

**TOWN OF OLD ORCHARD BEACH
TUESDAY, MAY 6, 2014
TOWN COUNCIL MEETING
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, May 6, 2014. Vice Chair Quinn opened the meeting at 7:05 p.m.

The following were in attendance:

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

ABSENT: Chair Shawn O'Neill

ACKNOWLEDGEMENTS:

TOWN CLERK: The Town Clerk presented information to the citizens relative to the upcoming RSU budget considerations and the process for voting on that matter and then bringing it forward to the June 5th election. The \$12.6 million proposed Regional School Unit 23 budget will go to a regional Town Meeting style vote on May 14, 2014 at 6:00 p.m. at the Old Orchard Beach High School. At this meeting residents will vote on the budget by eleven individual cost centers. Residents can vote to increase or decrease the cost centers but cannot vote to approve specific programs, staff or the expenditures. If a budget is approved at the May 14th meeting it will go for a final vote at a Town-wide referendum on June 10th. This is the first budget for the Old Orchard Beach school system as the one-town school board since formation of the RSU 23 in 2009. The budget marks about a \$1.6 million increase from the town's share of the RSU budget in the current fiscal year. The budget is as a "needs-based" budget and the district is playing "catch-up." There were two public information workshops on April 28th and last night, May 5th.

COUNCILOR PASTOR: Just a reminder that the 6th Annual Chowder Fest at the pier in Old Orchard Beach is scheduled for Saturday, May 10th from 12:00 p.m. to 4:00 p.m. All proceeds will go to the "Old Orchard Beach Community Animal Watch". Special thanks to Paul Golzbein and to Tommy Lemieux. Also The Old Orchard Beach High School Parents Class Night Project Graduation Committee will be having a car wash, bottle drive and Bake sale on Saturday, May 10th from 9:00 to 1:00 at the OOB Fire Department. We also welcome to our community the latest new business and on the agenda this evening:

OOB PINE TREE SEAFOOD AND PRODUCE CO.

COUNCILOR KELLEY: Please put this Friday, May 9th on your calendar and if you can help out and volunteer at Memorial Park in the plantings and upkeep of the park, Andrea Berlin will be working at the park from 8:00 a.m. to noon and would be so appreciative of any help she can get. In addition bring your gardening tools if possible. Rain date would be Saturday the 10th from 8:00 a.m. to noon. Also put Saturday, May 18th on your calendar for a Pancake Breakfast at the American Legion in Honor of the Vets.

COUNCILOR THORNTON: A reminder that this Saturday, May 10th from 8:00 a.m. to noon at the Scarborough Public Works – 20 Washington Avenue, all Old Orchard residents who wish can be their residential household waste and drop it off. Proof of residency is required. Bring unwanted household hazardous waste in sealed containers.

ACCEPTANCE OF MINUTES: Town Council Workshop Minutes of April 7, 2014; Town Council Workshop Minutes of April 9, 2014; Town Council Workshop Minutes of April 14, 2014; Town Council Meeting Minutes of April 15, 2014; Town Council Workshop Minutes of April 23, 2014; Town Council Workshop Minutes of April 24, 2014; Administrative Board Meeting Minutes of April 7, 2014; Administrative Board Meeting Minutes of April 8, 2014; and Administrative Board Meeting Minutes of April 10, 2014.

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

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:11 p.m.

John Covino (201-1-7-3F), 221 East Grand Avenue, Unit 3F, one year round rental; Conrad & Bhupinder Caldwell (208-1-1-21,) 180 Saco Avenue, Unit 21, one year round rental; 9 Ocean Park LLC/James Hartley dba/Pine Tree Seafood & Produce Co. (210-10-2), 9 Ocean Park Road, Victualers with Preparation with Beer, Wine and/or Liquor (take out); Retail; Paul & Joan Shandrowski (305-4-1-403), 1 Cleaves Street, #403, one year round rental; and Conditional business license for the Grand Victorian Hotel Condominium Association dba/Grand Victorian Hotel COA (306-1-2), 1 East Grand Avenue, 51 year round rentals, subject to payment of property taxes in full for FY2013 tax year and all of FY2014 taxes paid by April 1, 2015; and business license renewal in FY2016 will be conditional that all taxes are current as of April 1, 2017.

CHAIR: I close this Public Hearing at 7:13 p.m.

MOTION: Councilor Thornton motioned and Councilor Tousignant seconded to Approve business licenses with stipulations as read.

VOTE: Unanimous.

PUBLIC HEARING BUSINESS LICENSE AND APPROVAL WITH CONDITIONS

CHAIR: I open this Public Hearing at 7:14 p.m.

The Landings at Old Orchard Beach LLC dba/The Landings (206-27-10), 29 Saco Avenue; - The nine cabins shall be allowed to be rented only from May 1st through October 15th. There shall be no winter rentals of cabins. There will be a re-inspection of cabins by the Code Enforcement Officer within six months. Any denial of access by the Code Enforcement Officer during the licensing period shall be cause for license revocation.

There was a lengthy discussion of this business license and the stipulations placed on the operation of the business. Although the owner, Mr. Ed Jackson, publicly spoke of the number of police or fire calls really being more related to lost cats and dogs and other minor infractions, the Town Manager related that the number of serious safety issues were a major

factor in this being brought forward and that Mr. Jackson was notified of the importance of the hearing and chose not to attend. Also brought to the Town Council's attention was a recent e-mail from a Mr. George Ford who recently stayed at The Landing at 29 Saco Avenue and related that as a Licensed Electrician he could not believe the outdated and poor electric work done on the facility and that, in his opinion, it was a fire hazard. The enormity of the details that Mr. Ford brought forward were important enough that the Code Enforcement Officer, Dan Feeney, indicated to the Council that he would make a full inspection of the facility the next day. Again Mr. Jackson expressed his opinion that he bought the business and this is the way it was and didn't particularly feel that the safety issues were that bad. Council Pastor reminded him that we are anxious to have businesses in Old Orchard Beach that attract individuals to the community, not turn them away. It was noted that this was not the first time that this business has been brought before the Administrative Board. The Council concurred that this needed to be removed without prejudice and come back when the violations are corrected and the safety issues addressed.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Remove without Prejudice the business license for The Landings at Old Orchard Beach LLC dba/The Landings (206-27-10), 29 Saco Avenue, - The nine cabins shall be allowed to be rented only from May 1st through October 15th. There shall be no winter rentals of cabins. There will be a re-inspection of cabins by the Code Enforcement Officer within six months. Any denial of access by the Code Enforcement Officer during the licensing period shall be cause for license revocation.

VOTE: Yea: Councilors Blow, Tousignant, Thornton, Vice Chair Quinn
Nea: Councilors Kelley and Pastor

Natural High RV Resort/Ed Jackson dba/Fern Park Cabins (206-10-6), 74 Saco Avenue, - All code issues need to be corrected and acceptable to the Code Enforcement Officer. The rental of cabins is allowed only from May 1st through October 15th. The cabins cannot be rented to J-1 Students. Any denial of access by the Code Enforcement Officer during the licensing period shall be cause for license revocation.

Further discussion by the Council continued on another business owned by Mr. Jackson and addressed the issues raised about the conditions of some of the cabins. There were a number of considered violations last summer where more than the legal numbers of students were living in cabins where occupancy was noted to be less than those residing there and that the best way to approach this was to limit students only to the house. The Code Enforcement Officer said he believed that the number of safety issues could be corrected before rental of the property is done and it as decided by the Council to move forward with this license with the understanding that adherence would be to the stipulations and that follow up code review would be done before rentals occur.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to approve the business license for Natural High RV Resort/Ed Jackson dba/Fern Park Cabins (206-10-6), 74 Saco Avenue, - All code issues need to be corrected and acceptable to the Code Enforcement Officer. The rental of cabins is allowed only from May 1st through October 15th. The cabins cannot be rented to J-1 Students. Any denial of access by the Code Enforcement Officer during the licensing period shall be cause for license revocation.

VOTE: Unanimous.

Norman Marquis dba/Crosswind Cottages LLC (303-4-7), 142 East Grand Avenue, - The thirteen unit motel will be seasonal only from May 1st through October 15th. Three cabins - #19, 20 and 21 are to be seasonal only from May 1st through October 15th. No winter rentals in any of the seasonal units or cabins.

It was noted that Mrs. Marquis was the one that brought the stipulations forward to the Administrative Board and was more than cooperative in addressing the issues.

MOTION: Councilor Kelley motioned and Councilor Pastor seconded to approve the Business License for Norman Marquis dba/Crosswind Cottages LLC (303-4-7), 142 East Grand Avenue, - The thirteen unit motel will be seasonal only from May 1st through October 15th. Three cabins - #19, 20 and 21 are to be seasonal only from May 1st through October 15th. No winter rentals in any of the seasonal units or cabins.

VOTE: Unanimous.

CHAIR I close this Public Hearing at 7:45 p.m.

PUBLIC HEARING AMUSEMENT PERMITS:

CHAIR: I open this Public Hearing at 7:45 p.m.

Strike Zone Restaurant & Pub Inc. dba/Strike Zone Restaurant & Pub (205-4-1-C), 20 Old Orchard Street, Live Music, Amplified Acoustic – 11:00 a.m. – 12:00 a.m. – Outside & Inside; and Jumpin' Jakes LLC dba/Jumpin' Jakes Café (208-3-3), Music Amplified – 12:00 p.m. – 12:00 a.m., Outside and Inside.

CHAIR: I close this Public Hearing at 7:46 p.m.

MOTION: Councilor Pastor motioned and Councilor Tousignant seconded to Approve the Amusement Permits as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT: The Town Manager reported that he attended the RSU 23 Budget Workshop last evening. There is a \$1.9 million dollar increase to the RSU's FY15 budget as compared to the Town's share of the FY14 combined RSU budget a 20% increase which amount to \$1.33 increase in the tax rate. There is a vote on May 14th and the final vote on June 10th. Letters will be going out to the Ocean Park residents about dye testing. Those on septic will be impacted and those on septic need to pump at least once every two years with reimbursement from the Town. Summer reserve officers have been hired and are looking for housing opportunities whether it is a single room or an apartment in the Old Orchard Beach area. The foundation has been poured at the Library. We have advertised a single wide mobile home on which we have foreclosed and it is in very good condition. May 21st bids are due and on May 12th at 2:00 will be an open inspection of the property. Go on web site – www.oobmaine.com - to see the Request for Proposal and pictures of the single wide.

6161 Approve the Beach Management Agreement with the U.S. Fish & Wildlife Services (USFWS) and the Maine Department of Inland Fisheries and Wildlife (MDIFW) developed for the Town of Old Orchard Beach.

**Town of Old Orchard Beach
Beach Management Agreement
2014 through 2016**

In 2009, representatives of the Town of Old Orchard Beach (the Town), the U.S. Fish & Wildlife Service (USFWS), and the Maine Department of Inland Fisheries and Wildlife (MDIFW) first developed the following Beach Management Agreement for the Town of Old Orchard Beach. On [April 8, 2014](#), the above parties met to draft a renewal of the Beach Management Agreement for 2014 – 2016.

IMPORTANT! This agreement is in effect **annually** from April 1 through August 31 when **nesting activity** is occurring, *which is defined as when territorial pairs, nests, and chicks of Piping Plovers are present.* **When nesting activity is not occurring on the Town's beaches, these guidelines are not in effect.** The Town must keep in weekly communication with MDIFW or its designee to know when Piping Plover **nesting activity** is occurring.

This agreement allows the Town of Old Orchard Beach to continue their beach management program without filing a state Incidental Take Plan (ITP) for each Town activity that occurs near or within Piping Plover nesting areas, as long as the Town implements protection measures outlined in this agreement. **Compliance with this agreement exempts the Town from Essential Habitat regulations (section IV – L) for activities specifically addressed here.** Other activities that overlap with the portion of Old Orchard Beach designated as an Essential Habitat not addressed in this Agreement require MDIFW review.

There is an incentive for the Town to promote the nesting success of plovers, because plovers that nest successfully in April will fledge their chicks by mid-to-late June, thus removing restrictions on the beach. However, if April nesting fails, or the plovers are forced to nest late, the nesting and chick rearing season will extend into July and August, the peak summer months for beachgoers.

I) Introduction

The Piping Plover (*Charadrius melodus*) is a small sandy-colored shorebird that nests on beaches from Newfoundland to South Carolina and is imperiled throughout much of its range in the United States and Canada. Once common on sandy beaches in southern Maine, the Piping Plover is listed as Endangered under the Maine Endangered Species Act (MESA), and the east coast population is listed as Threatened under the federal Endangered Species Act (ESA). **In 2013, only 44 pairs of Piping Plovers nested in the entire state of Maine.**

Habitat loss and lack of undisturbed nest sites are two of the primary factors jeopardizing populations of Piping Plovers. Historically, Maine had more than 30 miles of suitable nesting beaches that may have supported up to 200 pairs of Piping Plovers. However, the construction of seawalls, jetties, piers, homes, parking lots, and other structures along Maine's sand-beaches has dramatically reduced the extent of suitable nesting habitat. Continuing development and intense recreational use of nesting beaches is further reducing the capacity of the remaining habitat to support nesting plovers. Ensuring the availability of this limited habitat is essential for the continued existence of Piping Plovers and other coastal wildlife, such as the state listed endangered Least Tern.

Historical records document that Piping Plovers nested on Old Orchard Beach in recent decades. In fact, under ideal conditions, these 3 miles of sand-beach habitat may have once supported as many as 10 pairs of Piping Plovers at densities of 3.5 pairs/mile of beach. Unfortunately, development and associated human disturbance and predation greatly reduced the ability of the habitat to support these rare birds. Piping Plovers were a rare summer resident in Maine in the late 1800s, and in the early 1900s, were extirpated as a breeding bird from the state. With protection from the Migratory Bird Treaty Act in 1918, plovers rebounded, and by 1940, they were common on sandy beaches from Kittery to Cape Elizabeth. Nesting of plovers on Old Orchard Beach resumed in 1993. From 1993 to 2008, one to three pairs of Piping Plovers have consistently nested on Old Orchard Beach; clearly, habitat management of Old Orchard Beach is essential to the recovery of Piping Plovers in Maine.

In 1995, the MDIFW designated a portion of Old Orchard Beach (PPLT04 and PPLT08) as Essential Habitat for Piping Plovers. In 2010, to incorporate recent nesting locations by Piping Plovers on Old Orchard Beach, MDIFW expanded Essential Habitat to include two more areas (PPLT14 and PPLT15).

II) Authority to Enter Agreement

Maine Endangered Species Act of 1975 (MESA)

Federal Endangered Species Act of 1973 (ESA)

III) Geographic Scope of Agreement

The area under this agreement is the entire, Town-owned beachfront commencing from the Saco/Old Orchard Beach town line at Goosefare Brook, north to the Old Orchard Beach/Scarborough town line. The beachfront includes the seaward side of the frontal dune to the mean low water mark.

The intent of this agreement is to provide a means to protect Piping Plovers on Old Orchard Beach. Success of this agreement depends on the participation and cooperation of the Town, USFWS, and MDIFW.

This agreement does not supersede or replace any local, state, or federal statutes, regulations, or guidelines that apply to private properties.

IV) Beach Management Guidelines for Piping Plovers

IMPORTANT! These guidelines are in effect from [April 1](#) through August 31 when **nesting activity** is occurring, *which is defined as when territorial pairs, nests, and chicks of Piping Plovers are present*. The Town must keep in weekly communication with MDIFW or its designee to know when Piping Plover **nesting activity** is occurring. When **nesting activity** is not occurring on the Town's beaches, these guidelines are not in effect.

A) **Daily Pickup of Trash Barrels on the Town's Beaches and Rights-of-ways.**

The Town does not place trash barrels on the beach near plover nest sites. If the Town does decide to place trash barrels on the beach, the Town must place them as far away from areas of plover **nesting activity** as possible but no closer than 100 feet from a stake and twine symbolic fence. Any Town vehicle picking up waste from the barrels shall have a trained spotter (trained by MDIFW or its designee) walk in front of the vehicle, which shall proceed no faster than walking speed.

Trash pickup using All Terrain Vehicle (ATV) does not require a spotter if:

1. Personnel picking up trash are in weekly communication with the Town's Plover Monitoring Coordinator and MDIFW or its designee to know the location of nesting plovers and their chicks;
2. ATV operators are trained by MDIFW or its designee; and
3. ATV vehicles proceed no faster than walking speed.

All vehicles will travel as close as possible to the mean high water mark, to assure no conflicts between piping plovers and vehicular traffic.

B) **Seaweed and Debris Cleanup**

The Town will follow these beach-cleaning guidelines during periods of Piping Plover nesting activity.

1. All beach-cleaning vehicle entrances/exits to the beach will be at locations agreed upon by the Town and MDIFW.
2. [The Town will coordinate with the Town's Plover Monitoring Coordinator to determine current plover nest and/or brood locations. The Plover Monitoring Coordinator or a spotter, trained by MDIFW or its designee will guide all Town beach-cleaning vehicles within 500 feet of nesting areas or plover brood locations.](#)

3. Spotters will use the map given to them by the Town's Plover Monitoring Coordinator (see Section IV, H). They will record observations of adult birds, nests, eggs, and chicks, every 100 feet of the beach prior to vehicular access to that section. If the spotter does not observe plover activity, the cleaner will rake those 100 feet while the spotter stands and watches in that zone. Records of these observations will be submitted to MDIFW at the end of the nesting season or at any time upon request.
4. The spotter will proceed to the next area (approximately 100 feet down the beach), spotting, locating, and watching before giving the signal to allow the vehicles to enter the area.
5. Beach cleaning will not occur within 100 feet of stake-and-twine symbolic fencing. This gives the birds a buffer from disturbance by vehicles and leaves additional foraging habitat intact.
6. Town personnel conducting beach cleaning will record the **date, time, and location** of each beach cleaning activity in a log kept at the Department of Public Works. Nesting sites and dates will also be noted in the log and submitted to MDIFW at the end of the nesting season, or at any time upon request.
7. The Town will clean rights-of-way by hand unless it is clearly outside any area of plover **nesting activity** or conducted outside the plover-nesting season. Instances of need for heavy seaweed removal have historically been few. However, should heavy seaweed removal require using a dump truck and an excavator, a trained spotter will be required on site. No such work will take place within 100 feet of a stake-and-twine symbolic fence.

C) Lifeguards.

Lifeguard stands will be at least 100 feet from a stake-and-twine symbolic fence. In the event that a site does not allow for the required 100-foot buffer, MDIFW and the Town will determine an appropriate placement for the lifeguard stand as far as possible from the stake-and-twine symbolic fence. This mutually agreed-upon location will maintain the public safety requirements as well as protect nesting Piping Plovers. When feasible and appropriate, as determined by the Town, lifeguards will assist in educating the public about safeguarding plovers.

D) Police, Emergency, and Non-Emergency Vehicle use

It will be the policy of the Town of Old Orchard Beach that essential (non-emergency) vehicle use will not occur within 100 feet of designated Piping Plover nesting areas. [The Town will coordinate with the Town's Plover Monitoring Coordinator to determine current plover nest and/or brood locations.](#) At least two employees shall respond to any non-emergency incident (such as removal of dead or injured marine mammals) within an area of plover **nesting activity**, with one employee acting as the spotter to and from the scene.

[The following USFWS guidelines should be followed within 500 feet of nesting areas and/or brood locations to minimize the probability that chicks will be crushed by essential \(non-emergency\) vehicles:](#)

- [Essential vehicles should travel through chick habitat areas only during daylight hours and should be guided by a qualified monitor who has first determined the location of all unfledged plover chicks.](#)
- [Speed of vehicles should not exceed five miles per hour.](#)
- [Use of open 4-wheel motorized all-terrain vehicles or non-motorized all-terrain bicycles is recommended whenever possible for monitoring and law enforcement because of the improved visibility afforded operators.](#)

- Essential vehicles should avoid driving on the wrack line, and travel should be infrequent enough to avoid creating deep ruts that could impede chick movements.

All emergency response personnel will account for and avoid nesting areas and chicks to the maximum extent practicable, consistent with the nature and urgency of the emergency. All Public Safety or Town personnel assigned or normally required to use vehicles (including ATV's) on the beach shall annually receive specialized education and training from MDIFW or its designee in the spotting and protection of plover habitat (see Training below). All other personnel shall have training materials and aids available to assist in spotting plover nests, chicks, and fledglings, during their beach management activities. Training workshops shall be available for each nesting season.

E) Recreational Activities

1. **Beach parties, clambakes, volleyball, fires, etc.:** Because these activities could seriously threaten plover nests, eggs, and young, the Town will discourage such activities within 100 feet of symbolic stake-and-twine fencing.
2. **Kite, sand surfer (wind-driven sand cart), parasail, or paraboard sail.** The town will discourage these activities within 650 feet of symbolic stake and twine.
3. **Fireworks.** If the Town approves a fireworks display, MDIFW and USFWS require that:
 - a. The fireworks launch site be located a minimum of 1/2 mile from the nearest Piping Plover nesting and/or foraging area.
 - b. For smaller, weekly fireworks displays, at least one uniformed officer is available to control crowds around nesting areas.
 - c. For the annual 4th of July fireworks display, the Town has adequate law enforcement personnel, as defined by MDIFW, to protect nesting areas and assist MDIFW staff/volunteers.
 - d. The Town submits a fireworks plan by April 1.

F) Animal Control

Dogs can be a significant source of disturbance and mortality for Piping Plovers. Ideally, dogs should not be allowed on Piping Plover nesting beaches when territorial pairs, nests, and chicks are present. According to Section 14-6 of the Town ordinances, dogs will not be permitted to enter the beach between the hours of 10:00 a.m. and 5:00 p.m. inclusive, from Memorial Day to Labor Day.

The Town agrees not to allow dogs within 100 feet of symbolic stake-and-twine fencing and to erect signs alerting beach-goers of the prohibition on dogs in those areas. Signage will be provided by MDIFW and design and verbiage agreeable between the Town and MDIFW. The Town, MDIFW, and USFWS enforcement officers will enforce this prohibition. If the enforcement of this prohibition is ineffective other options will be discussed for the next season. This prohibition will be in effect from April 1 through August 31, unless MDIFW determines that Piping Plovers are no longer attempting to nest on the beach.

G) Stake-and-twine Fencing and Nest Enclosures

Plover nests that are not quickly fenced are vulnerable to disturbance. In an effort to afford plovers the immediate protection they require, the Town of Old Orchard Beach grants MDIFW or its designee, approval to erect symbolic stake-and-twine fencing and nest enclosures, as needed.

Stake-and-twine Fencing: Temporary, stake-and-twine fencing and signage is for managing recreational use of the beach in the vicinity of Piping Plover nesting areas, and for protecting nesting and feeding habitat for plovers. Ideally, when courtship and nest

scraping first occur, biologists erect stake-and-twine fences and signs around the nesting area. Plover nesting areas are fenced using wooden stakes and baling twine; MDIFW or its designee, provide the signs. Only persons engaged in Piping Plover monitoring should enter the fenced areas. Fenced areas should extend 150 feet on either side of the nest whenever feasible. If the 150-foot radius is inadequate to protect incubating adults and unhatched chicks, biologists may expand the fenced area. In some instances, fenced areas may encompass more than one nest. Monitoring of nesting territories should occur frequently (daily if possible) until nests are located. Stake-and-twine fencing will remain on the beach until all chicks in the vicinity have fledged.

Nest Enclosures. Predation by crows, gulls, foxes, dogs, and cats is a major source of nest failure for Piping Plovers. Therefore, MDIFW or its designee, will erect approximately eight-foot diameter nest enclosures around each nest after the birds lay their third egg; this helps protect the eggs and young until hatching is completed. Nest enclosures consist of 2 x 4-inch welded wire fence supported by metal stakes. Biologists string bird netting over the top of the enclosure to help deter avian predators. Guidelines for constructing and maintaining enclosures are in Appendix F of the federal Piping Plover Revised Recovery Plan (U.S. Fish and Wildlife Service 1996).

MDIFW or its designee will remove nest enclosures when territorial pairs, nests, and chicks are no longer present.

H) Monitoring

The goal of monitoring is to establish regular, daily observational walks to maintain an up-to-date account of Piping Plover activity on Old Orchard Beach to better protect them from predation and human activities. Monitoring of Piping Plovers requires frequent visits by plover biologists and volunteer monitors each week throughout the nesting season to ascertain nesting status, nest location, nest success, and success of young. As the season progresses, monitors may discover new nests at any time as renesting occurs, or as new pairs establish nests on the beach. Adult birds and their chicks commonly move 325 to 650 feet away from the nest to preferred foraging areas (wrack line and intertidal flats). Frequent visits are required to track the survival and movements of family groups.

The keystone of the monitoring program is deployment of trained, Volunteer Plover Monitors (Monitors). The Town's Plover Monitoring Coordinator (Coordinator) recruits and supervises these Monitors.

Plover Monitoring Coordinator: the Town will provide the Plover Monitoring Coordinator as needed for the months of April through August. The Coordinator will work under the supervision of the Director of Public Works. In the event the Town cannot find or hire a Plover Monitoring Coordinator, a municipal employee (determined by the Town) will be assigned to coordinate weekly with MDIFW or its designee, regarding piping plover nesting activity.

The Plover Monitoring Coordinator will be in charge of recruiting and scheduling volunteer plover monitors. The Coordinator will communicate with landowners adjacent to Old Orchard Beach to inform them of Piping Plover biology and management needs, and to solicit their support for the monitoring project. The Coordinator will collect daily reports from the volunteer monitors, compile data, and act as liaison between the Town and MDIFW. At the end of each week, The Coordinator will have all volunteers complete a "Volunteer Time and Activity Record Sheet" provided by MDIFW. The Coordinator is responsible for collecting all Volunteer Time and Activity Record Sheets at the end of the nesting season and delivering them to MDIFW. Neither the Coordinator nor the volunteer plover monitors will be involved in enforcement of regulations.

Volunteer Plover Monitors: Volunteer Plover Monitors must be available for training and should pledge to make at least a weekly commitment of time. Monitors may also be asked to attend a monthly meeting for program review and reinforcement of training. Monitors shall fill out a standard daily report (provided by MDIFW) following their monitoring activities, and deliver it to the established collection point for pick up by the Coordinator. Monitors will report on the location of Piping Plover nests and on adherence to the

provisions of this beach management plan. The Town will provide free parking, if necessary, for Monitors during the time of their monitoring activities.

I) Education and Outreach

Educational efforts will take many forms, and will rely heavily on local organizations to promote proper stewardship of the Piping Plover and other shorebirds on Old Orchard Beach. Local organizations should be encouraged to include educational materials in their newsletters, at meetings, on bulletin boards, and through other forms of communication.

The Plover Monitoring Coordinator and Volunteer Plover Monitors will utilize opportunities for face-to-face contact with adjacent property owners and beach users to educate them about Piping Plovers and the importance of respecting their habitat.

MDIFW will develop educational packets specifically designed to acquaint renters that use the beach with the guidelines affecting beach use. The Town will encourage landowners and local realtors who handle rental properties to deliver the educational packets to renters. Educational packets will be provided to the Chamber of Commerce, hotels, libraries, Planning Department, Conservation Commission, Town Manager and the Town Clerk to reach day visitors and citizens of Old Orchard Beach and surrounding communities. MDIFW will put information about regulations governing dogs on the beach in the renters' packet and in the newsletter mailed to landowners. Volunteer Plover Monitors will also distribute copies of the dog regulations on the beach.

J) Training

In support of the volunteer monitoring program, MDIFW or its designee will conduct annual training sessions for the Plover Monitoring Coordinator, Volunteer Plover Monitors, lifeguards, police and [summer reserves](#), appropriate Department of Public Works employees, Emergency Responders, and other appropriate employees of the Town. These training sessions will be held in April and May, and will include information regarding Piping Plover biology, conservation/management, monitoring protocol, record keeping, and regulations, including dogs on the beach. When possible, MDIFW or its designee will include enforcement personnel of the USFWS and MDIFW for these training sessions to address issues of "take" under the federal ESA and Maine ESA. MDIFW will provide a Volunteer Monitoring Handbook developed by Maine Audubon, to the Volunteer Plover Monitors, which contains background and training materials, regulations (including those pertaining to dogs on the beach), and daily monitoring check-off sheets.

When feasible and appropriate, MDIFW or its designee will train all Town personnel, including the Conservation Commission, at the same time, unless it is not reasonable to do so.

K) Beach Restoration, Maintenance, Nourishment, and Dune Creation

Activities within the sand dune system at Old Orchard Beach occur within a protected resource area under the jurisdiction of the Maine Department of Environmental Protection (DEP). The U.S. Army Corps of Engineers (Corps) has federal jurisdictional responsibilities within the sand dune system; however, all federal activities are subject to review by the USFWS under the Endangered Species Act. Many projects and activities (such as moving sand, altering vegetation, repairs to jetties and seawalls) require a permit from DEP and/or the Corps. [Projects located in designated Essential Habitat may need a "Project Review" from MDIFW, Old Orchard Beach will contact MDIFW regional biologist before such projects are permitted \(see section L\).](#) Therefore, all proposed beach nourishment, sand fencing, planting, and trail plans should be coordinated by the Town of Old Orchard Beach and reviewed by MDIFW, DEP, USFWS, and the Corps to ensure that state and federal regulations are adhered to and that Piping Plovers are not adversely affected.

L) Permit Review Process

Landowners and the Town of Old Orchard Beach must apply for and obtain all appropriate, necessary environmental permits before conducting activities or projects that require environmental review. This Cooperative Beach Management Agreement does not negate this responsibility and legal requirement, nor does it supersede or replace state and federal law.

This Cooperative Beach Management Agreement can facilitate state and federal environmental review and permitting provided that such activities and projects are consistent with other federal and state statutes. Concurrence from the USFWS and MDIFW on any future project that could affect plovers or their habitat within the geographic area subject to this Agreement is contingent upon the successful implementation of all Piping Plover protection measures described in this Agreement and demonstration that these protection measures have proven adequate in avoiding “take” as defined under the federal Endangered Species Act (harass, harm, pursue, hunt, shoot, kill, trap, capture, or collect) of the federal Threatened Piping Plover (U.S. Fish and Wildlife Service 1973), or “take” as defined under the Maine Endangered Species Act (...the act or omission that results in the death of any endangered or threatened species.) (12 MRSA §12808) and “harass” as defined under state statute as any “intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns” (12 MRSA §10001(29)) of the state Endangered Piping Plover.

Essential Habitat: Any project requiring a permit or license from, or to be funded or carried out by, a state agency or municipal government partly or wholly within a Piping Plover and Least Tern nesting, feeding, and brood-rearing area designated as Essential Habitat shall not be permitted licensed, funded or carried out unless MDIFW determines that the project will not significantly alter the Essential Habitat.

Old Orchard Beach is encouraged to contact MDIFW regional biologist early in the planning process of projects located within designated Essential Habitat.

Certain activities/projects described within this agreement that are located in Essential Habitat do not need a “Project Review” by MDIFW as long as the Town agrees to follow guidelines described within the agreement.

These activities/projects include:

- Daily Pickup of Trash Barrels
- Seaweed and Debris Cleanup
- Placement of Lifeguard stands
- Emergency and Non-emergency Vehicle use
- Small weekly fireworks display located off the pier

Activities/projects that will need an Essential Habitat Review include but are not limited to:

- Annual July 4th fireworks display
- Dredging, bulldozing, or removing or displacing soil, sand, vegetation , or other materials
- Draining, filling, including adding sand or other material to a coastal sand dune;
- Beach nourishment or dune restoration

Situations, activities, or projects may arise that are not addressed in this Agreement that affect the Piping Plovers on Old Orchard Beach. Successful resolution of such

eventualities requires communication and coordination; landowners and the Town of Old Orchard Beach are encouraged to seek early and frequent consultation with MDIFW and the USFWS prior to initiating activities or projects that may affect Piping Plovers.

V) Time Frame of Agreement

Recognizing that habitat and other management issues may arise that could require modified management, appropriate members of the Town as determined by the Town Council, USFWS, and MDIFW will meet annually in the winter to review this agreement. This Agreement will commence [April 1, 2014](#) and terminate on [October 1, 2016](#).

VI) Amendments

Amendments to this agreement can be made with the concurrence of all signatory parties to the agreement. Amendments shall not be effective unless documented in writing, dated, signed by all parties, and attached to the agreement.

In attendance was Lyndsay Tudor of the Maine Department of U.S. Fish and Wildlife Services. The Town Manager had previously met with her and also with Mark McCollough, Endangered Species Specialist of Maine Field Office, U.S. Fish and Wildlife Services, and Charlie Todd of the Maine Department of Inland Fisheries. All three expressed their appreciation and good work to the Town of Old Orchard Beach as a result of the former plan in operation until this renewal. There were many good reports from Audubon and others about the cooperation shown by the Town Manager, Public Works Department and law enforcement. The piping plover nests and feeds along coastal sand and gravel beaches in North America. The total population is currently estimated to be about 6,510 individual birds. The population is increasing but they are a protected bird. There were a few issues that they brought forward to resolve before signing this new agreement. They indicated that we are all aware of the event in Scarborough this past nesting season when a piping plover was killed by a dog off a leash. To avoid take of plovers, the Service continues to request that the Maine Beach Management Plans meet the “Guidelines for Managing Recreational Activities in Piping Plover Breeding Habitat on the U.S. Atlantic Coast to Avoid Take under Section 9 of the Endangered Species Act.” The guidelines recommend a dog ordinance which specifically says that pets shall be leashed under control of their owners at all times from April 1st through August 31st on beaches where piping plovers are present or have traditionally nested. Pets should be prohibited on these beaches from April through August 31 if, based on observations and experience, pet owners fail to keep pets leashed and under control. Unfortunately the Old Orchard Beach dog ordinance falls short of these guidelines. Dogs are not permitted on the beach between the hours of 10:00 a.m. and 5:00 p.m. between Memorial Day to Labor Day. Thus dogs can be off leash all day and night during the critical early portion of the nesting season from April 1 to Memorial Day when plovers are establishing nests and incubating eggs. Furthermore, it seems that dogs can be off leash 14 hours a day between Memorial Day and Labor Day when adult plovers may be incubating and chicks are present. They anticipate that this will eventually result in the take of a piping plover. The Beach Management Plan says that dogs cannot be within 100 feet of symbolic stake and twine fencing around nesting plovers. Plovers and their chicks routinely wander outside of these stakes and twined areas (up to ½ mile or more away). They were also unsure whether these provisions are established in ordinance and how it is enforced. It has been determined that voice control of dogs does not work. Dogs instinctively chase shorebirds, including plovers and their chicks. Furthermore, plover chicks instinctively “freeze” in place when approached by a dog. The Service would be glad to work with Old Orchard Beach to develop an ordinance that meets the plover guidelines and thus helps protect dog owners and the municipalities to avoid take of the federally-threatened piping plover. They continued to explain that they believe the plover guidelines represents a compromise. Ideally there would be no dogs on the beach during the nesting season. The

guidelines allow people and their dogs to use the beach in a responsible manner. Other communities have developed leash laws to address issues caused by dogs off leash (e.g., child safety, waste) in addition to protecting these birds. They advise communities to have the dogs leashed at all times from April 1st to August 31st during the plover nesting season. We have advised Old Orchard Beach to define a leash as 8 feet or less. This has not yet occurred in OOB. It is suggested that the Town hire a Plover Monitor Coordinator. The Coordinator helps to solicit and coordinate volunteers and serves as a liaison with MDIFW and their designees who manage the beach. The cost to hire one is minimal they indicated. Old Orchard Beach could share the cost with adjoining communities such as Saco and Scarborough. They reviewed also the work to be done at Camp Ellis. It is believed that the sand from Camp Elis could block the mouth of Goosefare Brook, the boundary between Saco and Old Orchard Beach. The Council confirmed that for the most part there were not substantial changes in the agreement from the last one and that it is a three year agreement. The Town Manager encouraged the Council to accept the Agreement for basically what they are asking is what we have already attempted to do in the past.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Approve the Beach Management Agreement.

VOTE: Unanimous.

6162 Discussion with Action: Accept the bid from Waste Zero in the amount of \$11,466 (\$38.22 per case) for 30,000 bags from Account Number 10012-10302 – Inventory – Trash Bags, with a balance of \$22,297.27.

BACKGROUND: The Public Works Department went out to bid for bags that are sold throughout the Town for use in disposal of trash. There were two bids:

Waste Zero	\$38.22
Dynak Pak	\$48.01

The cost is based of 100 bags per case.

MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to Accept the bid from Waste Zero in the amount of \$11,466 (\$38.22 per case) for 30,000 bags from Account Number 10012-10302 – Inventory – Trash Bags, with a balance of \$22,297.27.

VOTE: Unanimous.

**INVITATION TO BID
BY
THE TOWN OF OLD ORCHARD BEACH
FOR
Blue Bags with Logo**

The Town of Old Orchard Beach will receive sealed bids for Blue Bags with Logo for the Town. All Bids must be received by stated deadline and adhere to the requirements listed below:

Specifications/Requirements:

Dimensions:	39.00" x 41.00"
Closure Type:	Drawstring – White
Seal Type:	Side Seal
Bag Color:	Dark Blue – Recycled Content (picture enclosed)
Printing:	1 /1 Yellow
Thickness:	2 mil
Dispensing Method:	Roll
Packaging:	No Inner Packaging
Bags per Package:	25
Packages per Case:	4 (100 bags per case)
Number of Cases Needed:	300
Logo:	Must be printed on bags (picture enclosed)
Contract:	3-years from date of acceptance

Pricing Requirements:

- Bid must be per case and include all costs (bags, freight/shipping, logo, etc..)

If you have any questions regarding this bid spec, please contact the Dept. of Public Works at 207-934-2250 or email: vhersman@oobmaine.com

Proposals can be emailed to vhersman@oobmaine.com, mailed to Town of Old Orchard Beach, Attn: Public Works Dept., 1 Portland Ave, Old Orchard Beach, ME 04064 or dropped off at the Dept. of Public Works Office at 103 Smithwheel Road, Old Orchard Beach, ME 04064 by the stated deadline

Proposals are due on Tuesday, April 22, 2014 no later than 9:00 am. Proposals will be publicly opened at the Dept. of Public Works on April 22, 2014 at 9:30 am.

The Town reserves the right to reject any or all proposals. Any objections to the specifications/requirements as set forth should be filed in writing prior to the proposal deadline.

6163 Discussion with Action: Approve the Liquor License Renewals for Strike Zone Restaurant & Pub Inc. dba/Strike Zone Restaurant & Pub (205-4-1C), 20 Old Orchard Street, m-s-v in a Restaurant/Lounge; Brent and Beth Inc. dba/Bell Buoy Restaurant (205-4-5), 24 Old Orchard Street, m-s-v in a Restaurant; and Jumpin' Jakes LLC dba/Jumpin' Jakes Café (208-3-3), 181 Saco Avenue, m-s-v in a Restaurant/Lounge.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the Liquor Licenses as read.

VOTE: Unanimous.

6164 Discussion with Action: 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."

BACKGROUND: There has been ongoing discussion and Public Hearings both by the Town Council and the Planning Board. Below is a summary from the Planner, Jeffrey Hinderliter.

The Planner indicated that at a special meeting held by the Planning Board on 22 April 2014, the Board unanimously (vote: 3-0-0) voted to recommend that the Town Council approve the proposed Chapter 78 (Zoning) amendments as presented. In addition, the Board recommends the Council include the following as part of their vote.

1. Clarify prohibited uses within the Historic Overlay District, Amusement Overlay District, Downtown District 1, and Downtown District 2.
2. Specific conditions to be added to the Conditional Use Article (Art. VII) of Chapter 78, Zoning, for Tattoo Parlors. Authorize the town planner to create these conditions as soon as possible.

If the changes are adopted as written, a proposed Tattoo Parlor in the GB-1 District will then require Planning Board review through the Conditional Use process as well as a Business License. Only upon Planning Board approval can a Tattoo Parlor legally be established. The objections to this move are the change to a zoning ordinance in favor of a business. There are others, however, who feel that the business was already given permission to be in this zone even if it was the error of the previous Code Officer. The Town's GB1 zone does not allow for the operation of a tattoo parlor. Moving the business to a different address across from the 7-Eleven convenience store at the intersection of Ocean Park Road and Saco Avenue will thwart the Town's goal of becoming more family friendly but there are many who now feel that tattoo parlors are part of a neighborhood business. Located at 1 Ocean Park Road where American Motorcycle used to be located (which was classified as an adult business and operated for twenty-one years before closing last fall), the Tattoo Parlor owner, Robert Johnson, indicated he felt this was not a negative influence on the area of Town. The Planning Board voted three to zero to endorse a zone change to allow tattoo parlors in the B-1 zone. The example of the Grand Victorian which was not allowed to be built in the DD1 zone was raised however the Town Council at the time instituted a contract zone even though the Planner at that time worried about setting any precedent. The contract zone was a backdoor way of allowing zoning changes without changing the zone.

The Planner indicated that the ZBA does not have jurisdiction over zoning ordinance amendments/changes - only the Planning Board and Council have this jurisdiction. The

Planning Board has jurisdiction over ordinance amendments to Chapter 78 which is the zoning ordinance. The Planning Board's jurisdiction regarding amendments/changes to Chapter 78 is that they are responsible for providing a recommendation to the Council. The Council must receive a recommendation on the amendment/change before the Council makes a ruling. Ultimately, only the Council has authority to approve or deny zoning amendments. The Vice Chair then read into the Minutes from Section 78-1240 – Standards:

Sec. 78-1240. - Standards.

Before authorizing any conditional use, the planning board shall make written findings certifying that the proposed use is in compliance with the specific requirements governing individual conditional use and demonstrating that the proposed use meets the following standards:

(1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.

(2) The proposed use will not create or increase any fire hazard.

(3) The proposed use will provide adequate off-street parking and loading areas.

(4) The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any water supply.

(5) The proposed use will not create unhealthful conditions because of smoke, dust or other airborne contaminants.

(6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.

(7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.

(8) The proposed use will not adversely affect the value of adjacent properties.

(9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

(10) The applicant's proposal must include any special screening or buffering necessary to visually obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.

(11) The applicant's proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any cut, fill, or paving intended.

(12) The applicant must be found to have adequate financial and technical capacity to satisfy the criteria in this section and to develop and thereafter maintain the proposed project or use in accordance with all applicable requirements.

Carl D'Agostino, Chair of the Planning Board but speaking as a citizen, explained his position on this vote. He indicated he wished to inform the Council of research that negates a decision by the Planning Board, of which I am Chairman. He quotes: "On April 24, 2014, the Old Orchard Beach Planning Board met to continue a discussion on the validity of recommending that an additional conditional use be added to Division 8 Section 78-803 to include tattoo parlors as an allowable use within GB-1. As the conversation

continued, it strayed away from the core tenets of the purpose of the meeting. The motion to approve the recommendation was based on a perceived oversight in the construction of the ordinance, as well as a lack of a definition for a tattoo parlor. I am here to state, that after researching the matter further, it is clear that in 2001, the individuals who authored and crafted the zoning ordinances knew full well they were omitting tattoo parlors as a permitted, complimentary, or conditional use within the bounds of the GB-1. It was in no way an oversight. First and foremost, I apologize to the people of Old Orchard Beach for my vote in favor of the recommendation. I was feeling overpowered and vulnerable, as I couldn't access my research from my iPad, because of a technological glitch. I assure you this evening, there will be no technological glitch, and this discussion will ubiquitously focus on the good of the community of Old Orchard Beach. It was inferred that there is no definition for Tattoo Parlor. This statement is divisive, because even though the word "parlor" is not specifically captioned in the Code of Ordinances, Chapter 18, Section 18-166, it can be reasonably inferred that a tattoo parlor is "any individual, firm, company, corporation or association that owns or operates an establishment". There is no ambiguity in this definition, which specifically defines a Tattoo Parlor. Any other interpretation would be manipulative. It was also stated in the resolve to recommend the ordinance change to the Town Council that the omission of Tattoo Parlors as a Permitted, Complementary, or Conditional use, as though previous iterations of Town Councils and Planning Boards had never considered that Tattoo Parlors be considered within GB-1. My research, as well as that of others who have provided me valuable feedback contradicts this. Between 1981 and 2010, the issue of Tattoo Parlors has come to light for discussion 8 times, and 7 of those 8 instances related to the specific location where the current applicant wishes to establish a business. The eight instances correctly repealed language that was already part of M.R.S.A. rulemaking, and was therefore redundant. Beyond these minor points, which bring us no closer to resolving this issue in the best interests of the Town, there is the overarching issue of Old Orchard Beach's economic sustainability. Our Town's Base Industry is Travel and Tourism. Those that curated and moderated our Code of Ordinances were intimately aware that our beautiful beach is our value proposition. It is the reason that tourists make our town their vacation destination. Any and all other value propositions implicitly depend on the beach being there to be complementary to the consumer. It is stated succinctly in the Code of Ordinances Subdivision III Downtown District 1 (DD-1) Section 78-716 (Purpose) "The purpose of the downtown district 1 (DD-1) is to maintain the historical downtown area as the town's principal commercial, service, and entertainment center for year-round residents and seasonal visitors, by promoting increased commercial diversity, vertical stratification of mixed uses, improved infrastructure, and implementation of design standards targeted at creating a visually exciting and harmonious environment attractive to the changing market demands." This Ordinance OD 9-18-2001 § 7.1 clearly defines that DD-1 is the town's principal commercial, service, and entertainment center for everyone. It is the intent of this purpose to specifically focus the cluster of complementary businesses into a tight geographical location, so as to add value to the economic efficiency of the zone and the Base industry. As a result, our customers need only walk a few steps within the district in order to realize this value. It is not an accident that the ordinance was constructed this way. Years of research have proven that Clustering around a base industry in a tightly confined geographical locus is the key to a sound and sustainable regional economic development plan. Expanding the primary commercial zone to include GB-1, GB-2, PMUD R-1, etc. dilutes the competitive advantage of DD-1 and Old Orchard Beach, as a whole. Finally, when we seek to manipulate of our established Code of Ordinances for the benefit of one business, we are treading into very dangerous waters where our actions may be viewed as diametrically opposed to the best interests of the community. When Code of Ordinance language has to be "tweaked" as it was in this instance, in order to make a conditional use fit where it would not had there been no manipulation clearly indicates that there is a specific disconnect whereby business friendly is a desperate and compromising behavior that would never end well in any town. It is, as it has always been, my feeling that the Town is not served by kowtowing to an "any port in a storm" mentality when it comes to attracting business. Old Orchard Beach is the resource, and travel and tourism is the

reason that attracts tourists to our town. It isn't the other way around. I suggest that the tenets of a well-conceived and moderated economic development plan, focused on sustaining our Base Industry by surrounding it with complementary industry within a well-defined geographical area will allow Old Orchard Beach to thrive moving forward. I also suggest that the laissez faire definition of "business friendly" we currently embrace is our short-coming, and a stumbling block to Old Orchard Beach moving to the next level. With this, I propose that the Town Council reject the recommendation of the Planning Board."

Barbara Ultsch, Pat Brown and Jerome Begart spoke on this issue and relatively the concern of citizens was that we have made such strides in our community that to start to open up the door of "exceptions" is not the way to go. They both indicated that it is not the issue of tattoo parlors – it is the issue of "exceptions." Barbara Ultsch read into the minutes a letter from Linda Hardacker Waters:

Dear Old Orchard Town Council Members:

"Our town has made such significant strides over the past years in assuming our rightful place as a beautiful coastal community. Our Police Department, Code Enforcement, Planner, and citizens have worked hard to ensure that our community continues this upward momentum. From working in Economic and Community Development for the past 20 years in a number of communities, I can say that changing zoning to allow previously unallowable uses is a grave mistake. This letter is in response to the proposed changes to allow a tattoo parlor in the GB1 Zone. Zoning restrictions are put in place to allow the systematic growth that produces viable economic development and preserves and attracts new businesses that are of the same. Allowing "exceptions" is a dangerous and slippery slope that can lead a town to regress in its development. and opens the door for more exceptions. The Code Enforcement Office has determined that this is not an allowable use for that zone. A community needs to listen to its Code Enforcement Department. They hold businesses and property owners in obedience to the Codes, including the restrictions. This Department is comprised of those who guard the gates against those seeking to bend the restrictions for personal gain rather than the betterment of the community. If anything, our zoning and ordinances should be tightened to ensure that Old Orchard continues to develop, and protect the investments made by our many fine businesses and citizens who are operating in compliance. It is difficult to say "no" to a business when restrictions prohibit it, but in the long run it is in the best interests of Old Orchard to say "no" when it violates local ordinances. I have watched communities say "no" to businesses and in the long run it was for the best. This is the first "no" you will need to say. It is a sign that our town is on its upward path. There will be many more "no's" the more economically viable our community becomes. Say your first "no" and ensure our town's future. You won't be able to go back once you have said "yes"."

Sincerely, Linda Waters, 11- 12th Street. Old Orchard Beach

Citizen, Pat Brown, detailed history as well in her comments to the Council. "Understanding the history of the ordinance and looking at the fact that the original ordinance was referred to as "Ordinance to control Tattoo Parlors" speaks volumes. She mentioned that the Planning Board mentioned there wasn't a definition of Tattoo Parlors but yet there seems to plainly be one in Section 18-166. Definitions. She documented that the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning; *Operator* means any individual, firm, company, corporation or association that owns or operates an establishment where tattooing is performed and any individual who performs or practices the art of tattooing on the person of another; *Tattoo, tattooed, tattooing* refers to any method of placing permanent designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with permanent ink or any other permanent substance

resulting in the coloration of the skin by the aid of needles or any other instruments designed to touch or puncture the skin. Another item worthy of note is under Sec. 78-717. Permitted Uses for DD-1. The Planning Board compared the services offered by Tattoo Parlors to be the same as those offered by beauty parlors. In this section, it clearly states them as two very separate and distinct Complementary uses: a. Personal services, including Laundromats, dry cleaning, tanning salons, and beauty parlors. f. Tattoo parlors. If they were considered the same, they absolutely would not have been listed separately. Someone said that the Town has made zoning changes in the past and cited the Grand Victorian as an example. If that is in fact the case, that clearly was not one business and is significantly different in its tax contribution to the Town. If we've made changes for a single business in the past, then it's time for us all as a Town to decide if that's the direction we think Town should continue on. The description of DD-2 in Section 78-746 states: "Since the DD-2 district is both visually and functionally related to the traditional downtown, many of the same uses and design standards of the DD-1 district apply." Primary permitted uses: Item e. Personal services, including Laundromats, dry cleaning, tanning salons, and beauty parlors while in Sec. 78-748. Prohibited uses in DD-2 clearly lists Tattoo Parlors. She said she strongly believes it to be a grave mistake to change the types of businesses allowed in a zone. Zoning restrictions are in place for a reason and should not be changed based on a single request to make an exception. Once exceptions begin to occur, it creates a very slippery slope. Once exceptions to zoning begin to occur based simply on receiving a request from a potential business owner, it's very difficult to defend rejecting *any* request for an exception. Different criteria exists for different zones for a reason. The fact there is a zone that specifically allows tattoo parlors further supports the fact that restricting them from, or not specifically allowing them in other zones, was a very deliberate part of a plan for the healthy development of Old Orchard Beach. Looking back through Town History proves this to be the intent by placing Tattoo parlors strictly in DD-1. While Old Orchard Beach strives to be business friendly, part of that "friendliness" is protecting other businesses who have already invested in our community and played by the rules, such as current tattoo parlors located in DD-1. They placed their businesses within the correct zone. Other business and property owners who have invested in a zone have the right to expect zoning to remain constant, for their investment to be protected. Creating unexpected exceptions to zoning rules violates their trust in the Town to stay its course and may ultimately diminish their property and business values. Our Town needs to stay the course by following the plan already set by zoning standards; if not, why have different zones at all?

MOTION: Councilor Tousignant motioned and Councilor Thornton seconded 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 Tousignant, Thornton and Vice Chair Quinn
Nea: Councilors Blow, Kelley and Pastor

VICE CHAIR: This motion has failed.

6165 Discussion with Action: Approval and Ratification of the Old Orchard Beach Wastewater Employees Association Contract, effective July 1, 2012 to June 30, 2015.

BACKGROUND: The Town Manager has been working on this Union proposal which now is ready for Council consideration. The contract changes were presented to the Council before this meeting with the exception that the uniform allowance conditions will not change at this time. Instead of going to uniforms provided by the Town employees will continue to be eligible

for \$650 clothing reimbursement. The Town and the Union will continue to discuss coming to mutual agreement on use of uniforms. The wage scale has been changed with increases but the hourly incentive adjustments are eliminated and the on-call arrangements adjusted to reduce overtime. The resulting increased cost approximately \$7,000 more than would have been the increase with a three-year contract of 1% each, which is consistent with the initial guidance given by the Council on this contract in order to change the pay scale. The three year agreement will expire June 30, 2015.

MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to Approve and Ratify the Old Orchard Beach Wastewater Employees Association Contract, effective July 1, 2012 to June 30, 2015.

VOTE: Unanimous.

6166 Discussion with Action: Proposal for Possible Management of Public Safety Dispatch Services for the Town of Old Orchard Beach with the Scarborough Public Safety Communications.

This item is on the agenda this evening to have the Town Council decide whether to make the binding commitment to switch dispatch services from Sanford to Scarborough. If approved this item will commit the Town to a minimum FY15 increase of \$62,000 (one time cost), with a four year payback given the \$21,500 savings in annual operating costs. The Council does not have to make the decision this evening whether to have fiber optic service or microwave service. If approved we would notify Sanford of the intent to withdraw from the agreement and initiate discussions with Scarborough to draft an operating agreement with Old Orchard Beach. Vice Chair Quinn indicated he was concerned that we might be moving too fast on this issue but the Town Manager explained the necessity for bringing this forward. Councilor Tousignant indicated he was definitely in favor of this but asked that part of the motion include the use of fiber optic service. Citizens George Kerr, Guy Fontaine, Jerome Begart and Barbara Ultsch expressed their opinions on moving forward with this item. It was noted by Councilor Joseph Thornton that because he worked for the Scarborough Dispatch he would remove himself from this vote.

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Authorize the Town Manager to enter into a contract with the Town of Scarborough for Dispatch Services for the Police and Fire Departments, including emergency medical services, according to the terms contained in a proposal from Scarborough Public Safety Communications, the terms and conditions of the contract to be subject to approval by the Town Council and that the use of fiber optic service be included..

VOTE: Yea: Councilors Tousignant, Pastor, Blow, Kelley and Vice Chair Quinn.

6167 Discussion with Action: Approve the line transfers for the Police Department from Account Number 20131-50113 – Holiday Wages in the amount of \$25,800, with a balance of \$25,800, to Account Number 20131-50106 – Full Time Wages, with a balance of \$200,157.01; and transfer from Account Number 20131-50128 – Physical Fitness Stipend, in the amount of \$3,600, with a balance of \$3,663.46, to Account Number 20131-50230 – Clothing Allowance, with a balance of \$1,240.39; and transfer from Account Number 20131-50106 – Full Time Wages, in the amount of \$2,000, with a balance of \$200,157.01, to Account Number 20131-50252 – Travel/Food/Lodging, with a balance of 495.02.

MOTION: Councilor Tousignant motioned and Councilor Pastor second to Approve the line transfers for the Police Department as read.

VOTE: Unanimous.

6168 Discussion with Action: Approve the purchase of electronic equipment for the Police Department from Portland Location – Radio Communications Management, in the amount of \$9,777.33 from Account Number 20131-50501 – Operational Supplies, with a balance of \$8,623.08 and a line item transfer from Account Number 20131-50106 – Full Time Wages, in the amount of \$9,777.33, with a balance of \$198,157.01, to Account Number 20131-50501 – Operational Supplies.

There have been ongoing issues with the ability of the present system to connect with the internet and electronic capabilities and this product will assist in correcting that issue.

MOTION: Councilor Pastor motioned and Councilor Blow seconded to Approve the Approve the purchase of electronic equipment for the Police Department from Portland Location – Radio Communications Management, in the amount of \$9,777.33 from Accounts as read.

VOTE: Unanimous.

6169 Approve the line item transfers for the Fire/EMS Department from Account Number 20138-50402 – Phone/Cellular in the amount of \$1,000, with a balance of \$1,956.76; and Account Number 20138-50121 – Annual Stipend in the amount of \$433, with a balance of \$433; and Account Number 20138-50128 – Physical Fitness in the amount of \$500, with a balance of \$500; Account Number 20138-50501 – Operational Supplies in the amount of \$12,000 with a balance of \$17,741.22; and Account Number 20138-50500 – Administrative/Office Supplies in the amount of \$500, with a balance of \$611.51; to Account Number 20138-50453 – Vehicle Maintenance & Repairs, with a balance of \$878.28.

MOTION: Councilor Tousignant motioned and Councilor Thornton seconded to Approve the line item transfers for the Fire/EMS Department as read.

VOTE: Unanimous.

6170 Discussion with Action: Canvass and certify the results of the RSU #23 Municipal Election.

BACKGROUND: The results of the Regional School Unit #23 Special Election, which was held on April 8th, 2014 as declared by the Warden, David Huntington, is as follows:

For Regional School Unit Board Director, term of each elected director to be staggered by having the candidate receiving the highest, second highest, and third highest number of votes serve initial staggered term, vote for three:

Boudreau, David	100
Flaherty, Peter	215****three-year
Hogan, Stuart	157****one-year
Marcotte, Carolyn	170****two-year
Spinney II, Kenneth	45

******Denotes the highest number of votes for the respective office and consequently the successful candidate.**

Please find the write-ins below, as determined by the Ballot Clerks.

NAME:	VOTES:
BELLEROSE, CAROL	one
BELLEROSE, RODGER	one
BOLDUC, LAURA	three
COLLINS, ISREAL	one
GALLANT, JAN	one
LASALLE, CHRIS	one
LEPELLITIER, JERMONE	one
MACDONALD, SHARI	one
MAILHOT, LINDA	one

MOTION: Councilor Blow motioned and Councilor Pastor seconded to Canvass and Certify the results of the RSU #23 Municipal Election.

VOTE: Unanimous.

6171 Discussion with Action: Order and Direct the Town Clerk to issue certificates to the successful candidates.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Order and Direct the Town Clerk to issue certificates to the successful candidates.

VOTE: Unanimous.

6172 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their Annual Car Show on Friday, September 12th from 3 p.m. to 8:30 p.m., closing Old Orchard Street, and on Saturday, September 13th, 2014, from 6 a.m. to 4 p.m., in Memorial Park and the Milliken Street parking lot, and closing First Street; request for a banner in the Square, up to two weeks prior to the event, to be coordinated with New England Parkinson Ride and Beach Raid; 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; and a request to waive the fee.

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

VOTE: Unanimous.

6173 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their Annual Beach Olympics on the beach and in the Square (request to close the Square) on Friday, August 15th through Sunday, August 17th, 2014, 5 p.m. to 9:30 p.m. on Friday; 10 a.m. to 9:30 p.m. on Saturday; 10:00 a.m. to 4 p.m. on Sunday. Request to place a banner in the Square for up to two weeks prior to the event, to be coordinated with MAPS Breakaway 5k; Insurance, listing the Town as additionally insured, to be provided to the Town Clerk's Office at least one month prior to the event; and a request to waive the fee.

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

VOTE: Unanimous.

6174 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their annual Celebrate the Season by the Sea on

Sunday, December 7th, 2014 from 1:00 p.m. to 3:00 p.m. on First Street and Memorial Park; to include a Parade, fire pits, horse-drawn hay wagon rides, vendors and a DJ playing holiday music; place a banner in the Square one week prior to the event; and a request to waive the fee. Insurance, listing the Town of Old Orchard Beach as additional insured, to be provided to the Town Clerk's office at least one month prior to event.

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

VOTE: Unanimous.

6175 Discussion with Action: Approve the Special Event Permit application for the Veterans Memorial Park Sub-Committee to hold "Illumination Night" in Memorial Park on Sunday, May 25, 2014, from 5 p.m. to 9 p.m., rain date, Monday, May 26th, 2014; and a request to waive the fee.

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

VOTE: Unanimous.

6176 Discussion with Action: Approve the Special Event Permit application from RS Fireworks LLC to hold a Fireworks display on Wednesday, June 4th, 2014 at approximately 9:45 p.m. at the Ballpark with rain dates of 6/4/14 or 6/7/14. Approval by the State Fire Marshall's Office and insurance listing the Town as additionally insured to be provided to the Town Clerk's Office at least one week prior to the event; Notification of the date, location and approximate time of the Fireworks display to be sent to each property owner within a radius of the Ballpark to be determined by the Town Council; and a request to waive the fee.

It was agreed by the Council to remove the requirement to notify each property owner of the approximately time of the fireworks but it was suggested that it be advertised so it is known to individuals in the community. A correction was made in the June 4th date to June 5th.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the Special Event Permit application from RS Fireworks LLC to hold a Fireworks display on Wednesday, June 4th, 2014 at approximately 9:45 p.m. at the Ballpark with rain dates of 6/5/14 or 6/7/14. Approval by the State Fire Marshall's Office and insurance listing the Town as additionally insured to be provided to the Town Clerk's Office at least one week prior to the event; and a request to waive the fee.

VOTE: Unanimous.

GOOD AND WELFARE:

BARBARA ULTSCH: She reminded citizens to pick up their absentee ballots at the Town Clerk's office in anticipation of the June 10th election.

JOHN GALLO: He asked for consideration by citizens to housing members of the Raging Tide and explained that it is a great experience and would ask any citizen able to do this to contact him or the Assistant Town Manager.

HELENE WITTIKER: She thanked the Council for their governance and appreciates the efforts that are being extended on behalf of the citizens.

JEROME BEGART: He encouraged citizens and councilors to participate in the “Worst road Contest Submissions” which is a contest by the Maine Better Transportation’s “Worst Road in Maine Contest”. The grand prize is \$296, the amount Mainers pay in extra maintenance and repair costs due to bad roads. Fill out the entry form on www.fixmaineroads.org and send it with a photo.

GEORGE KERR: He spoke about the need for the Town to move forward on revenue options including a local housing option tax. He said that local option taxes can give local governments greater flexibility in collecting revenue while making them less reliant on money from the State. They can give local governments a wider revenue base and shift some of the tax burden off the residents by putting a tax on hotel rooms that will be paid mostly by visitors. With his business experience and past government service he has offered to assist the community in any way that he can.

MRS. CYNTHIA KERR: Mrs. Kerr presented in a very businesslike and professional manner a request that the Council carefully and completely review the packet that she provided on April 25, 2014. She urged the Council to address the past safety concerns, zoning and code violations and ongoing lack of property maintenance of Mr. Harrisburg particularly as it relates to Kinney Avenue. She said that as of this date there have been no known citations, penalties or revocation of licenses as allowed under the Town ordinances and that the purpose of ordinances is to require adherence to them and when adherence is not given there needs to be swift and complete attention to the results of breaking an ordinance. She mentioned the use of the property, trucks dropping off properties and the fact that warehousing is not permitted in the DD1 District. She indicated that it is urgent that this new building and delivery patterns and frequency of delivery will not impact those who live and enter Kinney Street. If this project is approved we do not want the issues to only be compounded and a continuance of the existing violations and issues that have disrupted the neighborhood for years. She reminded them that in the 45 page packet provided residents have laid out twenty points, along with supporting photographs, describing what the neighbors have had to deal with over many years. She indicated the neighbors are not opposed to his project but neighbors want no access doors open Kinney Avenue to his building; no truck or vehicular entrances or exits from his property onto Kinney Avenue. They are asking that all traffic enter and exit from Harrisburg Street which is a much wider street and all dumpsters face towards his properties and not the neighbors. A multitude of violations have not been addressed to date at the expense of the Town and the neighborhood. Again she was asking for an in-depth reading of the material that has been provided so that the violations are addressed and there is relief for the neighborhood.

MS. LISA GRIBBONS: She spoke about the neighbors reaching out to reclaim their neighborhood and encouraged the Council to look in-depth to the material that has been provided to them by Mrs. Kerr. The pictures themselves speak volumes. She, along with Mrs. Kerr, have requested attention to the many violations of code but have received little consideration and correction to the problems. Now is the time for these to be addressed. Although speaking in a short time frame she asked the Council to recognize this is a person’s neighborhood and to ask themselves would they want the type of traffic and other code issues in their neighborhood?

GEORGE KERR: He reminded the Council that he would just like the opportunity for everyone to get together on the same playing field and to address these issues in a professional manner. He reminded the Council that it is a privilege not a right to own a business in Old Orchard Beach.

6177 Executive Session pursuant to 1 M.R.S.A., Section 405(6)(E) for consultation with the Town Attorney regarding ongoing litigation, Pearson v. the Town of Old Orchard Beach.

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Enter into Executive Session pursuant to 1 M.R.S.A., Section 405(6)(E) for consultation with the Town Attorney regarding ongoing litigation, Pearson v. the Town of Old Orchard Beach.

VOTE: Unanimous.

MOTION: Councilor Pastor motioned and Councilor Thornton seconded to Exit the Executive Session

VOTE: Unanimous.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Adjourn the Town Council Meeting at 10:45 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 twenty-five (25) pages is a copy of the original Minutes of the Town Council Workshop of May 6, 2014.

V. Louise Reid