

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
Tuesday, August 8, 2018  
TOWN HALL CHAMBERS  
6:30 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, August 8, 2018. Chair Thornton opened the meeting at 6:32 p.m.

The following were in attendance:

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

Absent: Town Manager Larry Mead

**ACKNOWLEDGEMENT: PAUL LAFOND**

**PAT BROWN:** I have known Paul for many years and recognize so often as other who know him have – that he provides encouragement and support in a manner of love and caring. Paul could be referred to as a person “from away”, but he could not be more a part of the heart of OOB if he were born and raised here. He understands what makes OOB so very special and does all he can to continually enhance the many positive aspects of this community. He bought his home in Old Orchard Beach and began taking his family here 15 years ago. Being a genuinely sincere, outgoing, friendly person, Paul quickly developed close relationships with people throughout Town. In 2011, Paul’s beloved Son, Joe, passed away from Ewing’s Sarcoma at the age of 25. Joe was born and raised in North Andover, MA, but Old Orchard Beach was a second home to him. Joe enjoyed playing baseball, basketball and lacrosse but his real passion was helping people and volunteered to help people almost to his dying day. A trait he undoubtedly inherited from his Father, Paul. Paul initially dedicated a beautiful tree in Veterans Memorial Park in Joe’s honor, by the basketball courts, so every time he goes there, he will have this memory. But Paul felt he wanted to do more to benefit the young people of Old Orchard Beach. To this end, he worked together with MAPS to establish the Joseph Lafond Scholarship Fund in Joe’s memory. As a retired sportswriter for 16 years at the Eagle-Tribune in North Andover, MA, Paul developed close relationships with many of Sports “Greats”. Paul’s former Editor, Russ Conway, got his friend and former Boston Bruins superstar Bobby Orr to submit a 16x20 autographed photo of Stanley Cup game winning goal in 1970. Paul worked tirelessly to gather over 200 items; including a Hall of Fame baseball autographed by Red Sox Hall of Famer Carl Yastrzemski, a Boston Bruins hat autographed by NHL Hall of Famer Ray Bourque, and way too many more things to mention tonight. The Auction was immensely successful raising \$14,000 which enabled MAPS to establish a perpetual Joseph Lafond Scholarship. For Paul, this is a way of paying it forward and keeping Joe’s memory alive.

## **ACKNOWLEDGEMENT:**

### **ASSISTANT TOWN MANAGER:**

Recognizing Paul's commitment to our Community, the OOB Community Friendly Connection approached him to once again spearhead a fundraiser to help with the purchasing of a huge, all-inclusive ADA therapeutic recreational Glider for Veterans Memorial Park. This glider's platform has a bench on each side and is large enough to hold wheelchairs and strollers. It will be accessed by a handicap ramp enabling people of all ages and abilities to enjoy gliding together! Paul again worked tirelessly gathering over 50 items for a Silent Auction which has propelled the CFC on its way to the \$17,000 target. All Paul asked in return is a small plaque be placed by the glider honoring his Son Joseph. "Still waters run deep." I think of those words when I think of Paul. He goes about his life giving back in so many ways without the noise of wanting acknowledgement. At the end of the day it's not about what you have or even what you have accomplished...It's about who you've lifted up; who you've made better. It's about what you've given back." Thank you, Paul, for all you have given and continue to give.

Be aware that on Wednesday, September 5h between 12:00 and 5:00 p.m. the Red Cross will be accepting blood donations in the Town Council Chamber. We encourage as many as possible to come and donate blood for this important cause. This weekend "Art in the Park" is sponsored by the Chamber of Commerce and held in Memorial Park.

### **GOOD AND WELFARE:**

**TIMOTHY MCCORMACK:** He addressed the Council of his ongoing concerns and those of his neighbors living in the area of the Waste Water Facility. The odor has for several years been a great concern and he has recently as in the past mailed information to the DEP and also the Wastewater Superintendent whom he praised for his willingness to do his best to address the issue and find a solution. He said that "Chris has 'bent over backwards' to address the issue of odor control. He talked about his several meetings with the Town Manager and the Waste Water Superintendent and the review of drawings of a possible cover to the tank that might control some of the odor but the recommendation included the need to find the cost of the cover for the container and the budgetary restrictions. The Wastewater Superintendent indicated that he was securing costs but he felt that the cover would not solve the problem but rather the need for an odor control system. Mr. McCormack also indicated that the cover would not be sufficient to work and pleaded with the Town Council to make this problem and the solving of it a priority for them.

### **ACCEPTANCE OF MINUTES:**

Town Council Minutes of July 17, 2018.

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

**VOTE:** Unanimous.

**BUSINESS LICENSES AND APPROVAL:**

**CHAIR:** I open this Public Hearing at 6:51 p.m.

Matthew Osha dba/Cruisin Pedicab – Personal Service; Susan Strommer (104-3-5-8C), 26 Walnut Street, #8C, one year round rental; Stacy Mahonen (107-3-6-6), 5 Stanley Street, one year round rental; Toni Panteleakos (205-16-3-8D), 9 Cascade Road, #8D, one year round rental; Benjamin Day & Ya-Chien Chan (206-11-4), 11 Cottage Avenue, two (2) year round rentals; PDJ Properties LLC/BMS Management, Inc., dba/YellowGiraffe Motel (206-28-1), Motel – twenty-five (25) units; Elizabeth B. Deering (207-2-13-212), 5 Scollard Road, one seasonal rental; Paul & Joy Mathew (303-2-10), 161 Saco Avenue, Unit 212, one year round rental; Arthur Wright (311-9-7), 52 11<sup>th</sup> Street, one seasonal rental; and Gillian Vincent (322-6-2), 25 Maine Avenue, one seasonal rental.

**MOTION:** Councilor Kelley motioned and Vice Chair O’Neill seconded to Approve the Business Licenses as read with the exception of 5 Stanley Street, one year round rental, which is to be address separately.

**VOTE:** Unanimous.

In attendance this evening were Julie Chretien who spoke on the issue as well as Gina Namin, Robyn Michaud, Sharon Michaud, Ray Michaud and John Grendell. Also speaking of their concerns were Mary Meredith Sanders and Randy McMullin. The issue is that presently they believed that this property was serving as an Airbnb which is an online community marketplace that connects people looking to rent their homes with people who are looking for accommodations. Airbnb users include hosts and travels; hosts list and rent out their unused spaces, and travelers search for and book accommodations. They presented to the Secretary a copy of the advertising of the property. The concerns that were expressed were the noise; the number of parked vehicles; the experienced interruption of local residents by individuals using the property parking in areas that do not allow parking. They also presented to the Secretary a copy of the Declaration of Covenants and Restrictions for Country Meadows LLC which indicates “Residence – The Property shall be used for single family residences and such other uses as permitted by the current acting Ordinance of the Town of Old Orchard Beach.” The Covenants are not enforceable by the Town but the use of the property is more of a lodging use rather than a residential rental which was something that the Planner, Jeffery Hinderliter, needed to review and discuss with his staff. The Council discussed the options and it was suggested that the license be tabled until the next Council meeting which is on the 21<sup>st</sup> of August and that the Planner have more information at that time. There was the question of “What is enforcement action and how is it done through the Town?” It was noted that when it becomes of legal issue the Courts are involved and the time line is extended for a decision.

**MOTION:** Vice Chair O’Neill motioned to Table the License until the next Council Meeting and Councilor Blow seconded the Motion.

**VOTE:** Unanimous.

**CHAIR:** I close this Public Hearing at 7:15 p.m.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Approve the business licenses as read.

**VOTE: Unanimous.**

**NEW BUSINESS:**

**# 7209 Discussion with Action: Reenact the Emergency Ordinance establishing a Moratorium on Medical Marijuana Retail Storefronts, first approved February 6, 2018 and currently expiring August 7<sup>th</sup>, 2018; and extend for an additional sixty-one days to expire October 7, 2018.**

There are two agenda items related to medical marijuana on this evening's agenda. The first is a renewal of the moratorium on medical marijuana retail stores. It should be noted that the language in the moratorium is changing in order to use the same terminology that is being used in the recently enacted state legislation pertaining to medical marijuana. The term "medical marijuana storefront" has been replaced by "registered caregiver retail store". I suggest that Chair Thornton ask Jeffrey to come to the podium to explain the change in terminology as well as explain the reason the moratorium should be renewed.

The second item is the ordinance amendment that would prohibit medical marijuana storefronts. This is the proposed ordinance that had a public hearing at the last Council meeting and that the Planning Board reviewed and forwarded to Council with a recommendation for passage. **I RECOMMEND THAT THE COUNCIL REMOVE THIS ITEM WITHOUT PREJUDICE.** The reason for this is that as a result of the recently passed legislation pertaining to medical marijuana it is no longer necessary to enact this ordinance. Under the new law passed in either June or July medical marijuana retail storefronts (now called registered caregiver retail stores) are not permitted **UNLESS THE MUNICIPALITY TAKES ACTION TO SPECIFICALLY ALLOW THEM.** As a result it is not necessary to enact the ordinance.

It is necessary to renew the moratorium however because the new law does not take effect until sometime this fall (exact date not yet provided to me). So the moratorium will accomplish what the ordinance would have affected until such time as the new law is valid. It may be necessary to renew the moratorium one more time in October. This approach has been suggested by Town attorney Phil Saucier and can be explained by Jeffrey Hinderliter.

The Planner made an excellent presentation to the Council on some of their concerns and questions. He pointed out that he recommends the moratorium language change so the term "medical marijuana storefront" is replaced with "registered caregiver retail store." This change is recommended for consistency and clarity purposes- the recent passage of amendments to the Maine medical marijuana law uses the term registered caregiver retail store. He said that during July of this year the State passed amendments to the medical marijuana law. The amendments take affect this Fall and the Amendments include changes to standards associated with the caregivers as well as how municipalities regulate caregivers. The caregiver changes include allowing a caregiver to operate one retail store for medical marijuana patients. The change associated with how municipalities regulate caregivers is it now allows towns and cities to regulate pursuant to their home rule authority. This includes require a vote of the local legislative body (e.g., Council) to adopt an ordinance that specifically allows a use such as a registered caregiver retail store to operate within a town/city. This is commonly referred to as "Opt In. " By allowing the moratorium to continue until the law takes effect the Town is protected from the establishment of registered caregiver retail stores. Once the law take effect, the only way to allow establishment of registered caregiver retail stores is through Ordinance amendments

(the is because the law requires Towns/Cities to Opt In.) If the Town continues with the position to not allow registered caregiver retail stores, the Town can simply continue with the moratorium until the law takes effect. Once the law takes effect, the moratorium is no longer needed because registered caregiver retail stores will automatically not be permitted. This is why the currently proposed ordinance amendments specifically prohibiting the use are not required to be adopted as long as the Town continues with the moratorium. The new law, once in effect, takes care of the prohibition through the “Opt In”. If the Town wants to continue to prohibit the establishment of registered caregiver retail stores, the Town only needs to continue to enact the moratorium until the new law takes effect. Ordinance amendments to prohibit the use are not necessary because of the “Opt In.”

**PETER-PIERRE LOUIS:** He recommended the Town Council study the positive revenue sources should the sale of marijuana be permitted.

**THOMAS MOURMOURAS:** He asked the Town Council to define Registered Caregiver Retail Stores and Retail Stores.

#### **BACKGROUND:**

**WHEREAS,** the Town’s medical marijuana ordinance does not specifically address retail sales; and

**WHEREAS,** other Maine communities have experienced initiatives to establish retail sales of medical marijuana, including registered caregiver retail stores; and

**WHEREAS,** the Planning Department has received notice of interest in locating a registered caregiver retail store in Old Orchard Beach; and

**WHEREAS,** the Maine Legislature is currently considering modifications to State law regulating medical marijuana that would address ambiguities and unintended consequences within the existing statute; and

**WHEREAS,** it is in the best interest of the Town to consider the development of regulations pertaining to retail medical marijuana sales; and

**WHEREAS,** the unregulated development of the retail sale of medical marijuana raises a number of concerns related to public safety and welfare, including, but not limited to, potential adverse effects on neighborhoods, and potential adverse effects on the Town’s tourism industry; and

**WHEREAS,** the Town’s existing ordinances are inadequate to prevent the potential for serious public harm from the establishment and operation of retail medical marijuana activities; and

**WHEREAS,** during the period of this moratorium the Town will work on developing appropriate land use regulations concerning retail medical marijuana activities; and

**WHEREAS,** the Town Council concludes that these circumstances constitute a public emergency within the meaning of Section 410.1 of the Old Orchard Beach Town Charter.

**NOW THEREFORE,** pursuant to the authority granted to it by 30-A M.R.S.A. § 4356, be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

1. **DEFINITIONS.**

As used in this Ordinance the following terms have the following meanings:

A “registered caregiver retail store” is defined as an establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by one or more Primary Caregivers as defined by 22 M.R.S.A. § 2422(8-A), Medical Marijuana Caregivers as defined in the Zoning Ordinance, or any other individuals or entities for the sale, distribution or administration of medical marijuana and medical marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9) or any other individuals.

2. **ESTABLISHMENT AND OPERATION OF REGISTERED CAREGIVER RETAIL STORES PROHIBITED.**

During the time this Ordinance is in effect no person shall establish or operate a registered caregiver retail store.

3. **APPLICATIONS NOT TO BE ACCEPTED OR ACTED UPON.**

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Old Orchard Beach shall accept, process or act upon any application, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, or any other approval, relating to the establishment of a registered caregiver retail store.

4. **ENFORCEMENT, VIOLATION AND PENALTIES.**

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Old Orchard Beach. Any person who violates Section 2 of this ordinance shall be subject to civil penalties and other remedies as provided in 30-A M.R.S.A. § 4452.

5. **EFFECTIVE DATE.**

This Ordinance takes effect immediately upon adoption and shall expire on the 61<sup>st</sup> day thereafter, unless earlier extended, repealed or modified by the Old Orchard Beach Town Council.

6. **APPLICABILITY.**

Notwithstanding anything to the contrary in 1 M.R.S.A. § 302 or any other law, this Ordinance shall apply to any proposal to establish or operate a registered caregiver retail store, whether or not an application or proceeding to establish said use would be deemed a pending proceeding under 1 M.R.S.A. § 302 prior to the enactment of this Ordinance.

7. **SEVERABILITY.**

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Remove “Medical Marijuana Storefronts” and replace with “Registered Caregiver Retail Stores” and Reenact the Emergency Ordinance establishing a Moratorium on Registered Caregiver Retail Stores, first approved February 6, 2018 and currently expiring August 7, 2018; and extend for an additional sixty-one days to expire October 7, 2018.

**VOTE:** Unanimous.

**# 7210** Discussion with Action: Amend the Town of Old Orchard Beach Code of Ordinances as follows: Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility Amendments, title; Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Division 1 - Generally, Section 18-601 – Definitions; Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Division 1 - Generally, Section 18-604 – Prohibition on Medical Marijuana Storefronts; Amendment to Chapter 78 - Zoning, Article I – In General, Section 78-1 – Definitions; Amendment to Chapter 78 - Zoning, Article VII – Conditional Uses, Division 2 - Conditions, Section 78-1277 – Medical Marijuana.

**BACKGROUND:**

The Town Council, in Agenda Item # 7209 - is voting to reenact the Emergency Ordinance establishing a Moratorium on Medical Marijuana Retail Storefronts, first approved February 6, 2018 and currently expiring August 7<sup>th</sup>, 2018; and extend for an additional sixty-one days to expire October 7, 2018 and with that decision will Remove Without Prejudice this Agenda Item.

The Town had been under a moratorium on medical marijuana storefronts to allow time to create an ordinance to govern them. The Town was proposing an ordinance change that defines medical marijuana storefronts and prohibits them town-wide. The Planning Board recommended the proposed ordinance change with a four to one vote. The Town Council will hold a final vote on the proposed ordinance at a later date. The Mourmouras who run Fiscal Financial Therapy in Portland and the Tax Doctor in Old Orchard Beach have many clients with marijuana-related businesses. The Mourmouras complained that over the past few months they have asked the Town Manager and the Planning Board to answer on simple question and no one has even attempted to answer it. The question is: “What is the difference between a medical marijuana storefront which you are proposing to ban, and a medical marijuana registered dispensary which is already allowed in Old Orchard Beach?” The Town Council Chair Thornton said the purpose of a Public Hearing was not to have back and forth dialogue but to give the public an opportunity to voice their opinion on the proposed ordinance. Peter Mourmouras indicated that he did not feel the change should go through because he didn’t think anyone that they had dealt with knew what they were talking about. The Chair indicated that they had presented us a question for the Council to consider whether this ordinance change is supported by the Town Council. Tom Mourmouras said that he had submitted to the Town back in October of 2017 a proposal for an ordinance defining and regulating medical marijuana caregiver storefronts. Over the past six months he said that he had “endured” a “charade” of Town Planning meetings instead of the promised open transparent discussion. He felt that they had not received an educated, open and fair process and demanded that the Council

address the ordinance language application and due process that were unfairly denied, in their opinion. They also indicated that the Town was incorrect when enacting a moratorium on something that was already allowed by ordinance and that if it proceeds they will consider a lawsuit. It was noted that in a June 12<sup>th</sup> memo to the Town Council by the Planner, he acknowledged concerns expressed by the Mourmouras and that the proposed medical marijuana storefront land use operates almost identically to registered dispensary; with the key difference being that dispensaries have unlimited patients and products, while medical marijuana storefronts are operated by registered caregivers, with each caregiver being limited to five patients. The Planning Board decided not to include any changes recommended by the Mourmouras which included allowing only one medical marijuana caregiver storefront and allowing it only in the DD2 district which is part of the downtown. There are currently eight medical marijuana dispensaries allowed in the State and the closest one to Old Orchard would be Biddeford. Legislation which will be enacted later this year has been approved to allow six more dispensaries in the State.

#### **PREVIOUS BACKGROUND INFORMATION:**

On 6 February 2018, the Council enacted a moratorium on Medical Marijuana Storefronts (MMS). The moratorium defines MMS as “as an establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by one or more Primary Caregivers as defined by 22 M.R.S.A. § 2422 (8-A), Medical Marijuana Caregivers as defined in the Zoning Ordinance, or any other individuals or entities for the sale, distribution or administration of medical marijuana and medical marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9) or any other individuals.” The moratorium was enacted in response to concerns associated with initiatives to establish MMS’s in Old Orchard Beach.

In response to the moratorium, planning staff drafted ordinance amendments for PB’s consideration. The amendments are simple- they define medical marijuana storefronts and prohibit the use town-wide. These amendments change/add language to Chapter 18 (Businesses) and Chapter 78 (Zoning). After consideration and holding a public hearing, the PB voted 4-1 to recommend the Council adopt the ordinance amendments as written (same language presented to Council).

**MOTION:** Vice Chair O’Neill motioned and Councilor Tousignant seconded to Remove without Prejudice the Amendment to the Town of Old Orchard Beach Code of Ordinances as follows: Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility Amendments, title; Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Division 1 - Generally, Section 18-601 – Definitions; Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Division 1 - Generally, Section 18-604 – Prohibition on Medical Marijuana Storefronts; Amendment to Chapter 78 - Zoning, Article I – In General, Section 78-1 – Definitions; Amendment to Chapter 78 - Zoning, Article VII – Conditional Uses, Division 2 - Conditions, Section 78-1277 – Medical Marijuana.

**VOTE:** Unanimous.



## MARIJUANA STOREFRONTS

### Ch. 18, Article XI – Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility Amendments (Council June/July 2018)

#### **Amendment to Chapter 18, Article XI title (deleted language ~~strikethrough~~, new language underlined):**

Medical Marijuana Registered Dispensary, or Medical Marijuana Production Facility, and Medical Marijuana Storefronts

#### **Amendment to Chapter 18, Article XI, Division 1, Section 18-601 – Definitions (new language underlined):**

Medical marijuana storefront: An establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by \_\_\_\_\_ one or more Primary Caregivers as defined by 22 M.R.S.A. § 2422(8-A), Medical Marijuana Caregivers as defined in the Zoning Ordinance, or any other individuals or entities for the sale, distribution or \_\_\_\_\_ administration of medical marijuana and medical marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9) or any other individuals.

#### **Amendment to Chapter 18, Article XI, Division 1, Section 18-604 – Prohibition on Medical Marijuana Storefronts (new language underlined):**

Sec 18-604. – Prohibition on Medical Marijuana Storefronts

Medical marijuana storefronts as defined in this Article are expressly prohibited in this municipality.

Nothing in this Section is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

#### **Renumber Sections in Chapter 18, Articles XII and XII**

## CHAPTER 78 AMENDMENTS – MEDICAL MARIJUANA STOREFRONTS

### Ch. 78, Article I, Definitions and Article VII, Conditional Uses (Council June/July 2018)

#### **Amendment to Chapter 78, Article I, Section 78-1 (new language underlined):**

Medical marijuana storefront: An establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by \_\_\_\_\_ one or more Primary Caregivers as defined by 22 M.R.S.A. § 2422(8-A), Medical Marijuana Caregivers as defined in the Zoning Ordinance, or any other individuals or entities for the sale, distribution or \_\_\_\_\_ administration of medical marijuana and medical marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9) or any other individuals.

#### **Amendment to Chapter 78, Article VII, Division 2, Section 78-1277 – Medical Marijuana (new language underlined):**

(e) Prohibitions. Medical marijuana storefronts, as defined in Section 78-1, are expressly prohibited in this municipality.

**TO:** Old Orchard Beach Town Council  
Larry Mead, Town Manager  
Louise Reid, Assistant Town Manager  
**FROM:** Planning Staff  
**SUBJECT:** Medical Marijuana Storefronts Ordinance Amendments  
**DATE:** 12 June 2018

On 6 February 2018, the Council enacted a moratorium on Medical Marijuana Storefronts (MMS). The moratorium defines MMS as “as an establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by one or more Primary Caregivers as defined by 22 M.R.S.A. § 2422 (8-A), Medical Marijuana Caregivers as defined in the Zoning Ordinance, or any other individuals or entities for the sale, distribution or administration of medical marijuana and medical marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9) or any other individuals.” The moratorium was enacted in response to concerns associated with initiatives to establish MMS’s in Old Orchard Beach.

In response to the moratorium, planning staff drafted ordinance amendments for PB’s consideration. The amendments are simple- they define medical marijuana storefronts and prohibit the use town-wide. These amendments change/add language to Chapter 18 (Businesses) and Chapter 78 (Zoning). After consideration and holding a public hearing, the PB voted 4-1 to recommend the Council adopt the ordinance amendments as written (same language presented to Council).

## **BACKGROUND INFO**

### **Public Hearing**

At the PB’s public hearing, Peter and Tom Mourmouras discussed their position. They argued to put a prohibition on a medical marijuana storefront would contradict the ordinance already established by the Town. The proposed medical marijuana storefront land use operates almost identically to a "Registered Dispensary", with the key difference being that Registered Dispensaries have unlimited patients and product, while Registered Caregivers are limited to 5 patients and the product produced for those patients. These two land uses would have identical performance standards.

The Mourmouras’ prepared and submitted ordinance language to the PB. They would like to see this language replace what is proposed. Highlights of the language:

- Identify Medical Marijuana Caregiver Storefronts (MMCS) as a defined land use (Ch. 18)
- MMCS will require a business license
- MMCS will be a conditional use that is allowed only in the DD2
- Only 1 MMCS will be permissible
- MMCS must meet most of the Medical Marijuana Ordinance performance standards (78-1277 (d)) including a new #9 (note- as written this will apply to the other medical marijuana uses). Excluded are the following performance standards: Medical Marijuana Production Facility Limit, Security, Odorous Air Contaminants
- Performance standard “proximity location to other uses” adds public beach

The PB decided to not to include the changes prepared by the Mourmouras’.

### **Adopted Town Medical Marijuana Ordinances**

During 2015, the Town adopted ordinance regulations related to Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries. The purpose of the regulations is to create local zoning controls to regulate medical marijuana as a land use; restrict where growing and processing operations are allowed; require a PB approval process; implement performance standards for growing/processing operations and dispensaries; and, establish a business licensing requirement to monitor ongoing consistency with the Maine Medical Use of Marijuana Program. Highlights of the adopted ordinance regulations include:

- **Chapter 78 amendments:**

- A. Allowing Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries to be established as a conditional use within the General Business 1 (GB1) Zoning District. Both uses are not permissible for those properties that are with GB1 and Historic Overlay (HO) Zoning Districts.**

- B. Allowing Medical Marijuana Production Facilities as a conditional use within the Industrial District (ID).**

- C. Prohibiting Medical Marijuana Registered Dispensaries in the ID**

- D. Approval process identifying applicable review standards, application requirements, extended distance for abutter notifications, site walks, and public hearings.**

- E. State authorization before submission of a Conditional Use Application. The applicant must demonstrate their authorization to cultivate process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.**

- F. Exempting Medical Marijuana Home Production in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence. Note- as I understand, the town cannot regulate (through its ordinances) these Medical Marijuana uses.**

- G. Performance Standards that are specifically designed to regulate Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries. These standards include, but are not limited to security, outside appearance, odor control, and proximity limits (by distance) to other Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries as well as uses that may not be compatible (e.g., day care, schools, town parks, church).**

- **Chapter 18 (Business Licenses) amendments:**

- A. Requiring staff and Council approval of a Medical Marijuana Business License before a Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility can conduct business.**

- B. State Authorization. Before issuance, renewal or amendment of a License, the applicant must demonstrate their authorization to cultivate process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.**

- C. At initial and subsequent licensing, the Old Orchard Beach Police Department, Fire Department and Code Enforcement Officer shall inspect the premises to ensure security meets State requirements and applicable Town of Old Orchard Beach licensing criteria.**

#### **Note Definitions:**

**Medical Marijuana Production Facility:** A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial use.

**Medical Marijuana Registered Dispensary: A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.**

One final note, the PB has jurisdiction over ordinance amendment recommendations associated with Ch. 78, Zoning. The PB does not have jurisdiction over amendments to Ch. 18, Businesses. PB's consideration included both Ch.78 and 18 so the Board was aware that both ordinances should be adopted together in order to ensure proper administration.

**# 7211 Discussion with Action: Approve the purchase of a Power Edge R640 from DellEMC, for the Public Safety Server Replacement, in the amount of \$9,356, from Account Number 20102-50856 – Manager Computer System Upgrade Expense, with a balance of \$17,900.**

**BACKGROUND:**

**To: Diana Asanza**

**From: Bill Botting**

**Date: 1/6/2018**

**RE: IT Budget Recommendation FY 2019**

I recommend the following IT projects for the FY 2019 Capital Plan.

**Public Safety Server Replacement**

Server PSafety01 was purchased on 3/27/2013 and is now 5 years old. It serves as a Domain Controller, file server, and application server. Primary server applications are Respond Billing and Microsoft Azure Multi-Factor Authentication Server. A replacement server from Dell would be \$9,000.

**New Computers**

I recommend the Town purchase a minimum of 35 Desktop computers and 1 laptop computer to replace computers that are 5 to 9 years old and will be obsolete when Microsoft stops support for Windows 7 on 1/14/2020. You could split the purchase over FY 2019 and FY 2020, but because only half of FY 2020 is available to install replacements before Windows 7 retires, I recommend purchasing 25 Desktops and 1 Laptop in FY 2019 and 10 Desktops in FY 2020. Total cost: \$31,500.

**~~Vision Appraisal Upgrade~~**

***Removed per Assessor recommendation. Vision is still in the process of working out upgrade system issues.***

Vision Version 6 that we have been on for 15+ years will be retired within the next couple of years. VGSI has provided a quote for this upgrade (see attached). The upgrade requires Microsoft SQL licenses (see attached). There is no cost for the server as it will run as a virtual server in our VMware virtualization system. Total cost is: ~~\$23,425.28~~.

***It serves as a Domain Controller, file server, and application server. Primary server applications are Respond Billing and Microsoft Azure Multi-Factor Authentication Server.***

A Domain Controller contains the directory of users and computers and authenticates users as they logon. It issues network IP addresses to computers via DHCP, and offers DNS (Domain Naming Services) so computers can find network resources and Internet addresses.

As a file server, the server acts as a central secure repository for Public Safety users' and department files and application files, ensuring that they are available anywhere on the network, and get backed up.

The server applications are shared programs that cannot effectively be installed on just one desktop computer. Hence they are server applications, and allow a central database and programs to be shared securely and get backed up.

**MOTION:** Councilor Tousignant motioned and Councilor Blow seconded to Approve the purchase of a Power Edge R640 from DellEMC, for the Public Safety Server Replacement, in the amount of \$9,356, from Account Number 20102-50856 – Manager Computer System Upgrade Expense, with a balance of \$17,900.

**VOTE:** Unanimous.

**# 7212 Discussion with Action:** Approve the Agreement with Richardson and Associates, in the amount of \$8,520, for the technical development of plans for the Memorial Project in Memorial Park, from Account Number 50002-50812 – Memorial Park Improvements Capital Expense, with a balance of \$236,927.87.

**BACKGROUND:** When the Town Council approved the \$60,000 for the FY18 budget they wanted to spend some of that to get the plans going with the Architect so we can get a better plan, breakdown and cost. We are now at the point to get the final engineered plans to get the project moving. We will use these plants to lock in a contract with a contractor to build the monument.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Approve the Agreement with Richardson and Associates, in the amount of \$8,520, for the technical development of plans for the Memorial Project in Memorial Park, from Account Number 50002-50812 – Memorial Park Improvements Capital Expense, with a balance of \$236,927.87.

**VOTE:** Unanimous.

**# 7213 Discussion with Action:** Convey foreclosed property identified as 4 OLD ORCHARD ROAD, Parcel Number 00210-00011-00002 to owners of record (BEAN, MARY A) for the total amount of \$32,881.24 in outstanding taxes and accumulated interest INCLUDING ESTIMATED TAX FY 2019, due on the effective date of conveyance, plus any legal costs incurred by the Town of Old Orchard Beach.

**MOTION:** Councilor Tousignant motioned and Councilor Kelley seconded to Convey foreclosed property identified as 4 OLD ORCHARD ROAD, Parcel Number 00210-00011-00002 to owners of record (BEAN, MARY A) for the total amount of \$32,881.24 in outstanding taxes and accumulated interest INCLUDING ESTIMATED TAX FY 2019, due on the effective date of conveyance, plus any legal costs incurred by the Town of Old Orchard Beach.

**VOTE: Unanimous.**

**# 7214 Discussion with Action: Accept the quote from Aqua Solutions, representative for JWC Environmental for a Primary Grinder Exchange Cartridge for the Waste Water Department, in the amount of \$10,241 from Account Number - 53002-50846 – WWTF Treatment Plant Capital Expense Account, with a balance of \$169,317.61.**

**BACKGROUND:**

The Wastewater Department is proposing to purchase replacement Cutting cartridges for the primary sludge tank grinder. Aqua Solutions is the Sales Representative for JWC grinders in this area. The staff will be performing the removal of the grinder and the Replacement of the cartridges.

**# 7215 Discussion with Action: Approve the purchase of a Pump for the Halfway Pump Station from Process Distributors/Wemco , in the amount of \$18,290 from Account Number – 53002– 50846 – WWTF Treatment Plant Capital Expense, with a balance of \$169,317.61.**

**BACKGROUND:**

The Wastewater Department is proposing to purchase a pump for the Halfway pump station. The existing pumps are from 2004 and 2007. The new pump would replace the older existing pump which would then be sent out for rebuild. The pump station was originally designed around these style pumps and any changes would require significant piping changes. For this reason the pump is sole sourced from the manufacturer’s sales representative who represents all Wemco pump sales for Maine.

**MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the purchase of a Pump for the Halfway Pump Station from Process Distributors/Wemco , in the amount of \$18,290 from Account Number – 53002– 50846 – WWTF Treatment Plant Capital Expense, with a balance of \$169,317.61.**

**VOTE: Unanimous.**

**# 7216 Discussion with Action: Accept, with regret, the resignation of Gary Gannon from the Planning Board and move David Walker from alternate to regular member, term to expire 12/31/2019.**

**MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Accept, with regret, the resignation of Gary Gannon from the Planning Board and move David Walker from alternate to regular member, term to expire 12/31/2019.**

**VOTE: Unanimous.**

**# 7217 Discussion with action: Veiga Charity received approval at the July 17<sup>th</sup>, 2018 Town Council Meeting for a Basketball Tournament in Memorial Park on Saturday, August 11<sup>th</sup>, 2018, with a rain date of August 12<sup>th</sup>, 2018. The permit is being amended to now be hosted by the OOB Recreation Department, to include the Recreation Department to be present while the cooking is occurring. A portion of the proceeds will benefit the OOB Recreation Department Scholarship fund. All other conditions remain the same.**

**MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to approve the amending of the previous Special Event Permit for Veiga Charity as read.**

**VOTE: Unanimous.**

**ADJOURNMENT**

**MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Adjourn the Town Council Meeting at 7:50 p.m.**

**VOTE: Unanimous.**

**Respectfully Submitted,**

**V. Louise Reid**

**Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of fifteen (15) pages is a copy of the original Minutes of the Town Council Meeting of August 7, 2018.**

**V. Louise Reid**