

**TOWN OF OLD ORCHARD BEACH  
TOWN HALL CHAMBERS  
JANUARY 21, 2020  
MINUTES**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 21, 2020. 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 Bow  
Councilor Jay Kelley  
Councilor Michael Tousignant  
Town Manager Larry Mead  
Assistant Town Manager V. Louise Reid**

Absent:

**ACKNOWLEDGEMENTS:**

**ASSISTANT TOWN MANAGER:** We would remind everyone of the Free OOB365 Community Dinner scheduled for Sunday, January 26<sup>th</sup> at the American Legion Hall, 14 Imperial Street, 1:00 p.m. to 5:00 p.m. For more information contact Sharri MacDonald at [smacdonald@maine.rr.com](mailto:smacdonald@maine.rr.com) or call her at 590-4201. Grab a friend, bring the family, or come alone and meet new friends for this delicious Italian dinner. The Red Cross will be at Oceanwood in Ocean Park on March 31<sup>st</sup> and they are asking for people to call Jen Hayes at Oceanwood and sign up. The number is 939-9655.

**VICE CHAIR O'NEILL:** He congratulated Dennis Coffey, local resident who works at the Duffy's Tavern & Grill in Old Orchard Beach for winning three times in Jeopardy and wishing him continued success in his endeavors.

**ACCEPTANCE OF MINUTES:** Accept the Town Council Minutes of January 7, 2020.

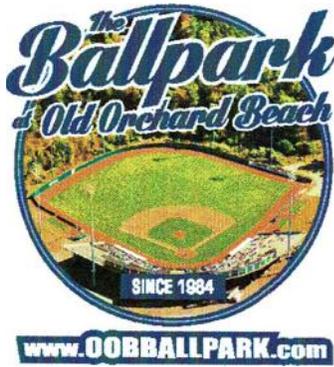
**MOTION:** Councilor Tousignant motioned and Councilor Kelley seconded to Accept the Minutes as read.

**VOTE:** Unanimous.

**GOOD AND WELFARE:**

**PRESENTATION:**

**BALLPARK COMMISSION  
Quarterly Report  
JOHN GALLO, CHAIR**



# Ballpark Quarterly Report January 21, 2020

Report spokesperson: Chairman John Gallo

Thank you, Council, for this opportunity to present our quarterly Ballpark Commission 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 Fontaine. This report covers the 2nd Quarter of Fiscal Year 2020 (Q2FY20), October 1 thru December 31, 2019.

## Improvements:

The Ballpark Staff continues to make improvements to the facility and operations. The following were improvements made during Q2FY20: Transit measurements were taken of pitching mound, infield and outfield levels to identify any changes that require attention for proper drainage and to maintain a professional level of baseball playfield attributes. Some mound issues were identified and work to correct these began. This work is expected to be completed prior to the mid-April baseball season startup.

## Maintenance:

All events stopped on November 1<sup>st</sup> and our focus has been securing the facility for the winter. This includes:

- Moving all equipment to our storage building for off season inspection and maintenance. This maintenance is done through the winter months to ensure all equipment is ready to be used for April start up.
- Stadium water shut down and drainage to prevent broken pipes as well as the addition of non-toxic anti-freeze to all fixtures and traps.
- A complete cleaning and storage of the concession stand and equipment.

## Operations:

With the close of The Ballpark we are in a planning phase working with The Ballpark Manager to outline a plan of action for the 2020 season regarding repairs, upgrades and direction for The Ballpark's future. We continue to receive calls for information and requests to book events for the coming season. The Ballpark Commission continued to have meetings and workshops throughout this quarter.

Work started for the FY2021 annual budget process and will continue through May.

Over the course of the 2019 season conversations were held with various organizations to locate a team to play college/professional level baseball in the 2020 season. None of these have resulted in securing a team. However, in October and November we did have some high-level discussions with the CanAm League to host a team in Old Orchard Beach for the 2020 season. But, one week prior to our next round of discussions, the CanAm League merged with the Frontier League and it turned out to be too late to commit to a 2020 team. Since that time, we have received notification that the Frontier League is very interested in hosting a team at The Ballpark for the 2021 season. Locating an owner or ownership group is the final obstacle that is preventing the Frontier League from beginning negotiations with the town. They want to try to play a few exhibition games in Old Orchard in the 2020 season and to announce that they will be hosting a team at The Ballpark for the 2021 season sometime in May of 2020.

A total of 11 events were held at The Ballpark for FY20-Q2. Included in these were nine baseball events from three different leagues and two other events. A breakdown of the events is shown in the tables below.

### 2020-Q2 Events Summary

Baseball	Number of Events
Maine Woods (45+ Men's League from Bath)	3
Southern Maine Men's Baseball League	3
Southern Maine River Rats Baseball U18 (practice)	3
<b>Total FY20-Q2 Baseball</b>	<b>9</b>

Other Events	Number of Events
National working Dog Championships	1 (6 day event)
All school track event hosted by OOB HS	1
<b>Total FY20-Q2 Other Events</b>	<b>2</b>

**Special Acknowledgements:**

We wish to thank the Town Manager, Larry Mead, and the Town Council for their continued support of The Ballpark. We also wish to acknowledge the support provided by Diana Asanza and the Finance group as well as the Public Works and Recreation Departments throughout the year. And finally, we want to thank the residents of Old Orchard Beach, Saco, Biddeford, Scarborough and all the other nearby communities who come to the events in The Ballpark. Although The Ballpark is physically located in Old Orchard Beach it is, in fact, "Everyone's Ballpark" with hundreds of baseball games, concerts, and other events each year. Most of these events are free to the public and all are family oriented.

Respectfully Submitted,  
**John Gallo**  
 Ballpark Commission Chair

**PUBLIC HEARING: Shall We Amend the Town of Old Orchard Beach Code of Ordinances, Section 54-187, Restrictions and Prohibitions, amending flow of traffic on Fern Avenue making**

traffic one-way from First Street to Washington Avenue and on West Old Orchard Avenue making traffic one-way from Washington Avenue to First Street?

**BACKGROUND:**

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

The Town Council has previously approved acceptance of a \$1 million federal CDBG grant and appropriated capital improvement funding for infrastructure improvements to Fern Ave, W. Old Orchard Ave and a portion of Washington Ave. This project is to be bid in February with the goal of construction start this spring. The infrastructure work includes sewer, water and stormwater replacement and improvements, as well as sidewalk, curbing and road reconstruction. The sidewalk improvements will widen the width to 5.5 feet, including the curb, in order to meet required federal standards for ADA accessibility. As is currently the case the sidewalk will be located on one side of the street on Fern and W. Old Orchard. Parking will continue to be allowed on one side of the street as well. Because of the narrow right-of-way dimension and the increased width of the sidewalk from existing conditions, traffic flow would need to be made one-way in order to maintain safe flow of traffic. There will be an 8' parking allowance and a 16' travel lane on both streets. The proposed flow of traffic on Fern Ave is one-way from First Street to Washington Ave and on W. Old Orchard Ave is one-way from Washington Ave to First Street. A neighborhood meeting was held on January 8<sup>th</sup> to provide information to residents and property owners. In addition a notice of both the January 8 meeting and this public hearing was mailed to all property owners and residents.

During the Public Hearing there are those who spoke in favor of it including Dan Blaney who indicated that he was excited about the changes and support the proposal 110%. We also received an e-mail from Scott Eccleston, also of West Old Orchard Avenue, who wrote: "Unfortunately we will not be able to make it to tonight's meeting but wanted to make known our feelings. My wife and I fully support the fern and West Old Orchard Avenue project (including the making of the streets one way) as it was laid out in the information meeting held several weeks ago at Town Hall.

Mark Koenigs also lives in the neighborhood and expressed his appreciation for the concerns that are being addressed and he supports the changes although is concerned about the one way traffic issue. He raised the issue of plowing of snow onto the one side sidewalks which will be an issue. Robin Dayton asked the Council to rethink the changes that are being suggested regarding sidewalk on Fern and West Old Orchard Avenue and concentrate on the sidewalks on Washington Avenue where there is two way bus travel. She reminded the Council that a 60 unit condo development is soon going in that area. Alexa Harris indicated her concerns about one side parking which will lose a lot of parking possibilities. She also asked how the projects will be ranked. The Town Manager indicated that as they are receiving there will be consideration to the value of the engineering proposal and it might be that projects would need to be scaled down. Marlene Hard was concerned that parking would be more difficult with it being on wide side only. Where are other people going to park? It is not only year round residents but many renters during the summer months. Who will cover the cost of the sewer lines coming into homes from the street level? Questions were raised on the curb cuts.

The Town Manager updated the Council including upgrades to water, sewer and storm drain addressing known issues in the area. There is consideration of the providing of travel lane width for residential and emergency travel. One way travel has been proposed with improvements to both roadways and sidewalks. This is a consideration to bike and pedestrian safety. It will provide a walkable neighborhood with ADA standards that are required since this is a federal grant which required 5 ½ feet minimum width.

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

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

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

Jonathan Tebbetts dba/Tebbs2 (206-26-4-D), 34D Saco Avenue, year-round retail Smoke Shop with Hemp Products; and Barbara Hickey & Jeffrey Fairbanks (107-3-6-15), 6 Country Drive, one year round bedroom rental/two occupant maximum.

**MOTION:** Vice Chair O'Neill motioned to consider these two items separately and consideration and to Jonathan Tebbetts dba/Tebbs2 (206-26-4-D), 34D Saco Avenue, year-round retail Smoke Shop with Hemp Products be considered first.

**VOTE:** Unanimous.

On the item Jonathan Tebbetts dba/Tebbs2 (206-26-4-D), 34D Saco Avenue, year-round retail Smoke Shop with Hemp Products - questions were raised by Council and addressed by the Planner, Jeffrey Hinderliter, including need for correct and appropriate signage and attention to the degree of blinking lights and their use

**MOTION:** Councilor Tousignant motioned and Councilor Kelley seconded to Approve the Business License as read.

**VOTE:** Unanimous.

Barbara Hickey & Jeffrey Fairbanks (107-3-6-15), 6 Country Drive, one year round bedroom rental/two occupant maximum.

In discussing this item the Town Manager recommended that in approving the business license that it be for rental of one room at 6 Country Drive and including the following conditions: That occupancy of the rental room is limited to no more than two people; that no food, including but not limited to morning meals, may be served or provided to occupants of the rental room by the License Holders; and that, for purposes of food preparation or consumption, occupants of the rental room are not allowed the use of the property's kitchen, or any areas other than the room provided for sleeping quarters.

He also presented the memo below to the Council for their consideration.

**MOTION:** Councilor Tousignant motioned and Councilor Blow seconded to Approve the business license for Barbara Hickey & Jeffrey Fairbanks (107-3-6-15), 6 Country Drive, one year round bedroom rental/two occupant maximum, with the following conditions: That occupancy of the rental room is limited to no more than two people; that no food, including but not limited to morning meals, may be served or provided to occupants of the rental room by the License Holders; and that, for purposes of food preparation or consumption, occupants of the rental room are not allowed the use of the property's kitchen, or any areas other than the room provided for sleeping quarters.

**VOTE:** YEA: Councilors Blow, Tousignant, Kelley and Chair Thornton  
NEA: Vice Chair O'Neill

January 16, 2020

TO: Members of the Town Council  
FROM: Larry Mead, Town Manager



**RE: Business License Application: 6 Country Drive: one room rental**

This item was tabled at the January 7<sup>th</sup> meeting. During the public hearing there was testimony from neighboring residents objecting to the proposed short-stay rental activity. The applicants have been renting a room in their home previously without a business license. Some of those speaking in opposition provided evidence that the applicants have advertised on line through Airbnb and promoted that breakfast is included with the rental. During the public hearing there were also comments from neighbors pointing out that the covenants in their subdivision prohibit short-term rentals.

**Renting of a room for short-term stays:**

The Town's ordinance does not prohibit the renting of a room in a residence for short-term stays and it is an allowable use in this zone (R-4). The applicants had initially sought a license for the rental of up to two rooms. However, after discussion with the Business License Administrator they subsequently chose to limit the rental license to one room only. In addition, the applicants agreed that no more than two people will be allowed to occupy the rental.

**Bed and Breakfast use:**

The Town's ordinance defines a bed and breakfast use as follows: *Bed and breakfast establishment/inn means overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation. For the purpose of this chapter, bed and breakfast inns are considered a nonresidential use.*

Operation of a bed and breakfast is not a permitted or conditional use in the R-4 zone. I consulted with the Town's attorney regarding the type of short-term rentals proposed in this application and the past history of advertising breakfast as included with the rental. In my opinion the preparation or provision of a breakfast meal is not allowed in the R-4 zone. I would therefore recommend that should the Council approve a business license for this application the approval would include a condition prohibiting the preparation or provision of a breakfast meal, and further prohibit the use of the residences' kitchen by the rental occupants.

**Subdivision covenants:**

When considering the issuance of a business license the Town Council must limit its consideration to compliance with the provisions of the Town's Code of Ordinances. The Council may not enforce or interpret provisions of private covenants. Disputes or disagreements pertaining to private covenants are a civil matter.

cc: Rick Haskell, Business License Administrator  
Jeffrey Hinderliter, Town Planner  
Sue Bellavance, Planning and Code Assistant

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

The Manager reported that he has continued work with the various Department Heads on developing the Capital Budget for the FY21 budget year. The Finance Committee will meet the first week of February to begin its review of the Capital Budget. We received four bids for the Wastewater Administration Building. They were good bids overall from quality companies. Two of the proposals came in within the projected budget and we hope to finalize a recommendation to bring to the Council for the February 4<sup>th</sup> or 18<sup>th</sup> agenda. The State Legislature passed a bill last session providing one-time, additional tax relief for all Homestead Property Owners. Each owner of the Homestead Exemption property should receive in the mail this week a check in the amount of \$104. This is a one-time refund for this year and is not likely to occur again next year. It is a good opportunity to remind residents who own their own home and whose primary residence is in Old Orchard Beach about the Homestead Exemption. This property tax relief program is available to any homeowner who is a full time resident, regardless of age or income. Under the Homestead Program the valuation on your home is reduced by \$25,000. Given the current property tax rate of \$15.30/thousand dollars of value and this lowers your tax bill by \$382. This can be a significant savings for many of our homeowners; 12.5% for homes valued at \$200,000. For those who own Mobile Homes the Homestead Exemption could be a savings of as much as 50% of your tax bill. So if you are a year round homeowner and don't think you are receiving the Homestead Exemption, please call the Assessor's Office at the Town Hall and ask about the program. To qualify for the upcoming tax year you have to file an application no later than April 1<sup>st</sup>. So keep that date in mind, April 1, 2020. This is a onetime application as long as you continue to live at the same property, not something that needs to be done each year. Property Tax Relief – Staying with the theme of property tax relief – this past year the Town Council implemented a new program that can reduce property taxes for many residents who are 70 years of age or older and who have lived in Old Orchard Beach as year-round residents for at least the past ten years. There are income limitations to be eligible for this program and you have to also apply to and qualify for the State of Maine's Property Tax Relief Program when you file your Maine State Income Tax Form. The Town received 41 applications and 30 applications qualified. A total of \$19,462 was received and the average reduction in taxes was \$650. For information about this program contact the Town's Finance Department or get information through the Town's website. Human Resource Manager is working on recruitment and hiring for 2020 summer and seasonal job openings. We are looking for applicants for full and part-time seasonal positions with the Police, Lifeguards, Public Works, Recreation, the Ballpark, Wastewater and Parking Enforcement. We will have a Job Fair on Monday, February 17<sup>th</sup> from 10:00 a.m. to 2:00 p.m. right here in the Town Council Chamber at Town Hall. There will be immediate interviews with Department Heads on that day. We invite people to come in on the 17<sup>th</sup> to learn about our job openings. Come dressed for an interview, bring your resume, or just ask questions. It's that easy to line up a job for the coming summer. More information can be gotten on our Website.

**NEW BUSINESS:**

- # 7614 Discussion with Action: Accept the Proposal from Eagle Network Solutions for IT services for the Town of Old Orchard Beach in an amount not to exceed \$20,000.00, from Account Number 20102-50454 Computer Support Services with a balance of \$63,967.70.

**BACKGROUND:**

This proposal provides 20 hours of IT support monthly with a 60 day window to use carry over hours after June 30, 2020 (\$2,100 x 5 months), plus the opportunity for additional assigned projects and managed services for specified work location at \$30 per month per work station. We will spend approximately \$18,000 to \$20,000 through June 30, 2020 based on last year's expenditures.

**MOTION:** Councilor Kelley motioned and Councilor Blow seconded to Accept the Proposal from Eagle Network Solutions for IT services for the Town of Old Orchard Beach in an amount not to exceed \$20,000.00, from Account Number 20102-50454 Computer Support Services with a balance of \$63,967.70.

**VOTE:** Unanimous.

- # 7615 Discussion with Action: Amend Chapter 78 – Zoning, Article III – Conformance and Nonconformance, Division 2 – Nonconformities, Section 78-180- Appeals from restrictions on nonconforming uses.

**BACKGROUND:**

This ordinance amendment is proposing to remove the “Appeals from restrictions on nonconforming uses” (Sec. 78-180) standard from the Old Orchard Beach Zoning Ordinance. Currently, the Appeals from restrictions on nonconforming uses standard allows a nonconforming use of land or a nonconforming use of a structure to be enlarged, increased, extended, moved, reconstructed, structurally altered, converted to another nonconforming use, or resumed after cessation for a period of more than two years but less ten years upon approval by the Planning Board as a Conditional Use. Basically, this standard extends the nonconforming use standard from to 10 years (commonly its 2) and takes it a step further by allowing a nonconforming use to be enlarged, increased, extended, moved and even changed to another nonconforming use.

In most ordinances (including OOB's), nonconforming use of land and structures can only be continued and resumed within 2 years of the date of the discontinuance. The nonconforming use cannot be enlarged, increased, extended, moved or changed into another nonconforming use. Also, if the nonconforming use ceases for more than 2 years any future use must conform to current ordinances- the use loses its “grandfathered” status. Current OOB ordinance Secs.78-176, 177 and 179 allow continuance and resumption of nonconforming uses. This will not change with the proposed amendment.

Compared to the way ordinances traditionally regulate nonconforming uses (described above), 78-180 is much different and provides a lot of flexibility in regards to what someone can do with a nonconforming use after the use ceases for more than 2 years. The standard extends the grandfathering status to 10 years and allows a change to the nonconforming use into another nonconforming use, so, it can be said that all uses, even those that are not allowed, are in fact allowed if you have a nonconforming use and you cease the use for more than 2 years.

An example of how this standard could be applied: A convenience store is next to your home (or in your neighborhood) and the owner decides to close the store. A convenience store is not a permissible or conditional use in your zoning district; therefore, is considered a nonconforming use. Under 78-180, the owner or another owner could resume, expand, etc. that use or even establish another nonconforming use such as an adult business, salvage facility, etc. up to 10 years from the date the store was discontinued. The resumption, expansion, conversion of the use will require PB review as a Conditional Use, but with this standard, it allows the use to be established.

A standard such as 78-180 does have some positives and benefits to property owners who have nonconforming uses. Although, its current language leaves the town open to potentially undesirable uses which could create considerable impacts.

### Planning Board Action And Review

The Planning Board considered this proposal over several months. The result was a unanimous recommendation that the Council remove Sec. 78-180 in its entirety. Although, the recommendation was made with the note that the Board will consider amendments to Secs. 78-177 and 179 with the intent to extend the resumption of use “grandfathering” time frame from 2 years to 5 years.

The Board considered the following during their review:

- The town has standards in place that deal with nonconforming use of land (78-177) and structures (78-179). The standard the Board’s considering allows an owner of a nonconforming use or structure to essentially “waive” the standards in 78-177 and 179 as long as the Board finds a proposal is acceptable. Really, one of the primary differences is 78-180 allows the nonconforming use of land and structure standards to be extended to 10 years and the ability to change to another nonconforming use.
- Reduce the 10 years to a shorter time-frame. This may be applicable only for resuming and converting nonconforming uses if the Board feels proposals that enlarge, increase, extend, move, reconstruct, structurally alter nonconforming uses can have a more lenient time frame.
- Delete or amend the “converted to another nonconforming use” language. This language pretty much smacks the principles of zoning in the face as it could be interpreted to allow any use to be established on a property that has a nonconforming use, even if the use is specifically prohibited.
- Tightening the Board’s review standards- Adding something such as “...will have no greater adverse impact according to the criteria listed in...” then add criteria. Also, maybe some types of development will not need Board’s review or even be exempt. For example, 1 & 2 family residential use will typically not have the same impact a hotel, apartment building or nonresidential use.
- Use of the language within the nonconforming standard and create individual requirements for each. For example, change of nonconforming use, resumption of nonconforming use, expansion, etc. could have their own individual standards.
- ‘When you dive into this you’ll see it’s really not as easy as it seems as there are a number of matters, scenarios, etc. to consider. On the other hand, it could be quite easy- delete

78-180 all together and allow 177 and 179 to regulate nonconforming uses of land and structures and if someone needs relief, apply to ZBA.

- If someone wanted to seek relief from 78-177 or 179 then they could go to the ZBA. Interestingly, it appears the ZBA does not have the ability to grant a variance for nonconforming use and structure appeals- variances are “authorized only from dimensional requirements.” But someone could file an administrative appeal which is an appeal of the interpretation of a standard. This is also why I believe the only chance for an appeal, without getting into ZBA’s authority, is through the PB and that’s why it’s in 78-180.
- Should we just let the standards in 78-177 & 179 limit the continuance of nonconforming use of land and structures at 2 years and not offer an appeal through the PB? The way I interpret this is it would cap nonconforming use and structure enlargement, increase, extension, movement, reconstruction, alteration, or resumption at two years, period. If this is what we decide than 78-180 could be entirely deleted because 78-177 & 179 appears to cover it.
- Should we do as suggested in #1 but permit some flexibility by allowing people to improve their nonconforming use of land and structures beyond 2 years? If so, how much flexibility and what do we consider an improvement?
- Should we keep the same time frame and general language in 78-180 but change the authority to rule on the Appeals from Restrictions on Nonconforming Uses to the ZBA and leave PB with authority to rule on conditional use? If we do this the amendments could become a bit more complicated because the ZBA has specific statutory authority- we would just need to check on this.

As stated above, the Board decided to delete 78-180 in its entirety and recommend the Council approve this change. Also, the Board will work on amending Secs. 78-177 and 179 so nonconforming use resumption will increase from 2 to 5 years. I expect amendments to Secs. 78-177 and 179 before the Council during 2020.

#### Current Ordinance Language

Below is current zoning ordinance language associated with nonconforming uses. Sec. 78-180 is the ordinance amendment before the Council and is proposed to be removed. Secs. 78-176, 177 and 179 are not part of the ordinance amendment, will continue to be in the ordinance, and are included for your reference only.

#### Sec. 78-180. - Appeals from restrictions on nonconforming uses.

Notwithstanding sections 78-177(1) through (3) and 78-179(b) through (d), a nonconforming use of land or a nonconforming use of a structure may be enlarged, increased, extended, moved to another portion of the lot or parcel, reconstructed, structurally altered, resumed after cessation for a period of more than two years, but less than ten years, or converted to another nonconforming use on the lot which it occupied on the effective date of the ordinance from which this chapter derives or amendment of this chapter, upon approval of the planning board as conditional use pursuant to article VII of this chapter. The planning board may not approve any such enlargement, increase, extension, movement, construction, alteration, resumption or conversion, unless it finds that the impact and effects of this enlargement, expansion, extension, resumption or conversion to another nonconforming use on existing uses in the neighborhood will not be substantially different from or greater than the impact and effects of the nonconforming use before the proposed enlargement, expansion, resumption or conversion to another nonconforming use.

**Sec. 78-176. - Continuation of nonconformance.**

Any lawful use of buildings, structures, premises, or parts thereof existing at the effective date of the ordinance from which this chapter derives or amendment of this chapter and made nonconforming by this chapter or any amendment thereto may be continued although such use does not conform with this chapter or amendment thereto, subject to this division.

**Sec. 78-177. - Nonconforming use of land.**

Continuance of nonconforming use of land shall be subject to the following:

(1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than that occupied at the effective date of the ordinance from which this chapter derives or amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the ordinance from which this chapter derives or amendment of this chapter.

(3) If any such nonconforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located

**Sec. 78-179. - Nonconforming uses of structures.**

(a) *Generally.* No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, moved or structurally altered except in changing the use of the structure to a conforming use.

(b) *Extension of nonconforming use.* Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of the ordinance from which this chapter derives or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(c) *Superseded by permitted use.* If a nonconforming use of a structure or premises is superseded by a permitted use for a period of one year, the nonconforming use shall not be thereafter resumed.

(d) *Cessation of use.* If any such nonconforming use of a structure ceases for any reason for a period of more than two years, any subsequent use of such structure shall conform to the regulations specified by this chapter for the district in which such structure is located.

**Council Action**

If the Council approves the ordinance amendment Sec.78-180 “Appeals from restrictions on nonconforming uses” would be removed. This means 10 year nonconforming use “grandfathering” would no longer be allowed as well as the ability to enlarge, increase, extend, move or change to another nonconforming use.

Approval of the amendment would not cause continuance and resumption of nonconforming uses to disappear- Sec. 78-176 would still allow the continuance of nonconforming uses and Secs. 78-177 and 179 would still allow a nonconforming use to be resumed within 2 years from the date of its discontinuance.

**Example Approvals: Appeals From Restrictions On Nonconforming Uses**

Paul’s II (Red Rocket) – Change use of 7 units from seasonal to year-round Hotel (5 current year-round use to a total of 12).

- Paul's II (Red Rocket) – Reopening of 12 seasonal cottages, replacement of existing cottages with new cottages.
- 183 Temple Ave – Allow an Accessory Dwelling Unit.
- 47 East Grand – Increase the number of rental rooms from 6 to 9 within the existing structure.
- 180 Saco Ave (Summer Winds) – Demolish 53 overnight cabins and replace with 53 seasonal dwelling units.
- 44 Union Ave – Re-establish 3 dwelling units.

**Ch. 78 Amendment to Appeals from restrictions on nonconforming uses  
(Council Public Hearing – 7 January 2020)**

**Amendment to Chapter 78 – Zoning, Article III – Conformance and Nonconformance, Division 2 – Nonconformities, Section 78-180- Appeals from restrictions on nonconforming uses shall be amended by deleting the strikethrough language as follows:**

~~**Sec. 78-180. – Appeals from restrictions on nonconforming uses.**~~  
~~Notwithstanding sections [78-177](#)(1) through (3) and [78-179](#)(b) through (d), a nonconforming use of land or a nonconforming use of a structure may be enlarged, increased, extended, moved to another portion of the lot or parcel, reconstructed, structurally altered, resumed after cessation for a period of more than two years, but less than ten years, or converted to another nonconforming use on the lot which it occupied on the effective date of the ordinance from which this chapter derives or amendment of this chapter, upon approval of the planning board as conditional use pursuant to article VII of this chapter. The planning board may not approve any such enlargement, increase, extension, movement, construction, alteration, resumption or conversion, unless it finds that the impact and effects of this enlargement, expansion, extension, resumption or conversion to another nonconforming use on existing uses in the neighborhood will not be substantially different from or greater than the impact and effects of the nonconforming use before the proposed enlargement, expansion, resumption or conversion to another nonconforming use.~~

~~*(Ord. of 9-18-2001, § 4.3.5)*~~

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Amend Chapter 78 – Zoning, Article III – Conformance and Nonconformance, Division 2 – Nonconformities, Section 78-180- Appeals from restrictions on nonconforming uses.

**VOTE:** Unanimous.

**# 7616 Discussion with Action:** Re-appoint Donald Comoletti as a Regular Member of the Design Review Committee, term to expire 12/31/2021; re-appoint Thomas Mourmouras as a Regular Member of the Zoning Board of Appeals, term to expire 12/31/2022; re-appoint Thomas Mourmouras as a Regular Member of the Comprehensive Plan Committee, term to expire 12/31/2021.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Re-appoint Donald Comoletti as a Regular Member of the Design Review Committee, term to expire 12/31/2021; re-appoint Thomas Mourmouras as a Regular Member of the Zoning Board of Appeals, term to expire 12/31/2022; re-appoint Thomas Mourmouras as a Regular Member of the Comprehensive Plan Committee, term to expire 12/31/2021.

**VOTE:** Unanimous.

**# 7617 Discussion with Action: Grant the authority to the Finance Director/Treasurer to disburse payroll checks with only one Town Councilor's signature in accordance with M.R.S.A., Title 30-A, Section 5603(2)(A)(1).**

**BACKGROUND:**

**This item is a housekeeping item in accordance with M.R.S.A., Title 30-A, Section 5603(2)(A)(1).**

**MOTION: Councilor Kelley motioned and Councilor Blow seconded to Grant the authority to the Finance Director/Treasurer to disburse payroll checks with only one Town Councilor's signature in accordance with M.R.S.A., Title 30-A, Section 5603(2)(A)(1).**

**VOTE: Unanimous**



TOWN OF

*Old Orchard Beach*

A FOUR SEASON COMMUNITY

## TOWN OF OLD ORCHARD BEACH

### POLICY ON TREASURER'S DISBURSEMENT WARRANTS FOR EMPLOYEE WAGES AND BENEFITS

**Purpose.** This policy allows designated municipal officers (selectmen or councilors), acting on behalf of the full board of municipal officers, to review, approve, and sign municipal treasurer's disbursement warrants, for wages and benefits only.

Policy is additional to, not in lieu of, majority power. Nothing in this policy is intended to replace the authority of the full board of municipal officers, acting by majority vote, to act on any treasurer's warrant, including warrants for wages and benefits.

**Delegation of authority.** Pursuant to 30-A, M.R.S.A., Section 5603(2)(A)(1), the following authority is granted with respect to treasurer's disbursement warrants for municipal employee wages and benefits only:

- Current municipal officers. The municipal officers in office at the time of execution of this policy are: Chair Joseph Thornton, Vice-Chair Shawn O'Neill, Councilor Kenneth Blow, Councilor Jay Kelley, and Councilor Michael Tousignant.
- Any one of the municipal officers named above, acting alone, may review, approve, and sign such warrants.

**Effective date.** This policy becomes effective on the date indicated below.

**Copies.** The Chair of the municipal officers will furnish copies of this policy to the municipal clerk and to the municipal treasurer. If the clerk and the treasurer are the same person, a copy shall nonetheless be provided to that person in each capacity.

**Lapse.** This policy lapses one year after its effective date, if not sooner amended or canceled.

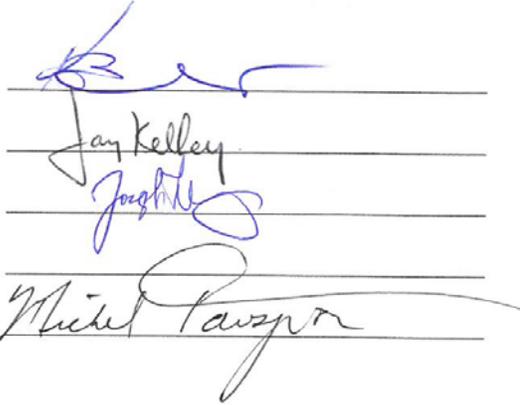
**Renewal.** This policy may be renewed at any time before its lapse. Thereafter, it may be readopted at any time. Any renewal is valid for one year from its effective date, unless a sooner date of expiration is specified.

**Reminder.** If the municipal treasurer is an appointed official, the treasurer shall remind the municipal officers to consider renewing this policy annually before it lapses. If the municipal treasurer is an elected official, the treasurer is requested to provide such an annual reminder.

Original. The Chair of the municipal officers will maintain the original of this policy on file unless the municipal clerk is an appointed official, in which case the clerk shall maintain it on file, if requested to do so by the Chair.

Dated:

02-05  
2019:



Handwritten signatures in blue ink on horizontal lines. The first signature is illegible. The second signature is "Jay Kelley". The third signature is "Joseph". The fourth signature is "Michael Paszner".

Municipal Officers

**# 7618 Discussion with Action: Accept the quote from Viking Cives(USA) in the amount of \$8,850 to overhaul Public Works Electric Sander to Hydraulic Sander; from Account Number 20151-50452 – Operating Equipment Repair Expense, with a balance of \$50,561.84.**

**BACKGROUND:**

Truck 12 is a 2012 International and the Sander System that is in it is from the Truck that was traded-in for the 2012 International. It is an electric system that is very rotted and Staff has been patching it together for the last few years. Most Towns now use a Hydraulic System that is more weather resistant. Right now the Sander is not functional. The Electric Motor has failed as well as the gear box. The price to replace the Electric Motor and Gear Box is \$5,779.53; the price to rebuild and replace with a Hydraulic System is \$8,850; and at this time the Public Works Director recommends we go with the Hydraulic System.

**MOTION: Vice Chair O’Neill motioned and Councilor Blow seconded to Remove without Prejudice the agenda items to Accept the quote from Viking Cives(USA) in the amount of \$8,850 to overhaul Public Works Electric Sander to Hydraulic Sander; from Account Number 20151-50452 – Operating Equipment Repair Expense, with a balance of \$50,561.84.**

**VOTE: Unanimous.**

**ADJOURNMENT:**

**MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Adjourn the 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 sixteen (16) pages is a copy of the original Minutes of the Town Council Meeting of January 21, 2020.**

**V. Louise Reid**