

**TOWN OF OLD ORCHARD BEACH  
REGULAR TOWN COUNCIL MEETING  
TUESDAY, May 7, 2013  
7:00 P.M.**

**Pledge to the Flag**

**Roll Call**

Councilor Dayton  
Councilor Furtado  
Councilor Mailhot  
Councilor Quinn  
Vice Chair Bolduc  
Chair MacDonald  
Councilor Coleman came in during the reading of the proclamation

Chair MacDonald was contacted by Biddeford to see if we wanted to participate in Hunger Awareness Week. She read this into the record:

**'HUNGER AWARENESS WEEK'**

Town of Old Orchard Beach

Proclamation

Declaring May 18<sup>th</sup> to the 24<sup>th</sup>

As Hunger Awareness Week

Communities exist for the collective prosperity, happiness, education and security of their inhabitants

- Whereas, Maine communities are struggling in an food insecurity has not been experienced sine the Great Depression; and
- Whereas, Many of our friends, neighbors and family members have lost their jobs, lost income, or are struggling to find enough money for basic needs of food and housing and
- Whereas, Many of our elderly, our disabled and those on fixed incomes are finding it increasingly difficult to pay their bills; and
- Whereas, Our food shelters and food pantries are finding it increasingly difficult to feed the rising number of people who are in need; while many of our community's children experience hunger as a daily reality in their lives; and
- Whereas, The face of hunger is often invisible and hiding in the shadows; and the stigma of poverty represses and inhibits the ability to achieve success and personal growth, while eroding self-esteem and personal relationships;

Now therefore. We the people of Old Orchard Beach, in collaboration with our neighbors in the cities of Biddeford and Saco, wanting to call attention to those among us who feel the fear and pain of daily hunger, and desiring to educate all citizens about the existence of food insecurity within our community, and hoping to raise awareness of the plight of our local food pantries and social service agencies, officially declare the week of May 18<sup>th</sup> to the 24<sup>th</sup> as Hunger Awareness Week, and all citizens are urged to actively participate in activities and goals that help to reduce and eliminate hunger and poverty and their social and psychological effects with our community.

**ACKNOWLEDGEMENTS:**

Councilor Coleman talked about the band playing at the State House and got to meet the First Lady

**ACCEPTANCE OF MINUTES:** Town Council Meeting Minutes of April 16, 2013. Council Quinn noted that on item 5092 a word needed to be removed from the third line.

Motion to approve as amended by Councilor Quinn      Seconded by Councilor Coleman

Vice Chair Bolduc abstained as she did not have a copy in her packet      6-0-1

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

Robert F. & Cheryl A. Pinard (201-1-7-2A), 221 East Grand Avenue, Unit 2A, one year round rental; Charles E. Summers (201-1-7-8D), 221 East Grand Avenue, Unit 8D, one year round rental; Beach Bum Properties, LLC (205-6-3-5), 5 Bradbury Street, one year round rental; Beach Bum Properties, LLC (205-6-3-16), 16 Francis Street, one year round rental; Beach Bum Properties, LLC (205-6-3-16A), 16A Francis Street, one year round rental; Beach Bum Properties, LLC (205-6-3-18), 18 Francis Street, one year round rental; Golan Inc., dba/Coastal Gifts (206-31-4 / 206-31-6), 29 Old Orchard Street, Rental of Merchandise - Outdoor Display - will be operating on adjoining parking lot; Golan Inc., dba/Coastal Convenience (206-26-4-A), 34 Saco Avenue, Rental of Merchandise, Outdoor Display; Judy Patterson dba/Groovy Judes (206-31-9), 41 Old Orchard Street, Retail; Patricia Liannon & Joseph Leprohon (208-1-1-1), 180 Saco Avenue, #1, one seasonal rental; Jennifer & Kevin Holland (208-1-1-14), 180 Saco Avenue, # 14, one seasonal rental; Prestige Management Inc., (211-9-11), 209 Saco Avenue, one year round rental; Richard & Paula Boulette (301-3-1-114), 189 East Grand Avenue, #114, one year round rental; Robert & Laura Slaving (301-7-10-7), 190 East Grand Avenue, #7, one year round rental; Jane Duhamel dba/Seaside Grille (304-3-1, 7), York Street, Victualers with Preparation – no alcohol sales; Susan Ross (305-2-1-54), 31 East Grand Avenue, #54, one year round rental; Matt & Robin Berube (309-8-1), 36 Central Park Avenue, one year round rental; Robert Kirby (314-17-2), 90 Union Avenue, one year round rental; Barry & Sherri Tripp dba/Mocean Surf (316-13-15), 6 Union Avenue, Retail; James Blake (317-2-3), 7 Beecherie Avenue, one year round rental; and Vincent Bartolomeo (318-8-6-13), 146 West Grand Avenue, # 13, one year round rental.

The Chair added Luca Pizzuti dba/Roma Pizza and Pasta (202-3-5-A), 198 East Grand Avenue, Victualers with Preparation and no Alcohol Sales.

Motion to approve with the addition    Councilor Mailhot      Seconded by Vice Chair Bolduc 7-0

**PUBLIC HEARING SPECIAL AMUSEMENT PERMITS:**

Last Call Inc., dba/Last Call (206-31-19), 4 First Street, and Live Bands Amplified Inside – 11:00 a.m. to 1:00 a.m.; and Jumpin Jake's LLC dba/Jumpin Jake's Café (208-3-3), 181 Saco Avenue, Music Amplified, Outside & Inside – 12:00 p.m. to 12:00 a.m.

Motion Councilor Quinn

Seconded Councilor Coleman

## TOWN MANAGER'S REPORT:

He met with the Ballpark Chair and Vice Chair as well as John and Pam Gallo regarding their one year contract extension. The Gallo's provided their proposed terms to which he will respond. The proposed contract will be reviewed by the Ballpark Commission for their recommendations prior to being presented to the Council for approval.

He and the Finance Director met with the Chair of RSU 23. Chairman Curtis discussed the RSU's budget status and withdrawal status.

He attended the following meeting or workshops:

FEMA Storm Damage  
Maine Clean Beaches  
Municipal Review Committee  
MMA Technology Conference

He met with a rep from the Firefighter's Union and scheduled a negotiating session for May 6<sup>th</sup>. He and Vice Chair Bolduc met for the first meet and greet. He will be coming to The Council in Executive Session for their thoughts and guidance.

He met with Public Works and inspected Odessa Ave at the request of a resident. He also met with the Planner on a resident complaint regarding an issue at the intersection of Carll and Hoffman Avenues.

He is continuing to work with the Finance Director on the budget as well as preparing responses to requests from the Council.

He also met with the Chair and Vice Chair of the Veteran's Memorial Park Commission.

## NEW BUSINESS:

# 5910	Discussion: Presentation on the proposed changes to FEMA's Flood Maps by Robert G. Gerber (P.E., C.G., P.G.) – Senior Engineer/Geologist from Ransom Consulting Inc.	Town Manager Robert Peabody
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The Chair said she asked Robert G Gerber to present a quick overview so that the Council could take time to review his material and be prepared for a workshop on this item.

Last time the maps were done was in 1985. They try to do every 20 years. This process started in 2006. In 2009 they came out with the preliminary maps. The appeal period came and went as several cities challenge the maps so they started all over again in 2010. In February they gave us a work map. (he gave the Council copies). The existing zones are in orange and red. The yellow zone shows the new flood zone. The next version of the map is due out the end of May. He said we may want to challenge that. There will be one meeting for the county. He said the insurance issue for this are huge. He said the rates would be going up about 20% a year. We can't let the appeal deadline go by.

The Chair asked Jim Butler to get a timeline to the Council. There will be a workshop after they get the maps from FEMA. She asked the Town Manager to get with other towns to join forces in the fight. Councilor Dayton asked if the Town has a contract with Mr. Geber. He said yes, it is in conjunction with 12 towns total. It is about \$250 quarterly. Council Dayton asked for a copy of the contract.

# 5911 Discussion with Action: Approve Liquor License Renewals of Last Call Inc., dba/Last Call (206-31-19), 4 First Street, m-s-v in a Class A Lounge; Collegiate Baseball Club, LLC dba/Ballpark Beer Tent (207-3-6X), 7 Ballpark Way, m- in an Outdoor Stadium; Jumpin Jake's LLC dba/Jumpin Jake's Café (208-3-3), 181 Saco Avenue, m-s-v in a Restaurant/Lounge; and Venetia Kouzounas dba/Venetia's Restaurant (313-4-3) 93 West Grand Avenue, m-v in a Restaurant.

Chair  
Sharri MacDonald

Motion Councilor Furtado

Seconded Councilor Coleman

7-0

# 5912 Discussion with Action: Approve the line item transfers from the Public Works Department; transfer \$7,000 from Account Number 20151-50506 – Road Maintenance Improvement – Non Capital, with a balance of \$22,049.84; to Account Number 20151-50508 – Sewer Maintenance Improvement – Non Capital – with a balance of \$346.22 to cover Invoices from the City of Saco for Camera-Technician and Supplies; approve line item transfer of \$2,000 from Account Number 20151-50506 – Road Maintenance Improvements- Non Capital, with a balance of \$22,049.84; to Account Number4 20151-50508 – Sewer Maintenance Improvements – Non Capital – with a balance of \$346.22 to cover invoices for Household Hazardous Waste Drop-Off Days; and approve the line item transfer of \$3,500 from Account Number 20151-50511 - – Ground Maintenance Improvement with a balance of \$18,831.86; to Account Number 20151-50405 – Heating Fuel Expense with a balance of \$105.63.

Public Works Director  
Bill Robertson

Councilor Quinn asked if the about due Saco was above what was budgeted. Bill said no but they needed to add money to the line due to money being spent while he was gone on other things. Councilor Quinn also questioned the heating portion.

Motion Vice Chair Bolduc

Seconded Councilor Furtado

7-0

# 5913 Discussion with Action: Approve the payment of \$4,956.25 from Account Number – 25140-40510 - Unanticipated Revenue Account, with a balance of \$63,377.23 to the Acorn Village Condominium Association for legal fees associated with the Acorn Village Performance Bond settlement.

Chair  
Sharri MacDonald

Councilor Mailhot was not sure we had all the info on this project to be making a decision. She was wondering if it should be removed until all the info was in. Mike Fortunado, a member of the Board of Directors at the Condominium Assoc. spoke and said he could answer any questions this evening.

He said he sent a letter 4 25 to the Council. There was discussion about the wording being wrong. Mike said the bond money would be used for gates that have been ordered. Councilor Mailhot said she doesn't have a copy. Mike gave her one.

Vice Chair Bolduc said her understanding was that the money was to be used to offset the Town's legal fees. The Chair and Councilor Coleman agreed with that understanding. Councilor Coleman asked how much they had left to finish the project... Mike said about \$150,000. Vice Chair Bolduc said that since that last meeting it was brought to her attention that the previous Town Manager had adjusted some forms. She thought we should Workshop this. Mike said this falls on the shoulders of the Town. He said money was released to the developer without inspecting that the work had been completed. Councilor Mailhot said the reason she was looking for answers was to protect the town. Mr. Fortunado doesn't think the Town has the right to the money. This has been going on for nine years. This money was deducted from the performance bond. Councilor Coleman said that without the Town going against issue there would not be any money at all. The \$4,956.25 was the cost of going after the \$18,000. Mr. Fortunado said two years ago Code Enforcement didn't do their job. He also said \$2000 was taken out for an assessment. Councilor Quinn said he had asked Jeffery H if we could keep that money. Councilor Quinn thinks we need to ask Jeffery if he got an opinion. The Chair said in an Executive Session the attorney was asked and he said they could take the legal fee out of the bond.

Motion to remove without prejudice by Councilor Mailhot	Seconded Councilor Quinn
Councilor Coleman	Y
Councilor Quinn	Y
Councilor Mailhot	Y
Councilor Dayton	N
Councilor Furtado	N
Vice Chair Bolduc	N
Chair MacDonald	Y
	4-3

# 5914	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 to the Courts – CR-13-49.	Police Chief Dana Kelley
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Councilor Bolduc asked where the money would go since last year it was spent to paint vehicles that the Council had said no to. The Chief recommended this go towards the Free Drug Zone signs. The amount due back is \$2964.40.

The Chair used this as an opportunity to say that she doesn't do or sell drugs as has been rumored around town.

Motion Councilor Coleman	Seconded Vice Chair Bolduc	7-0
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# 5915	Discussion with Action: Approve the fee of \$2.00 per car for the use of Milliken Street Parking Lot on Thursday, June 20, 2013, by Palace Playland for visit by the American Coasters Enthusiasts (ACE), a non-profit organization of more than 5,000 in sixteen countries, for their flagship event with parking permit stickers to be provided.	Assistant Town Mgr. V. Louise Reid
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Motion Vice Chair Bolduc	Seconded Councilor Coleman	7-0
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# 5916 Discussion with Action: Approve the Special Event Permit Application for Thornton Academy to hold a Beach Picnic, to include a Campfire, for their off-Campus Life Programs, on the beach at the end of Randall Avenue on Thursday, May 16<sup>th</sup>, 2013, with a rain date of Friday, May 17, 2013, from 5:00 p.m. to 8:00 p.m.; and a request to waive the fee.

Town Clerk  
Kim McLaughlin

\Councilor Mailhot made a motion to approve but not waive the fee. Councilor Coleman said his motion was already on the table.

Motion Councilor Coleman

Seconded Councilor Dayton

Councilor Dayton Y  
Councilor Furtado N  
Councilor Coleman Y  
Councilor Quinn Y  
Councilor Mailhot N  
Vice Chair Bolduc N  
Chair MacDonald Y

4-3

# 5917 Discussion with Action: Approve the Special Event Permit application for Revolution 3 Triathlon to host a Rev3 Triathlon on Thursday, August 22, 2013 at 8 a.m. through midnight on Sunday, August 25<sup>th</sup>, 2013; a request to close First Street from Staples to Heath Street during that time period, and the use of the Memorial Park Parking Lot; also a 5K on August 23<sup>rd</sup>, 2013; request for a banner on Cascade Road and Saco Avenue; Insurance listing the Town of Old Orchard Beach as additionally insured to be provided to the Town Clerk's office at least one month prior to the event; payment to be received within two weeks of approval.

Town Clerk  
Kim McLaughlin

Motion Vice Chair Bolduc

Seconded Councilor Dayton

7-0

Will Thomas from Rev3 gave a presentation of two banners to the Town

# 5918 Discussion with Action: Set preliminary Fees for use of the Ballpark Fields for the 2013 season. Robin Dube said the day games have increased \$25 and double headers \$50. She said there had been no negative feedback regarding the increases.

Motion Vice Chair Bolduc

Seconded Councilor Coleman

7-0

# 5919 Discussion with Action: Appoint William Southwick as Assistant Electrical Inspector, term to expire July 1, 2014.

Town Council Chair  
Sharri MacDonald

Motion Councilor Quinn

Seconded Councilor Coleman

# 5920

Discussion with possible action to follow regarding the following election items:

- a. The certification by the Town Clerk to the Town Council of seven recall petitions seeking the recall of Councilors MacDonald, Bolduc, Coleman, Dayton, Furtado, Mailhot and Quinn and the setting of the date of an election to submit to the voters the question of recall and in connection with the recall election pursuant to Sections 305.2 and 202 of the Town Charter, and under Sections 305.3, 202, 203 and 204 of the Town Charter and 30-A M.R.S.A. Section 2528(4)(E), the designation and setting of the period for circulation of nomination petitions for the office of each of the Town Councilors subject to recall if recalled to a period of no less than ten days with the period to end no closer than fourteen days before the date the election is set, and in connection with such designation of the availability and period for circulation of nomination papers, to order the Clerk to post such designation in the same places as Town election notices and warrants are posted and to notify local representatives of the media of the same,
- b. The coordination of other election matters with the Town Clerk as are relevant to the Clerk's office administration and oversight of the recall election, and
- c. The issuance of a Warrant for Special Municipal Referendum Election to a citizen of the Town for the recall election.

Councilor Mailhot asked for the Town Clerk to give timeframes so all are clear. Kim said the election should take place between June 11<sup>th</sup> and June 21<sup>st</sup>. Kim said they needed the set the dates of when the nomination papers would be available. She suggested the 10<sup>th</sup> to the 20<sup>th</sup>. State law requires 10 days

Vice Chair Bolduc wanted to let the general public know that we have a lot of work to do but we need to focus of the fact that this is a government process. She apologized to anyone that was there tonight because they had heard that the "Gang of Four" was going to try to delay the election. She said please feel free to her directly if they had any questions because there were so many innuendos and untruths out there.

Mr. Quinn asked Kim if there were any other issues. She said they could set the time regarding absentee ballots. She has checked to see if she could get the ballots earlier. She has worked with RSU to make sure all is okay. The cost to FedEx the ballots overnight could be about \$200. Kim is working her hardest to get extra time for the absentee ballots.

Motion to have the election June 11<sup>th</sup> with nomination papers available May 10<sup>th</sup> to be turned in by the 20th by Councilor Mailhot  
Seconded by Vice Chair Bolduc

Councilor Coleman Y  
Councilor Quinn Y  
Councilor Mailhot Y  
Councilor Dayton Y  
Councilor Furtado Y  
Vice Chair Bolduc Y  
Chair MacDonald Y

7-0

# 5921 Discussion with Action: Appoint Cari-Lyn Lane as a regular member of the Ballpark Commission, term to expire 12/31/13; Appoint W. Victor Gould, Jr. as a regular member of the Ballpark Commission, term to expire 12/31/15; and Appoint John Moore as an alternate member of the Ballpark Commission, term to expire 12/31/13. Town Clerk  
Kim McLaughlin

Councilor Quinn said he had a concern that an alternate has been passed by several times. This gentleman's contributions have been acknowledged. Robin Dube said it is nothing against Mr. Ring but the rule is they need to live in town. He is gone more than he is here. That is the only reason. Councilor Quinn knows of no other restriction. Robin said she has been told that is the situation. The Chair said that Bob has done a great job but it is difficult to hold meetings with someone not here. Another problem Robin said was on the conference calls with Bob someone is using up their cells minutes. Councilor Quinn still does not think it is fare and thinks it should be looked into. Robin Dayton said she knows of someone who put an application in and nothing ever happened. She is concerned about the application process. Jerome LePlant said they got the names from the Town Clerk They invited the three of them to attend a meeting.

Motion Councilor Mailhot	Seconded Councilor Furtado
Councilor Dayton Y	
Councilor Furtado Y	
Councilor Mailhot Y	
Councilor Quinn Y	
Councilor Coleman Y	
Vice Chair Bolduc Y	
Chair MacDonald Y	7-0

# 5922 Discussion with Action: Appoint Vice Chair, Laura Bolduc, as Negotiations Liaison for all Town Union Contracts.  
Chair Sharri MacDonald

Motion Councilor Mailhot Seconded Councilor Furtado 7-0

# 5923 Discussion with Action: Approve the purchase of four Cale Parking Meters at a cost of \$10,700 each; two being purchased through Account Number 52002-50884 – CIP - Public Safety Parking Control Machine Expense, in the amount of \$21,400, with a balance of \$30,667; and two being purchased through the Fiscal Year 2014 budget. Chief  
Dana Kelley

Chief Kelley said they need to decide where the machines are going to be. We will be getting 4 machines. Two for this year and two for next year but we will pay for two out of this years budget and two from next years budget. Vice Chair Bolduc said her recollection was 1 at Memorial Park and 3 at Milliken.

A member of the audience got up and she said we are not attracting people because of the parking and trash pick up issues. The Chair explained that they were discussing the town lots. They have no say over private lots. Vice Chair Bolduc said that although the new machines cost a lot they will help the issue of folks coming early and not paying at all. Councilor Mailhot asked about the fees for the using debit cards. Mike Tousignant asked why three in Milliken St. He said we have enough now to buy three. That should be enough.



Councilor Coleman said adding the convenience fee to the user would make us the only ones anywhere to do that. He said the use of them alone more often will bring in more money. The Chief said the reason for three at Milliken was to not have people walk so far. Vice Chair Bolduc asked how difficult it would be to move the machine if we found it more efficient to do so. The Chief said they are solar powered so there would not be an issue. Councilor Furtado suggested they put them at the entry way. The Chief said the machines are more complicated than just driving through.

Paul Golzbein said this should be tried out without spending money you don't have. Pat Brown thought Councilor Furtado's idea was good. She also agreed that only two were needed. Councilor Dayton said she was not in favor of any machines. She favors giving jobs to locals. She liked the human aspect. Mike Tousignant got up again and Councilor Coleman questioned the rule of one time up. Mike said they should have stated that before the meeting started. He said he agreed with Dana. He said it sounds like we are \$2000 short of buying three machines. He said we have overspent to the tune of over \$400,000. This has got to stop. He said Milliken has a short use span. Only 6 weeks. At the workshop he saw nothing spoken about revenue. He said stop spending money you don't have. Harold got up and said he would donate the \$2000 so they could buy 3 machines.

Motion to purchase three, placing one at the Memorial Park parking lot and two at the Milliken Street parking lot and thanking the donation of \$2000 and the balance come out of the CIP noted Councilor Coleman                      Seconded Councilor Quinn

The Chair said she didn't think the donation was appropriate, the Vice Chair agreed. Councilor Mailhot asked if the merchant fees had been decided yet. Councilor Coleman said he stated no other municipality does that. It would look cheap. Mike Tousignant wanted to clarify that Milliken Street is not a 24 hour lot. Vice Chair Bolduc asked if the cost of the machines would go up if we only bought three machines. The Chief said no.

Councilor Coleman	Y
Councilor Quinn	Y
Councilor Mailhot	N
Councilor Dayton	N
Councilor Furtado	Y
Vice Chair Bolduc	N
Chair MacDonald	Y

4-3

#### GOOD AND WELFARE:

Paul Golzbein said he was ashamed of the Council. This has got to stop. This is suppose to be a fun town. He is embarrassed.

Anita Rousseau said she is humiliated in this town. She feels Old Orchard is against people trying to make a business. They tried opening Scooter ETC Corp. They came to town hall and were told they could take the money for the taxes but that the owners had to go to Portland because it was too more paperwork for the town to register the 6 scooters. The way they were treated was not nice. They also wanted to rent a house out and were told they needed new windows. She said she has seen many houses with the same windows they now have. They said they talked to Jeffery about opening a food service and Jeffrey said they could as long as they weren't open 7 days a week. Later they ran into him and he said they had to close down by Thursday. He has tried to call Jeffrey several times and hasn't gotten a call back. They called Kathy several times and didn't get a call back. She finally did call them and said they need to close Wednesday. He is going to see Jeffrey Monday.

He said other businesses have gotten raided by the FBI, the TEA, the State Police and their licenses are still good? He is doing everything by the book. The Chair said bringing it to them attention was good. She asked the Manager to get involved in the meeting with Jeffrey and keep the Council updated. The manager said the issue is a zoning issue but he will get involved. The Chair said this is the third excise tax issue she has heard of and would like that looked into. They cleared up that they paid the tax; it was the vehicle registration that couldn't be done.

