



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



Cover Sheet
Needed

Town Council Meeting Minutes

Regular Meeting

Tuesday, August 16th, 2022 @ 6:30pm
Council Chambers - 1 Portland Avenue

www.oobmaine.com/town-council*

PLEDGE OF ALLEGIANCE

ROLL CALL

Shawn O'Neill, Chair
Kenny Blow, Vice-Chair
V. Louise Reid, Councilor

Mike Tousignant, Councilor
Diana Asanza, Town Manager
Jen Hayes, Town Council Secretary

**record reflected an excused absence of Councilor Mead*

ACKNOWLEDGEMENTS

Passing of Richard Payette (former owner of The Landmark) as noted by Chair O'Neill, "Do not mourn his loss, but raise a glass in his honor."

GOOD & WELFARE

Area resident Kerri McNulty came to address Council stating it was a matter of public safety concerning a business license on the agenda. She referenced that she was a survivor of physical/mental assault from business owner, Keith O'Leary - owner of O'Leary's Pub. She noted that he trafficked her and that he was convicted on several charges; several for being violent. She had two voice recordings that she requested to play. Chair O'Neill requested that she not play them. He did commend her for her courage in speaking out re: the business owner and that issues re: the business could/would be addressed within the format of an administrative review board.

PRESENTATION

Appointment of Dale Stout to the Position of Firefighter Paramedic *Presenter: Frederick LaMontagne, Old Orchard Beach Fire Chief*

ACCEPTANCE OF MINUTES

Accept the meeting minutes from the Regular Meeting of Town Council on Tuesday, August 2nd, 2022 and Town Council Workshops held on Thursday, July 28th & Thursday, August 4th, 2022.

Motioned to Accept by: Vice-Chair Blow **Seconded by:** Councilor Reid **Vote:** 4-0

PUBLIC HEARING – BUSINESS LICENSE & APPROVALS:

Armel Romeo Kouassi: The Praedium, LLC, (105A-1-A-25), 11 Lacosta Drive, one year round rental.

David Douglass/Virginie Stanley: 21 Summit, LLC, (206-28-5), 27 Summit Street, one year round rental **and** Summit Shore Cottages, LLC, (206-28-7), 37 Summit Street #3, one year round rental *
**note: adding unit #3, other units are already licensed*

Kevin Thurlow: 160 East Grand, LLC, (302-7-3), 160 East Grand Avenue, five year round rentals.

Matthew Welch: 6 Brookwest Lane, LLC, (315-3-3), 17 Hillside Avenue, two year round rentals.

Chair Opened the Public Hearing @ 6:37pm

Motioned to Approve by: Councilor Tousignant

Seconded by: Councilor Reid

Vote: 4-0

Chair Closed the Public Hearing @ 6:38pm

PUBLIC HEARING – SPECIAL AMUSEMENT PERMITS & APPROVALS:

William Marshall: The Whaler, Inc., (206-31-17), 20 Staples Street, acoustic inside music 8pm to midnight.

David Cluff: Duffy's Tavern & Grill OOB, Inc., (208-1-6), 168 Saco Avenue, inside DJ or band for events 12pm to midnight.

Bryan Gale: Jumpin' Jakes, LLC, (208-3-3), 181 Saco Avenue, inside & outside acoustic or plug in music 12pm to 10pm.

Keith O'Leary: Pun Saloon, LLC d/b/a O'Leary's Public House, (206-31-9-A), 41 Old Orchard Street, inside & outside music 7pm thru midnight.

Robert & Kelly Greenlaw: GFB Scottish Pub, LLC, (205-3-1-B), 32 Old Orchard Street, amplified music/DJ & Karaoke, 12pm to 12am.

**Note: this item is to align with the liquor license renewal that will expire 08.19.22. Council approved this item on 06.07.2022.*

Chair Opened the Public Hearing @ 6:39pm

Discussion:

Chair asked if Council would like to handle any of the special amusement permits separately. Council did not request any separated out. Chair O'Neill explained the process of business licensing. O'Leary's currently has an active business license that was approved in April, 2022. There is a process of Administrative Review Board in which the Council can bring the business forward if the business is operating in violation of a consent agreement or Town Ordinance. The Liquor License is State issued and cannot be revoked by the Town. Ms. Krista Antoine spoke to Council and requested that Kerri McNaulty's commentary "shut down." Chair O'Neill stated he wanted to make sure that he had the opportunity to explain the process of licensing through the Town.

Motioned to Approve: Vice-Chair Blow

Seconded by: Councilor Tousignant

Vote: 4-0

Chair Closed the Public Hearing @ 6:44pm

TOWN MANAGER REPORT

NEW BUSINESS:

AGENDA ITEM #7741

Discussion with Action: Approve the liquor license renewals for the following businesses:

Kelly & Robert Greenlaw: GFB Scottish Pub, LLC, (205-3-1), 32 Old Orchard Street, m-s-v in a restaurant/lounge.

William Day (applicant): VFW Memorial Post 7997, (312-14-2-X), 76 Atlantic Avenue, m-s-v in a Club.

William Marshall: The Whaler, Inc., (206-31-17), 20 Staples Street, m-s-v in a Class A Lounge.

David Cluff: Duffy's Tavern & Grill OOB, Inc., (208-1-6), 168 Saco Avenue, m-s-v in a restaurant.

Bryan Gale: Jumpin' Jakes, LLC, (208-3-3), 181 Saco Avenue, m-s-v in a restaurant.

Keith O'Leary: Pun Saloon, LLC d/b/a O'Leary's Public House, (206-31-9-A), 41 Old Orchard Street, m-s-v in a restaurant.

Motioned to Approve by: Councilor Reid

Seconded by: Councilor Tousignant w/discussion. Councilor Tousignant acknowledged the women who spoke at the meeting and brought to light new information regarding O'Leary's. He noted that there was a process that needed to be followed by Council. He confirmed that he "heard what the ladies said."

Vote: 4-0

AGENDA ITEM #7742

Discussion with Action: Approve the quote from ENS for the replacement of the DC01 server including licensing in the amount of \$9,879.74 from account # 51002-50923 Town Hall IT network/Firewall Upgrade with a balance of \$36,326.85.

Background:

This item is part of the IT upgrades approved by Council in the FY'23 Budget.

(quote attached)

Motioned to Approve by: Vice-Chair Blow

Seconded by: Councilor Reid w/discussion. Councilor Tousignant questioned if the price included licensing? Town Manager Asanza stated that there are several licenses that come into play. This item was a critical item brought to attention during FY'23. She noted that, "this was a one time shot for this firewall upgrade." There will be yearly monitoring at approximately 100K, which has been budgeted.

Vote: 4-0



OUTSOURCED IT SERVICES
FOR SMALL AND MID-SIZED BUSINESSES



We have prepared a quote for you

Project: Server Refresh DC01

Quote # 000878

Version 1

Prepared for:

Old Orchard Beach

Jordan Miles

jmiles@oobmaine.com



Server Hardware

Description	Price	Qty	Ext. Price
210-AQUB PowerEdge R340 Tailor Made Instant Savings: PowerEdge R340 PowerEdge R340 Server Motherboard: PowerEdge R340 MLK Motherboard (329-BEQV) Chassis Configuration: 3.5" Chassis with up to 4 Hot Plug Hard Drives and Software RAID (321-BDUZ) Processor: Intel REG Xeon REG E-2226G 3.4GHz, 12M cache, 6C/6T, turbo (80W) (338-BUIQ) Memory DIMM Type and Speed: 3200MT/s UDIMM (370-AGNY) Memory Capacity: 16GB UDIMM, 3200MT/s, ECC RAID Configuration: C22, RAID 1 for S140 Embedded SATA (2 SATA HDDs or SATA SSDs) (780-BCHJ) RAID/Internal Storage Controllers: S140 for Software RAID (780-BCGX) Hard Drives: (2) 480GB SSD SATA Read Intensive 6Gbps 512 2.5in Hot-plug AG Drive, 3.5in HYB CARR, 1 DWPD, (400-AXRJ) Embedded Systems Management: iDrac9, Express (385-BBLC) Password: iDRAC, Factory Generated Password (379-BCRG) PCIe Riser: PCIe Riser with Fan with up to 1 FH/HL, x8 PCIe + 1 LP, x4 PCIe Gen3 Slots (330-BBMH) Additional Network Cards: On-Board Broadcom 5720 Dual Port 1Gb LOM (542-BBBP) Internal Optical Drive: No Internal Optical Drive (429-ABBF) Power Supply: Dual, Hot-plug, Redundant Power Supply, 350W (450-AEUV) Power Cords: (2) NEMA 5-15P to C13 Wall Plug, 125 Volt, 15 AMP, 10 Feet (3m), Power Cord, North America (450-AALV) Dell Services: Hardware Support: Basic Next Business Day 12 Months, 12 Month(s) (709-BBFB) Dell Services: Extended Service: Basic Next Business Day, 24 Month(s) (865-BBLH)	\$2,678.39	1	\$2,678.39

Subtotal: **\$2,678.39**

Licenses

Description	Price	Qty	Ext. Price
WINDOWS SERVER 2022 Standard- Good for 10 years "WINDOWS SERVER 2022 STANDARD VLIC 16 CORE LICENSE PACK, Good for 10 years. Product stocked by manufacturer. Delivery times vary."	\$1,069.00	1	\$1,069.00



Licenses

Description	Price	Qty	Ext. Price
WINDOWS SERVER 2022 Standard, 1 USER CAL, Good for 10 Years.	\$46.00	130	\$5,980.00
WINDOWS SERVER 2022 CLIENT VLIC ACCESS LICENCE 1 USER CAL, Good for 10 Years.			
Subtotal:			\$7,049.00

Labor

Description	Qty
We will not charge Labor to implement the new DC01 Server as we estimate it will take around 5 hours to complete.	

Project: Server Refresh DC01



Prepared by:
Eagle Network Solutions
 Amy Jacob
 603-466-7477
 Fax 603-585-5668
 ajacob@eaglemsp.com

Prepared for:
Old Orchard Beach
 1 Portland Avenue
 Old Orchard Beach, ME 04064
 Jordan Miles
 (207) 937-5622
 jmiles@oobmaine.com

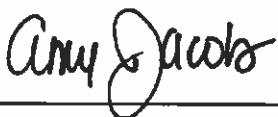
Quote Information:
Quote #: 000878
 Version: 1
 Delivery Date: 08/02/2022
 Expiration Date: 08/26/2022

Quote Summary

Description	Amount
Server Hardware	\$2,678.39
Licenses	\$7,049.00
	Subtotal: \$9,727.39
	Shipping: \$152.35
	Total: \$9,879.74

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel orders arising from pricing or other errors. This quote is subject to the terms and conditions of the Eagle Network Solutions Master Service Agreement located at <http://www.eaglenetsolutions.com/MSA%2004%202020.pdf>.

Eagle Network Solutions

Signature: 
 Name: Amy Jacob
 Title: Director of Operations
 Date: 08/02/2022

Old Orchard Beach

Signature: _____
 Name: Jordan Miles
 Date: _____

AGENDA ITEM #7743

Discussion with Action: Approve the quote from Deschamps Mat Systems, Inc. for four (4) roll-out beach mats to replace four (4) boardwalks in the amount of \$28,509.51 from account # 20151-50511 Public Works Ground Maintenance/Improvements Expense, with a balance of \$90,587.65.

Background:

The Mat Systems purchased are part of the Public Works planned beach boardwalk upgrade. The beachheads receiving the upgrades will include Randall, Weymouth, Winona and Atlantic Avenues.

(quote attached)

Motioned to Approve by: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 4-0

Deschamps Mats Systems, Inc.

218 Little Falls Rd, #12
Cedar Grove, NJ 07009

Quote

Date	Quote #
7/19/2022	E7405

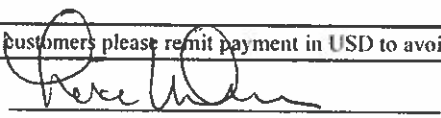
Customer	Ship To
Old Orchard Beach 1 Portland Avenue, Old Orchard Beach, ME 04064	

Terms	Rep	FOB	Quotation valid until
Net 30	SCB	New-Jersey	09/30/2022

Item	Description	Qty	Cost	Total
300259-3040	Mobi-mat (RecPath) AFX blue jay 5' x 100' 2h 20" staples + spikes	5	4,089.00	20,445.00
300257-1520	Mobi-mat (RecPath) AFX blue jay 5' x 50' 2h 20" staples + spikes	3	2,219.00	6,657.00
DELIVERY NT	Boxing/crating, Shipping, Handling, Delivery		1,407.51	1,407.51

Freight Quote is an estimate only and may be subject to change at time of shipment	Subtotal	\$28,509.51
If authorized by your terms of sales or approved by your representative your signature below will act as consent to proceed with this order as quoted and will become a binding agreement to purchase. Credit Card Payments will be assessed a 3.5% fee.	Sales Tax (0.0%)	\$0.00
	Total	\$28,509.51
Currency Shown in U.S. Dollar - Foreign customers please remit payment in USD to avoid re-invoicing of any exchange rate loss or fees.		

Signature



AGENDA ITEM #7744

Discussion with Action: Accept the proposal from ChaseEX for stormwater sinkhole repair work along Brown Street in the amount of \$46,942.44 from account #50002-50831 Stormwater Maintenance/Improvements CIP, with a balance of \$1,073,751.20, and sewer sink hole repair work along Shorewood Drive in the amount of \$20,213.00 from account #50002-50508 Sewer Maintenance/Improvements CIP, with a balance of \$1,095,454.94. Total project amount \$67,155.44.

Background:

This proposal is to repair a sinkhole on Brown Street and a sinkhole on Sherwood Drive. The sinkhole on Sherwood Drive is sewer related and the sinkhole on Brown Street is storm water related. Both have existed for some time and need to be addressed. Both are extremely deep and beyond the capabilities of OOBPW. Three companies were contacted and only Chase EX submitted a price. Both Woods Excavating and Shaw brothers declined the job.

(quote attached)

Motioned to Accept by: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 4-0



CHASE EX

56 Gray Road
Falmouth, Me. 04105

DATE: 07/15/2022

Proposal

Job Name:	OOB Sinkhole Repair
Job Location:	Old Orchard Beach, ME
Date of Plans / Page #	Site visit w/ Town on 07/13/2022

Chase Ex is pleased to provide the Town of Old Orchard Beach with this proposal for sinkhole repairs on Brown Street and Sherwood Drive in Old Orchard Beach, ME.
 Thank you for giving us the opportunity to work with you on this project:
 Please see page two for a scope of work.
 Please see page three for exclusions.

We propose hereby to furnish material and labor, complete in accordance with the above specifications for the sum of:

\$67,155.44
Sixty-Seven Thousand One Hundred Cents

Add Alternate #1: Sherwood Drive Test Pit (see "Additional Items" on Page 2)

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate.

Authorized Signature Colton Bernier

This Proposal is Valid for 30 Days

Acceptance of Proposal

The above prices, specifications, and Conditions are satisfactory and are hereby Accepted. You are authorized to do the Work specified.

Signature Melissa / G
 Signature _____
 Date of Acceptance 8/17/2022



CHASE EX

Scope of Work:

General:

- Dig Safe work area
- Mobilize crew and equipment as needed
- Supply/Install/Maintain proper Erosion & Sedimentation Control Measures
- Supply/Install/Maintain proper Traffic Control Measures

Demo:

- Sawcut/Remove/Haul existing pavement

Utilities:

- Sewer
 - Sherwood Drive
 - Excavate sinkhole
 - Verify extents of broken pipe
 - Supply/Install up to 13 LF of 8" SDR-35 PVC Sewer Main
 - Supply/Install 2 EA 8" PVC x ACP Fernco Couplings
- Storm Drain
 - Brown Street
 - Excavate sinkhole
 - Verify extents of broken pipe
 - Supply/Install up to 13 LF of 18" SDR-35 PVC Storm Drain
 - Supply/Install 2 EA 18" PVC x ACP Fernco Couplings
 - Repair adjacent sewer mains with SDR-35 PVC pipe and fittings as needed to achieve storm drain repair
 - Includes a maximum of 26 LF of pipe and 4 EA fernco couplings

Sitework:

- Sherwood Drive Pavement Section
 - Supply/Place/Compact 15" of MaineDOT Type "D" Subbase Course Gravel
 - Supply/Place/Compact 3" of MaineDOT Type "A" Base Course Gravel
 - Supply/Place/Compact 2" of 19.00mm HMA Binder Course Pavement
 - Supply/Place/Compact 1 ½" of 12.50mm HMA Surface Course Pavement
- Brown Street Pavement Section
 - Supply/Place/Compact 18" of MaineDOT Type "D" Subbase Course Gravel
 - Supply/Place/Compact 3" of MaineDOT Type "A" Base Course Gravel
 - Supply/Place/Compact 2" of 19.00mm HMA Binder Course Pavement
 - Supply/Place/Compact 1 ½" of 12.50mm HMA Surface Course Pavement

Additional Items:

- Add Alternate #1: Sherwood Drive Test Pit – *Time & Material*
 - Chase EX proposes the additional test pit in the vicinity of Sherwood Drive be measured and paid for on a time & material basis
 - Sawcut/Remove/Haul existing pavement
 - Excavate sinkhole
 - Report pipe size, material, and depth back to Town of Old Orchard Beach
 - One remobilization is included



CHASE EX

Exclusions:

- Performance and payment bond costs are not included
- Federal, State, and local permits and fees are not included
- Handling of contaminated/hazardous/special waste soils and materials is not included
- Disposal of contaminated/hazardous/special waste soils and materials is not included
- Geotechnical or environmental engineering and or testing is not included
- Blasting/mechanical removal and handling of ledge or boulders is not included
- Street opening or restoration fees are not included
- Licensed surveyor for layout is not included
- Construction layout is included for Chase EX work only
- Winter conditions costs are not included
- Cast in place concrete is not included
- Furnishing and installing rigid insulation (vertical and horizontal) is not included
- Landscaping is not included
- Hardscaping is not included
- Irrigation is not included
- Maintenance mowing of lawns is not included
- Any work requiring licensed electricians is not included
- Any work requiring licensed plumbers is not included
- Removal of overhead utilities is not included
- Shoring is not included
- Removal/Replacement of unsuitable soils is not included

AGENDA ITEM #7745

Discussion with Action: Authorize the Town Manager to enter into an amended consent agreement between the Town of Old Orchard Beach and the Harrisburg Group, LLC granting a revocable license to continue locating the structures and equipment owned by Harrisburg Group, LLC on the Town's property (Map 307, Block 3, Lot 4).

Background:

Amended consent agreement attached.

Chair O'Neill requested that Town Manager speak to the topic. Town Manager Asanza summarized that this item was workshopped and an increase in annual fee charged and limited structures to the updated surveyed area were agreed upon. In terms of fee structure, first year (FY'23) would be \$1,000 with a \$1,000 dollar increase moving forward. In 2024 there would be an annual increase every year moving forward.

Motioned to Authorize by: Vice-Chair Blow

Seconded by: Councilor Tousignant

Vote: 4-0

CONSENT AGREEMENT

AGREEMENT made this ____ day of _____ 2022, by and between the **Town of Old Orchard Beach** (the “Town”) and the **Harrisburg Group, LLC** (“Harrisburg”) as follows:

1. Harrisburg is the owner of commercial property located at 13 Old Orchard Street in Old Orchard Beach, Maine (Tax Map 307, Block 3, Lot 4) being further described in the deed recorded in the York County Registry of Deeds in Book 16020, Page 522. (“Harrisburg Property”).
2. The Town is the owner of property abutting the Harrisburg Property and described in deeds from the Boston and Maine Railroad dated April 8, 1948 recorded in the York County Registry of Deeds in Book 1095, Page 350 and dated November 26, 1991 and recorded in Book 5902, Page 36 (the “Town Property”).
3. According to a survey by Dow & Coulombe, Inc. revised on August 30, 2021 attached hereto as Exhibit A (the “Survey”) equipment will be allowed which encroach upon Town property and belonging to Harrisburg and/or its tenants will be allowed accordingly:
 - Two Rubbermaid tall sheds on wooden platform
 - Two propane tanks with underground line leads to building on north east side of property
 - Two smaller refrigerator units and HVAC unit on a wood platform on ground and canopy above refrigerators
 - 8’ x 8’ refrigerator unit on a 8’ x 8’ wood deck
 - Grease waste bins
 - AC Unit on pad on southwest side of property
 - Freezer Unit with canopy
 - Four propane tanks on southwest side of property
 - Trash cans will be located in “trash can area”
4. The parties wish to resolve issues regarding the alleged violations of the Code of Ordinances without the necessity of litigation and amend the previous Consent Agreement entered into by the parties on August 20, 2013.

NOW THEREFORE, the parties agree as follows:

1. The Town hereby grants Harrisburg a revocable license to continue locating the structures and equipment on the Town Property as shown on the Survey.

2. Harrisburg agrees that trash cans cannot be placed in front of the propane tanks and within 30 days of the date of this Agreement will be relocated no closer than 3 feet from the Rubbermaid tall storage container.
3. In exchange for the granting the of the license, Harrisburg agrees to pay the Town the sum of \$1,000 for year one, beginning July 1, 2022 through June 30, 2023, \$1,500 for year two, beginning July 1, 2023 through June 30, 2024, and \$2,000 for year three, beginning July 1, 2024 through June 30, 2025, and subsequent years the amount will increase annually on July 1st by the annual CPI-U as of 12/31 of the preceding year or 5% whichever is higher.
4. Harrisburg agrees to maintain the property in a clean and orderly manner ensuring that there is a clear unobstructed path into the property free of debris, trash, and/or equipment not described under #3 (page 1) and Exhibit "A".
5. The Town will have the right to inspect the area at any time. If the property is not maintained in accordance with #4, Harrisburg Group LLC will have seven (7) days to correct any violation or be subject to penalties, as stated in #6, if not addressed.
6. Any violation of any provision in the agreement will be subject to penalties in the amount of \$100.00 if not corrected within seven (7) days, \$300 if not corrected after fourteen (14) days, and thereafter if the violation has not been addressed the license may be revoked according to the terms under # 7.
7. The license is revocable by the Town provided that written notice is sent to Harrisburg prior to May 1st of any succeeding year and given 45 days, but no later than June 30th to correct the breach. If the license is revoked by the Town, Harrisburg agrees to remove the structures and equipment from the Town Property by October 15th of the year when the license is revoked.
8. Harrisburg agrees that the use of the Town Property is limited to structures and equipment shown on the Survey and listed under #3, page 1, and at no time will this use interfere with the access to or operation of the Town's utility lines.
9. Any changes to the equipment or structures listed under #3, page 1, and according to Exhibit "A" (survey), requires Town Council's written approval.
10. Harrisburg agrees to indemnify and hold the Town harmless for any claim by the Boston and Maine Railroad, or its successors, arising from their use of the Town Property as described in this Agreement.

11. Harrisburg agrees to promptly enforce the terms of this amended consent agreement as necessary against its tenants.

SEEN AND AGREED:

TOWN OF OLD ORCHARD BEACH

By its Town Manager
Duly Authorized

THE HARRISBURG GROUP

By: Harold Harrisburg, Manager
Duly Authorized

AGENDA ITEM #7746

Discussion with Action: Final Action on a Contract Zone Agreement between Land Matters, LLC and the Town of Old Orchard Beach, for the property located at 60 Saco Ave., Map 206, Block 10, Lot 1 in the GB2 district, pursuant to 30A M.R.S.A., Section 4352 (8) and Chapter 78, Article IX of the Old Orchard Beach Code of Ordinances.

Background:

See attached memo and supporting documents.

Chair O'Neill acknowledged the presence of Land Matters, LLC. He spoke to history of the contract zone and that it had been workshoped twice. Council indicated that in the workshop a reduction of 8 units to 6 units would be likely to move forward. Noted there was not a full Council at the meeting. Chair O'Neill stated that if the item "goes to vote this evening and it fails it will not be able to become Council for minimum one year. There will be a motion to remove w/o prejudice." Chair O'Neill continued with the suggestion to take it back to Planning Board for site plan review. Council does not want to hurt the business. Mr. Tom Gillis (owner of Land Matters, LLC) stated that he understood what Council was proposing. He brought to Council's attention that he had things outstanding - snow storage, dumpster, and parking and that he had followed through with an updated plan. He questioned if Council had reviewed the updates. Chair O'Neill confirmed. Mr. Gillis questioned "those are the issues outstanding, why are these up tonight?" Chair O'Neill, "because you do not have support of Council tonight and we do not want to hurt your business. Take this back to Planning Board." Mr. Gillis questioned that if he had a siteplan review would Council agree to the project? Chair O'Neill stated, "most likely, but cannot commit this evening as it would be a vote." Mr. Gillis noted that he had no problem going to siteplan review, but doesn't want to move forward without encouragement and support of Council. He was taking word that Council would support. Chair O'Neill stated that he wanted to see a full package and was looking for Planning Board to review and send back up to Council. Chair O'Neill explained that if the item was tabled, it would need to come back in two weeks. By removing without prejudice there is more flexibility. Providing you an option for you to come back Council.

Motioned to remove w/o prejudice: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 4-0

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

FROM: Planning Staff

SUBJECT: Contract Zoning Proposal at 60 Saco Ave, Final Vote

DATE: 16 August 2022

After several meetings, workshops and public hearings concerning the proposed contract zone at 60 Saco Ave., the applicant is seeking a final vote from Council on the contract zone agreement. Since we last met the applicant amended the contract zone as follows:

- Reduced density to 6 condo units
- Adjusted parking lot spaces to 14 spaces +1 handicap, which meets required parking space number for the use and unit count (2/unit), and provides extra spaces for visitors
- Revised dumpster position
- Snow storage shown on plan

The applicant seeks Council decision

1. Without further review of the contract zone agreement by the Planning Board and
2. Before securing site plan and subdivision approval

My thoughts on 1 and 2:

Regarding #1, the applicant believes Council has the right to modify the contract zone agreement without further PB review of the agreement through application of OOB charter standard 409.11 which states: “Sec. 409.11. Adopt, modify and carry out plans proposed by the Planning Board for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;”

The applicant may be correct but I believe it depends on how you interpret 409.11. You’ll see the standard states: “Adopt, modify and carry out plans proposed by the planning board” which I think is different than plans approved or recommended by the planning board. Plans proposed by the PB seems to be plans the PB actually developed and are proposing directly to the Council. To me, the contract zone is a plan proposed by Land Matters LLC, and the PB only provided a recommendation to Council. The applicant could argue the plan is the PB’s too because they required certain standards to be included. The problem is the PB ordinance is not the applicant- it’s not the PB that’s actually proposing the plan.

In the case of contract zoning, the PB acts as an advisory board to the Council because the PB only provides a recommendation- they cannot approve or disapprove a contract zone. Only Council, as the legislative branch of OOB’s government structure, has the authority to make a binding final ruling. A better argument the applicant could make is Sec. 78-2137 of the contract zoning ordinance allows the Council, through use of its sole and exclusive judgement as OOB’s legislative body, to approve modifications of the agreement and issue a final decision without PB’s recommendation on the revised agreement. Although, a counter to that is the contract zoning ordinance requires and advisory recommendation from the PB (see 78-2136) before the Council issues a final decision. One test could be are the modifications substantive enough to require further PB review but the ordinance does not provide language for a test like this.

My thought is the Council may have the authority to rule on the revised contract zone without a PB recommendation on the revised agreement but Council also has the authority to not rule on the revised contract

zone until the revised agreement has a recommendation from the PB. No matter what the Council decides, I see no reason why the PB would not provide a favorable recommendation on the revised contract zone agreement.

Regarding #2, the applicant questions why the Council would require site plan and subdivision approval before a decision is made on the contract zone agreement. I believe Council is considering this because the applicant must secure approval from the PB through conformance with standards that are more stringent than those in the contract zoning ordinance. Also, the applicant must prepare the technical plans and supporting documentation required by site plan and subdivision ordinances. The plans and documents will provide the Council with more information that will allow for a more informed decision.

Sec. 78-2137 (Town Council Action) of the contract zoning ordinance states: "The decision whether or not to rezone remains committed to the town council exercising its sole and exclusive judgment as the elected legislative body of the Town of Old Orchard Beach and will not be made until the council takes its final vote on the contract zoning amendment." This standard tells me Council, by exercising its sole and exclusive judgement, has the authority to require the applicant to secure site plan and subdivision approvals before the Council issues their final vote.

Three side notes:

1. The second "Whereas" paragraph on p. 1 states eight units twice. This language should be changed before Council signs the agreement. I will pass this along to the applicant.
2. The site plan, subdivision plans and other documentation are incorporated by reference into the contract zone agreement (p. 3, # 5). The date to be inserted is unknown because the applicant has not secured site plan and subdivision approvals. This date is critical because it is the reference used to incorporate the plans and documents approved by the PB. need to be included in the contract zone agreement.
3. Regarding sidewalk along Fern Park Ave., the applicant's cover letter states Ordinance Sec. 50-51 requires sidewalks. This is correct, 50-51 states: "Where a nonresidential development or a multifamily residential development, as defined by chapter 78, abuts any accepted street and a sidewalk satisfactory to the public works department has not already been provided, a sidewalk and curbing shall be provided along the entire street frontage of the lot." Sec. 50-54 grants Council the authority to waive this requirement if "upon application to it in writing, it finds that the circumstances in the specific case warrant such waiver or amendment..." It appears to me Council can waive the sidewalk requirement if the applicant provides the request in writing and if Council finds the circumstances warrant the waiver.

Contract Zoning Review

Contract zoning proposals require Planning Board and Council review. Similar to the zoning ordinance amendment process, the PB reviews, holds a public hearing and votes on a recommendation to the Council. The Council reviews the proposal, holds a public hearing, and issues a final decision. Council has sole jurisdiction of approval or denial.

The Council acts on contract zoning requests in accordance with the procedures in Section 410 of the OOB Town Charter. Section 410 requires the Council to review a contract zone with the same procedure as an ordinance amendment- schedule a public hearing, hold a public hearing, issue a decision.

Council has the option to add conditions to the contract zone agreement or alter in a way they feel is necessary to meet the contract zoning ordinance standards. As stated in the contract zoning ordinance: "The decision whether or not to rezone remains committed to the town council exercising its sole and exclusive judgment as the elected legislative body of the Town of Old Orchard Beach."

Ultimately, it's important to keep in mind a contract zoning proposal must meet three primary factors identified in Sec. 78-2136:

1. Is consistent with the comprehensive plan;

2. Is consistent with, but not limited to, the existing uses and allowed uses within the original zone; and
3. is subject to conditions sufficient to achieve the purposes described in Sec. 78-2131 of the Contract Zoning Ordinance

Council Final Vote

The applicant is seeking a final vote on the contract zone agreement. Council can vote to approve, deny or table:

1. Approve. Council can make a motion to approve the contract zone as-is or with revisions (additions or deletions) to the language. If Council choose to approve but not include the sidewalk, I recommend a waiver is granted and to include this in the vote. If revisions or conditions are needed, Council should include in the motion. Motion to approve:

I make a motion to approve a Contract Zone Agreement between Land Matters, LLC and the Town of Old Orchard Beach, for the property located at 60 Saco Ave., Map 206, Block 10, Lot 1 in the GB2 district, pursuant to 30A M.R.S.A., Section 4352 (8) and Chapter 78, Article IX of the Old Orchard Beach Code of Ordinances. (Add revisions or conditions here)

2. Deny. If Council choose to make a motion to deny, I recommend Council provide a finding based on why it does not meet contract zoning ordinance standards. This could be based on one or more of the three primary factors identified in Sec. 78-2136 (see above). A motion for denial could state:

I make a motion to deny the Contract Zone Agreement between Land Matters, LLC and the Town of Old Orchard Beach, for the property located at 60 Saco Ave., Map 206, Block 10, Lot 1 in the GB2 district, pursuant to 30A M.R.S.A., Section 4352 (8) and Chapter 78, Article IX of the Old Orchard Beach Code of Ordinances by finding:

A. The Agreement does not include conditions sufficient to achieve the purposes described in Sec. 78-2131. This includes conditions that provide an acceptable solution to off-street parking concerns and a manner to which the applicant will address potential vehicular impacts at the Fern Park Ave./Saco Ave. intersection.

B. The six-unit multifamily use is not consistent with existing uses located on surrounding property due to the higher dwelling unit density.

Due to the above, we find the contract zone agreement will not protect the best interests of the surrounding property owners and the neighborhood.

Note: A and B are examples of findings.

3. Table. If the Council prefer the applicant secure site plan and subdivision approvals before a final vote, Council can table their final vote until the applicant receives these approvals. Also, I believe the Council can require the revised contract zone agreement receive a PB recommendation before the Council issues its final vote. If Council choose to table, I recommend a vote on either of the motions below:

1. Motion to table for site plan and subdivision approvals: *I make a motion to table the Contract Zone Agreement between Land Matters, LLC and the Town of Old Orchard Beach, for the property located at 60 Saco Ave., Map 206, Block 10, Lot 1 in the GB2 district until the applicant receives Planning Board final approval of their site plan application and subdivision application.*

Or

2. Motion to table for site plan and subdivision approvals and PB recommendation on the revised contract zone agreement: *I make a motion to table the Contract Zone Agreement between Land Matters, LLC and the Town of Old Orchard Beach, for the property located at 60 Saco Ave., Map 206, Block 10, Lot 1 in the GB2 district until the applicant receives Planning Board final approval of their site plan application and subdivision application and a Planning Board recommendation on the revised contract zoning agreement.*

CONTRACT ZONING AGREEMENT

Land Matters, LLC and the Town of Old Orchard Beach

CONTRACT ZONE AGREEMENT made this ___ day of _____, 202_, by and between Land Matters, LLC, a Maine limited liability company with a principal place of business in Saco, the County of York, State of Maine, and The Town of Old Orchard Beach, a municipal corporation located in the County of York, State of Maine.

WHEREAS, at the time of application for a contract zone, Land Matters, LLC, has a purchase agreement with the current owners (Clifton Temm II and Suzanne M. Temm) dated April 9, 2021 (“the purchase agreement”) which has been presented to the Council as evidence of right, title or interest in the property; and

WHEREAS, Land Matters, LLC proposes to develop an eight-unit residential condominium on approximately 14,250 square feet of land located at the corner of Saco Avenue and Fern Park Avenue in the Town of Old Orchard Beach. The proposed project would renovate and improve an existing structure which formerly housed the United States Post Office and create eight units for single-family residential use; and

WHEREAS, the parcel to be developed is depicted on the Town’s tax maps as Map 206, Block 10, Lot 1 and is located in a GB2 District.

WHEREAS, the proposed development is consistent with the existing uses and allowed uses within a zoning district designated as GB2; and

WHEREAS, Land Matters, LLC has petitioned for a contract zone to amend the Old Orchard Zoning Ordinance with respect to the requirements of such GB2 District for the reasons as follow:

1. Land Matters, LLC seeks the right to develop an six unit residential condominium (tentatively named “The Franklin”) on the above-referenced parcel while preserving the structure located on the parcel. Lot size and density standards in the GB2 do not allow the project as proposed; however, in order to preserve the existing structure, and to maintain the existing conforming zoning requirements of the improvements thereon (including setback requirements, parking requirements, height. requirements, lot area requirements and footprint requirements) Land Matters, LLC has proposed changing only the current space and bulk requirements of the GB2 district (Section 78-835) with respect to this lot to permit the construction of its proposed six unit condominium.
2. The proposed development will confer the following benefits to the Town, in keeping with the goals of the Comprehensive Plan:
 - a) The proposed development will allow for preservation of the existing structure (the former U.S. Post Office). Policy A.40 of the Comprehensive Plan provides that “the Town should preserve historic structures, neighborhoods, and sites in the community.” Policy A41 recommends that the Town should ensure protection of

historic structures by “protecting sites identified in the future by State, local, or regional interest groups, or by developers in the development process.”

- b) The improvement of the current one story brick structure will include the incorporation of historic architectural materials and details which will reflect and enhance the former character of building and improve the aesthetics of the community consistent with Policy A26 for the Comprehensive Plan. The footprint of the existing structure shall not be enlarged and the building height will be less than than 35 feet..
- c) Similarly, the addition of a sidewalk along the southwesterly side of Fern Park Avenue (improving pedestrian safety) and the installation of landscaping and the addition of a small seating area on Saco Avenue will improve neighborhood pride.
- d) The project is consistent with the predominately residential nature of the surrounding neighborhood and will add six moderately priced residential units to the Town’s housing stock. This reinforces the directive of Comprehensive Plan to assure opportunities for affordable housing and allow the proper working of the real estate marketplace as recommended in Policy A 3 of the Comprehensive Plan.
- e) The project will restore and improve the visual character of the premises which is prominently situated on Saco Avenue, the major gateway to the Town center. It will have no negative impact on traffic on Saco Avenue nor will it add any additional traffic to Fern Park Avenue beyond its parking lot with is accessed by the first driveway on the southerly side of Fern Park Avenue. Sightlines for traffic entering and exiting Fern Park Avenue to Saco Avenue are currently in excess of those required by regulation.
- f) This project will not require any additional burden upon the Town with respect to providing municipal services since the property is already improved with electric and cable service, water and sewer. Additionally, the condominium will provide private carting services for trash removal and the removal of waste. Snow removal will be accomplished by a private contractor employed by the owners’ association.
- g) Ample on-site parking will be provided for owners and guests consistent with Policy A 42 of the Comprehensive Plan and in conformity with the existing on-site requirements of the Town.
- h) Unit rentals will be prohibited for terms of less that 30 days.

NOW, THEREFORE, pursuant to the authority found in 30-A M.R.S., Section 4352(8), and Section 1.8, et. seq. of the Old Orchard Beach Zoning Ordinance, and by vote of the Old Orchard Beach Town Council on _____ the following findings are hereby adopted:

1. Town Tax Map 206, Block 10, Lot 1 comprises approximately 14,250 square feet and the density requested is consistent with other area properties and would not cause additional impacts to surrounding properties, traffic, public utilities and other public services. The proposal will allow for reasonable development of the lot while preserving and improving the existing historic structure located thereon and implementing various aspects of the Town's Comprehensive Plan as set forth hereafter.
2. The proposed rezoning is consistent with the goals set forth in the Old Orchard Beach Comprehensive Plan to use tools including contract zoning to minimize infrastructure needs and development costs, and to protect aesthetic character of the community.
3. The conditions hereinafter set forth in this contract and by the Old Orchard Beach Planning Board are sufficient to meet the purposes of contract zoning as set forth in Section 78-2131 of the Zoning Ordinance.

WHEREFORE, based on the findings above set forth, the Old Orchard Beach Town Council hereby agrees that this contract shall modify the space and bulk requirements in the GB2 district for the parcel currently depicted as Map 206, Block 10, Lot 1 according to the following terms and conditions:

1. This amendment affects only the parcel of land identified as Tax Map 206, Block 10, Lot 1 on the Town of Old Orchard Beach tax maps.
2. This contract and its provisions shall specifically and exclusively apply to the contract zone request submitted by Land Matters, LLC. Accordingly, without the prior written consent of the Town Council, which consent shall not unreasonably be withheld, this contract and the contract zone it creates shall not be transferable by Land Matters, LLC.
3. Failure of Land Matters, LLC to secure any and all other permits or approvals that may be required by the Town or other regulatory agencies having jurisdiction within one year of the approval of this contract by the Town Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of Land Matters, LLC, this one year deadline shall be extended by one year upon written request to the Town Council submitted by Land Matters, LLC prior to the expiration of the original one-year period, and in the event the final permits or approvals are delayed due to the pendency of an appeal, the one year deadline shall start to run from the date the appeal(s) are determined and such permits or approvals become final.
4. Failure of Land Matters, LLC to initiate substantial construction of the project within two (2) years from the date of final approval of this contract zone shall render this contract null and void. In the event that permits or approvals are delayed due to circumstances beyond control of Land Matters, LLC, this two-year deadline shall be extended by one year upon written request to the Town Council submitted by Land Matters, LLC prior to the expiration of the original two-year period.
5. All details shown on the plans and referenced in the Findings of Fact approved by the Old Orchard Beach Planning Board on _____ are incorporated into this contract by reference. The site shall be developed substantially in conformance with those plans. Any variation from site plan review proposals, plans, supporting documents and representations are subject to review and approval by the Planning Board, provided that de minimis variation is subject to review and approval by the Town Planner. If it is determined by the Planning Board that the changes constitute a change in the contract,

then Land Matters, LLC shall also be required to obtain Town Council approval of the changes.

6. Rental of any unit for terms of less than 30 days shall be prohibited.
7. Applicant shall construct a sidewalk along the subject property's Fern Park Ave. frontage, from the Fern Ave./Saco Ave. intersection.
8. Excepting the requirement excepted by this agreement, applicant will meet all applicable Local, State and Federal fire, safety and accessibility codes, ordinances and regulations as well as all building codes as required by the Town.
9. Breach of these conditions and restrictions by Land Matters, LLC shall constitute a breach of the contract. Should Land Matters, LLC seek to modify these conditions or restrictions, it shall be required to apply for a contract modification. Failure to apply for and obtain a modification shall constitute a zoning violation, subject to enforcement action.

Based on the above findings, conditions and restrictions, the Town Council hereby incorporates this contract zoning agreement into the Old Orchard Beach Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein. The above restrictions, provisions and conditions are an essential part of the rezoning of the property, shall run with the land, shall bind Land Matters, LLC, and its respective successors in interest and assigns of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Old Orchard Beach.

Adopted by the Old Orchard Beach Town Council on _____.

Town of Old Orchard Beach

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

Land Matters, LLC

By: _____

Thomas Gillis, Managing Member

To: Shawn O'Neill (Chair), Kenneth Blow, Micheal Tousingnant, Larry S. Mead,
V Louise Reid.

From: Tom Gillis, Managing Member, Land Matters, LLC

Date: August 7, 2022. Re: The Franklin: Application for a Contract Zone

Dear Chairman and Council Members;

Please find attached the revised Contract zone agreement for the Franklin. This new agreement eliminates two units. Eliminating those two units will solve the Council's concerns of parking, show storage and Dumpster location. The new agreement provides 3 guest spaces (not required by the Ordinance).

I am somewhat confused where I went wrong presenting this project, I think part of me was becoming frustrated with what I thought was an excellent endeavor to the Town of Old Orchard Beach. You must understand some negative comments from certain members lead me toward what could be interpretive as an adversarial role. I really believe in this project and hope with your guidance it can be something the town can be proud of.

Further planning board review is not necessary before you act because there is a reduction in scope. It does not impact the Planning Board approval as it is more conforming, but of course you have the final say.

Since we have shown that Traffic is not an issue and have gained the approval of the fire and police chief in regards to his equipment being able to negotiate the turn up Fern Ave. The ability to address further traffic and parking issues are beyond our ability and falls squarely on the council.

The sidewalk is required by Ordinance Sec. 50-51. - Sidewalks and curbing required. So it must be installed, unless you waive it. There are many other public benefits which are spelled out in the attached letter.

The council doesn't have to act on the eight unit approved application as the chairman stated at the July 28th Workshop. It has the power to modify under section 409.11.

Sec. 409.11. Adopt, modify and carry out plans proposed by the Planning Board for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;

Preserving a historic building is a great benefit to the town of Old Orchard Beach I think any proposal to tear this building down would be a shame.

As the core issue for the planning board was density I would hope this density reduction meets your concerns. All of these issues were Planning Board issues and our project conforms and exceeds the standards of the Contract Zone Ordinance.

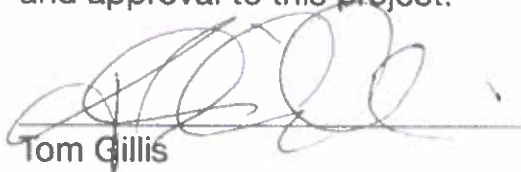
Once again I feel it necessary to remind the council. In April, a unanimous decision was rendered by the Planning Board. They affirmed the Franklin contract agreement meets the three conditions of the definition of the contract zone which are;

Factor 1. The proposed contract zoning agreement is consistent with the comprehensive plan.

Factor 2. The proposed contract zoning agreement is consistent with existing and allowed uses within the original zone.

Factor 3. The proposed contract zoning agreement includes conditions sufficient to achieve the purposes described in Sec. 78-2131 of the Contract Zoning Ordinance.

As we have followed the contract zone approval process by the book, We hope the council will take the above into consideration and return a positive finding and approval to this project.



Tom Gillis

FERN PARK AVENUE

MAGNETIC

IRON
(FIELD)

SNOW STORAGE

8.6" X 18"
(COMPACT)
GUEST

8.6" X 18"
(COMPACT)
GUEST

8.6" X 18"
(COMPACT)
GUEST

8.6" X 18"
(COMPACT)
GUEST

9 X 18'
(TYPICAL)

9 X 18'
(TYPICAL)

FENCED
DUMPSTER

9 X 18'
(TYPICAL)

9 X 18'
(TYPICAL)



6" WIDE
RET. WALL

26.5'

25.0'

8.90'

R.0'

DOOR
Elev. = 49.32'

CANOPY

59.65'

70.45'

EXISTING WALKWAY

20.0'

22.0'

WALKWAY

25.1'

SACO AVENUE

(R)
PARK
AN C /

AGENDA ITEM #7747

Discussion with Action: Approve the proposal from Setronics Security Integrators for the Access Control Security System for Town Hall in the amount of \$29,250.00 from account #51002-50294 Town Hall Surveillance/Access CIP, with a balance of \$28,000.00 and \$1,250.00 from account #20115-50450 Town Hall Building Repair & Maintenance with a balance of \$25,520.00.

Background:

The security system in Town Hall requires an update which will mirror access entry similar to the security system at the Old Orchard Beach Police Station with key card access points. This is a Council approved budgeted item for Fiscal Year '23.

(quote attached)

Motioned by: Vice-Chair Blow

Seconded by: Councilor Reid

Vote: 4-0

AGENDA ITEM #7748

Discussion with Action: Approve the Special Event Permit application for OOB365 to hold a Fundraiser for Warriors & Quiet Waters Foundation and the Portland Boxing Club on Saturday, September 11th, 2022; Monday, September 11th, 2023 and Wednesday, September 11th, 2024 from 4 p.m. to 8 p.m. on the beach in front of the Brunswick. There will be fireworks at 8 p.m. on each date. There will be grills on the beach. No alcohol allowed on the beach; Fire Chief to receive a copy of the Fireworks Permit Application and a copy of the approved application from the State Fire Marshal's Office at least one week prior to the event. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided by the applicant, to the Town Clerk's Office at least a week prior to the event, and insurance from the Pyrotechnics Company, listing the Town as additionally insured, to be provided to the Town Clerk's Office at least one week prior to the event.

Motioned by: Councilor Tousignant

Seconded by: Councilor Reid

Vote: 4-0

ADJOURNMENT

Motioned to adjourn by: Councilor Tousignant. Adjournment paused to allow OOB Resident Nancy Friscoe to speak before Council. Ms. Friscoe requested that a screen noting the map block lots of properties be put up at each meeting to help people follow along. In addition to this request, Ms. Friscoe wanted information regarding how much parking enforcement was being paid and how much it cost for the maintenance of parking equipment. She went on to share that there should be an officer at the 4 way stop along Portland Avenue and felt the beach signs were "ridiculous;" noting there were too many additional signs. Her specific request was Street Name signs with a cross street sign.

Councilor Tousignant stated to Ms. Friscoe that things move forward in small steps and that she should thank Council for the signs that are now along the beach. Chair O'Neill addressed the request for a screen to be put up during meetings - he noted that during workshops, when details to review are required the screen is used quite often. During Council meetings, there is typically no need to reiterate information that Council was already aware of.

Seconded by: Chair O'Neill

Vote: 4-0

The Old Orchard Beach Town Council adjourned @7:170pm on Tuesday, August 16th, 2022.