

**TOWN OF OLD ORCHARD BEACH
SPECIAL TOWN COUNCIL MEETING
Tuesday, May 13, 2014
TOWN HALL CHAMBERS
6:30 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, May 13, 2014. Chair O'Neill opened the meeting at 6:30 p.m.

The following were in attendance:

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

The Town Council Chair called for a motion to open the Special Town Council Meeting.

MOTION: Councilor Pastor motioned and Councilor Thornton seconded to open a Special Town Council Meeting.

VOTE: Unanimous.

6178 Discussion with Action: Consider a proposed settlement of the litigation between the *Town of Old Orchard Beach* and *Mark Pearson* and authorize the Town Manager on behalf of the Town to accept the proposed settlement of the claims and to execute on the Town's behalf documents related thereto in content and form acceptable to the Town Attorney.

**Council Chair
Shawn O'Neill**

VICE CHAIR QUINN: Last week the Town Council met in executive session with the Town's legal counsel to discuss the terms of a proposed settlement to the Pearson litigation. The proposed settlement is the product of a mediation process that is required by Superior Court rules. The mediation process is designed to make all parties involved in litigation aware of the advantages and disadvantages of settling litigation before trial. Vice Chair Quinn and the Town Manager represented the Town at the mediation. During the mediation the parties reached an agreement to resolve the case subject to the consent and approval of the Town Council. The proposed resolution was reached in consultation with the Town's litigation counsel and with the Town's insurer. All parties agreed that the terms of the proposed settlement discussed at the mediation would be held confidential. Therefore the members of the Town Council and the Town Manager are not at liberty to discuss the terms of the agreement in any further detail at this time.

JOHN BIRD: He explained that he was against the motion; having nothing to do with the questions of how much the settlement is but felt that it is inappropriate to settle something that is not resolved. He referred to past history and the amount of disruption that occurred and that this settlement brings no resolution to the issues that need to be resolved. He recognizes this is a new Council and that economically it might appear the best way but he felt it was “sweeping things under the rug.” It was not bringing forth healing among the groups that had the issues. It may be practical and economical but nothing has been resolved.

JEROME: He indicated that he realized the Council was doing something that was practical but it will be unfortunate if one side “gloats” over this action and assumes that the Town is at fault as the Town was not at fault. He reminded people to be “grown up” and if not there would be advertisements showing what really was the truth.

LAURA BOLDUC: She said litigation is expensive and having a new Town Manager is priceless.

COUNCILOR PASTOR: She said that the Council was doing what was right for the people of Old Orchard Beach for which they had been elected. There is a new Council which has worked well together and will continue to do that. The mess has been cleaned up and the people have trust that we will do the best for them. I am tired of talking about it and look forward to moving on.

MOTION: Councilor Pastor motioned and Councilor Thornton seconded to Consider a proposed settlement of the litigation between the *Town of Old Orchard Beach and Mark Pearson* and authorize the Town Manager on behalf of the Town to accept the proposed settlement of the claims and to execute on the Town’s behalf documents related thereto in content and form acceptable to the Town Attorney.

VOTE: Unanimous.

6179 Discussion with Action: Reconsider Agenda Item Number 6164 to 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 definition “Tattoo Parlor.”

Councilor Malorie Pastor

TOWN MANAGER: The Town Manager explained that the vote taken on Tuesday night pertaining to changing the zoning in GB-1 to allow tattoo parlors will be reconsidered at this meeting. Charter language in Section 410 indicates “The Council may enact rules controlling reintroduction of defeated ordinances, provided that no defeated ordinance may be reintroduced for a period of 180 days from the date of the meeting at which it was considered.” Upon consultation with the Town Attorney (in this case it was Chris Vaniotis and Phil Saucier), in their opinion the Charter language does not apply to the

reconsideration of an ordinance because the reconsideration of a council vote pertaining to a defeated ordinance is not the same as a reintroduction of an ordinance. A reintroduction of an ordinance would require starting the process from the beginning of the process. For example the Planning Board would have to once again conduct a public hearing and vote on whether to bring a recommendation to the Town Council. A reconsideration of the vote taken on this past Tuesday is governed under the Council Rules of Procedure, specifically Section 2-73, which states: "When a vote is passed by the Town Council it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same meeting or the next stated meeting." Given this guidance by the Town Attorney the Town Manager contacted each of the three Councilors who voted in the negative on the last vote. Councilor Pastor told me that in order to allow the full Council to vote on the issue, she did want to make such a motion and therefore this item is being placed on the agenda this evening for reconsideration. It was Councilor Tousignant who contacted the Town Manager to say he thought that there was an appropriate way for reconsideration and to ask that I look further into the matter.

CHAIR O'NEILL: He explained why he was voting for this and apologized for not being at the last meeting but he was ill. He indicated that he has supported this from the day it was brought forward because, whether a mistake or not, they had a business in this locality for over a year with no complaints whatsoever. He also reminded people that the Planning Board would be attaching conditions to this but felt that they should not be penalized for what was a mistake by the Town.

COUNCILOR BLOW: He indicated he was voting against it and it had nothing to do with the Tattoo Parlor but if we want to change an Ordinance, then change the Ordinance but don't make exceptions to them. He also was against the fact that another Tattoo Parlor could not be near it by three miles and this appears to give them a monopoly.

MOTION: Councilor Pastor motioned and Councilor Thornton second to Reconsider Agenda Item Number 6164 to 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 definition "Tattoo Parlor."

VOTE: Yea: Councilors Thornton, Tousignant, Vice Chair Quinn, Chair O'Neill
Nea: Councilors Blow, Kelley, Pastor

CHAIR: We now need a motion to Amend the Town of Old Orchard Beach Code of Ordinances.

MOTION: Councilor Pastor motioned and Councilor Thornton second to Reconsider Agenda Item Number 6164 to 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 definition "Tattoo Parlor."

VOTE: Yea: Councilors Thornton, Tousignant, Vice Chair Quinn, Chair O'Neill
Nea: Councilors Blow, Kelley, Pastor

ADJOURNMENT:

MOTION: Councilor Pastor motioned and Councilor Thornton seconded to adjourn the meeting at 6:45 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 four (4) pages is a copy of the original Minutes of the Town Council Meeting of May 13, 2014.

V. Louise Reid