

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
Tuesday, March 18, 2014  
TOWN HALL CHAMBERS  
7:00 p.m.**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, March 18, 2014. Chair O'Neill opened the meeting at 7:02 p.m.**

**The following were in attendance:**

**Chair Shawn O'Neill  
Vice Chair Bob Quinn  
Councilor Malorie Pastor  
Councilor Joseph Thornton  
Councilor Michael Tousignant  
Town Manager Larry Mead  
Assistant Town Manager V. Louise Reid**

**Absent: Councilor Jay Kelley  
Councilor Kenneth Blow**

**Pledge to the Flag  
Roll Call**

**ACKNOWLEDGEMENTS:**

**COUNCILOR PASTOR:**

**A reminder to all voting residents of Old Orchard Beach that the RSU23 election of three members to the Board of Directors is scheduled for April 8<sup>th</sup> and we are encouraging you to come out and vote. Ballots are available now at the Town Clerk's office as well. The polls will be open at the High School from 8:00 a.m. to 8:00 p.m.**

**ACCEPTANCE OF MINUTES: Town Council Meeting Minutes of March 4, 2014; and Special Town Council Meeting of March 13, 2014.**

**MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to Accept the Minutes as read.**

**VOTE: Unanimous.**

**CHAIR: I open this Public Hearing at 7:04 p.m.**

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL: Frederick Hoffmeister – Street Violinist – Downtown Area, requesting the Town to waive renewal fee of \$200 for two year license as Street Violinist.**

**CHAIR: I close the Public Hearing at 7:05 p.m.**

**MOTION: Vice Chair Quinn motioned and Councilor Thornton seconded to Approve the Business License as read.**

**VOTE: Unanimous.**

**TOWN MANAGER'S REPORT:**

The Town Manager reported that he has been involved with the budget preparation for FY15 on a daily basis and will present the budget at the April 1, 2014 meeting. Met with the Ballpark Commission members on spring preparations, field preparation and maintenance. Met with the insurance carrier for the Library to address needs during construction. Arranged for hazardous materials assessment. Library is now closed at Staples Street and in process of moving to the former Lions Club on Saco Avenue. Construction is expected to begin the first week of April. FEMA has delayed the start of the appeal period for at least a month of more. Public meetings schedule has been delayed until after Congress completes legislation on flood insurance relief. Making progress on negotiations. TA's in Fire, Police and Wastewater. Public Works negotiations are to start in April. Met with contractor to discuss window replacement in the Town Hall. Waiting on estimates. Met with Wright-Pierce to prepare the RFP for painting of the building. Worked with staff to identify properties that have had repeated calls for police services in the past year. Administrative Review Board will be reviewing license renewals for these properties in April.

**NEW BUSINESS:**

**# 6117 Discussion with Action: Accept the bids from vendors to supply the Town of Old Orchard Beach with their services for the year 2014 (January through December) for the following services:**

**Masonry/Brick & Concrete Services  
Paving Services**

**Funds to come from various departments budgeted accounts for building repairs, paving, electrical repairs and grounds maintenance.**

**Request for Proposals**

The Town went out again for Request for Proposals and bids for vendors to supply their services to the Town for 2014. Each vendor chosen was the lowest in their respective categories:

**THE TOWN OF OLD ORCHARD BEACH  
IS SEEKING SEALED BIDS FOR OUR MUNICIPAL FACILITIES  
All bids are due on January 30, 2014 at the following times:**

**Electrical Services at 9:00 a.m.  
Plumbing Services at 9:30 a.m.  
Tree Removal Services at 10:00 a.m.  
Paving Services at 10:30 a.m.**

**Masonry/Brick & Concrete Sidewalk  
Constructions/Reconstruction Services at 11:00 a.m.**

**Bid Specs can be obtained in the following ways:**

**On- Line: [www.oobmaine.com](http://www.oobmaine.com),**

**Via email: [yhersman@oobmaine.com](mailto:yhersman@oobmaine.com)**

**Call: 207-934-2250.**

**Bids shall be addressed to:**

**Town of Old Orchard Beach**

**Larry Mead, Town Manager**

**1 Portland Avenue**

**Old Orchard Beach, Maine 04064**

**Masonry/Brick & Concrete Sidewalks Constructions/Reconstruction Services:**

**Bids were received from:**

**LaBrecque Construction, Inc.**

**LaBrecque Construction was the owner bidder.**

**Paving Services: Bids were received from:**

**Thying Paving**

**Trottier Paving and Maintenance**

**Thying Paving was the lowest bidder.**

**MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to award the bid for Masonry/Brick & Concrete Sidewalks Construction Services to LaBrecque Construction, Inc.**

**VOTE: Unanimous.**

**MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to award the bid for Paving Services to Thying Paving.**

**VOTE: Unanimous.**

**# 6118 Discussion: Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Article VI (Districts), Division 8 (General Business District 1), Sec. 78-803 (Conditional Uses) to allow Tattoo Parlors as a Conditional Use within the General Business District 1 (GB-1) and to amend Chapter 78 (Zoning), Article I (In General), Sec. 78-1 (Definitions), to add a definition "Tattoo Parlor."**

**BACKGROUND:**

**HISTORY**

**The Planner, Jeffrey Hinderliter, provided this update to the Town Council. During 2013, former Code Officer Jim Butler, permitted a Tattoo Parlor (business owner is Robert**

Johnson) use for a property located adjacent to Ocean Park Rd. (close to OOB Campground). At that time, Mr. Butler determined that Tattoo Parlors are a permitted use at this location by classifying this use as a "Personal Service." Personal Service is an allowed use within this area of town which is zoned as General Business District 1 (GB 1). After Mr. Butler determined this was a permitted use, the proposed Tattoo Parlor went through the business licensing process and received Council approval. Sometime during late 2013, the Tattoo Parlor business owner decided to relocate the same business to a location at Halfway Intersection. Due to this relocation, the Tattoo Parlor was required to apply for a new business license. As part of the business licensing process, staff is required to perform a zoning check in order to determine if a proposal meets applicable zoning standards. During the zoning check, recently hired Code Officer Dan Feeney, determined that a Tattoo Parlor is not a Personal Service as defined in town ordinances (Definition: "*Personal services* means establishments primarily engaged in providing services involving the care of a person or his personal goods or apparel.") but is a Tattoo Parlor because Tattoo Parlor is much more similar to the proposed use than Personal Service. Both the former and proposed new location is within the same zoning district (GB 1). Personal Services are identified as an allowable use within GB 1 but Tattoo Parlors are not; Therefore, Mr. Feeney could not permit the Tattoo Parlor at its proposed location. Tattoo Parlors are a use identified within other Zoning Districts (Downtown District 1 and Amusement Overlay). Since it is identified as a use within other districts, and the use is not identified as a permitted or conditional use within GB 1, by ordinance Sec. 78-148, the Tattoo Parlor business is prohibited at the proposed location (Sec. 78-148, Omitted Uses: "Any use permitted in one zoning district of the town and not specifically prohibited in any other district shall be considered prohibited in such other districts. Any use not specifically allowed as either a permitted use or a conditional use is specifically prohibited. As new uses occur over time or existing uses are found to have been omitted, action allowing such shall be by amendment to this chapter.").

The Tattoo Parlor business owner did not agree with Mr. Feeney's decision and decided to seek relief and overturn through the appeals process. During January 2014, the appeal was brought to the Zoning Board of Appeals (ZBA) and the ZBA ruled in favor of Mr. Feeney's decision; therewith, denied the Tattoo Parlor business appeal. Town ordinances allow the appellant to appeal ZBA's rulings in Superior Court. The appeal must be filed in Superior Court within 30 days from the date of the ZBA's decision. For reasons unknown to me, the appellant did not appeal ZBA's ruling; therefore, ZBA's ruling remains in-effect. During the beginning of this month, the Tattoo Parlor business owner contacted me in order to explore his options. Since the Superior Court appeals period passed, the only recommendation I had was to propose a change to the zoning ordinance so that it will allow a Tattoo Parlor within GB 1. The business owner decided to proceed with this which is why the proposal is now before the Town Council.

### **FURTHER INFORMATION**

During discussion with the business owner regarding his options and how to move his proposal forward, it was his opinion that a Tattoo Parlor use should be classified as either Adult Business or Personal Service (both are allowed within GB 1). I believe there are a number of issues with this including how Adult Businesses and Personal Service are defined in the town ordinance, unintended consequences, and why are Tattoo Parlors a specific use and permissible only within certain areas of town.

**First**, it is the Planner's opinion the Tattoo Parlor use is a specifically identified use and does not meet the definitions of Adult Business and Personal Service. Definitions:

**“*Adult business* means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which depicts or describe specified sexual activities.”**

**“*Personal services* mean establishments primarily engaged in providing services involving the care of a person or his personal goods or apparel.”**

Regarding classification as an Adult Business, the Planned believes a Tattoo Parlor does not “...deal in materials or devices of any kind which appeal to prurient interests and which depict or describe specified sexual activities.” Regarding classification as a Personal Service, I believe a Tattoo Parlor does not “...involve the care of a person or his personal goods or apparel.” Because both definitions appear to identify uses that are different from Tattoo Parlors, the only way to include Tattoo Parlors within either definition is to specifically add Tattoo Parlors to either definition.

**Second**, if Tattoo Parlors are included within either Adult Business or Personal Service definitions, will there be unintended consequences to the areas in town that allows these uses?

Currently, *Adult Businesses* are permissible in GB 1 and the Historic Overlay (HO) Zoning Districts. GB 1 is located in two areas of town (see attached map)- First, from the OOB/Saco town line, properties abutting both sides of Old Orchard Rd. and Ocean Park Rd. and continues down Saco Ave. to E. Emerson Cummings intersection. Second, properties abutting both sides of Portland Ave. and Cascade Rd. from just above town hall to the end of Landry’s plaza. HO is located on properties abutting both sides of Portland Ave. from Portland Ave./Old Orchard Street intersection to the Portland Ave./Cascade Rd. intersection. *Personal Services* are permissible in Downtown District 1 (DD 1, dark gray on attached map), Downtown District 2 (DD 2, medium gray), Industrial District (ID, coral), Campground Overlay (CO, brown lined), GB 1 (light gray), and HO (dark red line). *Tattoo Parlors* are permissible in DD 1 and Amusement Overlay (AO, Palace Playland).

As you can see above, Tattoo Parlors and Adult Businesses do not have common permissible districts. Tattoo Parlors and Personal Services have one district in common- DD 1. If we included Tattoo Parlors within either definition, Tattoo Parlors will become a permissible use within the district where the use is allowed. For example, if Tattoo Parlors are included with the Personal Services definition then Tattoo Parlors become a permissible use in DD 1, DD2, ID, CO, GB 1, and HO districts. The potential problem with this- are Tattoo Parlors an appropriate use within the districts where it could be allowed?

Another issue is if Tattoo Parlors are included within the Adult Business definition, Tattoo Parlors will no longer be permissible in the DD 1 and AO districts because Adult Business is not a permissible use there. In addition, The Adult Business related ordinances will need to be amended which will take more time.

**Third**, why are Tattoo Parlors identified as a specific use and permissible only within particular areas of town? I have created numerous ordinances during my career and know there is thought behind why ordinance standards are created, amended and deleted. So, I feel there must be a reason as to why Tattoo Parlors are a specific use and only permissible within certain areas. Why was it decided Tattoo Parlors are not permissible in GB 1?

## **CONCLUSION**

After the initial analysis, if Tattoo Parlors are to become a permissible use within GB 1, as requested by the business owner, Tattoo Parlors should remain as a specific use and not be included within the Adult Business or Personal Service definitions. Tattoo Parlors will then be classified as either a "Permitted" or "Conditional" use within the GB 1. If it is classified as a "Permitted" use, than Tattoo Parlors in most cases will only require applicable state and code related permits. If classified as a "Conditional" use, than in addition to state and code permits, it will require Planning Board review. Planning Board review will provide additional oversight including the opportunity for abutters to comment. If the proposal is to move forward, other ordinance changes should include adding a Tattoo Parlor definition in the definitions article of Chapter 78 (Zoning) and excluding Tattoo Parlors as a allowed use within the HO district. If Council decides to continue with this proposal, we must attempt to find the reasoning why Tattoo Parlors are a specific use and only permissible within certain areas of town and try to assess the potential impacts a Tattoo Parlor may introduce to the properties in GB 1.

This is only a discussion item. It should be noted that in connection with zoning ordinance changes the Planning Board must provide and up-or-down vote before the final Council decision.

### **Sec. 2-85. - Form of enactments.**

The town council shall act only by ordinance, order, or resolve. All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title of the item cited on the agenda. An order or resolve involving an appropriation shall be confined to the subject of appropriations only.

(Policy of 1-6-1977, § 35; Policy of 12-2-2008)

### **Sec. 2-86. - Division of question.**

Any member of the town council may require the division of a question when the sense will admit it.

(Policy of 1-6-1977, § 36; Policy of 12-2-2008)

### **Sec. 2-87. - Ordinance style.**

In all votes of the town council on ordinances, the enacting form shall be: "Be it ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled that ..."

(Policy of 1-6-1977, § 37; Policy of 12-2-2008)

### **Sec. 2-88. - Style of orders and resolves.**

(a) In all votes of command of the town council, the enacting form shall be: "Be it ordered that ..."

(b) In all votes of opinions, principles, facts, or purposes, the enacting form shall be: "Be it resolved that ..."

(Policy of 1-6-1977, § 38; Policy of 12-2-2008)

### **Sec. 2-89. - First reading of ordinance, order or resolve.**

Every ordinance, order, or resolve of the town council shall have a first reading, unless the reading is dispensed with by the unanimous vote of those members of the council present, in which case the reading shall be by title only.

**(Policy of 1-6-1977, § 39; Policy of 12-2-2008)**

**Sec. 2-90. - Second reading of order or resolve.**

**Any order or resolve of the town council may be passed after a first reading, which may be by title only if no member of the council present objects, unless on motion a majority of those members present vote in favor of a second reading at a subsequent meeting.**

**(Policy of 1-6-1977, § 40; Policy of 12-2-2008)**

**Sec. 2-91. - Effective date of orders or resolves.**

**All orders or resolves of the town council shall take effect immediately after passage.**

**(Policy of 1-6-1977, § 41; Policy of 12-2-2008)**

**Sec. 2-92. - Effective date of ordinances.**

**Ordinances of the town council shall take effect immediately and shall be in full force until amended or repealed, subject to their suspension upon petition pursuant to section 301 of the Charter.**

**(Policy of 1-6-1977, § 42; Policy of 12-5-1989; Policy of 12-2-2008)**

- **Chapter 78, OOB Ordinances:**

**Sec. 78-31. - Amendments to chapter.**

**(a) This chapter may be amended from time to time as the needs of the town require after public hearing on a proposed amendment held by the planning board and following posting and publishing of notice of the hearing.**

**(b) Such notice shall be posted in the town office at least 14 days before the public hearing and shall be published at least two times in a newspaper of general circulation in the town. The date of the first publication must be at least 14 days before the hearing, and the date of the second publication must be at least seven days before the hearing.**

**(c) Amendments to this chapter shall be adopted only after favorable vote of a majority of the members of the town council.**

**The Council had input into the discussion and thanked the Planner for his excellent presentation. Although no action could or would be taken this evening it was recommended that the Planner continues to examine the possibility of an ordinance change to affect the possibility of the Tattoo Parlor being in the discussed position. The issue discussed this evening was the request of business owner, Robert Johnson, to open up a tattoo studio on Ocean Park Road called "Good and Evil Tattoo." One of the concerns that have been expressed to members of Council was the concern that this is the entrance way to the Town and is this what we want for first appearance to visitors? The Town's zoning ordinance must change before this business can be approved in this location. The only zones in Town where tattoo studios are allowed are the Downtown District 1 and Amusement Overlay District located in the downtown and Palace Playland Amusement area. There are two other tattoo parlors in Old Orchard Beach; Mad Hatter at the top of Old Orchard Street and licenses as a tattoo establishment; and Ocean Blue halfway down Old Orchard Street and licenses as a tattoo establishment and body piercing. Adult businesses are allowed in the General Business District 1 but tattoo studios do not fit in the category of an adult business. According to Town Ordinance adult businesses are those that deal "in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities." The Council was given a copy of an e-mail that was sent by the business owner. The e-mail was sensitive to the concerns expressed by those as it dealt with allowing tattoo parlors in the**

GB1 section of the community and the concern that it might open flood gates and that perhaps the Council might like to adopt stipulations such as distance from schools, daycare centers, etc. Tattoo Parlors would then be able to be approved on a case-by-case basis. Much of the discussion related to the definitive understanding of what personal services involve and definitive understand of the operation of tattoo parlors. Important in the discussion was the code identifying and defining what a tattoo or body art establishment is and set limitations and regulations on the locations, permitting process, operational hours and then decide whether to approve depending on the individual tattoo business. A question of the fee would be another consideration. The Council again thanked the Planner for his presentation and Mr. Johnson for his appearance before the Council this evening. The proposed ordinance change would need to go before the Planning Board and then to the Council for final approval. Both the Planning Board and the Town Council would need to have Public Hearings on the proposal.

Robert Johnson's e-mail:

"I would like to provide some further insight and information regarding tattooing in general, the tattoo artist and tattoo parlors in order to help you and the council further investigate the need to re-define tattooing and it's zoning in OOB. Please forward this email to the other council members. There is obviously old-school thinking still intact with the current zoning in OOB regarding tattoo parlors. The zoning was perhaps created when tattooing was once considered a drunken sailor's, rock stars and motorcyclists' form of art. Tattoo parlors and the art of tattooing has come a long, long way since that time. For one, tattoos are forbidden to be applied to people under the influence of alcohol. No person under the age of 18 shall be allowed to be tattooed. Sailors are no longer the mainstream client. In fact, every walk of life enters my doors from lawyers to clergy to local business owners, even councilmen and town managers! Women are now a more frequent customer than men. Tattoos are no longer taboo and they attract customers, young and old, to the area. The art of tattooing goes hand-in-hand with the reason why people vacation in Old Orchard Beach .. to vacation in and experience a seaside community and bring back memories. Tattoos are considered rights of passage by some and are often used as life-long souvenirs of the experiences and travels one has in his/her life. I understand that allowing tattoo parlors in GB1 may open the flood gate for more shops than the town may desire. There are many ways around this dilemma. If tattoo shops are approved under a conditional use in GB1, the council may want to adopt stipulations as I have seen in other towns. For example, tattoo parlors must be a certain distance from each another. Another example in many towns is that tattoo parlors cannot fall within a certain number of feet from schools, daycare centers, and churches or other places of worship. With conditional usage, tattoo parlors could be approved on a case-by-case basis, making sure the tattoo artist and shop has withstood the test of time regarding operating a clean and licensed shop with no infractions from the DHHS. I also understand the town is concerned about it's gateway appearance and overall reputation. The building which now houses Good & Evil was formerly a motorcycle shop with barred windows and doors. The building has now been completely renovated and is a welcoming, clean establishment with desirable road frontage. Tattoo parlors draw limited traffic, typically 2-3 customers at a time. Tattoo parlors do not allow customers under the influence of alcohol nor drugs in their establishment. After my research, I agree that the art of tattooing does not



fall under the category of an adult business and I am pursuing it as a personal service. This proposed change may also bring to light other antiquated codes the town still has in use. Does OOB really want to allow adult businesses in the Historic Overlay, which could happen under current codes... not to mention GB1. Just saying... do we want a strip club as the first thing people see when they pull into town? Technically speaking, I could open a gentleman's club in the building I now rent. Is that more appealing to the town than a tattoo parlor? In another questionable decision made in the past by the town of OOB regarding tattoo shops ... an ordinance was created to require tattoo shops to be a minimum of 2500 square feet. This change was brought into fruition by an owner of a current tattoo shop creating a monopoly in the town. No other shop could afford a space that large and be within the DD1 zone. The current shop was grandfathered falling ridiculously short of the required 2500 sq. feet creating unfair business practice. A friend and fellow body art enthusiast helped appeal and change that ordinance several years ago. I could not find a definition of personal services that matches what you, Dan Feeney and the town of OOB have described, i.e. "the care of a person or his personal goods". This sounds like the 1800s. The following is what I have found while researching tattooing as a personal service.

**DEFINITION OF PERSONAL SERVICE:** The legal definition of personal services as per the online dictionary, legal-dictionary.com is as such: <http://legal-dictionary.thefreedictionary.com/personal+services> personal services in contract law, the talents of a person which are unusual, special or unique and cannot be performed exactly the same by another. These can include the talents of an artist, an actor, a writer, or professional services. Wikipedia, the famous online dictionary, further defines personal services as such:

[http://en.wikipedia.org/wiki/Personal\\_service](http://en.wikipedia.org/wiki/Personal_service) From Wikipedia, the free encyclopedia personal service may refer to: Personal service sector of the economy, which delivers services rather than goods. The person who applies tattoos is an artist. He/she is referred to as a Tattoo Artist. Artists deliver a personal service. A Tattoo Parlor delivers a service, not goods thus it falls under personal services. From a web search:

[www.fraserhealth.ca/your\\_environment/personal\\_service](http://www.fraserhealth.ca/your_environment/personal_service) Fraser Healthcare, an organization who inspects facilities that provide personal services, defines personal service establishments as such: A personal service establishment means a facility in which a person provides a service to or on the body of another person. What are personal services? Ear and body piercing, hair salons, tanning salons, tattooing, laser hair removal. From Northern Health in California regarding Tattoo Shops: Tattoo shops are a type of personal service establishment. Because the procedure for a tattoo requires penetrating the skin to insert ink this is considered a high risk activity. Due to this high risk activity, tattoo parlors are routinely inspected by Environmental Health Officers. While on the topic of health inspections ... all personal service establishments are governed by the DHHS in Maine. The state of Maine Rules Relating to Tattooing 10 144 210 are very strict and very detailed. The Department of Human Services must license all persons practicing the art of tattooing and oversees everything from sterilization, illumination, water supply, sanitation, floors, walls, ceilings, toilet facilities, procedures, care of instruments and medical records. In all my years of tattooing, (I have been in the industry since 1991) I have not had one single complaint or infraction involving state inspections or violations, etc. I would request that the

council acquire a copy of the state's rules relating to tattooing to understand that it is not the town's obligation to police tattoo shops as the state and DHHS have that thoroughly covered. **ZONING OF TATTOO PARLORS IN OTHER MAINE TOWNS:**  
**Arundel, Maine:** Arundel was the most recent former location of Good & Evil Tattoo, on Portland Road/Route 1, prior to moving and receiving license to operate in GB1 of Old Orchard Beach. Pertaining to Tattoo Parlors in Arundel, Maine. Minutes from Arundel Planning Board, dated February 7, 2013: "The board discussed tattoo parlors in the DB 1 district. They did not want to put tattoo parlors specifically on a permitted or conditional use list on their own. Cain (Marty Cain) stated that he believes tattoo parlors would fall under "personal services" which are permitted in the DB1 district."  
**Saco, Maine:** Prior to my Arundel location, I operated in Saco on Route One. Article 3 under definitions for the town of Saco states: "Personal Services: Establishments engaged in providing services involving the care of the person or personal apparel including but not limited to barber shops, beauty shops and manicurists, tailors, laundromats, shoe repair shops, tattoo parlors, massage therapists, and photographic studios." Arundel and Saco are two of Old Orchard Beach's bordering towns. I believe you will find similar definitions and zoning in other towns, including Biddeford, Portland, Kennebunk, Lewiston, Augusta, etc. etc. Last summer, the town of Lewiston was in the news regarding a zoning change for tattoo parlors. resulting in redefining its definition of tattooing. I will be in attendance on Tuesday, March 18th at 7pm and look forward to the discussion. I have invested much time, energy and finances in relocating Good & Evil Tattoo to Old Orchard Beach and I look forward to a successful, clean, welcomed business in the town now and for years to come!"  
Regards, Robert Johnson

# 6119 Discussion with Action: Approve wording of referendum question for the June 10, 2014 ballot on the granting of an easement over a portion of the Town of Old Orchard Beach Historical Society (Harmon Museum) parcel.

#### **BACKGROUND:**

The Town owns land where the Harmon Museum is located. The Harmon Museum has no parking and is not ADA compliant. Saco and Biddeford Savings Institution, who owns the property adjacent to the Museum is proposing to build and maintain a parking lot behind the Museum and ADA compliant access to the Museum's entrance; basically financing and constructing the entire project. In order to access the proposed parking lot, vehicles will need to travel through SBSI parking lot. In exchange for SBSI financing and building the parking lot, they are requesting an easement to allow bank employees to access and use the parking lot and an easement for the Town to cross SBSI property to access the parking lot. To allow this exchange, it needs to go to referendum in June. This agenda item is only to approve the wording of the Referendum Question which will be on the June 10, 2014 ballot on granting easement over a portion of the Town of Old Orchard Beach Historical Society parcel. At the last Town Council meeting the motion was made to move this forward.

**ORDER APPROVING REFERENDUM QUESTION ON THE GRANTING OF AN EASEMENT OVER A PORTION OF THE TOWN OF OLD ORCHARD BEACH HISTORICAL SOCIETY (HARMON MUSEUM) PARCEL.**

**Be it ordered: The Town Clerk shall place on the ballot for the Town election to be held on June 10, 2014 the following referendum question:**

**Shall the Town Council of the Town of Old Orchard Beach be authorized to grant and convey a permanent easement located over the rear portion of the Town of Old Orchard Beach Historical Society (Harmon Museum) parcel at 4 Portland Avenue, Old Orchard Beach, Maine parcel identified on the Town Tax Map as MBLU 205-1-22X, to the Saco & Biddeford Savings Institution (“SBSI”), owners of the parcel at 2 Portland Avenue, further identified on the Town of Old Orchard Beach Tax Map as MBLU 205-1-21, to allow for SBSI, at its sole expense, to develop, maintain and use a parking lot on the Town of Old Orchard Beach/Historical Society parcel as shown on the survey on file at the Town Office, in consideration for the Town receiving perpetual access and perpetual use of the parking lot to be constructed and maintained by SBSI, the granting and conveyance of an easement from SBSI to the Town for the Town’s perpetual right of access over the SBSI parcel, the construction of a paved walkway around the Historical Society building and an access ramp for the Historical Society building to be constructed by SBSI, and for such purposes and such other terms as agreed to by SBSI, the Town and Historical Society (the “Agreement”), the terms and conditions of the easement subject to review and approval by the Town Council?**

Discussion revolved around the complexity of the way the wording was proposed and that simplicity for the voters would be a better approach. The Council expressed fully their support of the agreement between the Harmon Museum and the Saco Biddeford Savings Institution but was concerned that the complexity of the question might not be understood by the voters. It was requested that the Attorney prepare a more simplified but definitive question and share it with the Administration and the Bank before bringing back to the Council on April 1<sup>st</sup>. It was indicated this was not concern about the agreement itself but only about the wording on the agenda to be the wording on the referendum in June. During the discussion Jerome Begart asked the question about “air rights” but it was not addressed and he questioned there not being a time option rather than in perpetuity. The Planner reminded everyone that this great gesture by the Bank permits the Museum to be in compliance with American Disability Requirements.

**MOTION:** Vice Chair Quinn motioned and Councilor Thornton seconded to Table the Approval of the wording of the referendum question for the June 10, 2014 ballot on the granting of an easement over a portion of the Town of Old Orchard Beach Historical Society (Harmon Museum) Parcel until more simplified wording could be provided to the Council on April 1, 2014.

**VOTE:** Unanimous.

**# 6120** Discussion with Action: Approve the purchase of grinder parts from Franklin Miller, to rebuild the Halfway Pump Station grinder, in the amount of \$6,671 from Account Number 20161-50330 – Waste Water Equipment Replacement, with a balance of \$19,351.

**BACKGROUND:**

The Waste Water Superintendent is requesting to purchase replacement parts to rebuild the grinder at the Halfway Pump Station. The grinder was originally installed in 2002. The grinder has recently failed and the staff must clean debris manually. This request is for a

total of \$6,671. Franklin Miller is the sole source of parts for its grinders. OOBWW staff will be performing the labor to rebuild the grinder.

**MOTION:** Councilor Tousignant motioned and Councilor Pastor seconded to Approve the purchase of grinder parts from Franklin Miller, to rebuild the Halfway Pump Station grinder, in the amount of \$6,671 from Account Number 20161-50330 – Waste Water Equipment Replacement, with a balance of \$19,351.

**VOTE:** Unanimous.

**# 6121 Discussion with Action:** Amend the Code of Ordinances, Section 54-187, Traffic and Vehicles, Parking on East Grand Avenue and Old Orchard Street.

**BACKGROUND:** This item has been discussed by the Council and presented in a Public Hearing where again information was presented and discussed. Over the past few years there has been a request from the Police Chief, Dana Kelley, and his staff, to look at more opportunities for funding by the assessment of possible locations in Old Orchard Beach where paid parking by meter might be a possibility. In order to address parking concerns and allow for parking meter installation, changes to the present ordinance need to be considered. Some of the considerations were diagonal parking on one side of Old Orchard Street and during a recent Public Hearing the Chief indicated that except for the revenue consideration this would not have been a suggestion. If the Council decides to move forward with any of these proposals, some ordinance changes would be necessary and in order to get the changes made in time for the upcoming season, decisions would need to be reached soon. There was a suggestion that Old Orchard Street changes not be accepted but that the Council move on to accept the changes on East Grand Avenue.

**CHANGES SUGGESTED:**

East Grand Avenue. No parking will be permitted on either side of East Grand Avenue from Old Orchard Street to the Scarborough line. ~~Except that parking shall be allowed on the ocean side of East Grand Avenue from Boisvert Street~~ Kinney Avenue to Cleaves Walnut Street. Loading and unloading only will be permitted at the locations defined by the chief of police and designated by proper signages ~~placed on the avenue in front of appropriate business establishments. Parking shall be allowed on the ocean side of East Grand Avenue from Kinney Avenue to Walnut Street commencing on the first Tuesday after Labor Day and ending on the Friday before Memorial Day of each year. Three 15-minute parking spaces will be permitted on the west side (non-ocean side) of East Grand Avenue from 25 feet northerly of Walnut Street to 85 feet northerly along~~ from the intersection of Walnut Street in a southerly direction for 85 feet.

Old Orchard Street. Two-hour parking only shall be allowed on both sides of Old Orchard Street. Diagonal parking only shall be allowed on the left hand side of Old Orchard Street facing the ocean and parallel parking only shall be allowed on the right hand side of Old Orchard Street facing the ocean from Portland Avenue to First Street/Milliken Street. From Milliken/First Street to East Grand Avenue, parallel loading/unloading and bus stop parking as designated by the Town Council. See also section 54-113 and Town hall in this section.

During the discussion this evening, Councilor Tousignant submitted and read into the record an e-mail from Paul Rousseau, business owner of the Crests Motel. “Dear

**Councilors – I heard about a plan to place parking meters on East Grand Avenue from Harold’s to Walnut Street. I would like to voice my oppositions. I have owned the property at 35 East Grand Avenue since 1989. During this 25 years parking on East Grand has been discussed at least a half-dozen times. Each time there has been vocal opposition to the plan. I believe the Fire Chief stated the road would not be wide enough for his equipment with cars parking and the line of traffic heading to Town in July and August. I believe the noise level at 1:00 a.m. with car doors slamming and engines riving would be detrimental to my guest’s experience. I hope you reconsider this plan one more time for the sake of safety.” Discussion continued and indication made that during Public Hearings it appeared that interest was removed from Old Orchard Street and that consideration this evening would be East Grand Avenue. In addressing the concerns indicated it was stated that the Fire Chief had signed off on the plans for East Grand Avenue. (Parking on East Grand Avenue would be on the ocean side from Kinney to Walnut.) This was considered as a way to increase revenue. It was decided during the evening discussion that diagonal parking on Old Orchard Street would not be considered as extension into the street would cause safety concerns. Councilor Tousignant indicated the he was going to vote against the measure after reading Mr. Rousseau’s letter because of past history. Councilor Pastor said there aren’t too many beach communities that don’t charge for parking. She indicated it has been called “chump change” in the light of things but when you are struggling chump change is change so this is a step forward in trying to solve financial problems for the Town. Chair O’Neill indicated that the Town should capitalize on parking and that if noise is an issue the matter can come back to the Town Council. The Town is purchasing kiosk pay stations for parking in the downtown and the old meters will be used on East Grand Avenue. The question was raised about using the new meters on First Street instead of Old Orchard Street but the Chief did not support this and since this particular issue was not on the agenda for discussions it would come back on the April 1<sup>st</sup> agenda**

**MOTION: Councilor Thornton motioned and Councilor Pastor seconded to Amend Section 54-187, East Grand Avenue.**

**VOTE: Yea: Councilors Thornton, Pastor, Vice Chair Quinn and Chair O’Neill.  
Nea: Councilor Tousignant.**

**# 6122 Discussion with Action: Appoint George Aube as an Alternate to the Ballpark Commission, term to expire 12/31/2016; Appoint Bethany Anderson as the Alternate Republican to the Registration Appeals Board, term to expire 12/31/16; and Accept, with Regret, the resignation of Jacqui Deveneau from the Community Animal Watch Committee; and move Arlene Dolgon from an Alternate position to a Regular position, term to expire 12/31/15.**

**MOTION: Vice Chair Quinn motioned and Councilor Thornton seconded to Appoint George Aube as an Alternate to the Ballpark Commission, term to expire 12/31/2016; Appoint Bethany Anderson as the Alternate Republican to the Registration Appeals Board, term to expire 12/31/16; and Accept, with Regret, the resignation of Jacqui Deveneau from the Community Animal Watch Committee; and move Arlene Dolgon from an Alternate position to a Regular position, term to expire 12/31/15.**

**VOTE: Unanimous.**

**# 6123 Discussion with Action: Approve the Special Event Permit application for Palace Playland and the Pier to hold Fireworks displays every Thursday at 9:45 p.m. on the beach in front of Palace Playland, starting June 26<sup>th</sup>, 2014 to August 21<sup>st</sup>, 2014, to also include July 4<sup>th</sup>. Approval by the State Fire Marshall's Office to be provided to the Town Clerk's Office at least one week prior to the first display; and a request to waive the fee.**

**MOTION: Councilor Thornton motioned and Councilor Thornton seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 6124 Discussion with Action: Approve the Democrat and Republican Ballot Clerks, terms to expire May 1, 2016.**

**MOTION: Councilor Tousignant motioned and Vice Chair Quinn seconded to Approve the Democrat and Republican Ballot Clerks, terms to expire May 1, 2016 as read.**

**VOTE: Unanimous.**

**# 6125 Discussion with Action: Authorize the Registrar to be open during the office hours of the Town Clerk only for the five business days prior to the April 8, 2014 election and the June 10, 2014 election.**

**MOTION: Councilor Thornton motioned and Councilor Pastor seconded to Authorize the Registrar to be open during the office hours of the Town Clerk only for the five business days prior to the April 8, 2014 election and the June 10, 2014 election.**

**VOTE: Unanimous.**

**# 6126 Discussion with Action: Approve the Special Event Permit application for the Salvation Army to hold a Freedom 5k Run/Walk on Saturday, July 26, 2014, starting at 7:45 a.m.; and a request to waive the fee.**

**MOTION: Councilor Thornton motioned and Vice Chair Quinn seconded to Remove without Prejudice Agenda Item 66126, as read.**

**VOTE: Unanimous.**

**# 6127 Discussion with Action: Authorize the Town Manager to close Town Hall only on Wednesday, December 24, 2014 with Town Hall employees taking either ½ vacation day or ½ floating holiday.**

**MOTION: Councilor Pastor motioned and Councilor Thornton seconded to Authorize the Town Manager to close Town Hall only on Wednesday, December 24, 2014 with Town Hall employees taking either ½ vacation day or ½ floating holiday.**

**VOTE: Unanimous.**

**# 6128** Discussion with Action: Approve the Special Event Permit application for the OOB Recreation Department to hold their 3<sup>rd</sup> Annual OOB Girls High School Beach Slam Classic at the Memorial Park Basketball Courts on Saturday, July 26<sup>th</sup>, from 8 a.m. to 8 p.m., with a rain date of July 27<sup>th</sup>, 2014, same times. Request to waive the fee.

**MOTION:** Councilor Pastor motioned and Councilor Thornton seconded to Approve the Special Event Permit as read.

**VOTE:** Unanimous.

**# 6129** Discussion with Action: Approve the Special Event Permit application for the Town of Old Orchard Beach to hold the annual Memorial Day Parade on Monday, May 26<sup>th</sup>, 2014 from 8 a.m. (set up in Memorial Park) to 3 p.m. (takedown); line-up on E. Emerson Cummings Blvd at Noon, parade to begin at 1:00 p.m.; and a request to waive the fee.

**MOTION:** Councilor Thornton motioned and Vice Chair Quinn seconded to Approve the Special Event Permit as read.

**VOTE:** Unanimous.

**GOOD AND WELFARE:**

**TOWN MANAGER:** He announced that after many years of outstanding service he was informed this evening that Fire Chief John Glass will be retiring in July of 2014.

**TOWN CLERK:** She announced about the upgrade in the cameras for Channel 3 and that those upgrades will be taking place this coming week. She also thanked the American Legion for their generous donation of \$2,000 for the Memorial Day Parade, a welcomed and appreciated event for our community.

**ADJOURNMENT:**

**MOTION:** Councilor Thornton motioned and Councilor Pastor seconded to adjourn the meeting at 8:15 p.m.

**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 fifteen (15) pages is a copy of the original Minutes of the Town Council Meeting of March 18, 2014.

V. Louise Reid

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