



Town of Old Orchard Beach
Office of the Town Manager

1 Portland Ave, Old Orchard Beach, Maine

Phone: 207.937.5626

Web: www.oobmaine.com or

www.oobmaine.com/town-council

Town Council Meeting Minutes

I, Tim Fleury, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting is a copy of the original minutes from the meeting of the Old Orchard Beach Town Council.

Prepared By:

Tim Fleury

Approved By:

Old Orchard Beach Town Council

Respectfully
Submitted,

Tim Fleury
Town Council
Secretary



TOWN OF OLD ORCHARD BEACH

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Regular Town Council Meeting Minutes

Tuesday, April 5th, 2022

I, Jennifer Hayes, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of thirty (30) pages is a copy of the original minutes from the regular meeting of the Old Orchard Beach Town Council held on Tuesday, 04.05.2022.

Prepared by: Jennifer Hayes
Approved by: Old Orchard Beach Town Council
Approval Date: Approved 04.19.2022

Respectfully Submitted,

Jennifer Hayes
Town Council Secretary



Town Council Meeting Minutes

Regular Meeting of Town Council followed by Budget Workshop

Tuesday, April 5th, 2022

Council Chambers -1 Portland Avenue

www.oobmaine.com/town-council

**Members of the public wishing to view the meeting from home may tune into Local Access TV (Channel 3, 1301, 1308 – check with your provider) or by logging onto townhallstreams.com/towns/oob_maine. FMI click on the Communications Tab @ www.oobmaine.com.*

There was a regular Town Council Meeting held on Tuesday, April 5th, 2022. The meeting was called to order by the Chair at 6:30pm. After the pledge of allegiance, roll call was taken, and the following individuals were present:

Shawn O’Neill, Chair

Diana Asanza, Town Manager

Kenny Blow, Vice-Chair

Jen Hayes, Council Secretary

V. Louise Reid, Councilor

Larry Mead, Councilor

Mike Tousignant, Councilor

ACKNOWLEDGEMENTS *(see attached memorandum)*



COMMUNICATION

It is with regret that I announce the resignation of our Fire Inspector Laura Mathisen effective March 31, 2022. While a member of the call force since 2017 – Inspector Mathisen assumed her role as Fire Inspector on January 13, 2020 as a permanent part-time Fire Inspector.

Inspector Mathisen was the first permanent part-time Fire Inspector for the Old Orchard beach Fire Department. During her tenure, Inspector Mathisen has opened over 400 property cases. These cases reflect a wide variety of activities related to fire code compliance. Topics range from egress windows, storage of flammable liquids, sprinkler and alarm systems out of compliance, smoke detectors and blocked means of egress.

Inspector Mathisen is an advocate for the safety of our residents and visitors. She has been a consistent voice in enforcing the fire codes for the Town of Old Orchard Beach. In addition to inspecting properties and conducting plan reviews Inspector Mathisen has been instrumental in developing processes and procedures that allow for the historical documentation of a property.

While Inspector Mathisen will continue as an active member of the call force, I hope you can all join me in wishing her well in her next adventure.

Issued: March 21, 2020

Fred LaMontagne, Fire Chief

GOOD & WELFARE:

Colleen O'Brien, 106 Saco Avenue: referred to neighborhood complaint concerning 4 Balsalm Avenue and dog waste. She referenced a lengthy, on going issue with her neighbor's dogs (numbering three) that were unsocialized and have left an enormous amount of waste in their backyard that has not being picked up in almost a year. Ms. O'Brien came before Council to request the order that was previously put into place concerning this matter be enforced.

Police Chief Kelley spoke to Council and affirmed that Officer Watson and Code Enforcement would be back on Friday, 04.08.2022 and will move to get this matter "moving along."

Code Enforcement Director Jim Butler spoke to Council stating that he has checked the property. He confirmed that some of the ordinances do not cover this type of behavior. After Friday's inspection of premise the intention was to set a path forward with more a more efficient order in place.

Dan Oberge (neighbor to Ms. O'Brien & 4 Balsalm): spoke to Council sharing that the neighbor's dogs were a problem with constant barking. Like Mrs. O'Brien, he has been unable to enjoy his backyard/patio areas because of the noise and fecal odor.

Jason Webber, OOB Recreation Director: spoke to Council regarding upcoming activities at the Recreation Complex @ The BallPark including a Glow-in-the-Dark Egg Hunt on Friday April 15th, 2022 and Summer Camp registration had opened up.

PRESENTATIONS:

BSOOB Transit Budget Summary

Presenter: Chad Heid, BSOOB Transit Executive Director

(see attached slide deck)

BSOOB Transit Municipal Budget Request

April 04, 2022



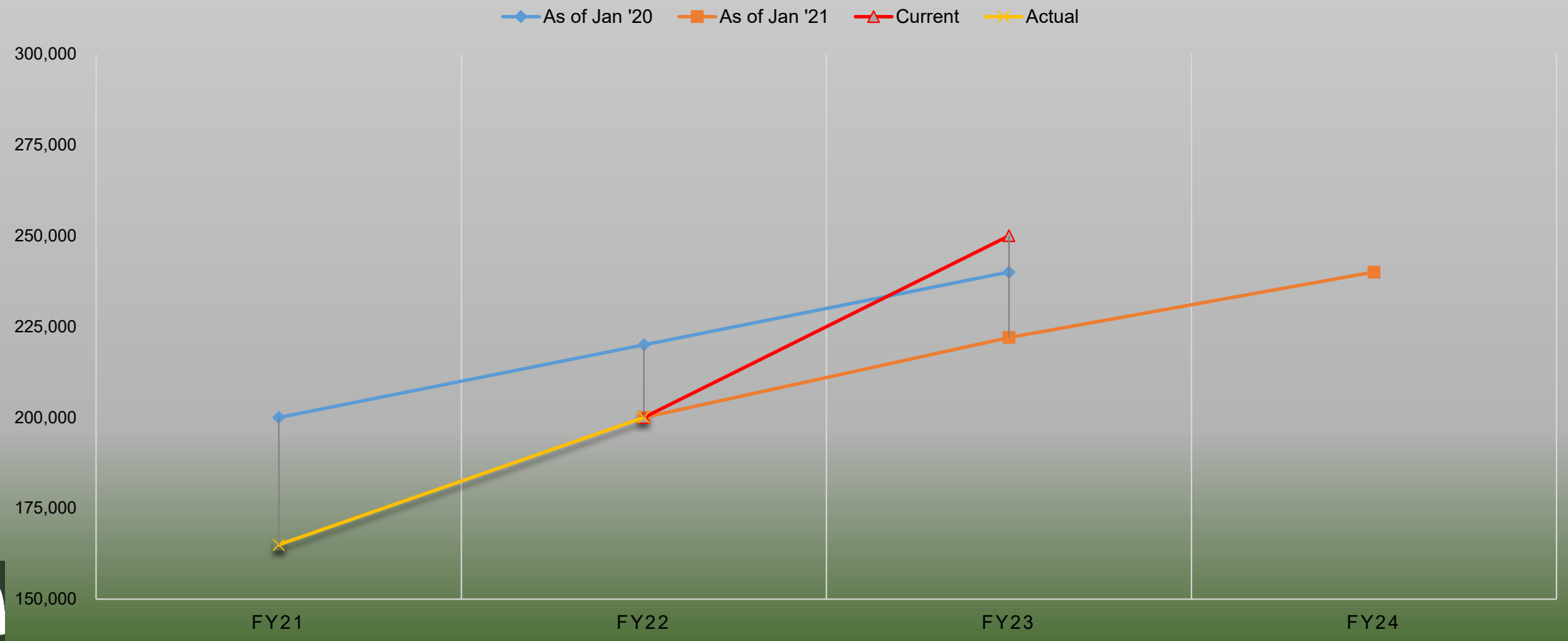
Funding History

Single Municipal Contributions FY11-FY22
(USD)

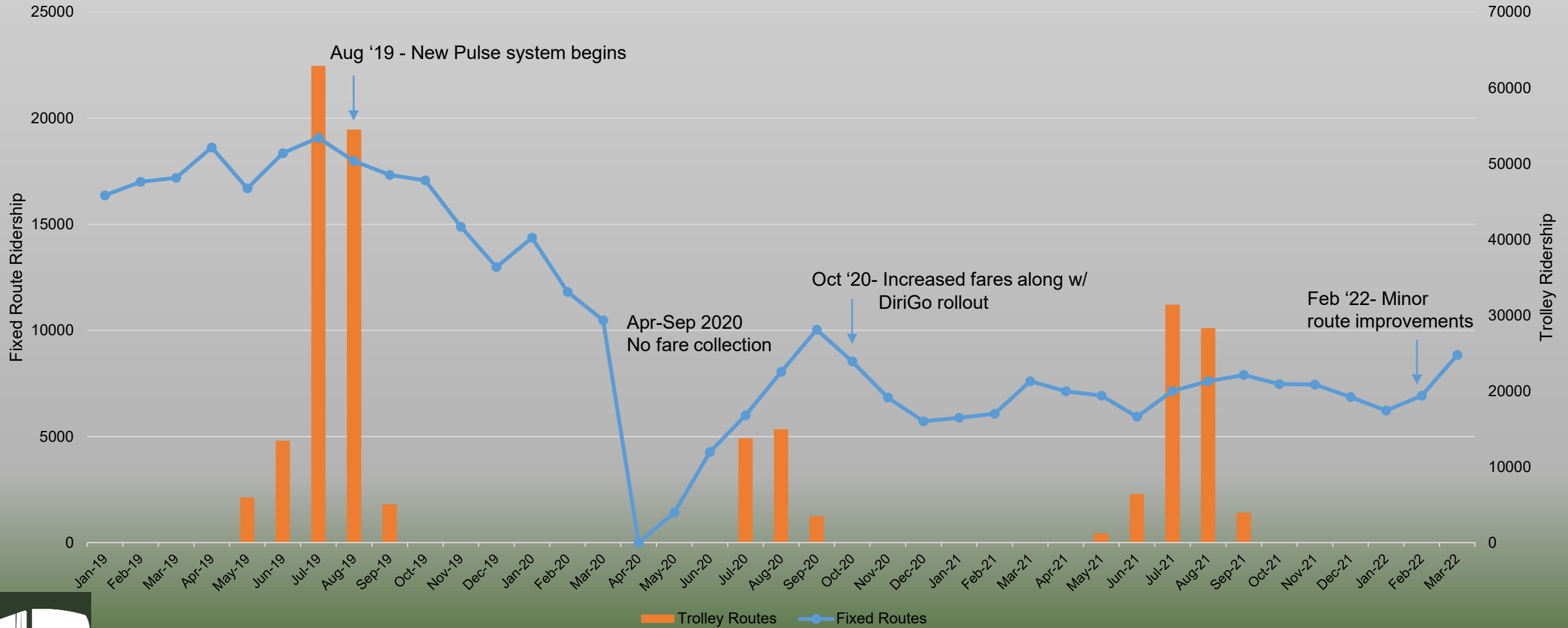


Municipal Requests

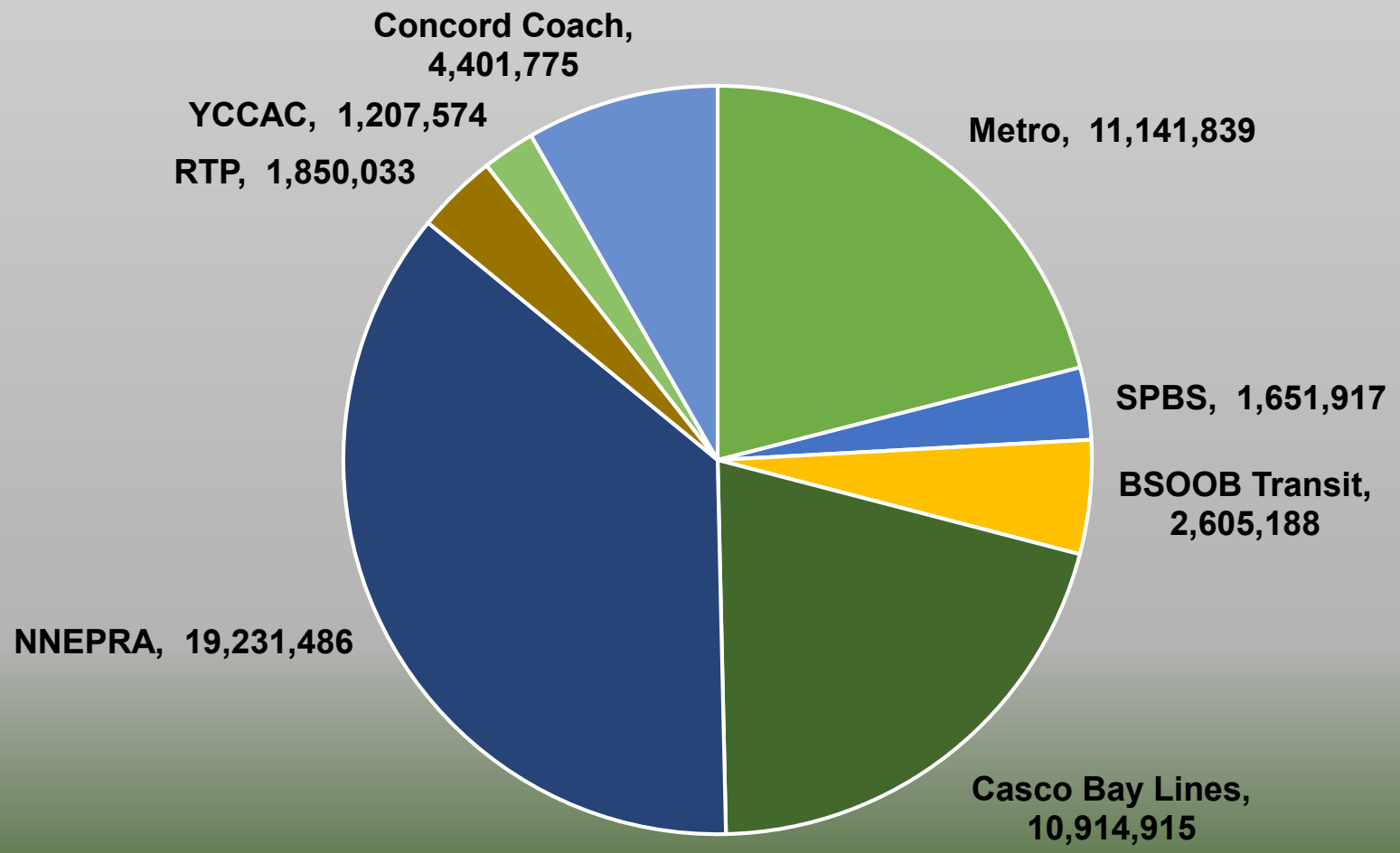
BSOOB Transit requests \$250,000 for FY23



Ridership History



CARES Funding: Feb'20-Apr'23



FY22-FY23 Activities

- Collective Bargaining Agreement
- Electric Buses
- Diesel Fuel & Utility Costs
- New Technology on Fleet
- Summer Trolley Season
- Ready Seafood
- Grants Opportunities
- And More...



ACCEPTANCE OF MINUTES

Accept the minutes for the Regular Meeting of Town Council held on Tuesday, March 15th, 2022 and Council Workshops held Tuesday, March 29th & Thursday, March 31st, 2022.

Motioned to Accept by: Vice- Chair Blow

Seconded by: Councilor Reid

Vote: 5-0

PUBLIC HEARING – BUSINESS LICENSE & APPROVALS:

Michelle & Wayne McClellan: Cascade Rivers, LLC, (206-27-5-12), 5 Sunset Drive #12, one year round rental.

Shawn Higgins: Twentyfive Birkdale Circle, LLC, (204-3-11), 25 Birkdale Circle, one year round rental.

Maureen VanUden & Christine St.Onge, (201-1-10-607), 215 East Grand Avenue #607, one year round rental.

Bernard Willimann: Ocean Park Place, LLC, (210-2-31), 8 Ocean Park Road, six seasonal rentals & ten year round rentals.

Chair Opened Public Hearing @ 7:07pm

Motioned to Approve by: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 5-0

Chair Closed Public Hearing @ 7:07pm

TABLED ITEMS:

#7642 Discussion with Action: Consider the extension pertaining to the use of the beach for business for the Brunswick and the Pier between May 30th, 2022 through September 5th, 2022, with the possibility of a study to allow the use of the beach and the enactment of appropriate ordinances for the Town to properly permit businesses on the beach.

Background:

This item was tabled at the March 15th, 2022 regular Council Meeting and brought to workshop on March 29th, 2022. Initially, this agenda item was to extend seating on the beach for the Brunswick and The Pier for this summer from Memorial Day to Labor Day similar to what was allowed the past two summers in response to the COVID State of Emergency enacted by the Governor, and the Town's Emergency Declaration dated March 2020 allowing outdoor seating and service. Council may consider the possibility of a study to allow the use of the public beach and direct staff to develop appropriate ordinances to properly permit business on the beach.

As a result of the workshop, Town Manager was charged with conferring with Town Attorneys to determine if legal to allow businesses to serve & for the consumption of alcohol on the beach, and if the beach could be opened for private business to lease.

Moreover, on March 31st, 2022 the Town rescinded the Emergency Declaration and Order that was issued on June 3, 2020.

Discussion:

Chair O'Neill granted permission for Paul Golzbein (owner of The Pier, Inc.) to speak on behalf of the tabled item.

Paul Golzbein identified the key points from the workshop previously held on this topic. He acknowledged the key word of "family" and confirmed that the extension of beach use was not a "drinking fest" and that 80% of sales was on food. He also noted that the extension would take up 1% of the beach. He went on to list opportunities that the beach business extension would allow and offered guidance to make it user friendly:

- 1.) Bringing in families
- 2.) Referenced that other towns were doing it

- 3.) Referred that Old Orchard was a “business friendly Town” and that this was an olive branch from the Town to businesses
- 4.) New money (good to tourism, good for business)
- 5.) Raise taxes
- 6.) Amend the ordinance to allow drinking in particular areas
- 7.) Put conditions on beach permits
- 8.) The Pier provided accessibility down to The Beach for wheelchairs and carriages

Mr. Golzbein stated that the Council has the power and opportunity to let item happen and that the amendment could be done in 6-10 weeks. He left the podium, stating: “Let’s not kill a good thing guys.”

Police Chief Dana Kelley stated he was approaching this issue from a different perspective. He noted problems with disorderly conduct and enforcement problems with drinking on the beach currently. Chief Kelley was confident that this would add to the problem.

Chair O’Neill stated that he did not support the item and did not want it to play out. He respected the wishes of both entities (business vs. Town). He noted that if Council wanted to workshop this item he would be ok with that.

Billy Marshall, Owner of The Whaler; questioned why was it only two businesses. He followed up by questioning whether Council asked other businesses in Town and reiterated, “why just two?” Mr. Marshall stated that the item did not make sense and was not fair. He noted the suggestion of a study and charged Council with doing the study *first* and not just grant extensions because it was granted during COVID. Mr. Marshall went on to state that the Town spends money to prevent drinking on the Beach (a noted contradiction with this agenda item). He also questioned liability, “who is responsible if something goes wrong?”

Chair O’Neill noted that it is within the Town’s purview to create an ordinance to move forward if agreed upon.

Billy Marshall strongly encouraged a workshop and stated that the item was put on the agenda with little notice. He encouraged a series of meetings. He finished his commentary by noting that the item deserved a comprehensive study.

The explanation as to why only two businesses on this agenda item was offered by Councilor Tousignant who explained that during COVID two businesses had reached out regarding their concerns and the need of help from the Town. Councilor Tousignant noted that a lot of change was occurring in Old Orchard Beach that was not well received. He continued by stating that this item was not about two businesses and that he was confident that there were plenty of businesses that may want to lease space along the Beach. Councilor Tousignant offered special note that sidewalk businesses need to be dealt with, too. He stressed that it was very difficult to be a Town Councilor during these times.

George Kerr, 206 E. Grand Ave: spoke to what a great community the Town had in itself. He made note that there was already a sidewalk business ordinance in place and cautioned Council to not mix the two issues. Mr. Kerr questioned Council regarding public restrooms and beach cleaning. If this agenda item were to pass, these were two very large issues that would need to be addressed. He noted that the topic was a complicated one and that time to process, digest, and think things through was imperative.

Vice-Chair Blow noted that Council needed to address fee structure within the ordinance and sidewalk use.

Code Enforcement Director Jim Butler spoke to sidewalk café ordinance with standards and clear width for pedestrian traffic. The Town charges per square foot and must be put forth along the permit process.

Vice-Chair Blow stated that the issue was within private ways (i.e., parking lots) which doesn't fall under the sidewalk café permitting. He stated that fees for café permitting were low and would be addressed.

Motioned to remove without prejudice: Councilor Mead

Seconded by: Vice-Chair Blow w/discussion. Chair O'Neill stated that he was asking the Public to be patient. Council would keep the Public informed if a workshop was set. This item could come back before Council at some point later; but with the removal without prejudice, it does not need to return at next Council meeting.

Vote: 5-0

NEW BUSINESS:

Agenda Item #7643

Discussion with Action: Approve the services of Ted Berry Company for biannual wet well and tank cleaning in the amount of \$17,300.00, from account #20161-50342 Waste Pumping Expenses, with a balance of \$24,822.30.

Background:

The Wastewater Department budgets for the cleaning of wet wells and tanks at the facility and pump stations twice a year. The quote is normally for four (4) days of service. The OOBWW staff person in charge of this operation will be out for three months starting September 16th, 2022. It is beneficial to conduct the most critical cleanings prior to September 16th by using two days of labor from Ted Berry Company. Of note: not included in the quote are disposal costs for the material removed which are expected to be between \$8,000.00 to \$10,000.00.

Motioned to Approve by: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 5-0

Agenda Item #7644

Discussion with Action: Accept the quote from Electric Light Company for repair of the flashing beacon at the intersection of Union and West Grand Avenues in the amount of \$5,485.00, from account #20151-50506 Public Works Road Improvements, with a balance of \$29,898.49.

Background:

The flashing four way beacon at the intersection of Union and West Grand Avenues has been inoperable for many years. There have been many complaints from neighborhood residents who have requested that the light be repaired or replaced. This request will replace some of the components of the light and repair others. This is a busy intersection and the light repair will serve to make the intersection safer.

Motioned to Accept by: Vice-Chair Blow

Seconded by: Councilor Reid w/discussion from resident Gerome Beggart, 7 Gables Way. Mr. Beggart questioned if the Beacon was Town owned. Council confirmed in the affirmative.

Vote: 5-0

Agenda Item #7645

Discussion with Action: Adopt Town Council Policy 22-01 – Town Council Appointments.

Background:

The Code of Ordinances, Division 2 Administration, Section 2-231 through 2-235 outlines the Rules for Advisory Boards and Committees. In addition, some Boards/Committees have specific rules within the Town's ordinances that govern specific Boards (i.e., Ballpark Commission, Board of Assessment Review, Finance Committee, Planning Board, Recreation Board, and Zoning Board of Appeals); along with some rules being outlined in the Charter (i.e., Conservation Commission). In an effort to streamline the appointment process, by having a specific procedure to follow, the process ensures all Town Councilors are aware of Board/Committee applications and the applicants understand the selection process. By requiring a resume with each initial Board/Committee application, Council will be able to know the qualifications for the applicant for a specific position. As with any policy, the Town Council can vote to waive, vary or modify the process.

Motioned to Adopt by: Councilor Mead

Seconded by: Councilor Reid w/discussion from Gerome Beggart, 7 Gables Way. Mr. Beggart noted he was looking for copies of the appointments. Town Clerk Office to assist in that request.

Vote: 5-0

Agenda Item #7646

Discussion with Action: Amend Appendix A: Schedule of License, Permit and Application, to update the fee schedule for business license applications and renewal applications.

Background:

Appendix A: Schedule of Fees was last reviewed five years ago in 2017. For several months Staff have been working to ensure fees are up to date according to surrounding Cities/Towns and to defray the costs of delivering services and administering business license management.

Currently, the recommendation is to increase only two fees in the Schedule of Fees, these are to include:

- a.) The initial (new) business license application administrative fee, which is a one-time fee for new businesses, and is a flat fee of \$500 (a change from \$100).
- b.) The renewal business license administrative fee, which is \$250 (a change from \$25) annually for a business cycle (\$500 for two year license).

Over the next two months staff will be bringing forward additional changes to Schedule A for the Council's approval.

Discussion:

Councilor Mead would like for Council to consider a renewal administration fee. He noted to have no issue with \$500 for new business license application. The problem he noted in seeing with the increased renewal fee was that there were not as many steps involved.

Councilor Tousignant questioned \$250/year which was confirmed by Councilor Mead.

Town Manger Asanza clarified the initial fee was for the initial work in processing in a

business license. Renewal cycles were just as time consuming because they included inspections and that the same Departments that initially handled the application had to handle it again. Moreover, Town Manager stated renewals allow for a review of the business as originally licensed and confirm that it falls within scope of the initial application (it has been noted that renewal inspections have revealed businesses that have expanded beyond the scope from what they were initially licensed to operate).

Councilor Mead noted that he was worried in a large jump in fees. He continued by offering license category fees could be increased. He stated that if there were categories of businesses that required more work than revenue demands, then fees could be increased then.

Code Enforcement Director Jim Butler noted that the Code Office is in the right direction of administering business licenses correctly. Thru discovery his Department was trying to correct the intention of 2017 (i.e., personal property tax). He noted that there are costs with being proactive with inspections. CED Butler noted that the office was in a “good spot” and supported the \$500/\$250 fee proposal.

John Gallo, 22.5 Hillcrest Ave: brought to Council’s attention the example of renting the Ballpark. He questioned, “where is the inspection costs?” There is a license to rent with not inspection needed. He noted that the fees need to be separated in respect to different businesses.

Chair O’Neill stated that a business that has paid the initial fee and license category fee should not have to return to apply for a renewal fee. He stated that he wanted to incorporate two fees into one.

Germone Beggart, 7 Gables Way: noted that it would be advisable to bring in statistics from similar towns to illustrate the increase in fees.

Chair O’Neill reiterated that he was not in support of a renewal fee.

Councilor Mead motioned to amend, with the new motion to request renewal business license fees be a flat fee of \$250.

Chair O'Neill called for a second on Councilor Mead's motion three times. No second was offered. The amended motion failed.

Motioned to Amend Appendix A to update the fee schedule for business license applications and renewal applications by increasing new business administrative fees to \$500 and setting renewal administrative license fee to \$250/each year of a two year business cycle by: Vice Chair Blow

Seconded by: Councilor Tousignant wanted it noted that the fee increases were not enough and that Council needed to have forward thinking in costs.

Polled Vote: 4 yay, 1 nay (Councilor Mead)

Agenda Item #7647

Discussion with Action: Approve the Special Event Permit application for Sandra Lawson to have a bonfire on the beach for an event she is hosting on Saturday, June 4th, 2022 from 9 p.m. to 11 p.m. Insurance, listing the Town as additionally insured, to be provided to the Town Clerk's Office at least two weeks prior to the event.

Background:

Application on file in Town Clerk's Office

Motioned to Approve by: Councilor Tousignant

Seconded by: Councilor Reid

Vote: 5-0

Agenda Item #7648

Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their annual Car Show on Friday & Saturday, September 16th & 17th, 2022; Friday & Saturday, September 15th & 16th, 2023; and Friday & Saturday, September 13th & 14th, 2024. Set-up Friday at 9 a.m. Event Friday from noon to 8 p.m., closing Old Orchard Street and First Street (from Staples Street to Heath Street). On Saturday, request to use Memorial Park from 6 a.m. to 5 p.m. and a request to use the Milliken Street parking lot for registration of vehicles. Take down by 7 p.m. Request to close First Street (Staples Street to Heath Street). Request for a banner to be hung in the Gazebo in Memorial Park and in the Square two weeks prior to event. Tents/canopies with BBQ grills, fryers, or other cooking appliances should have a portable fire extinguisher available during operation. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided to the Town Clerk's Office at least two weeks prior to the event.

Background:

Application on file in Town Clerk's Office

Motioned to Approve by: Councilor Reid

Seconded by: Vice-Chair Blow

Vote: 5-0

Agenda Item #7649

Discussion with Action: Amend the Medical Marijuana Ordinance Dispensary Standards: Ch. 78, Art. I, Sec. 78-1, Medical Marijuana Registered Dispensary definition; Ch. 78, Art. VI, Secs. 78-803, 904 and 1135; Ch. 78, Art. VII, Sec. 78-1277?

Background:

This item was brought to Public Hearing on March 15th, 2022. During the Public Hearing it was suggested by Council that the item go through the workshop process. A workshop was held on March 31st, 2022. The workshop resulted in Council continuing the process of bringing the amendments forward to vote as written.

Amendments to the medical marijuana dispensaries and memo to Council for the regular meeting on March 15th and the workshop on March 31st are attached.

Discussion:

Chair O'Neill requested to Council to consider removal without prejudice in order to take another look.

Councilor Mead supported what was trying to be achieved with the moratorium in place. Options would be to extend the moratorium and include production.

Vice-Chair Blow stated he had no issues with a moratorium extension including production facility, and although he initially motioned for the item to move as written, he rescinded motion and requested Councilor Mead make the next motion.

Motioned to remove without prejudice by: Councilor Mead

Seconded by: Councilor Reid w/discussion. Councilor Tousignant noted that whatever the Council put into place the caregiver option was not enforceable by the Town. His suggestion was to scrap all of the work as it has become "impossible."

Vote: 5-0

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 March 15th, 2022 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, Section 78-1, Definitions; Section 78-803 Conditional Uses, 904, Prohibited uses, 1135 Prohibited uses, 1277 Medical Marijuana and Chapter 18, Businesses, Section 601, Definitions and Section 603, Medical Marijuana License, but deleting the crossed through language and adopting the underscored language as follows:

Chapter 78

Sec. 78-1. Definitions.

Medical marijuana registered dispensary (land use): 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.~~

Sec. 78-803. - Conditional uses. The planning board may authorize the following uses in the general business district 1 (GB-1) provided that the conditions of article VII of this chapter are met:

~~(7) Medical marijuana registered dispensary.~~

Sec. 78-904. – Prohibited uses. Prohibited uses in the industrial district (ID) are as follows:

~~(11) Medical marijuana registered dispensary.~~

Sec. 78-1135. – Prohibited uses. Prohibited uses in the historic overlay district (HO) are as follows:

~~(9) Medical marijuana registered dispensary.~~

Sec. 78-1277. Medical marijuana.

(a) *Approval process:* Any proposal to establish a new or alter ~~an existing medical marijuana registered dispensary~~ or a medical marijuana production facility shall require approval of the planning board as a conditional use. The planning board and applicant shall follow the application and review process (section 78-1238), standards (section 78-1240), authority (section 78-1266), and this section (section 78-1277) within article VII. Notification of site walks and public hearings shall include all property owners within 1,000 linear feet, measured in a straight line from the property boundary of the proposed ~~dispensary~~ or facility. Notification or property

owners shall be mailed at least ten days before the scheduled site walk and public hearing. Applicants shall be responsible for mailing notifications to property owners to the addresses identified on a mailing list provided by the town. In addition to other public notification requirements, the town shall notify the Old Orchard Beach Police Department and the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to the public hearing on any application.

(d) *Performance standards:* In addition to other requirements of this section and related provisions of article VII and other chapters within the Town of Old Orchard Beach Code of Ordinances, the following shall apply to any application for a new or altered ~~medical marijuana registered dispensary~~ or a medical marijuana production facility:

~~(1) Medical marijuana registered dispensary limit.~~ There shall be no more than one ~~medical marijuana registered dispensary in the Town of Old Orchard Beach.~~

~~(2)~~ 1 *Medical marijuana production facility limit.* There shall be no more than four medical marijuana caregivers allowed to operate within a single medical marijuana production facility.

~~(3)~~ 2 *Proximity limit.* Only one ~~medical marijuana registered dispensary~~ or medical marijuana production facility shall be permitted per lot. Additionally, no medical marijuana production facility shall be located on a lot that is within 250 feet of another lot on which a medical marijuana production facility ~~or medical marijuana registered dispensary~~ is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

~~(4)~~ 3 *Proximity location to other uses.* No ~~medical marijuana registered dispensary~~ or ~~medical marijuana production facility~~ shall be closer than 500 linear feet, measured in a straight line from ~~the dispensary~~ or a facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, town park, town playground or church.

~~(5)~~ 4 *Security.* Before granting an approval, the planning board shall ensure the applicant has reviewed their property and building security plans with the Old Orchard Beach Police Department and the police department finds the security measures are consistent with state requirements.

~~(6)~~ 5 *Outside appearance.* No signs containing the word "marijuana," or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a ~~medical marijuana registered dispensary~~ or a medical marijuana production facility. Interior advertisements, displays of merchandise or signs depicting the activities of a ~~medical marijuana registered dispensary~~ or a medical marijuana production facility shall be screened to prevent public viewing from outside such facility.

~~(7)~~ 6 *Odorous air contaminants.* It shall be an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants from any source so as to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of property. Upon the following occurrence, any odor will be deemed to interfere with reasonable and comfortable use and enjoyment of property:

(i) If odorous air contaminants are detected when one volume of the odorous air has been diluted with seven or more volumes of odor-free air, as measured by any instrument, device, or method designed to be used in the determination of the intensity of an odor. Measurement shall be taken at property boundary lines.

(87) *Business license.* As a condition of use, the operator of a ~~medical marijuana registered dispensary~~ or a medical marijuana production facility shall obtain and retain all required business licenses pursuant to chapter 18 - businesses. The land use approval shall be considered abandoned if no license-holder occupies the facility for a period of two years or more.

CHAPTER 18

~~ARTICLE XI. MEDICAL MARIJUANA REGISTERED DISPENSARY OR MEDICAL MARIJUANA PRODUCTION FACILITY~~

Sec. 18-601. Definitions.

Medical marijuana registered dispensary (land use): 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.~~

Sec. 18-603. Medical marijuana license.

This license shall be required for a ~~medical marijuana registered dispensary~~ or medical marijuana production facility. The following shall apply:

Per Order of the Municipal Officers this 1st of March, 2022.

A True Copy
Attest:

s/Kim McLaughlin
Kim M. McLaughlin, Town Clerk

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Jennifer Hayes, Executive Assistant**

FROM: Planning Staff

SUBJECT: Medical Marijuana Registered Dispensary Ordinance Amendments

DATE: 15 March 2022

The Council is scheduled to hold a public hearing on 15 March. Proposed language in the amendments has not changed since the Council last reviewed the amendments on 1 March.

Background (1 March 2022)

During December, the Council enacted a moratorium to address the regulation of medical marijuana registered dispensaries. The reason for the moratorium is due to recent changes to State laws regulating medical marijuana dispensaries and the potential impacts the use could create as a result of these new laws. Also, the Town recently enacted adult use marijuana ordinance which allow retail stores in the same zoning district that currently allows dispensaries.

Regarding the law changes, until recently, dispensaries were required to be nonprofit entities and only one dispensary was allowed in each Maine Department of Health and Human Services Public Health District (total 8 allowed in entire state). Dispensaries now can be operated by for-profit entities and, in addition to the 8 dispensary registration certificates issued, the State can now issue another 6 dispensary registration certificates. Also, dispensaries now can grow an unlimited number of marijuana plants.

Currently, the Town regulates dispensaries through application of business license (Ch. 18) and conditional use (Ch. 78) standards. Dispensaries are allowed in the GB-1 zoning district. Conditional use review is required.

In regards to the proposed amendments, we are proposing to remove medical marijuana registered dispensary as an allowed use. To do this, we are changing one Ch. 18 article, three Ch. 78 articles, and a fee in Appendix A:

- Ch. 18, Art. XI: This amendment includes removing references to medical marijuana registered dispensary and removes the sentence “This shall be considered a commercial use” in the medical marijuana registered dispensary definition. The reason for removal of “This shall be considered a commercial use” is we don’t want a potential loop hole where people could argue the use is actually a commercial use because that’s what it states in the definition. You may be wondering why we did not remove the entire definition. The reason we decided to leave the definition is due to the Omitted Use (78-148) standard which states, in part: “Any use not specifically allowed as either a permitted use or a conditional use is specifically prohibited.” By leaving the definition the ordinance acknowledges the existence of the use and by not identifying it as a permitted or conditional use in any zoning district, it will be specifically prohibited by application of the Omitted Use standard.
- Ch. 78, Art. I: This amendment removes the sentence “This shall be considered a commercial use” in the medical marijuana registered dispensary definition (see reasoning above).
- Ch. 78, Art. VI, Secs. 78-803, 904, 1135: This amendment is proposing to remove medical marijuana registered dispensary as a conditional use in the GB-1 district and as a prohibited use in the ID and HO (Historic Overlay) districts. By removing the use as well as with application of the Omitted Use standard, medical marijuana registered dispensaries will no longer be a use allowed in OOB.
- Ch. 78, Art. VII, Sec. 78-1277: This amendment proposed to remove all references of medical marijuana registered dispensary from the conditional use ordinance.
- Appendix A: This amendment removes medical marijuana registered dispensary and associated fee from the license fee schedule.

By removing medical marijuana registered dispensaries as an allowed use and the references in the conditional use ordinance, this will not allow the use to exist anywhere in OOB. We feel this is the most effective way to address the moratorium’s concerns.

The Planning Board voted unanimously that Council approve the Ch. 78 ordinance amendments as drafted. The Board did not consider Ch. 18 and Appendix A amendments because they do not fall under the Boards jurisdiction.

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Jennifer Hayes, Executive Assistant**

FROM: Planning Staff

SUBJECT: Medical Marijuana Registered Dispensary Workshop

DATE: 31 March 2022

During 2018 Maine's medical marijuana rules were changed. These rule changes included making medical marijuana more widely available and increasing local control of medical marijuana businesses. One way medical marijuana became more widely available was through changes to the medical marijuana dispensary rules. Until recently, dispensaries were required to be nonprofit entities and only one dispensary was allowed in each Maine Department of Health and Human Services Public Health District (total 8 allowed in entire state). Dispensaries now can be operated by for-profit entities, grow an unlimited number of marijuana plants, and in addition to the 8 dispensary registration certificates issued, the State can now issue another 6 dispensary registration certificates. Regarding increasing local control, the rule changes allow municipalities to decide whether they want to allow (i.e., "opt in") or prohibit certain medical marijuana uses. Also, municipalities have more regulatory jurisdiction over caregiver operations.

In response to concerns about potential impacts associated with the medical marijuana registered dispensary use, the Council enacted a moratorium to prohibit the establishment of this use until the Town amended ordinances to address concerns. Staff developed ordinance amendments that prohibited the medical marijuana registered dispensary from being established anywhere in Town. These amendments were recommended for approval by the Planning Board.

During Council consideration of the amendments, it was decided to hold a workshop to allow more Council discussion before a final vote and moratorium expiration (which is 7 June). To prepare Council for this discussion we developed six options:

1. Adopt ordinances as currently proposed before moratorium expires (7 June).

- This option would enact ordinances with no changes to the proposed new language (the language currently presented to Council).

2. Continue work on amendments as they relate to medical marijuana dispensaries only and renew current moratorium if work not complete by 7 June.

- This option would allow the Council to consider additional amendments to the medical marijuana registered dispensary related language only. An example of an additional amendment is to allow the dispensary use within another zoning district.
- If work is not complete by 7 June, the Council has the option to renew the moratorium and resume work on medical marijuana dispensary related ordinances.
- This option does not allow work on amendments to medical marijuana ordinance language that is not directly associated with dispensaries. For example, additional regulation for caregivers would not be considered.

3. Continue work on medical marijuana dispensaries amendments under the current moratorium and concurrently work on other medical marijuana ordinance changes with this work not under a moratorium

- This option allows the Town to continue review of medical marijuana dispensaries ordinance amendments and consider changing or adding new language to any of the medical marijuana ordinances.
- Medical marijuana dispensaries will remain under a moratorium until 7 June.

- In addition to work on dispensary related language, the Town can work on other medical marijuana ordinance changes but these changes will not be under a moratorium. For example, additional regulation for caregivers could be considered.
- If the Council choose this option, the other medical marijuana ordinance changes must be identified so staff knows what to work on.

4. Repeal or modify current moratorium and adopt new moratorium that broadens review to include all medical marijuana ordinances.

- This option means the current moratorium will be replaced with a new moratorium that allows work on medical marijuana dispensary amendments as well as other medical marijuana ordinance language.
- If the Council choose this option, the other medical marijuana ordinance changes must be identified so we can develop new moratorium language and staff knows what to work on.

5. Let current moratorium expire and continue work on medical marijuana ordinance amendments without a moratorium in place

- This option allows the Town to continue work on any change to the medical marijuana ordinances after 7 June but without the protection a moratorium offers.

6. Let current moratorium expire with no changes to medical marijuana ordinances.

- This option will result in no changes to the medical marijuana ordinances and the moratorium will just expire with no further Council or staff action.

It's important to remember the current moratorium is specific to medical marijuana registered dispensaries. If the Council wants to consider changes to other medical marijuana ordinance standards we will need to change the current moratorium language or we can continue without a moratorium in place.

Options 2 – 5 will require additional work, including Planning Board review, which means the amendments will likely not be ready before 7 June.

One final note, the Council questioned the purchase cost difference between medical marijuana and adult use marijuana. If we think of costs for an average customer, it appears medical marijuana is cheaper both pre-state tax and including state tax. For example, an 1/8 ounce of medical marijuana cost \$35.00 and it's equivalent adult use cost \$45.00. Medical marijuana retail tax is 5.5% (8% for edibles). Adult use retail tax is 10%.

Agenda Item 7650

Discussion with Action: Approve the purchase of four (4) 5' x 50' beach mats from Deschamps Mats System, Incorporated in the amount of \$10,064.36, from account #20151-50511 Public Works Grounds Maintenance, with a balance of \$13,001.20.

Background:

This is to continue to replace boardwalks at the beach entrances with a high-quality ADA beach access matting system. This mat will increase the accessibility for people with disabilities, mobility impairments and the elderly population. We started this effort last year, which has proven to be a much safer means for beach access while requiring little or no maintenance to the mats. We have received many positive comments on the changeover.

Motioned to Approve by: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 5-0

Motioned to Adjourn Regular Meeting of the Town Council by:Councilor
Tousignant

Seconded by: Vice-Chair Blow

Vote: 5-0

ADJOURNMENT @ 8:24pm

BUDGET WORKSHOP – *Recreation Department, Ballpark, & CIP*