

**Old Orchard Beach Planning Board Meeting Minutes  
Thursday, September 23, 2010 at 7:00pm in Town Hall Council  
Chambers**

<b>Meeting Called to Order at 6:35 pm</b>	
<b>Pledge to the Flag</b>	
<p><i>Members Present:</i> Chairman Win Winch, David Darling and Mark Koenigs  <i>Members Absent:</i> Don Cote, Tianna Higgins and Eber Weinstein <i>Staff Present:</i>  Gary Lamb and Staci Grazioso</p>	
<i>No minutes to approve</i>	
<p><b>Chairman Winch</b> – back in 1984 was the last time that we had the last mapping done. Back then there were 737 properties that were located in the special flood hazard areas. 25 years later there are just under 1100 (1099).</p> <p>The other night Council wisely approved a 13K contract with Sebago Technics for a coastal flood study. They have done this for Portland, South Portland and they will be doing one for Biddeford. This is going to challenge what has been done by the Federal Government. To do so you have to have some pretty strong Technical backing.</p> <p>The study could potentially drop the base flood elevation by a foot. A foot is very significant and could potentially get properties out of the flood zone. The council has approved the contract and we will be doing a peer review.</p> <p><b>Chairman Winch</b> let everyone know that he lives in Ocean Park and is not in the flood zone as of yet, but after this he will be. I have a very personal interest in this as well.</p>	
<b>ITEM 1: Introductions of Planning Board, Town Staff and Consultants:</b>	<b>ITEM 1</b>
<p><b>Gary Lamb, Town Planner</b> welcomed new employee Staci Grazioso and our guests JT Lockman of Southern Maine Regional Planning Commission and our GIS computer mapping consultant Tom Burns.</p> <p><b>Mr. Lamb</b> tonight we are going to discuss Shoreland Zoning. Floodplain mapping is something different. There are some floodplains in the RP mapping that we are going to be talking about. Much of the floodplain topic needs to be held for another day.</p> <p>The most important part of any ordinance is the definition section. Mr. Lamb read the definition of the Shoreland zone right from our ordinance and discussed some map features.</p> <p>Where two blue lines come together on a USGS topographic map, we are obligated to have Shoreland zoning on the downstream portion of that stream. We have a lot of streams in this town that are single blue lines and do not show up on a topographic map and we are not obligated to have those in the Shoreland zone. We can be more restrictive than the DEP minimums, but we don't have to be.</p>	

<p>Councils direction to me was quite clear, not to be more restrictive unless we had to be per DEP regulations, and not to be less restrictive from habitat aspects.</p> <p><b>Mr. Lamb</b> directed everyone to look at the maps, and he discussed different zoning subdistricts symbols.</p>	
<p><b>ITEM 2: Methodology and Reasons why Shoreland Zoning is Changing – JT Lockman</b></p>	<p><b>ITEM 2</b></p>
<p>Shoreland Zoning program has been around since 1974.</p> <p>The DEP makes regulations and usually re-writes them every 10 years or so. The last time that OOB re-did Shoreland zoning was in the early to mid 90's. That was the last time that DEP published a complete new set of regulations.</p> <p>DEP calls these Minimum Shoreland Zoning Guidelines. What they require is that every town in Maine meets the intent of DEP Guidelines in their local ordinances. You can be more restrictive than the State but you cannot be less restrictive.</p> <p>You are required to get any Shoreland Zoning changes approved by DEP after your Council votes and adopts any Shoreland Zoning changes.</p> <p>The initial deadline was July 1, 2008 for all towns in Maine to comply. Not a lot of towns made the deadline. The DEP extended it to July 1, 2009. If towns are working to get this done and they haven't met the deadline they are fine with that. DEP will begin implementing State imposed Shoreland Zoning ordinances for those non-compliant towns.</p> <p><b>Mr. Lockman</b> explained how he worked on the text and compared it to the guidelines. In some cases OOB had customized regulations that were more restrictive than the State, i.e. OOB requires that you have a 100' setback from streams, and the State minimum is 75'.</p> <p><b>Questions from the audience:</b></p> <p><b>Mr. Guarino</b> spoke regarding restrictions on Goosefare Brook.</p> <p><b>Mr. Bird</b> you took our zoning ordinance and tried to mesh it with the minimum State Guidelines. Has Mr. Lockman read the latest draft?</p> <p><b>Mr. Lockman</b> I have read it and I am not as familiar with it as I am with the stuff that I wrote myself.</p> <p><b>Mr. Bird</b> I would estimate about 30 to 40% of it has changed. I want to know from Mr. Lockman, does he stand by the current draft or the draft that is on the table now?</p> <p><b>Mr. Lockman</b> I don't need to stand by it because I didn't do it. The way the system works is you send it into DEP. The Town's Attorney was uncomfortable with some of the wording. My approach is to put in the definitions in that the</p>	

<p>DEP likes. DEP likes their own wording, the Town is always welcome to have different wording as long as you can convince them it is as strict as DEP Guidelines.</p>	
<p><b>ITEM 3: Data and GIS computer mapping – Tom Burns</b></p>	
<p>1974 the mapping was done on a 50K scale map, a very small scaled map.</p> <p><b>Mr. Burns</b> briefly discussed OOB map history and showed the underlying data sets that now comprises Shoreland Zoning.</p> <p>The basis for most of the RP area is a new data set called Highest Annual Tide (<b>HAT</b>). This <b>HAT</b> topographic line now forms the legal edge of a coastal wet land, with a 250’ buffer extending upland of the <b>HAT</b> line.</p> <p>We are not protecting some first order (single blue line) streams because they do not meet the minimum State requirements that they be in the Shoreland Zoning.</p> <p>Aerial Flight LIDAR Data (light detection and ranging) gives us a very accurate radar topographic delineation of our coastal wetlands. Parcel lines are about 20-30% survey accurate. Steep slopes shown in red (two contiguous acres of slopes in excess of 20%) is shown along Goosefare Brook and other locations as RP</p> <p><b>Mr. Bird</b> why are they not protected outside the Shoreland Zone?</p> <p><b>Mr. Lockman</b> In Shoreland Zoning there is protection of contiguous 2 acre areas of steep slope only when it’s in the Shoreland Zone. A town could zone areas that are miles from water as RP if they wish, but anything farther than 250’ from a water resource is not in the Shoreland Zone.</p> <p><b>Mr. Bird</b> these are very steep slopes and liable for erosion, it seems like it would be a practical matter to protect those areas.</p> <p><b>Mr. Lockman</b> My contract was to get you in compliance with DEP minimum Guidelines. You should take that up with the Planning Board and Council.</p> <p><b>Mr. Burns</b> identifies and discusses a new IWWH area of RP on Mill Brook (Inland Waterfowl Wading Bird Habitat)</p> <p><b>Mr. Lamb</b> discusses DEP RP Guidelines that allow for non-intensive recreation. Our beach is a Public Park by definition. Since we have very intensive recreation that has been approved by the Council, the Town Attorney thought it would be wise to make that a Public Park District and not be held to the non-intensive regulations. That is why the beach is the buff color and a different zoning subdistrict. It does not have to be in RP according to DEP</p> <p><b>Ms. Dayton</b> DEP doesn’t care if the beach is in RP? Is that what you said?</p> <p><b>Mr. Lockman</b> in the meeting I had with Mike Morse from DEP, he said it would be fine if we created a 6<sup>th</sup> type of district and called it a Public Park</p> <p><b>Mr. Lockman</b> the attorney was concerned with some legal issues concerning the beach and he thought this would be a good alternative way of handling it</p> <p><b>Ms. Dayton</b> what were the legal issues?</p> <p><b>Mr. Lamb</b> intensive recreational activity, such as the balloon festival that the Council approved</p>	

<p><b>Ms. Dayton</b> I'm not really accepting the intensive activity such as the balloon festival as enough to create a 6<sup>th</sup> district</p> <p><b>Mr. Lamb</b> the Town's Attorney was concerned with the other activities that happen on the beach as well. Chris thought it might be challengeable for people that did not want those types of activities in front of their beachfront homes</p> <p><b>Ms. Dayton</b> some activities have been happening for years and I just don't except the argument. I have never seen DEP challenge any special activity permit</p> <p><b>Mr. Lamb</b> DEP came very close to saying the balloon festival may not happen without a sand dune permit</p> <p><b>Ms. Dayton</b> she agreed, doing the balloon festival in a different location next year</p>	
<p><b>ITEM 4: Changes Specific to Old Orchard Beach – Mr. Lamb</b></p>	
<p>Discusses the area from the RR tracks to the ocean between Scarborough and Saco – pink, gray and yellow. This is in our Shoreland Zone today by definition but it is not on the Shoreland Zoning Map. That is one thing that needed to be fixed. Mill Pond was given the 250' buffer indicative of a Great Pond meaning 10 acres or greater. Mr. Burns did the calculation and that is under 9 acres. We don't feel Mill Pond has to have a 250' buffer on it. The new map shows it's a 100' buffer because it is not a 10 acre Great Pond. Proposed stream buffer on Goosefare Brook remains at 150' upstream of the RR bridge as it is today. We spoke about the 6<sup>th</sup> district unique to the beach and the Planning Board can certainly take that under advisement as will the Council.</p>	
<p><b>ITEM 5: Public Comment and Questions, moderated by Chairman Winch</b></p>	
<p><b>Mr. Bird</b> The gray area (Bay Avenue and RR tracks downtown) that is not a set back from a wetland. How did that appear? Is this a political decision or an individual decision?</p> <p><b>Mr. Lamb</b> it is more a political decision. By today's Shoreland Zoning definition, from the RR tracks and east is in our Shoreland Zone</p> <p><b>Mr. Thornburn</b> my parcel between RP and RA appears to be divided. Is a decision going to be made on per parcel basis or is the decision about that suitability of the property based on what side of the wavy line you're on?</p> <p><b>Mr. Lockman</b> You could ask a surveyor to more accurately place the topographic zone line on a survey of your property. If the Shoreland Zone boundary goes through your property you would have two zones on your property</p> <p><b>Mr. Lamb</b> what I have been doing for weeks is meeting with people to look at their property to see if you are in RP. Process – this is the first Public Hearing. Do we need to continue the Public Hearing to October 14<sup>th</sup> or have another Public Hearing then? At that time things might be finalized in terms of the text. We can have additional Public Hearings after that if the Board wants. Then a recommendation will be made to the Council who must hold at least one Public Hearing. There is still plenty of time to make changes</p> <p><b>Ms. Dayton</b> I don't live on the beach. My questions are not towards any particular property on the beach. I believe my questions are broader and for anyone who cares about the beach. Request again to get a copy of the document. Just to be clear, the entire beach line on this new map is considered SPP?</p> <p><b>Mr. Lamb</b> that is correct</p>	

<p><b>Considerable discussion ensued with Ms. Dayton over the Shoreland Zone Land Use Table</b></p> <p><b>Ms. Dayton</b> the other question I have is for Gary, how did we get here with Mr. Lockman's changes then being removed by Chris?</p> <p><b>Mr. Lamb</b> he felt that it was tighter in a legal sense than what Mr. Lockman put in which was right from the DEP guidelines. He felt the town was on better legal footing to use the existing language and processes we have now.</p>	
<p><b>ITEM 6: Discussion on future Public Hearing date</b></p>	<p><b>ITEM 6</b></p>
<p><b>Chairman Winch</b> said we will continue the Public Hearing on the 14<sup>th</sup> of October</p>	
<p><b>Meeting Adjourned at 8:15 pm</b></p>	<p><b>ADJOURN</b></p>
<p>Chair, Win Winch</p>	

*I, Staci Grazioso, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of five (5) pages is a true copy of the original minutes of the Planning Board Meeting of September 23, 2010.*