

WARRANT FOR SPECIAL TOWN MEETING

OF THE

TOWN OF OGUNQUIT, MAINE

DECEMBER 28, 1982

TO WILLIAM P. HANCOCK, JR., Chief of Police in the TOWN OF OGUNQUIT, County of York and State of Maine.

GREETINGS:

In the name of the State of Maine, you are hereby requested to notify and warn the inhabitants of the Town of Ogunquit, qualified by law to vote in Municipal affairs, to meet in the Dunaway Community Center, in said Town, on Tuesday, the Twenty Eight day of December, 1982 A.D., at Seven-Thirty O'clock (7:30) in the evening, then and there to act on the following articles:

ARTICLE 1: To elect a Moderator to preside at said meeting.

ARTICLE 2: Shall the Town discontinue its interest in a section of the Town Way known as North Berwick Road, and as described in an Order of Discontinuance filed with the Town Clerk.

NOTE: This is the section of road no longer in public use due to relocation during construction of the Maine Turnpike.

ARTICLE 3: Shall the Town discontinue its interest in a section of the Town Way known as Captain Thomas Road, and as described in an Order of Discontinuance filed with the Town Clerk.

NOTE: This is the section of the road no longer in public use due to relocation during the construction of the Maine Turnpike.

ARTICLE 4: Shall the Town return to Mrs. Ruth Woodbury, for monetary compensation, a painting given to the Town by Mr. & Mrs. David Woodbury.

ARTICLE 5: Shall the Town authorize the Selectmen to transfer from the Unappropriated Surplus-Overlay, an amount of money not to exceed Five Thousand Nine Hundred Thirty One and ninety seven cents, (\$5,931.97) to the following accounts:

Regional Waste	\$2,711.52
M.M.A. Account for	
Manager Search	\$ 500.00
Town Meeting Account	\$ 200.00
Social Security Account	\$1,000.00
Garnsey Brothers Insurance	
for Icebreaker Policy	\$ 500.00
Office Supplies & Equipment	
for IBM Account	\$ 770.45
Appeals Board Overdraft	\$ 250.00

NOTE: Unappropriated Surplus-Overlay Account balance is \$25,221.18.

BUDGET COMMITTEE RECOMMENDS: YES 5-0 IN FAVOR

ARTICLE 6: Shall Sections 301 to 304.4 of an Ordinance entitled "Special Amusement Ordinance" be repealed and revised. A copy of said "Special Amusement Ordinance" being annexed hereto as EXHIBIT 1 and made a part hereof by reference.

ARTICLE 7: If in the event of the enactment of ARTICLE 6 of this WARRANT, Shall an ordinance entitled "Special Amusement Ordinance" adopted December 28, 1982 be amended by adding thereto Sections 305 through 313, inclusive, of an ordinance entitled "Special Amusement Ordinance" adopted by the Town on June 2, 1980 and repealed by the Town on June 8, 1982? A copy of Sections 305 through 313 of the "Special Amusement Ordinance" being annexed hereto as EXHIBIT 2 and made part hereof this Article by reference.

EXPLANATION: The Ordinance entitled "Special Amusement Ordinance", regulating only facilities licensed to sell liquor, to be voted on by the Town of December 28, 1982, does not contain specific provisions for public hearings,

inspections, suspensions, appeals and enforcement. This article adds such provisions by reviving certain sections of the "Special Amusement Ordinance" enacted by the Town on June 2, 1980 and repealed on June 8, 1982.

ARTICLE 8: Shall an ordinance entitled "Amusement Licensing Ordinance" adopted by the Town on June 8, 1982 be revised by adding thereto a new Section 315 to state:

315: Relationship of the Ordinance to Other Ordinance

Notwithstanding language in this "Amusement Licensing Ordinance" to the contrary, if the Town on December 28, 1982 adopts a new "Special Amusement Ordinance" regulating entertainment at facilities licensed to sell liquor, nothing in this "Amusement Licensing Ordinance" shall be construed to be applicable to facilities licensed to sell liquor when such facilities are subject to and regulated by the "Special Amusement Ordinance" enacted on December 28, 1982, as it may be amended from time to time. A copy of said "Amusement Licensing Ordinance" being annexed hereto as EXHIBIT 3 and made a part hereof by reference.

EXPLANATION: On June 8, 1982, the Town enacted an ordinance entitled "Amusement Licensing Ordinance" which regulates both facilities licensed to sell liquor and facilities not so licensed. If the voters pass the new ordinance regulating facilities that are licensed to sell liquor, there will be some redundancy. This article will eliminate such redundancy and will provide for two separate ordinances relating to amusements or entertainment, one regulating facilities which are licensed to sell liquor and one regulating facilities which are not so licensed.

ARTICLE 9: Shall an Ordinance entitled "Regulation of Hours of Public Beaches" be enacted, a copy of said "Regulation of Hours of Public Beaches" ^{Ordinance} being annexed hereto as EXHIBIT 4 and made a part hereof by reference.

ARTICLE 10: Shall an Ordinance entitled "Regulation of Hours of Retail Sales of Goods, Services, Food or Beverages" be enacted, a copy of said "Regulation of Hours of Retail Sales of Goods, Services, Food or Beverages" Ordinance being annexed hereto as EXHIBIT 5 and made a part hereof by reference.

ARTICLE 11: In the event of the enactment of ARTICLE 10 of this WARRANT, Shall the existing Chapter 8 of TITLE IX of the Town Ordinances be retitled Chapter 9.

EXPLANATION: The Ordinance entitled "Business Registration" enacted at Annual Town Meeting, March, 1982 is presently entitled Chapter 8 of TITLE IX.

ARTICLE 12: Shall an Ordinance entitled "Alcohol Licensing Review" be amended, a copy of said "Alcohol Licensing Review" amended Ordinance being annexed hereto as EXHIBIT 6 and made a part hereof by reference.

ARTICLE 13: Shall an Ordinance entitled "Bottle Clubs Prohibited" be amended, a copy of the amendment of said Ordinance "Bottle Clubs Prohibited" being annexed hereto as EXHIBIT 7 and made a part hereof by reference.

GIVEN UNDER OUR HANDS AT OGUNQUIT, COUNTY OF YORK AND STATE OF MAINE, THIS TWENTIETH DAY OF DECEMBER, 1982, A.D.

DULY ATTESTED:

Irene McIsaac
Irene McIsaac
Deputy Clerk

Steven R. Einstein
Steven R. Einstein

Bradford S. Sterl
Bradford S. Sterl, Chairman

Thomas E. Dillon
Thomas E. Dillon

Howard Littlefield
Howard Littlefield

Jeffrey H. Rowe
Jeffrey H. Rowe

ORDER OF DISCONTINUANCE

TOWN OF OGUNQUIT

We, the Municipal Officers of the Town of Ogunquit, having received a Petition to discontinue a section of Town Way known as the North Berwick Road and having given the best practicable notice to all abutting property owners, and the Municipal Planning Board, and given notice of a public hearing, did on December 7, 1982 at 7:30 P.M. hold a Public Hearing at the Dunaway Community Center, School Street, Ogunquit, Maine, and after hearing all persons interested in said discontinuance do determine that said Road should be discontinued as petitioned.

DESCRIPTION OF DISCONTINUANCE:

(Copy of Petition Attached)

Abutting Property Owners:

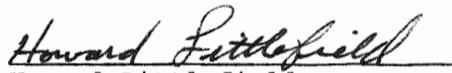
Lester C. & Barbara Stevens
Ann F. Brewster

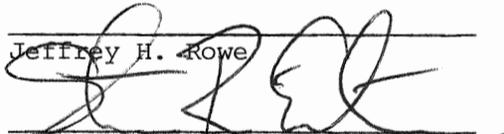
The Municipal Officers herein having given consideration to damages caused by the discontinuance as described herein, do determine that no one was damaged and, therefore no damages are awarded or paid. It is further ordered that the Town not retain its public easement over said discontinued area.

Signed:


Bradford S. Sterl, Chairman


Thomas E. Dillon


Howard Littlefield


Jeffrey H. Rowe


Steven R. Einstein

PETITION FOR DISCONTINUANCE

The Municipal Officers of the Town of Ogunquit, on their own motion, as their records of _____ will appear, represent that a section of the former location of the North Berwick Road, so-called, easterly of the Maine Turnpike is no longer of public use and necessity, and it is requested that the same be discontinued as provided in Title 23 M.R.S.A. Section 3026 et squi:

Dated this SIXTEEN day of November 1982

Witness:

[Signature]
Thomas E. DeLeon
Bradford S. Steel
[Signature]
Arnold Littlefield

Description of that section requested to be discontinued:

That section of the North Berwick Road, so-called, that lies between the following described limits:

Bounded easterly by a curved line lying forty-four and sixty-five hundredths (44.65) feet southerly from and concentric with a 6°00' curve of the base line from about Sta. 9+39 to about Sta. 10+20 left or southerly of the base line, said base line being as shown on a plan entitled, "Maine Turnpike Authority, Section 1, Kittery to Portland, Town of Wells, (now Ogunquit) York County," dated September 1946, Supplemental Sheet No. 6, and

Bounded westerly by the town line between said towns of Ogunquit and York. North Berwick Road, as now located, was established by the Maine Turnpike Authority during its construction of the Maine Turnpike about 1947.

ORDER OF DISCONTINUANCE

TOWN OF OGUNQUIT

We, the Municipal Officers of the Town of Ogunquit, having received a Petition to discontinue a section the Town Way known as the Captain Thomas Road and having given the best practicable notice to all abutting property owners, and the Municipal Planning Board, and given notice of a public hearing, did on December 7, 1982 at 7:30 P.M. hold a Public Hearing at the Dunaway Community Center, School Street, Ogunquit, Maine, and after hearing all persons interested in said discontinuance do determine that said Road should be discontinued as petitioned.

DESCRIPTION OF DISCONTINUANCE:

(Copy of Petition Attached)

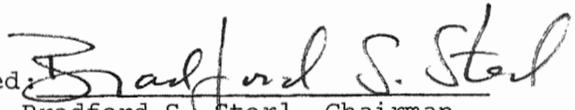
Abutting Property Owners:

Leonard Wyman
Carroll H. Clark

Peter Blanchard

The Municipal Officers herein having given consideration to damages caused by the discontinuance as described herein, do determine that no one was damaged and, therefore no damages are awarded or paid. It is further ordered that the Town not retain its public easement over said discontinued area.

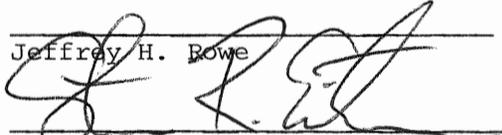
Signed:


Bradford S. Sterl, Chairman


Thomas E. Dillon


Howard Littlefield

Jeffrey H. Rowe


Steven R. Einstein

PETITION FOR DISCONTINUANCE

To the Municipal Officers of the Town of Ogunquit:

The undersigned respectfully represent that a section of the town way, being the former location of the Captain Thomas Road prior to its relocation by the Maine Turnpike Authority is no longer of public use and necessity and it is requested that the same be discontinued as provided in Title 23 M.R.S.A. Section 3026 et squi:

Dated this 27th day of January 1982

Witness:

Daniel Q. Hossmer

Neil W. Little

Description of that section requested to be discontinued:

That section of the town way as shown on a plan entitled "Maine Turnpike Authority, Section 1, Kittery to Portland, Town of Wells, York County," dated December 1946, and being shown on Supplemental Sheet No. 12, and is described as follows, to wit:

That section of the former location of Captain Thomas Road which lies within the bounds of the Maine Turnpike and between the following described limits:

Easterly Limit:

Beginning at a point one hundred fifty (150) feet easterly from and as measured along a line at right angles to the Maine Turnpike Survey Base Line at Sta. 656+39.34;

Thence N 4°-18'E forty nine and fifty one hundredths (49.51) feet to a point one hundred fifty (150) feet easterly from and as measured along a line at right angles to the base line at Sta. 656+88.85.

Westerly Limit:

Beginning at a point one hundred fifty (150) feet westerly from and as measured along a line at right angles to the Maine Turnpike Survey Base Line at Sta. 657+69.76;

Thence N 4°-18'E sixty three and thirty seven hundredths (63.37) feet to a point one hundred fifty (150) feet westerly from and as measured along a line at right angles to the base line at Sta. 658+33.13.

It is requested that the Town of Wells not retain a public easement over the herein described discontinued area, as provided in Title 23 M.R.S.A. Section 3026.

Shall Sections 301 to 304.4 of an ordinance entitled "Special Amusement Ordinance" be repealed and revised to read as follows:

Title IX, Chapter 3 Special Amusement Ordinance

301 Title, Purpose and Definitions

301.1 Title. This Chapter shall be known and may be cited as the "Special Amusement Ordinance of the Town of Ogunquit".

301.2 Purpose. The purpose of this Ordinance is to require Special Amusement licenses for and to regulate facilities licensed to sell liquor and which also offer entertainment and to require special amusement licenses for and to regulate bottle clubs which also offer entertainment, unless bottle clubs are otherwise prohibited.

301.3 Definitions. As used in this Ordinance:

Background Music - Background music means music other than live music transmitted to patrons through the use of or by means of radios or similar mechanical devices and not making use of any amplification devices other than speakers with a diameter of no more than four (4) inches in the case of premises not in possession of a Special Amusement license in calendar year 1982 and not more than seven (7) inches in the case of premises which were in possession of a Special Amusement license in calendar year 1982 and in either case which speakers are or would be located no closer than ten (10) feet from each other; and which music is not used for dancing and is further

only incidental to the primary activity offered by the licensee.

Bottle Club - Bottle Club means bottle clubs as defined in 28 M.R.S.A. §2.

Entertainment - Entertainment shall include dancing by or for patrons, any music, except background music, and any other amusement, performance, exhibitions, diversion or other activities with an entertainment value whether provided by patrons, independent contractors, employees or proprietors.

Licensee - Licensee shall include the person to whom a license of any kind is issued by the State Liquor Commission and that person's agents and employees and shall include the person to whom a license of any kind hereunder is issued and that person's agents and employees.

Indoor- Indoor shall mean within a permanent enclosure of four walls with a roof.

Liquor - Liquor shall mean liquor, intoxicating liquor, malt liquor, vinous liquor, wine and table wine all as defined in 28 M.R.S.A. §2.

Live Music - Live music shall mean music produced or created by voice or musical instrument on a licensee's premises and transmitted without the aid of amplification or electronic devices or instruments.

Patron - Patron means any patron or customer of a facility wherein liquor is sold and any member of a bottle club.

Person - Person means any individual, partnership, corporation or other legal entity and their agents and employees.

302 Prohibitions and Licensing

302.1 Permit Required. No person owning or operating a facility licensed to sell liquor or owning or operating a bottle club shall offer any entertainment, except background music, without having first obtained a Special Amusement permit from the Town of Ogunquit.

302.2 Limits of Entertainment. No Special Amusement permit shall be issued except for indoor dancing by patrons and indoor live music and outdoor one-time single events featuring dancing by patrons and live music.

302.3 Outdoor Entertainment. No more than three (3) one-time single event outdoor Special Amusement permits shall be issued during any one calendar year to any person for outdoor entertainment at a single facility as provided below.

303 Restrictions and Conditions

303.1 Hours. No licensee shall offer entertainment except between the hours of 7:00 p.m. and 12:00 midnight except on January first, when such entertainment may continue until 1:00 a.m., and except.....(continued).....

that holders of one-time single outdoor Special Amusement permits shall offer entertainment only between the hours of 2:00 p.m. and 7:00 p.m. and except that licensees may also offer live music produced or created by a single voice or musical instrument on the premises of a Class A restaurant as defined in 28 M.R.S.A. §2 between the hours of 1:00 p.m. and 4:00 p.m. on Sundays.

303.2 Number of Patrons. No licenses shall cause or permit the number of patrons at the licensed premises at any one time to exceed the capacity or occupant load permitted for dining as determined by the Ogunquit Fire Chief pursuant to the National Fire Prevention Association Life/Safety Code which capacity shall be set forth on the license itself.

303.3 Term of License. A Special Amusement license shall be valid for only one (1) year from the date of its issuance and relicensing shall require a new application.

303.4 Additional Conditions. In granting any Special Amusement license, the Selectmen shall impose such further reasonable restrictions and conditions as are deemed appropriate to best safeguard the public's health, safety and welfare and the right of the citizens to quiet enjoyment of their properties including but not limited to requiring licensees to provide for and pay for an appropriate number of Town

policemen to be present on or outside the licensee's premises at designated times.

303.5 Bond. No Special Amusement permit shall be issued until the licensee posts a bond issued by a bonding company having an office in the State of Maine in the amount of Ten Thousand Dollars (\$10,000.00) naming the Town of Ogunquit as beneficiary, the proceeds of which, in case of violation of a permit are to be used by the Town to cover the costs of any police and fire services which may have been necessary as a result of such violation and which cover the expenses incurred by the Town in any enforcement proceedings.

304 Application and Fees

304.1 Application. Applications for all Special Amusement licenses shall be in writing and filed with the Town Clerk. Applications shall state the name of the applicant, all aliases, his residence address, the name of the business to be conducted, the business address, the nature of the business, the nature of the entertainment, the location to be used, whether the applicant has ever had a license to conduct that business either denied or revoked and, if so, the circumstances of such denial or revocation, whether the applicant, including all partners or corporate offices, has ever been convicted of a felony

and, if so, the circumstances of such conviction, and the occupant load as established by the local Fire Chief. If the applicant is other than an individual, the applicant shall describe its legal structure and, in the case of a partnership, shall state all of the information required for individuals. If the applicant is a corporation, the applicant shall state the name, all aliases, and the residential and business addresses of all directors, officers and stockholders. All applications shall be accompanied by two (2) scale drawings at a scale of one (1) inch to ten (10) feet depicting the floors of the building in which the entertainment is to be located, depicting all areas open to patrons, and indicating in each area the use made by patrons. The application will not be considered complete nor acted upon until the Selectmen have received written reports from the Code Enforcement Office, Police Chief and Fire Chief stating that the premises are in compliance with all applicable codes and ordinances of the Town of Ogunquit. The applicant shall also provide any additional information as may be determined to be necessary by the Board of Selectmen in processing and considering the application, including but not limited, to a copy of the applicant's

current liquor license. All applications shall be signed by the principal proprietor of the business and by the property owner if the premises are not owned by the proprietor.

304.2 Fees. All applicants for a Special Amusement permit shall pay a one-time fee of Fifty Dollars (\$50.00) to accompany the application. There shall be no fee for renewals of permits except as provided below, so long as there is no substantial change in the application from the previous application. In addition to the one-time fee, applicants shall pay a further fee each time a permit is issued, as follows: one (1) musician or vocalist - \$100.00, two (2) or three (3) musicians or vocalists - \$400.00, four (4) or more musicians - \$1,000.00.

Chapter 7 of Title IX is repealed.

Explanation

The purpose of this proposed revision to the Special Amusement Permit Ordinance is (1) to permit background music without a license, (2) to define such background music, (3) to regulate bottle clubs if they are not otherwise banned, (4) to limit entertainment to dancing by patrons and live music without amplifiers, (5) to limit entertainment to

indoor facilities except for occasional one-time outdoor events between the hours of 2:00 p.m. and 7:00 p.m., (6) to limit outdoor permits for any one person to three per year, (7) to limit indoor entertainment to 7:00 p.m. to 12:00 midnight, and 1:00 p.m. to 4:00 p.m. on Sundays, (8) to limit the number of patrons to that permitted for dining by the N.F.P.A. Life/Safety Code, (9) to require licensees to post bonds, and (10) to establish realistic fees.

Shall an Ordinance entitled "Regulation of Hours of Public Beaches" be enacted as follows:

Title IV, Chapter 4

405 Beaches Closed During Certain Hours. Ogunquit Beach as defined in this Chapter 4 shall be closed to the public from 11:00 p.m. to 5:00 a.m. during the months of May through October of each year.

Any person found on the beach in violation of this Ordinance shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) for each violation. Fines collected hereunder shall be recovered for the use of the Town of Ogunquit.

Shall an Ordinance entitled "Regulation of Hours of Retail Sales of Goods, Services, Food or Beverages" be enacted as follows:

Title IX, Chapter 8, "Hours of Retail Sales of Goods, Services, Food or Beverages"

No person, partnership, corporation or other legal entity shall permit or engage in the retail sale of goods, services, food or beverages between the hours of 1:00 a.m. and 5:00 a.m.

Violation of this Ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) for each day of violation. Fines collected hereunder shall be recovered for the use of the Town of Ogunquit.

Shall an Ordinance entitled "Alcohol Licensing Review" be amended to read as follows:

Chapter 2 - Alcohol Licensing Review

- 201 Application. In addition to the information required by Title 28 of the Maine Revised Statutes and the Rules and Regulations of the State Liquor Commission of an applicant to the Board of Selectmen for a liquor license, applicants shall also provide the Selectmen with written reports from the Code Enforcement Office, Police Chief and Fire Chief stating that the premises to be licensed are in compliance with all applicable rules, regulations and ordinances which such officials are responsible for enforcing. In addition, the application shall be accompanied by a drawing at a scale of one (1) inch to ten (10) feet depicting the size and nature of all areas of the premises open to the general public.
- 202 Fees. The annual fee to accompany each application shall be \$100 and shall be submitted with the application.
- 203 Procedure. Upon receipt of a completed application, the Town Manager shall schedule a public hearing by the Board of Selectmen at its next regular meeting but in any case within thirty (30) days of receipt of the completed application. The Town Manager shall cause notice of such hearing to be given to the applicant

and the general public as required by the provisions of 28 M.R.S.A. §252-A.

- 204 Hearing. At any hearing held hereunder, all interested persons shall have the right to offer verbal and written testimony.
- 205 Decision. The Board of Selectmen shall render a written decision within fifteen (15) days of the close of the hearing. If the Board grants a license, it may impose such conditions as are reasonably calculated to protect the public's health, safety and general welfare.
- 206 Standard Conditions on Licensees. The license issued must be posted on the licensed premises and shown to any Town official upon request. In addition, the licensee must notify the Town Manager of the name, address and telephone of each person in charge of or responsible for the premises from time to time and must within ten (10) days of any change in responsibility so notify the Town Manager.

Shall an Ordinance entitled "Bottle Clubs Prohibited" be amended to read as follows:

Title IX, Chapter 7, Bottle Clubs

Definition. "Bottle Club" means any establishment operating on a regular basis premises for social activities in which members or guests provide their own alcoholic beverages and where no alcoholic beverages are sold on the premises. "Bottle Clubs" as used herein shall not mean a club operating solely for objects of recreational, social, patriotic or fraternal purposes and not for pecuniary gain.

Prohibition. No person, partnership, corporation or other legal entity shall operate or cause to be operated or permit to be operated any bottle club as defined herein on premises owned or controlled by him or it.

Violation of this Ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) for each day of violation. Fines collected hereunder shall be recovered for the use of the Town of Ogunquit.

Any ordinances or portions thereof inconsistent herewith are hereby repealed.