

**TOWN OF OLD ORCHARD BEACH  
TOWN HALL CHAMBERS  
TUESDAY, OCTOBER 1, 2019**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, October 1, 2019. Chair Thornton opened the meeting at 6:30 p.m.

The following were in attendance:

Chair Joseph Thornton  
Councilor Kenneth Blow  
Councilor Jay Kelley  
Councilor Michael Tousignant  
Town Manager Larry Mead  
Assistant Town Manager V. Louise Reid

Absent: Vice Chair Shawn O'Neill

**EMERGENCY ITEM:**

**CHAIR:** I am asking that we add to the beginning of the Agenda this evening, addition of under Public Hearing Amusement Permit and Approval – HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick – Music – Inside – 11:00 a.m. to 1:00 a.m. and Outside 11:00 a.m. to 12:30 a.m.; and add Agenda # 7565 – Discussion with Action: Approve the Liquor License Renewal for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, m-s-v in a Restaurant/Lounge.

**MOTION:** Councilor Kelley motioned and Councilor Blow seconded to add Public Hearing Amusement Permit and Approval – HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick – Music – Inside – 11:00 a.m. to 1:00 a.m. and Outside 11:00 a.m. to 12:30 a.m.; and add Agenda # 7565 – Discussion with Action: Approve the Liquor License Renewal for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, m-s-v in a Restaurant/Lounge.

**VOTE:** Unanimous.

**CHAIR:** I am asking that we add to the Agenda this evening, addition of Agenda Item 7566 to follow Agenda Item 7564: Discussion with Action: Approve repairs to Public Works Truck #12 by Daigle and Houghton, Inc., in the amount of \$7,175.90245.90, from Account Number 20151-50452 – Public Works Vehicle Repairs, with a balance of \$131,240.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Approve repairs to Public Works Truck 312 by Daigle and Houghton, Inc., in the amount of \$7,245.90, from Account Number 20151-50452 – Public Works Vehicle Repairs, with a balance of \$131,240.

**VOTE:** Unanimous.

## **ACKNOWLEDGEMENTS:**

### **ASSISTANT TOWN MANAGER:**

Our thanks to the 100 students from 3<sup>rd</sup> and 6<sup>th</sup> graders who helped clean the beach this past week. They spent from approximately 9:00 a.m. to 11:00 a.m. walking the beach and assisting in cleaning the sidewalks and the beach area. Our sincere thanks to their teacher – Laura Seaver-Maley and the students of the 3<sup>rd</sup> and 6<sup>th</sup> grades. We also invite everyone to the Hoop Night at the Atlantic Courts in celebration of the Neighborhood Watch activity this coming Thursday night from 5:00 to 7:00 p.m. at the Basketball Courts.

### **GOOD AND WELFARE:**

**Edward Winslow:** A resident of Ocean Park expressed his concerns of the lack of signage in the area of Old Orchard and the severe safety issue that lack of signage provides to the area. He indicated that a 90 year old widow who lives in the area is concerned that ambulances and fire engines cannot find the location and are deployed to other areas which is a vital safety concern.

**Barry Tripp** spoke on behalf of the Skateboard Park representatives who were present in the meeting and thanked the Town Council for their support of the Skateboard Park.

**ACCEPTANCE OF MINUTES:** Approval of the Town Council Minutes of September 3, 2019 and Town Council Minutes of September 17, 2019.

**MOTION:** Councilor Tousignant motioned and Councilor Kelley seconded to Approve the Town Council Minutes of September 3, 2019 and the Town Council Minutes of September 17, 2019.

**VOTE:** Unanimous.

**PUBLIC HEARING:** Shall We Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 34, Housing; Section 91, Occupancy Requirements, Subsection C - Temporary Seasonal Workers?

**CHAIR:** I open this Public Hearing at 6:50 p.m.

### **BACKGROUND:**

Many of the temporary seasonal workers in Old Orchard Beach obtain housing in rooms that are configured the same as the motel rooms in Old Orchard Beach that have two queen beds and accommodate four adults. These rooms often include a kitchenette and bathroom with shower and toilet. The proposed ordinance changes will clarify that this efficiency-room concept is permitted for temporary seasonal workers so long as the gross square footage equals at least 70 square feet of space per occupant, and that there is at least one shower unit, one sink and one toilet for every five occupants. Staff from the Fire Department and the Code Enforcement Office has assisted in drafting the proposed ordinance changes and believe that the proposed changes will provide safe

and efficient housing for temporary seasonal workers. In addition, the changes will provide some relief to the scarcity of available housing for summer workers.

## NOTICE OF PUBLIC HEARING

### MUNICIPAL OFFICERS OF THE TOWN OF OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on October 1<sup>st</sup>, 2019, at 6:30 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 34, Housing, section 34-91 (Occupancy requirements) of the Town of Old Orchard Beach Code of Ordinances is amended by adding the underscored language and deleting the strikethrough language:

Sec. 34-91. - Occupancy requirements.

- (a) Generally. No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, dwelling unit, or rooming unit which does not comply with the minimum standards for space and occupancy in this section. Any motel, hotel, guest cottage, cabin, sporting camp or similar facility must comply with these space and occupancy standards when an occupant stays in one or more units for a continuous period in excess of 30 days.
- (b) Dwelling and rooming units. Every dwelling, dwelling unit and rooming unit shall contain at least 200 square feet of floor area of habitable space for the first occupant and at least 150 square feet of additional area of habitable space for each additional occupant. A child under the age of one shall not be counted as an occupant for the purposes of this section.
- (c) Temporary seasonal housing workers. Where sleeping quarters are furnished within existing structures between April 1 and October 31 for temporary seasonal workers, ~~every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof and the dwelling unit shall include a kitchen or kitchenette, a bathroom, and a living room of not less than 120 square feet of habitable area.~~ for every 5 occupants there shall be at least (1) Shower Unit, (1) Sink and (1) Toilet. A room occupied for sleeping purposes may include a kitchenette and a bathroom. Every room occupied for sleeping purposes shall contain at least 70 gross square feet of floor space per person. The calculation of gross square footage shall be limited to spaces used for living, sleeping, eating or cooking, including bathrooms, toilet rooms, foyers, closets and hallways within controlled space. The auxiliary spaces used to determine gross square footage, such as bathrooms, toilet rooms, foyers, closets, hallways and kitchens, shall not be used for sleeping quarters. If it is unfeasible to meet the kitchen, kitchenette or bathroom requirements in the space then access to communal kitchen or bathroom may be approved by the authority having jurisdiction, provided that such space is in an attached structure, provides 24/7 access and is under the control of the temporary seasonal workers.

(d) No outbuilding, basement, garage, attic or other space shall be used as space for sleeping quarters unless the space complies with the ordinances as written for the Town of Old Orchard Beach Maine.

(e) Posting of notice of permitted occupancy. Notice shall be posted in each unit offered for rent stating the maximum number of occupants allowed under this article.

(f) Notice of permitted occupancy required. When a person lets to another for occupancy any dwelling, dwelling unit, or rooming unit, he shall notify the occupant in writing of the maximum number of persons permitted to occupy the premises by this section.

(Ord. of 4-2-1991, § 4; Ord. of 4-7-2009(1); Ord. of 3-15-2016 )

CHAIR: I close this Public Hearing at 6:53 p.m.

#### PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 6:53 p.m.

MD Qian Feng LLC dba/Moby Dick Variety Store (304-6-3), 74 East Grand Avenue, ten seasonal rentals; year round retail store; and Victulars with Preparation with Beer, Wine and/or Liquor – Off Premises – License pending State approval; James & Mary McLaughlin (201-1-10-306), 215 East Grand Avenue, #306, one seasonal rental; John Carbonello (312-6-4), 24 Fern Avenue, one year round rental; Denise & Norman Minor (319-14-2), 1 Odessa Avenue, Back Building, one year round rental; and Gretchen Haase (315-21-6), 35 Highland Avenue, one year round rental,

CHAIR: I close the Public Hearing at 6:54 p.m.

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

VOTE: Unanimous.

#### PUBLIC HEARING AMUSEMENT PERMIT AND APPROVAL:

HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick – Music – Inside – 11:00 a.m. to 1:00 a.m. and Outside 11:00 a.m. to 12:30 a.m.

CHAIR: I open this Public Hearing at 6:54 p.m.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Amusement Permit for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick – Music – Inside – 11:00 a.m. to 1:00 a.m. and Outside 11:00 a.m. to 12:30 a.m.

VOTE: Unanimous.

#### TOWN MANAGER'S REPORT:

As part of the planned upgrade to Wastewater Facility, the Maine DEP has instructed the Town to develop a Fiscal Sustainability Plan (FSP) that identifies capital improvements

needed at the Wastewater Facility, the Pump Stations, and the Sewer Infrastructure throughout the Town, and develop a plan for the Town to allocate funds going forward to maintain and sustain the infrastructure. Department of Environmental Protection (DEP) also is requiring that the Town develop a Climate Adaptation Plan (CAP) to account for potential impacts from rising sea levels and changing weather patterns. In order to meet the DEP directives Woodard/Curran Engineering assisted the Town in securing a \$70,000 grant from the Department of Environmental Protection to develop the FSP and CAP. Therefore, the local cost for the proposed work will be a match of \$70,000 to be funded using Sewer Connection Fee Reserve Fund. As part of the work to be done Woodard & Curran will also complete a review of the proposed upgrades to the Wastewater Facility in order to assist the Town in determining the most cost effective strategy for both complying with DEP requirements and achieving optimal plan functionality. This work will then inform the Town Council's decisions for what to include in the forthcoming major plan upgrades that will be proposed to voters in 2020. This review is not intended to duplicate the work done for the Town by Wright-Pierce Engineering, but rather to provide value for the Town by testing assumptions and considering alternatives so that the Town can get the greatest possible return on this significant investment. Information and understanding is that Woodard & Curran proposal describing each of the three elements; Treatment Plant Upgrade, Fiscal Sustainability Plan, and Climate Adaptation Plan. The work will be completed by the end of December. This will allow the Town to incorporate findings and recommendations into the Council's decisions regarding the scope of the proposed capital improvements to be financed through a twenty year bond. The Property Tax Relief Program is new beginning this tax year. The Town Council has established the Property Tax Relief Program for long term Old Orchard Beach residents 70 years and older. The Town Council began the program in order to provide tax relief to older, long-term residents who have limited incomes and limited savings. The Town Council knows that although the value of homes are increasing, incomes of our older residents may not be. In order to qualify you must meet all the following criteria: Received a Property Tax Refund this year from the State of Maine Property Tax & Fairness Credit Program. If you aren't sure, check with your Accountant or contact the Town Hall Tax Office or the Assessor's Office; Received the Homestead Exemption at the time of the Application; Your primary residence has been in Old Orchard Beach for ten (10) continuous years prior to the date of the Application; You are 70 years of age as of November 1<sup>st</sup>; and You have no past due property taxes as of the date of the Application. Applications are due no later than November 1<sup>st</sup>. Applications are available on the Town's website on the Homepage or may be picked up at the Town Hall Tax Office or Assessing Office. FEMA Flood Maps – FEMA has denied the Town's appeal of the proposed flood insurance rate maps. We were surprised and disappointed that FEMA, prior to issuing a denial, did not adhere to its own published appeal process, and engage the Town in community consultation, a process that would have allowed for clarification and explanation of the technical and scientific data provided to FEMA by the Town's appeal submission. Rather than engaging in community consultation FEMA denied the appeal in its entirety, leaving the Town with limited options to correct the maps. Yesterday the Town Manager responded to FEMA by asking that the Town's appeal be reviewed by a Scientific Resolution Panel. This panel is intended to be an independent arbitrator that will make a finding on the merits of the Town's appeal. This review process is provided for in law and FEMA regulations. Its decision is binding on the Town but is not binding on FEMA. FEMA is not obligated to accept the Town's request for third party review. As an alternative to third party review the Town Manager submitted technical clarifications of the Town's appeal and asked that FEMA reconsider its initial denial and engage in community consultation with Old Orchard Beach with a common goal of implementing new flood elevation maps that are the product of the most accurate methodology and hydrology available. Depending on FEMA's response to the Town's most recent submission it is possible that the preliminary flood elevation maps could become effective July 1, 2020. We will provide notice to affected

property owners as soon as we have more definitive information. The Finance Department is advertising for sale three tax-acquired properties. 10 Goodwin Avenue – this is a lot with an existing and abandoned single family house on it. A requirement of the sale will be that the home be demolished within six months or purchase. Because the existing house is a non-conforming use it should be assumed that any replacement structure will need to be on the existing foundation footprint. 15 Kapok Avenue – the second property is a 10,000 square foot buildable lot at the corner of Homewood Blvd. and Kapok Avenue. 30 Juniper Avenue – the third property is a 20,000 square foot building lot at 30 Juniper Street in the Homewood Park subdivision. Property specification information is available on the Town’s website. This will be a sealed bid process. It should be noted that the Town Council can, in its sole discretion, reject all proposals. Bids are due by noon on Friday, October 18<sup>th</sup>.

**NEW BUSINESS:**

**# 7556 Discussion with Action:** Amend the Town of Old Orchard Beach Code of Ordinances, Section 54-187, Restrictions and Prohibitions, by prohibiting parking on the right side of Willow Creek Lane from the east side of the property line of 6 Willow Creek Lane (205-19-39) to the dead end, facing west.

**BACKGROUND:** A resident at 10 Willow Lane requested consideration of eliminating parking on the right hand side of Willow Lane beginning at Number Six Willow Lane and terminating at the end of the roadway which is a dead end. The area was reviewed and there appears to be no objection to the change. The neighbors have been reached for their input.

**MOTION:** Councilor Tousignant motioned and Councilor Kelley seconded to Amend the Town of Old Orchard Beach Code of Ordinances, Section 54-187, Restrictions and Prohibitions, by prohibiting parking on the right side of Willow Creek Lane from the east side of the property line of 6 Willow Creek Lane (205-19-39) to the dead end, facing west.

**VOTE:** Unanimous.

**NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH**

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on September 17<sup>th</sup>, 2019 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, amending Section 54-187, Restrictions and Prohibitions, adding Willow Creek Lane, by adopting the underscored language and deleting the strikethrough language as follows?

***Willow Creek Lane: There shall be no parking on the right side of Willow Creek Lane from the east side property line of 6 Willow Creek Lane (205-19-39) to the dead end, facing west.***

**# 7557 Discussion with Action:** Cancel the Town Council Meeting of Tuesday, November 5<sup>th</sup>, 2019, as it is Election Day.

**MOTION: Councilor Blow motioned and Councilor Kelley seconded to Cancel the Town Council Meeting of Tuesday, November 5, 2019, as it is Election Day.**

**VOTE: Unanimous.**

**# 7558 Discussion with Action: Amend the Special Event Permit issued to the Chamber of Commerce on March 20<sup>th</sup>, 2018, changing the dates of the Car Show from September 11<sup>th</sup> and 12<sup>th</sup>, 2020 to September 18<sup>th</sup> and 19<sup>th</sup>, 2020.**

**BACKGROUND:**

The Director of the Chamber of Commerce is asking that we Amend the Special Event Permit for the Car Show for 2020 scheduled for September 11<sup>th</sup> and 12<sup>th</sup> because it conflicts with several other events this weekend, including September 11<sup>th</sup> events and is moving it to the following weekend.

**MOTION: Councilor Blow motioned and Councilor Kelley seconded to Amend the Special Event Permit issued to the Chamber of Commerce on March 20<sup>th</sup>, 2018, changing the dates of the Car Show from September 11<sup>th</sup> and 12<sup>th</sup>, 2020, to September 18<sup>th</sup> and 19<sup>th</sup>, 2020.**

**VOTE: Unanimous.**

**# 7559 Discussion with Action: Approve a Service Agreement with Woodard & Curran Engineering to develop a Fiscal Sustainability Plan and a Climate Adaptation Plan for the Wastewater Treatment Facility in the amount of \$140,000 to be paid with a Clean Water State Revolving Fund Grant in the amount of \$70,000 and a Town match in the amount of \$70,000; from Account Number 30181-50300 – Sewer Reserve Fund Professional Engineering Expense, with a balance of \$926,168.14.**

**BACKGROUND:**

**Planning Grant Received from DEP:**

As part of the planned upgrade to Wastewater facility Maine DEP has instructed the Town to develop a Fiscal Sustainability Plan (FSP) that identifies capital improvements needed at the Wastewater facility, the pump stations, and the sewer infrastructure throughout town, and develop a plan for the Town to allocate funds going forward to maintain and sustain the infrastructure. DEP also is requiring that the Town develop a Climate Adaption Plan (CAP) to account for potential impacts from rising sea levels and changing weather patterns.

In order to meet the DEP directives Woodard/Curran Engineering assisted the Town in securing a \$70,000 grant from the Department of Environmental Protection to develop the FSP and CAP. Therefore, the local cost for the proposed work will be a match of \$70,000 to be funded using sewer connection fee reserve funds.

**Treatment Plant Upgrade Review:**

As part of the work to be done Woodard & Curran will also complete a review of the proposed upgrades to the Wastewater facility in order to assist the Town in determining

the most cost-effective strategy for both complying with DEP requirements and achieving optimal plant functionality. This work will then inform the Town Council's decisions for what to include in the forthcoming major plant upgrades that will be proposed to voters in 2020. This review is not intended to duplicate the work done for the Town by Wright-Pierce Engineering, but rather to provide value for the Town by testing assumptions and considering alternatives so that the Town can get the greatest possible return on this significant investment.

Attached for your information and understanding is the Woodard & Curran proposal describing each of the three elements; Treatment Plant upgrade, Fiscal Sustainability Plan, and Climate Adaptation Plan. The work will be completed by the end of December. This will allow the Town to incorporate findings and recommendations into the Council's decisions regarding the scope of the proposed capital improvements to be financed through a 20 year bond.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Approve a Service Agreement with Woodard & Curran Engineering to develop a Fiscal Sustainability Plan and a Climate Adaptation Plan for the Wastewater Treatment Facility in the amount of \$140,000 to be paid with a Clean Water State Revolving Fund Grant in the amount of \$70,000 and a Town match in the amount of \$70,000; from Account Number 30181-50300 – Sewer Reserve Fund Professional Engineering Expense, with a balance of \$926,168.14.

**VOTE:** Unanimous.

**# 7560 Discussion with Action:** Consider adopting a Notice of Presumption of Abandonment of South Avenue between Union Avenue and Seacliff Avenue.

**BACKGROUND:**

The status of South Street, a paper street between Union Ave and Seacliff that parallels the railroad tracks, is somewhat muddled. It has not been used or maintained by the Town for well over 30 years. In fact in 1983 the Town Council voted to discontinue South Street however the Town Manager never took the appropriate action to file this action with the Registry. In March of this year the Town Attorney opined by email that South Street is likely abandoned and that any interests the Town had in the way likely passed to the abutting property owners on either side of the center of the way. Attorney Saucier noted in that email however that while there is likely a "presumption" of abandonment, only a court can make the final determination.

Based on this opinion, and on the opinion of a private attorney, Peggy McGehee, writing an opinion in December of last year, the abutting property owner, Scott Peacock, obtained approval from the Planning Board to demolish the existing 5-unit apartment building and construct a 5-unit condominium that would use a portion of the former South Avenue for parking. Mr. Peacock demolished the structure but before he began construction on the replacement the title insurance company required that additional validation of the abandonment be secured.

Unfortunately there now sits a large hole surrounded by a chain-link fence where a new building is planned and anticipated. Town Attorney Phil Saucier has suggested that the Town Council could issue a notice Presumption of Abandonment that any public easement has been abandoned (attached email dated Sept. 19) and Attorney Ordway is in agreement on this approach.



It should also be noted that the Town did not preserve its rights to this paper street 20 years ago when the State of Maine required municipalities to take such affirmative action.

**MOTION:** Councilor Blow motioned and Councilor Kelley seconded to Consider adopting a Notice of Presumption of Abandonment of South Avenue between Union Avenue and Seacliff Avenue.

**VOTE:** Unanimous.

**# 7561 Discussion with Action:** Set a date of October 15, 2019 for a Public Hearing to consider a zoning map and ordinance amendment: **Zoning Map Amendment:** Amend zoning map to replace the R4 District with GB1 District for the property located at 15 Ocean Park Road (210-10-3). **Zoning Ordinance Amendment (GB1 District Location):** Amend Ch. 78, Sec. 78-801 (a).

**BACKGROUND:**

**MOTION:** Councilor Blow motioned and Councilor Tousignant seconded to Set a date of October 15, 2019 for a Public Hearing to consider a zoning map and ordinance Amendment: **Zoning Map Amendment:** Amend zoning map to replace the R4 District with GB1 District for the property located at 15 Ocean Park Road (210-10-3). **Zoning Ordinance Amendment (GB1 District Location):** Amend Ch. 78, Sec. 78-801 (a).

**VOTE:** Unanimous.

**TO:** Old Orchard Beach Town Council  
**SUBJECT:** GB1 and R4 Zoning Map Amendment; GB1 Zoning Ordinance Amendment  
**DATE:** 24 September 2019

This map and ordinance amendment proposal is associated with the property located at 15 Ocean Park Rd (210-10-3). This proposal is requesting a change to the zoning map and a change to ordinance language. The proposal is submitted by Eastwood Development Corp who is representing the property owner, Colonial Motor Court LLC. As I understand, the reason for this amendment is to increase options for use of the property.

#### **Amendment Highlights**

This proposal is requesting a change to the zoning map and a change to ordinance language. The zoning map amendment proposes to extend the General Business 1 (GB1) Zoning District into the area currently identified Residential 4 (R4) so the entire lot will be zoned GB1. Currently, the GB1 district extends into the lot 400 linear feet from the centerline of Ocean Park Rd. The remainder of the lot is zoned R4.

The proposed zoning ordinance amendment excludes the 15 Ocean Park Rd from the GB1 District 400 linear foot from the centerline of the road requirement identified in 78-801 (a). 78-801 (a) currently states:

The general business district 1 (GB-1) shall extend along Old Orchard Road, Ocean Park Road, Temple Avenue, and Saco Avenue from the Saco town line to E. Emerson Cummings Blvd./Union Avenue, the Portland Road from Imperial Street and Cascade Road, Cascade Road from Portland Avenue to Miles Avenue and shall extend to a lot line of any lot with direct frontage on any of the streets or roads mentioned in this subsection for a maximum depth of 400 linear feet from the street centerline.

The proposed amendment adds the following language to the end of 78-801 (a):

The GB-1 district located on the parcel of land identified as 15 Ocean Park Road, Map/Block/Lot: 210/10/3, shall extend to all lot lines and shall be exempt from the maximum depth of 400 linear feet from the street centerline.

So, the proposed new 78-801 (a) reads as follows (new language underlined):

The general business district 1 (GB-1) shall extend along Old Orchard Road, Ocean Park Road, Temple Avenue, and Saco Avenue from the Saco town line to E. Emerson Cummings Blvd./Union Avenue, the Portland Road from Imperial Street and Cascade Road, Cascade Road from Portland Avenue to Miles Avenue and shall extend to a lot line of any lot with direct frontage on any of the streets or roads mentioned in this subsection for a maximum depth of 400 linear feet from the street centerline. The GB-1 district located on the parcel of land identified as 15 Ocean Park Road, Map/Block/Lot: 210/10/3, shall extend to all lot lines and shall be exempt from the maximum depth of 400 linear feet from the street centerline.

Use:

Currently 15 Ocean Park Rd is vacant. Its last use was overnight cabins which ceased approximately 8 years ago. Because the property zoning is split between two districts some uses allowed in one district are not allowed in the other. The lot owner wants to maximize the property options by increasing its allowable uses and believes replacing the R4 with GB1 will do this. The GB1 allows almost all of the uses allowed in the R4 as well as a mix of nonresidential uses (see Secs. 78-802 & 803).

Adjacent land uses include a campground (OOB Campground) abutting one side and the rear and a single-family, apartment building, and nonresidential (food service). Adjacent zoning districts include GB1, R4 and Campground Overlay.

### Spot Zoning

The question of "Spot Zoning" is something to consider as part of our review. Spot zoning has been defined as the process of singling out a property for a use classification totally different from the surrounding area for the benefit of the property owner to the detriment of other owners. To determine whether a proposed amendment creates a spot zone, the following should be considered:

- Size of area associated with the amendment. Is it just a small parcel, neighborhood, entire zoning district?
- Use classification and development of adjacent property
- Relation of amendment to existing zoning patterns and objectives
- History of the amendment
- Benefits or detriments to the owner, adjacent owners, neighborhood, town
- Is the proposed change pursuant to and consistent with the comp plan

It's important to note that spot zoning is a neutral term which includes both legal and illegal land use controls. Because a zoning amendment benefits only a particular property or is adopted at the request of a particular property owner for that owner's benefit is not determinative of whether it is an illegal spot zoning. This is important because spot zoning is not derogatory or favorable- it's simply neutral. The primary test is if

amendments are consistent with and in basic harmony with the Town's comp plan and, as you'll see below, staff feels this proposal is consistent with the adopted comp plan.

### **Comp Plan Consistency**

Consistency with the adopted comprehensive plan is another matter the Council must consider. Zoning map and ordinance amendments must be consistent with the currently adopted comprehensive plan. Regarding this proposal, its staff's opinion the changes are consistent with the adopted comp plan.

In regards to zoning map amendments, one of the best ways to check consistency is reviewing the adopted future land use plan map (FLUPM) vs. proposed zoning district amendment and then ask the following question- how does the FLUPM zoning district match to the proposed zoning district? In this case there's an interesting finding, it appears the proposed amendment (R4 to GB1) is actually more consistent with the FLUPM compared to what's shown on the currently adopted zoning map.

Included with this memo is a portion of the FLUPM showing the FLUPM zoning districts vs. currently adopted zoning districts (excluding overlay districts). The solid colored areas show the zoning districts adopted as part of the comp plan. The red lines and letters/numbers show the currently adopted zoning district boundaries and zoning districts. Regarding 15 Ocean Park Rd property, you'll see the FLUPM shows the entire lot colored blue which identifies this lot to be entirely with the B2 district (General and Highway Business District). The red lines show the property as currently zoned- approx. half GB1 and half R4. What this tells me is the zoning district was not changed to reflect the FLUPM which is why we continue to have the current district designation (GB1 and R4) and not the FLUPM zoning district (B2) proposed by the comp plan. So, it could be argued the zoning districts (GB1 and R4) as currently shown is not in conformance with the adopted comp plan- the lot should be entirely with the B2 and this proposal will actually make the zoning district consistent with the comp plan.

Regarding the comp plan text, the B2 district, as described in the comp plan, is quite similar to the GB1 district. Both districts encourage commercial growth and recognize the advantages of being close to a high travelled road. One may ask should we change the district to B2 instead of extending GB1. Our answer to that is a change to B2 would require the creation of an entirely new ordinance along with all the space and bulk, performance standards, etc. Such a change would be much more involved than the one proposed. Because GB1 and B2 are quite similar we see no need to proceed with that approach.

The B2 is identified as a growth area which, in general, means the lands are physically suitable for development or redevelopment and contain sufficient area to accommodate planned growth and development. Specifically, the 1992 comp plan states the B2 District is intended for business uses where exposure to passing motorist is an asset in attracting patrons (Sec. V, p. 9).

### **Planning Board Action:**

The PB considered the applicants proposal during the summer of this year. A public hearing was held during September. No one appeared at the public hearing but the Town received email comments from an abutter which discussed their concerns. As I understand the owner of 15 Ocean Park Rd spoke to the abutter about their concerns after the public hearing. At the PB's September meeting the Board voted 3-2 to recommend the

Council adopt the proposed map and ordinance amendments. Specific reasons for the dissenting votes were not provided.

**NOTICE OF PUBLIC HEARING  
MUNICIPAL OFFICERS OF THE TOWN OF  
OLD ORCHARD BEACH**

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on October 15<sup>th</sup>, 2019 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 78 – Zoning, Article VI – Districts, Division 8 – General Business District 1 (GB-1), Section 78-801 – Location purpose, (a) by adding the underscored language:  
Sec. 78-801. - Location; purpose.

- (a) The general business district 1 (GB-1) shall extend along Old Orchard Road, Ocean Park Road, Temple Avenue, and Saco Avenue from the Saco town line to E. Emerson Cummings Blvd./Union Avenue, the Portland Road from Imperial Street and Cascade Road, Cascade Road from Portland Avenue to Miles Avenue and shall extend to a lot line of any lot with direct frontage on any of the streets or roads mentioned in this subsection for a maximum depth of 400 linear feet from the street centerline. The GB-1 district located on the parcel of land identified as 15 Ocean Park Road, Map/Block/Lot: 210/10/3, shall extend to all lot lines and shall be exempt from the maximum depth of 400 linear feet from the street centerline.

**MOTION:** Councilor Blow motioned and Councilor Tousignant seconded to Adopt a Notice of Presumption of Abandonment of South Avenue between Union Avenue and Seaciff Avenue.

**VOTE:** Unanimous.

**# 7562 Discussion with Action:** Approve the services of Ted Berry Company for Pump Station and Wet Well Cleaning in the amount of \$10,530, from Account Number 20161-50342 – Waste Pumping Expenses, with a balance of \$35,000.

**BACKGROUND:**

**Subject:** Pump Station and Wet Well Cleaning

The wastewater facility does not have an automated grit removal system. Much of the grit goes through the treatment system and creates excessive wear on pumps and equipment. The department attempts to mitigate this by cleaning out some of the tanks at the facility and pump stations twice a year. For three days of services Ted Berry Company has quoted \$10,530. Ted Berry will provide all the equipment necessary to perform the task. Additional disposal expenses expected to be paid directly by the town to ECO MAINE. These expenses will depend on the amount of waste removed. Prior years indicate these additional costs will be \$8,000 to \$10,000.

**MOTION:** \_\_\_\_\_ motioned and \_\_\_\_\_ seconded Approve the services of Ted Berry Company for Pump Station and Wet Well Cleaning in the amount of \$10,530, from Account

Number 20161-50342 – Waste Pumping Expenses, with a balance of \$35,000.

VOTE: Unanimous.

# 7563 Discussion with Action: Approve the purchase of bulk road salt from Morton Salt Company in the amount of \$51.90 per ton for Sodium Chloride Salt; and \$69.90 per ton for organically pre-treated Sodium Chloride Salt; from Account Number 20151-50514 – Public Works Road Salt Winter Account, with a balance of \$78,000.

BACKGROUND:

The Public Works Department went out to bid through GPCOG preparing the chart listing below from Companies Including Cargill, Eastern Salt, Monson Companies, Morton Salt and Safe Road Services and the recommendation was to go with the bid from Morton Salt Company, the lowest bidder.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the purchase of bulk road salt from Morton Salt Company in the amount of \$51.90 per ton for Sodium Chloride Salt; and \$69.90 per ton for organically pre-treated Sodium Chloride Salt; from Account Number 20151-50514 – Public Works Road Salt Winter Account, with a balance of \$78,000.

VOTE: Unanimous.

# 7565 Discussion with Action: Approve the Liquor License for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, m-s-v in a Restaurant/Lounge.

MOTION: Councilor Kelley motioned and Councilor Blow seconded Approve the Liquor License Renewal for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, m-s-v in a Restaurant/Lounge

VOTE: Unanimous.

# 7566 Discussion with Action: Approve repairs to Public Works Truck #12 by Daigle and Houghton, Inc., in the amount of \$7,187.70 from Account Number 20151 50452 – Public Works Vehicle Repairs, with a balance of \$131,240.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve repairs to Public Works Truck 312 by Daigle and Houghton, Inc., in the amount of \$7,187.70, from Account Number 20151-50452 – Public Works Vehicle Repairs, with a balance of \$131,240.

VOTE: Unanimous.

# 7564 Executive Session: Discussion of Renewal of Town Manager's Employment Agreement pursuant to 1 M.R.S.A., Section 405(6)(A).

MOTION: Councilor Blow motioned and Councilor Kelley seconded to enter into Executive Session: Discussion of Renewal of Town Manager's Employment Agreement pursuant to 1 M.R.S.A., Section 405(6)(A).

VOTE: Unanimous.

**MOTION: Councilor Blow motioned and Councilor Tousignant seconded to exit the Executive Session: Discussion of Renewal of Town Manager's Employment Agreement pursuant to 1 M.R.S.A., Section 405(6)(A).**

**VOTE: Unanimous.**

**ADJOURNMENT:**

**MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Adjourn the Town Council Meeting.**

**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 fourteen (14) pages is a copy of the original Minutes of the Town Council Meeting of October 1, 2019.**

**V. Louise Reid**