

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
Tuesday, April 18, 2017  
TOWN HALL CHAMBERS  
6:30 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, April 18, 2017. Chair Thornton opened the meeting at 6:30 p.m.

The following were in attendance:

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

**CHAIR:** I am requesting a motion to change information on a business license this evening:

TPR Inc./Paul Golzbein dba/Lit Havana Smoke Shop (306-5-2), 6 East Grand Avenue, retail; should be corrected to indicate: Pier Leasing Company dba/Lit Havana Smoke Shop (306-6-1), 2 Old Orchard Street, retail.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to correct the business license as noted TPR Inc./Paul Golzbein dba/Lit Havana Smoke Shop (306-5-2), 6 East Grand Avenue, retail; to Pier Leasing Company dba/Lit Havana Smoke Shop ( 306-6-1), 2 Old Orchard Street, retail.

**VOTE:** Unanimous.

**PRESENTATION: BALLPARK COMMISSION PRESENTATION**

Ballpark Quarterly Report  
April 18, 2017

Introduction: Chairman Jerome Plant  
Report: Robin Dayton

Thank you, Chairman Thornton, and Council for this opportunity to present our quarterly Ballpark report to you in accordance with the Ballpark Ordinance sec. 2-403. Much of this work is organized and coordinated through the Ballpark Manager, Guy Fountain. He is on a well-deserved vacation and sends his apologies for not being able to join us this evening.

## **Improvements:**

Last time we reported to you may recall that we completed the Fence Addition around the ballfield. Although it's been cold, we have since constructed 2 gates to be installed in just a few weeks. The gates will become part of the fence along the first and third areas.

## **Maintenance:**

As you may imagine the winter months are not amendable to much outside work, but we did work to reduce our internet costs by canceling the current contract with Time Warner. We are seeking a new contract with Spectrum for less.

We also wish to extend our appreciation for the continuation of the cooperation and assistance from Public Works. Specifically, moving the snow to the end of the driveway. This was done to avoid flooding of the field and should help eliminate the water running across the field considerably this spring.

Perhaps one of our more important accomplishments is that with the help of the Town Manager, we finalized the contract to repair the front wall along the base lines of the stadium. This is the wall that separates the field from the stands and is the number 1 priority identified by the engineering study last Fall. We requested bids from four large concrete contractors and the best price was lower than anticipated, less than \$5,000. The Town Manager reviewed all the information and signed the contract on March 15, 2017 for which we are very grateful.

The Ballpark Manager is continuing his work to establish cost estimates for the other prioritized needs identified in the engineering study to help the Friends of Ballpark with their fundraising plans.

## **Operations:**

Council, we are so very grateful for the Town Council's Resolution and declaration of support for the Ballpark that you adapted and welcomed on March 21, 2017. Going forward we will use Council's Resolution for marketing and fundraising purposes.

This quarter, the Commission was also very pleased to be invited to submit a CIP budget for the FY2018 and beyond fiscal year. WE are looking forward to more budget discussions.

In December, the Commission began reviewing and updating our Policy and Procedures including our Field Usage Policy and Sponsorship Policy. This work will continue until June.

On March 17<sup>th</sup>, the Commission and the Friends of the Ballpark met jointly in a workshop to establish roles and responsibilities and brain storm fundraising ideas. This work also continues.

Regarding The Surge baseball team, we finalized the contract and received the first payment. So, Council, we will indeed play ball this summer with 44 scheduled games!

The Commission received several usage requests and held very fruitful meetings with many of our regular clients. As it stands now, the Schedule also includes:

The Southern Maine River Rates with 22 games,  
The Southern Maine Men's League with 40 games  
A new college GNCBL Northern Baseball League with 20 plus games  
The Saco Bay Blue Devils, a youth league, with 6 games  
The OOB High School Varsity team with 12 games

And a pocket schedule is in the works.

Of course, we also have other regular events scheduled such as the BBQ Championship, the Parkinson Ride which will be their 10-year anniversary. We also booked a youth athletic high school wrestling tournament to take place July 29, 2017.

And, last but most definitely not least, we are really very excited to report that we are starting off the 2017 summer season here in Old Orchard Beach with a new FARMERS and Artisan MARKET scheduled to begin the first weekend in June.

With the basic schedule set, we are working to fill in dates with more entertainment venues. Respectfully Mr. Chairman, we are anxious for the snow to melt so we can get the ballpark functioning in the most optimal fashion.

This concludes our report and we are happy to take your questions.

#### ACCEPTANCE OF MINUTES:

Accept the Town Council Meeting Minutes of April 4, 2017; Town Council Workshop Minutes of April 4, 2017; Town Council Workshop Minutes of April 5, 2017; and Town Council Workshop Minutes of April 12, 2017.

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

**VOTE:** Unanimous.

#### BUSINESS LICENSES AND APPROVAL:

**CHAIR:** I open this Public Hearing at 6:46 p.m.

Emily Ahearn Murphy (104-1-1-B), 48 Cascade Road, Victualers with Preparation with Beer, Wine and Liquor – Off Premise; 10 Coin – operated amusement devices; Eva Tomecka (207-2-13-108), 161 Saco Avenue, Unit #108, one year round rental; TPR Inc./Paul Golzbein dba/Lit Havana Smoke Shop (306-5-2), 6 East Grand Avenue, retail; and Isabelle Roy & Pierre Gauthier (307-1-7-23), 2 Fernald Street, Unit 23, one year round rental.

**CHAIR:** I close this Public Hearing at 6:46 p.m.

**CHAIR:** I would suggest we take the motion for the change to Lit Havana Smoke Shop separately.

**MOTION:** Councilor Tousignant motioned and Vice Chair O'Neill seconded to Approve the business licenses as read.

**VOTE:** Unanimous.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Approve the business license for Lit Havana Smoke Shop as follows: Pier Leasing Company dba/Lit Havana Smoke Shop (306-6-1), 2 Old Orchard Street, retail.

**VOTE:** Unanimous.

#### **PUBLIC HEARING SPECIAL AMUSEMENT PERMITS AND APPROVAL:**

Strike Zone Restaurant & Pub Inc. dba/Strike Zone Restaurant & Pub (205-4-1-C), 20 Old Orchard Street, Live Music, Amplified Acoustics, Outside and Inside, 11:00 a.m. to 12:00 a.m.; and Jumpin Jake's LLC dba/Jumpin Jake's Seafood Café (208-3-3), 181 Saco Avenue, Music, Amplified, Outside and Inside, 12:00 p.m. to 12:00 a.m.

**CHAIR:** I open this Public Hearing at 6:47

**MOTION:** Vice Chair O'Neill motioned and Councilor Tousignant seconded to approve the Special Amusement Permits as read.

#### **TOWN MANAGER'S REPORT:**

The Town Manager reminded everyone that there are still summer job openings here at the Beach including Department of Public Works, Wastewater Department and Memorial Park, \$15 per hour. Beach cleaning started today and rest rooms will be opened starting this weekend. Plovers are nesting and we already have some so we are asking dog owners to be diligent in watching their pets. Public Works is working on Cascade road drainage (Powder Horn), preliminary to paving. Attended Saco Bay sunset rotary meeting to discuss Town issues. Attended a meeting of the facilities committee for the School Department. Also a tour of Jameson Elementary School facility. We will be touring other schools and the process is moving slowly. Attended meetings with the Chamber of Commerce and held discussions with the State Department representatives preparing for a meeting on April 26 when J1 student matters will be discussed in a forum to be held here with business, renters, sponsors and State Department. Proposed changes to the program. Coffee at 8:30 and the meeting starts at 9:00. Attended negotiation sessions for both the Fire Department Union and the public Works Union. Mediation session will be held with Town Hall Union on May 11<sup>th</sup>. Attended the LPC meeting at MMA in discussions about local sales tax. The Transfer Station is now open on Wednesdays from 8:00 to 2:00 and on Saturdays from 8:00 to noon. He gave information on the Household Hazardous Waste in Scarborough and announced about the Memorial Park cleanup this coming Saturday.

## NEW BUSINESS:

- # 6890 Discussion with Action: Approve the Beach Management Agreement with the U.S. Fish & Wildlife Services (USFWS); and the Maine Department of Inland Fisheries & Wildlife (MDIFW); developed for the Town of Old Orchard Beach.

### Background:

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 March 14, 2017, the above parties met to draft a renewal of the Beach Management Agreement for 2017 – 2019. 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. Agreement requires 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. 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 2016, only 66 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. 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 and federally listed Red Knot that use plover nesting beaches to rest and refuel during migration.

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. With increasing support from the Town, the number of nesting Piping Plovers on Old Orchard Beach has increased to six to nine pairs during 2014-2016; clearly, habitat management of Old Orchard Beach is essential to the recovery of Piping Plovers in Maine.

**MOTION:** Vice Chair O'Neill motioned and Councilor Tousignant seconded to Approve the Beach Management Agreement with the U.S. Fish & Wildlife Services (USFWS); and the Maine Department of Inland Fisheries & Wildlife (MDIFW); developed for the Town of Old Orchard Beach.

**VOTE:** Unanimous.

**Town of Old Orchard Beach  
Beach Management Agreement  
2017 through 2019**

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 5, 2017, representatives of the Town, MDIFW, and Maine Audubon met to draft a renewal of the Beach Management Agreement for 2017 – 2019.

**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 2016, only 66 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 and federally listed Red Knot that use plover nesting beaches to rest and refuel during migration.

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 consistently nested on Old Orchard Beach. With increasing support from the Town, the number of nesting Piping Plovers on Old Orchard Beach has increased to six to nine pairs during 2014-2016; 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 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. 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.

## **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, 2017 and terminate on October 1, 2019.

#### **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.

**# 6891 Discussion with Action: Accept the bid from Adams Emergency Vehicles, in the amount of \$8,541.08, for the purchase and installation of emergency vehicle equipment for the K-9 vehicle; from Account Number 20130-50800 – Community Development Block Grant – Safe Neighborhoods, with a balance of \$38,280.01.**

#### **BACKGROUND:**

**This request would fund lights, radio, siren, and related equipment for the recently purchased K-9 vehicle. The Police Department will be reusing the camera system, computer, weapon mounts, computer mounts, automatic door openers, and other associated equipment.**

**MOTION: Councilor Kelley motioned and Councilor Blow seconded to Accept the bid from Adams Emergency Vehicles, in the amount of \$8,541.08, for the purchase and installation of emergency vehicle equipment for the K-9 vehicle; from Account Number 20130-50800 – Community Development Block Grant – Safe Neighborhoods, with a balance of \$38,280.01.**

**VOTE: Unanimous.**

**# 6982 Discussion with Action: Approve the line item transfers from the Waste Water Department, in the amount of \$10,000 from Account Number 20161-50340 Waste Tipping Expense Account with a balance of \$47,995.93, to Account Number 20161-50330 Equipment Replacement Expense with a balance of \$1,757.18.**

**MOTION: Vice Chair O'Neill motioned and Councilor Tousignant seconded to Approve the line item transfers from the Waste Water Department, in the amount of \$10,000 from Account Number 20161-50340 Waste Tipping Expense Account with a balance of \$47,995.93, to Account Number 20161-50330 Equipment Replacement Expense with a balance of \$1,757.18.**

**VOTE: Unanimous.**

TOWN OF OLD ORCHARD BEACH

REQUEST FOR LINE ITEM TRANSFER

DEPARTMENT Wastewater DATE: April 11, 2017

	Account #	Account Name	Balance in Account	Amount to Transfer
FROM:	20161-50340	Waste Tipping	\$47995	\$10000
TO:	20161-50330	Equip. replacement	\$1,757	\$10000
FROM:				
TO:				
FROM:				
TO:				

Explanation:

Funds needed to repair and/or replace equipment that costs \$1000 or more.

Department Head Signature: Christopher J. White

Treasurer – Finance Director Comments and Signature:  
Nicolas J. [Signature]

Town Council Signature: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**# 6893 Discussion with Action: Approve the Special Event Permit Application for Thornton Academy to hold a Beach Picnic, to include a Campfire, on the beach at the end of Colby Avenue on Saturday, May 20, 2017. Rain date Sunday, May 21, 2017. Set-up from 3:30-4 p.m., event and takedown 4-7 p.m.**

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

**VOTE: Unanimous.**

**# 6894 Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold an inaugural "O.O.B. Art in the Park" in Memorial Park on Saturday, June 24<sup>th</sup>, 2017 from 10 a.m. to 5 p.m. and Thursday, August 3<sup>rd</sup>, 2017 from 1-8 p.m.; rain dates are June 25<sup>th</sup> and August 4<sup>th</sup>, same times. 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 first event.**

**MOTION: Vice Chair O'Neill motioned and Councilor Blow seconded to Approve the Special Event Permit as read.**

**VOTE: Unanimous.**

**# 6895 Discussion with Action: Approve the Special Event Permit applications for the 2017 annual Ocean Park events, as follows: 1) Ocean Park Association to hold a sand sculpture contest on the beach between Randall and Winona Avenues on Monday, July 3, 2017, set up from 10 a.m. to 1 p.m., event and takedown 1-4 p.m.; 2) Ocean Park Association to hold an Independence Day parade on Tuesday, July 4, 2017, set up from 9-10 a.m., event and take down 10 a.m. to noon, rain date July 5<sup>th</sup>, 2017; starting on Temple Avenue; 3) Ocean Park Association to hold the Ocean Park 5k Race on Friday, July 28, 2017, set up from 3-5 p.m., event and take down from 5-8 p.m. in Ocean Park; 4) Ocean Park Association to hold Square and Line Dances in the Ocean Park Square on Temple Avenue between West Grand Avenue and Seaside, Tuesday, July 4<sup>th</sup>, 2017, and Saturday, September 2<sup>nd</sup>, 2017, set up 6:30-7:30 p.m., event and take down 7:30-9:30 p.m.; 5) Ocean Park Association to hold Illumination Night on Saturday, August 5, 2017, set up 2-5 p.m., event and take down 5-10:30 p.m. in Ocean Park; 6) Ocean Park Association to hold a Christian Youth Conference Block Dance, on Temple Avenue, between West Grand Avenue and Seaside Avenue on Saturday, August 12, 2017, set up 6:30-7:30 p.m., event and take down 7:30-11:00 p.m.**

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

**VOTE: Unanimous.**

**GOOD AND WELFARE:**

**JEROME BEGERT: He spoke about the need for a sales tax and encouragement the Town Manager to progress on this as it had been done by a former Chair. He indicated he realized it was a tough sell but he still encouragement pushing this forward.**

**PAT BROWN:** She gave an announcement about the event this Saturday for Louie Ladakakos who is hospitalized in Boston and this event would be helpful to the family in the enormous expense that is involved with Louie getting better.

**ADJOURNMENT**

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to adjourn the meeting at 7:10 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 sixteen (16) pages is a copy of the original Minutes of the Town Council Meeting of April 18, 2017.

V. Louise Reid