

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

A Town Council meeting of the Old Orchard Beach Town Council was held on Tuesday, February 17, 2009 in the Town Hall Chamber. The Chairman opened the meeting at 7:03 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 TOUSIGNANT: We appreciate the work of the 125th Anniversary Committee and look forward to the event at Dunegrass Country Club on Thursday, February 19th during which we will celebrate as a community.

COUNCILOR O'NEILL: We congratulate our two newly elected members of the Regional School Unit (RSU), Gary Curtis and Jim Boisvert and extend to them our support and encouragement. Our thanks to Kay Dutton for her willingness to run as well.

CHAIR MACDONALD: Thanks to the three Loranger fifth grade classes and their teachers for participation in the fourth year of Junior Achievement Shadowing Day held here in the Town and to members of the Police, Fire, Public Works and employees of the Town Hall for their assistance in making this a great experience for all. Thanks to the Town Clerk for a very interesting Town Council meeting and for those who served in our positions. Special thanks to Helene and Carter Whittaker for their part in making this day a success.

PRESENTATION: Jason Webber to present the 2008 Sandcastle Award.

**The Old Orchard Beach Recreation Department
Is Proud to Honor
Beach Bagel
As Its 2008 Sandcastle Award Recipient**

The Sandcastle Award was founded in 2004 to acknowledge the lifelong contributions of Teresa Steller, of Sandcastle Realty, to the Old Orchard Beach community. Through its support of Recreation Department programs, Beach Bagel has consistently exemplified the commitment to youth and family recreation that Teresa Steller held so dear. The Old Orchard Beach Recreation Department Sandcastle Award presented by the Old Orchard Beach Recreation Department to honor individuals and organizations that consistently support youth education

and recreation in our community. The Sandcastle Award was founded in 2004 to acknowledge the lifelong contributions of Teresa Steller of Sandcastle Realty to Old Orchard Beach. Throughout her life Mrs. Steller gave generously of her time and resources to support youth and family programming in town. Mrs. Steller set an example of community support to which we all can aspire. Her lasting legacy of generosity continues to inspire others to do their part to better our community. In memory of Mrs. Steller we honor the following individuals and organizations who have done their part to make Old Orchard Beach a better place.

GUY LORANGER: I want to express my sincere appreciation and that of my family and staff to Jason Webber and the Committee for this award and for the support that has been afforded me over the past ten years that we have run our business year round. It is an honor to receive this award and to all we express our sincere appreciation.

ACCEPTANCE OF MINUTES:

MOTION: Councilor Tousignant motioned and Councilor O'Neill seconded to remove without prejudice the Town Council Minutes of February 3, 2009; and to accept the Town Councilor Workshop Minutes of February 10, 2009.

VOTE: Unanimous.

BUSINESS LICENSES: Frederick Hoffmeister, 50 Old Orchard Street, Personal Services, Street Violinist, and a request to waive the fee; and Ken & Roberta Pitman (304-1-2-1), 1 Walnut Street, Unit 1, one year round rental.

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

VOTE: Unanimous.

SPECIAL AMUSEMENT PERMIT: Surf Six, Inc. dba/Surf 6 Restaurant & Lounge (306-2-9), 2 Cortland Street, Entertainment and Dancing.

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

VOTE: Unanimous.

COUNCIL CHAIR: I open up the Public Hearing at 7:05 p.m.

PUBLIC HEARING: Shall We Amend the Taxicab Ordinance, Code of Ordinance, Section 62-26 through 62-125, by Suspending the Ordinance until such a time as a new Ordinance becomes in effect?

BACKGROUND: Chief Kelley, Mike Nugent and Gary Lamb met recently to discuss our taxi ordinance and enforcement thereof. We would like the Council to consider the following as they debate the temporary suspension and future form of our taxi ordinance Chapter 62.

- Code enforcement and planning staff have recently been working with a new taxi operator to get him properly licensed. During that process, we have discovered that no taxi companies presently “operating in town” have business licenses at all.
- Digging deeper, we discovered this situation has existed for years. This is probably because there have not been problems or major complaints with taxis operating in town. Simply put, in years past, if taxi business license applications were not submitted, no one followed up when taxis were seen operating in town to tell them they needed a license.
- We need a better definition of what the ordinance means by “operating in town”
- Current ordinance limits the number of taxi licenses that can be issued to four...why?
- Current ordinance requires taxi meters whereas most companies now operate by zone fares. Do we care how the fare is determined?
- Current ordinance requires the taxi be inspected by an independent third party inspector. Who should this be?
- License Administrator (Lamb) is supposed to issue a taxi ID card with driver’s name, photo and business license number. We have no provision for doing this now although we could do this without major expense. Is this necessary?
- We have no formal taxi stands in town. With the late night crowds we have, perhaps public safety would be enhanced by creating some.

We look forward to discussing the form (or existence) of our taxi ordinance at future Council meetings and endorse the temporary suspension of Chapter 62 until September 2009.

ORDINANCE SUSPENDING OPERATION OF CHAPTER 62, ARTICLE II – TAXICABS

WHEREAS, the Town Council finds that the Town’s Taxicab Ordinance, enacted in 1994 and last amended in 1999, is outdated and in need of revision; and

WHEREAS, because applying the ordinance in its current form has the potential to create inequities among operators and enforcement problems; and

WHEREAS, so that taxi operators can make their business plans for the Town’s busy summer season well in advance, any new regulations governing taxicabs may not be implemented until after the end of the 2009 summer tourist season;

NOW, THEREFORE, be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine in Town Council assembled that Chapter 62, Article II of the

Old Orchard Beach Code of Ordinances, "Taxicabs" is suspended from operation until such a time as a new Ordinance becomes in effect.

JOHN SURRAN: My name is John Surran and I am the owner of A-1 Cab Company. I want to say that I support the Ordinance as it is written and think it is a mistake to suspend the ordinance for any period of time. The ordinance provides that all drivers be listed and this is a safety measure for those who ride in the taxi cabs. I went to the expense of putting in the meter and the patrons are happy that they can know and see what they are going to have to pay to and from a location. I believe the rider ship feels confident when these rules are upheld. I believe it would be worth while to indicate that taxi cabs have until January of 2010 to see that the meters are installed and that the ordinance is followed. Saco and Biddeford are mirroring our ordinances.

COUNCILOR BOLDUC: She asked what working in town means; does this mean just driving in Old Orchard Beach to get a fare or does it mean having an office in Old Orchard Beach or elsewhere and being permitted in another location? The issue of Limousine service and Shuttlebus operation was also raised. What is lacking in the ability of public safety to enforce this ordinance?

GARY LAMB: He explained that studying the taxi ordinances in our community and others will afford us the ability to better define what we mean by taxi and "working in town," Right now our ordinance forces us to license the two main cab companies in the Biddeford Saco area and they have no business location at all in Old Orchard Beach. They just pick up and drop off customers here. These two cab companies told us they would stop operating in Old Orchard Beach if we enforced meters to be installed. We thought this was not in the interest of public safety during the summer nightlife of Old Orchard Beach so we suggested the taxi ordinance suspension. I am not sure why the Police Department has not enforced the present ordinance but I assume it is because we have not had problems or complaints about cab service. My office shares some of the blame also as we did not proactively seek out cab companies to get licensed. I assume we did not do that because we had no cab companies that actually have an office location here in Old Orchard Beach. As far as limousine service and the Shuttlebus we presently do not require limo or Shuttlebus service to be licensed or have a license category for these businesses in our license list. Councilor Bolduc's question about whether we should license a taxi company that does not have an office presence in Old Orchard Beach is valid and is one of the reasons we need to fix our taxi ordinance definitions so we know who we should require to be licensed

MIKE NUGENT: Councilor Bolduc makes a good point which may be reflected in the Ordinance draft that we will work on. The three cities or town would only license the cab businesses that are based in their community and that if they have a license in their "hometown" they would not need a license here. Personal services are barbers, dry cleaners, dog groomers, stuff like that very different from a taxi and separately itemized in the "list" of businesses that need licenses.

TOWN MANAGER'S REPORT: I am pleased that we were able to provide to the Council information relative to the FY08 Audit Overages Update, Stimulus Package Update, Old Orchard Beach Public Safety Building Feasibility Study, Ordinance Workshop Information, and an enormous amount of information on Policies.

CHAIR MACDONALD: I close this Public Hearing at 7:18 p.m.

NEW BUSINESS:

5118 Discussion with Action: Approve Support for LD137 or Limited Use Agreement with Department of Inland Fish and Wildlife for a connector trail between Saco's Cascade Falls Park and the Eastern Trail in Old Orchard Beach, Maine.

BACKGROUND: Since the packet went out on Friday night it is our understanding that LD 137 was withdrawn because it was not needed for a simple Limited Use Agreement to create a trail on land owned by Maine Dept Inland Fish and Wildlife(IFW). State legislation is required when state owned land is being sold or put under a conservation easement where permanent rights are legally conveyed. IFW does not need to convey legal rights or title for this trail, they would rather just build it under a 20 year renewable agreement. This is something they do throughout the state so federal funds IFW used to purchase the marsh are not in jeopardy re: trail construction. It would be a nice gesture if the Council did vote tonight to support the Limited Use Agreement as this trail will be a great addition to OOB recreation.

MOTION: Councilor Tousignant motioned and Councilor O'Neill seconded to Approve Support for LD137 or Limited Use Agreement with Department of Inland Fish and Wildlife for a connector trail between Saco's Cascade Falls Park and the Eastern Trail in Old Orchard Beach, Maine.

VOTE: Unanimous.

5119 Discussion with Action: Issue the Dog Warrant.

BACKGROUND: All dog owners in the town receive a letter in October to the address they have provided to us advising they can come in any time to register their dog(s). There is also a tear off slip for people to send in their check so they do not need to come in. The month of January is considered a grace period where the dog's license has expired but the late fee doesn't begin until February 1st. At that time we call the dog owners who have not come in at the phone number they had given us to remind them to come in before February 1st to avoid the late charge fee. After February 1st the Animal Control Officer calls the dog owners and advised them to come in and register their dogs before the Town Council signs the warrant. He also goes door to door to talk with owners.

MOTION: Councilor O'Neill motioned and Councilor Dayton seconded to issue the Dog Warrant.

VOTE: Unanimous.

#5120 Discussion with Action: Issue a No Action Letter for property located at 12 Connecticut Avenue.

BACKGROUND: The structure at the above location was constructed in 1986 pursuant to building permit #1218. The permit contains a condition that the structure must comply with a

front and rear setback of 20 feet and a side setback of 15 feet. A mortgage inspection revealed that the structure is 11 feet from the rear property line and 6 feet from the left side line and 14 feet (to the steps;19 feet to the main structure) from the front lot line. The Town of Old Orchard Beach acknowledges that the properties located at 12 Connecticut Ave., Old Orchard Beach, Maine does not comply with the setback requirements if effect at the time of construction. The Town of Old Orchard Beach agrees not to pursue the current or future owners of 12 Connecticut Ave, Old Orchard Beach, Maine for the zoning violation resulting from the construction of this dwelling. All future additions to the structure must comply with the regulations in effect at the time of any expansion.

COUNCILOR BOLDUC: Has there been any expansion of the footprint of the structure.

MIKE NUGENT: The records did not show any.

COUNCILOR BOLDUC: Have you visited the property?

MIKE NUGENT: I have not.

ROBERT GERMANN, JR.: I am here tonight to express publicly my sincere appreciation to Mike Nugent, Code Enforcement Officer, for his professional and extremely helpful assistance to me in this matter. He was available, supportive, provided information and assistance which was required to move this forward and I am most grateful to him and to the Council for such a Town employee.

MOTION: Councilor Tousignant motioned and Councilor Bolduc seconded to Issue a No Action Letter for property located at 12 Connecticut Avenue.

VOTE: Unanimous.

5121 Discussion with Action: Appoint Suzanne Scalise as a Regular Member of the Recycling Committee, term to expire 6/30/12; Appoint James Harmon as a Member of the Biddeford Saco Old Orchard Beach Transit Committee, term to expire 12/31/2010.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Appoint Suzanne Scalise as a Regular Member of the Recycling Committee, term to expire 6/30/12; Appoint James Harmon as a Member of the Biddeford Saco Old Orchard Beach Transit Committee, term to expire 12/31/2010.

VOTE: Unanimous.

5122 Discussion with Action: Approve the Special Event Permit Application for the OOB 365 and the Old Orchard Beach Recreation Department to hold the Taste of OOB on May 3, 2009. Request to close all of Old Orchard Street from the top to the Square from 10 a.m. to 6 p.m. Request to waive the fee.

BACKGROUND: A group of interested business owners known as OOB 365 are anxious to establish an atmosphere of entertainment and of a family event this spring and continue the celebration with other events throughout the summer, fall and winter months. This is the first of

the events with an enormous opportunity to welcome residents and visitors alike to the downtown for a day of family excitement and activity.

MOTION: Councilor Dayton motioned and Councilor O'Neill seconded to Approve the Special Event Permit Application as read."

VOTE: Unanimous.

5123 Discussion with Action: Approve the Liquor License Renewal for Surf Six, Inc. dba/Surf 6 Restaurant & Lounge (306-2-9), 2 Cortland Street, s-m-v- in a Class A Lounge.

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

VOTE: Unanimous.

GOOD AND WELFARE:

JACK SARNO: He invited citizens, particularly residents in the area of Milliken Street and Walnut Street to attend the Workshop on March 3rd. Mr. Sarno has actively been involved in this issue of storm water drainage on the northeastern end of Old Orchard Beach and pressing the Town Council to see what can be done and solve the problem. He referenced the storm water does not drain efficiently and in some cases not at all and residents along Walnut, Foote and Milliken Street have faced continual flooding of their driveways, yards and sometimes their basements for the past twelve years. He questioned the need to understand the results of the study and changes to the watershed of both freshwater and saltwater marsh. Mr. Sarno reiterated that the problem will not go away unless the Town Council steps forward and does something. He indicated that the flooding in the area needs to be fixed not just for the immediate neighborhood but also for the safety of everyone in Old Orchard Beach.

COUNCILOR TOUSIGNANT: I spoke to the Chair before this meeting and requested that a representative of Milone and MacBroom who provided the professional services be in attendance for that workshop on March 3rd. I understand they are from Connecticut and it will cost us something to have them here but I feel it is important that they come since they did the report. I believe Wright Pierce would not be comfortable providing answers for the Milone and MacBroom report.

JACK SARNO: He also spoke about two articles he read recently. One from Alna in which the Alna Fire Department has received an anonymous offer of \$160,000 toward an addition to the fire department. Members of the fire department will ask residents to kick in \$200,000 to make the project happen. He also mentioned about an article from Edgcomb where selectmen are seeking stimulus funding for a new fire station. He indicated that Senators Olympia Snowe and Susan Collins would work to try to get the town up to \$500,000 from the federal stimulus package. Mr. Sarno suggested that this was something the Town should look into and work on as it concerns our public safety building. He asked if these ideas were possible for our community.

COUNCILOR BOLDUC: She reported that the Loranger School has one of the best libraries around because of the collective funding measure of individuals in the community; a band room was also secured through private funds as well as part of the fields. These were community efforts. At the same time she indicated that she would like monthly discussions at Council meetings on overages and under spending in accounts rather than just signing off the warrants that are provided at each meeting.

CHAIR MACDONALD: Please keep in mind the Basketball Classic on Friday, March 13th at 6:00 p.m. in the Old Orchard Beach High School sponsored by the Old Orchard Beach Alumni Association. Want to play in the game? Contact Chair Sari macdonald at MacDonald's Garage at 934-2681 or via e-mail at smacdonald@maine.rr.com. This is a fun time. Come and watch the guys and gals of yesteryear take on today's High School Players.

ADJOURNMENT:

MOTION: Councilor O'Neill motioned and Councilor Tousignant seconded to adjourn the Town Council Meeting.

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 eight (8) pages is a true copy of the original Minutes of the Town Council Meeting of February 17, 2009.

V. Louise Reid