7:30 p.m. to 11:00 p.m. in Ocean Park; and a request to waive the fee.**
- # 5391 Discussion with Action: Approve the Special Event Permit application for Palace Playland and the Pier to have Fireworks on the beach in front of Palace Playland every Thursday night from June 23rd, 2011 through Labor Day, 2011, with a special display on July 4th, 2011 (rain date July 5th), starting at 9:45 p.m.; and a request to waive the fee.**
- # 5392 Discussion with Action: Approve the Special Event Permit Application for Thornton Academy to hold a Beach Picnic, to include a Campfire, for their Student Ambassador Program on the beach at the end of Randall Avenue on Thursday, May 12, 2011, with a rain date of Friday, May 20, 2011, from 5:00 p.m. to 9:00 p.m.; and a request to waive the fee.**
- # 5393 Discussion with Action: Approve the Special Event Permit Application for the Ocean Tripp Inn to hold a Sugarloaf Explorer Year-end Event to include a Bonfire on the beach at the end of Union Avenue on Saturday, May 21, 2011, from noon to 8:00 p.m.**

- # 5394 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 it be awarded by the Courts, CR-11-25.
- # 5395 Discussion with Action: Authorize the Town Manager to enter into the “Property Assessed Clean Energy (PACE) Program Agreement” with the Efficiency Maine Trust.
- # 5396 Discussion with Action: Approve the Liquor License Renewal of J. G. Cutter LLC dba/Barefoot Boy (305-4-5), 45 East Grand Avenue, s-m-v in a Restaurant; Christopher B. Small dba/Oasis Bar & Grille Inc.(306-5-3), 8 East Grand Avenue, s-m-v in a Class A Lounge; and Mime Vattes & Dani Sisson dba/Club Galaxy (306-5-4), 10 East Grand Avenue, s-m-v in a Class A. Lounge.
- # 5397 Discussion with Action: Approve the Location of and Business Plan for the site establishment, maintenance and operations of the Community Garden to be located as indicated on the herein attached "Site Plan" marked "Exhibit A" and incorporate the herein attached "Business Plan" marked "Exhibit B" as the operational guidance for the Old Orchard Beach Community Garden to be managed jointly by the Town of Old Orchard Beach, R.S.U. 23, the Conservation Commission, the Community for Children, the Fire Department, Call Force, the Public Works Department, and other non-governmental Organizations approved by the, *To Be Appointed*, (Community Garden Governing Committee); with joint fund raising opportunities and avenues to develop and maintain said Community Garden to be pursued via any and all applicable member organizations and individuals subject to the approval of the Town Council and any other action the Town Council deems appropriate to create the Old Orchard Beach Community Garden.

GOOD AND WELFARE:

HELENE WHITTAKER: Last week Community Watch Committee had a three-day volunteer experience which gave us the reason “why” volunteering is so heartwarming, challenging and rewarding. Friday, April 29, Junior Achievement Shadowing Day at Town Hall organized by the Assistant Town Manager. We spoke to two groups of 5th graders about Neighborhood Watch and internet safety. The two groups were completely different which was an eye opener. Some of them opened themselves up to danger and self-destruction while the other group was savvy with using the internet and had a very positive direction in life. We realized then and there, some have the right support and the others need help. We spent time explaining why and why not, and the other kids chimed in as well. Many thank you’s to the students and the teachers. Saturday, April 30, 011 was Drug Disposal Take Back Day. Another fantastic day with many CWC and volunteers in the police service showing up because they know full well they are doing a great service to the community by removing these drugs and not allowing them into the hands of those who could end up in a tragic situation. So many thank you’s were given to us all and again the stories told to us... incredible. The State of Maine took in six tons. We took in four tons in 2010. Maine is the 2nd largest intake state behind Massachusetts. Sunday, May 1st was Taste of OOB and many

CWC and volunteers are at our table informing, handing out flyers and signing up people. It was rewarding to hear the positive reaction from people regarding the Citizen's Patrol vehicle. Later on we were assigned to watch over the fire truck and front-end loader. People enjoyed sitting in the police cruiser, children climbing up on the fire truck and front loader. We interacted with many teens making them experience the feeling of having their hands behind their backs; getting in the back seat of the new cruiser; the reactions were priceless and it opened their eyes. So many thank you's from parents and others for what we do. These two words – "thank you" is what keeps us volunteering and working with the Old Orchard Beach Police Department because CWC's mission to improve the quality of our neighborhoods through positive interaction, community encouragement and increased public awareness between law enforcement and the citizens of Old Orchard Beach. CWC accepts these sincere thank you's because we know we are helping our neighborhoods. And that, Councilors, is what Neighborhood Watch is all about. "We are all in this together." I would like to take this opportunity to thank each and every volunteer who made these three days successful and for a job well done. A simple thank you goes a long way and Community Watch Council thanks you Councilors for this opportunity and for your wonderful support as well.

FRAN PELLETIER: As the owner of the Sea Cliff House, he said he was disappointed the issue was dead as a personal watercraft business would have brought another activity for tourists visiting the Town. "It is a shame you shut it down."

PAUL GOLZBEIN: He made a very passionate plea to the Town Council to reconsider his request for funding from the Town be given in supporting the Fourth of July Fireworks which have been instrumental in us having the "best fireworks in the State." He recognized the economic challenges of today but felt that this is a total community event; for the benefit of the community.

FRED DOLGAN: He appealed to the audience for members to join the Recycling Committee again establishing the wonderful opportunities to save our environment and also support conservation issues.

PIERRE BOUTHILLER: He apologized for the use of the inappropriate word, "manage" in the Agenda Item Number 5397 and indicated that many organizations have indicated an interest in participating but it is the responsibility and authority of the Council to see the management of a town-owned property.

VICE CHAIR TOUSIGNANT: He expressed a desire for the Town to arrange for the bathrooms to be opened on the upcoming weekend and throughout the months to Columbus Day weekend. It is obvious with good weather there is a need for this facility being available to those who visit our community.

The meeting was closed at 8:40 p.m.

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 thirty-six (36) pages is a true copy of the original Minutes of the Town Council Workshop of March 3, 2011.

Louise Reid