



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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Town Council Workshop
Meeting Minutes

Tuesday, March 29th, 2022

I, Jennifer Hayes, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of twelve (12) pages is a copy of the original Meeting Minutes of the Town Council Workshop Tuesday, 03.29.2021.

Prepared by: Jennifer Hayes
Approved by: Old Orchard Beach Town Council
Approval Date: 04.05.2022

Respectfully Submitted,

Jennifer Hayes
Town Council Secretary



Town Council Workshop followed by Special Meeting – Executive Session - Meeting Minutes

Tuesday, March 29th, 2022 @ 6:00pm*
Town 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, Channel 1301) or by logging onto https://townhallstreams.com/towns/oob_maine. FMI click on the Communications Tab @ www.oobmaine.com.*

There was an Old Orchard Beach Town Council Workshop, to discuss fees for business license (new & renewal applications) and permitting business on the beach, held on Tuesday, March 29th, 2022 in Council Chambers. The meeting was called to order at 6:31pm. 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 – (late arrival)	

Chair O’Neill opened meeting by offering why the items were on the agenda. He received a call from one of the business owners and the actions that were taken during COVID. The item on the agenda was Council’s intention to be as transparent as possible. He continued by stating that there are several businesses that want business to continue on the beach. Chair O’Neill instructed the audience to be respectful, limit time, and direct comments to Council.

Neil Weinstein called for point of order & issues raised concerning the beach topic.

Chair O’Neill – clarification. There were no issues with business on beach. Nothing was amiss or having a negative impact on the Town. There were just many calls for both pro and cons against business on beach.

Rich Redmond – 8 Oregon Ave, OOB: advocate of beach seating and outside seating along roadsides. Mr. Redmond shared the obstacles of COVID and businesses. The positive noted was the symbiosis of government and private business sector. The leadership displayed was to be remembered. He requested that Council “not pull rug out of the one shining thing that we have going for us.” The businesses of Old Orchard need a life-line. As Mr. Redmond stated, businesses lost millions of dollars. He requested that safe, outdoor seating be offered again for tourists in preparation of another COVID burst. He noted that the Town offered the past outdoor seating as an opportunity and noted it was not a “right” but an appreciated “privilege.” Encouraged workshops to build ordinances for business on the beach, etc.

Billy Marshall – owner of The Whaler: Mr. Marshall stated that the reason at the workshop was because the agenda item was for just two businesses. He noted that the need to have seating on the beach was not appropriate. Masks are no longer in use, etc. What he has observed, two businesses singled out, allows for two private businesses to build revenue and not others.

Tom Lacasse – 39 W Grand Ave: Mr. Lacasse stated he understand the comments of the previous agenda item servicing only two businesses. He felt that other businesses should have the extension of businesses onto sidewalks, etc., if possible. Referenced COVID cases and the past benefits with additional staff hire and an observation of new clientele to The Brunswick. First time he noted more families coming to The Brunswick because of the use of beach access. He stated that The Brunswick did profit from beach access for private business. Mr. Lacasse referenced the benefits of outside seating noted in Portland and other communities in Maine.

Stewart Smith - 8 Oregon Ave: Mr. Smith identified himself as a professional photographer in Town and noted he was friends with several of the business owners seated in the audience. Stated there is a need to build the social fabric of Old Orchard Beach. He noted that several of the businesses created jobs for others within the community. Encouraged to take note of the pros/cons of having businesses on the beach.

Dan Blaney – 14 West Old Orchard Street & Harmon Museum: Mr. Blaney stated that he was opposed to business on the beach. He noted that in 1935 the beach was

deeded to the Town. In 1995 beach business was attempted and turned down. Moreover in 2005 LobsterFest on the beach was turned down. In 2004 jet skis turned down. In 2009 Spartan Bay Marina had an interest in starting business in OOB. The State of Maine moved that they own air, and water, and that OOB owns the beach. Questioned the other businesses that want a part of the beach to have a business (i.e., surf shop, other restaurants, etc.). Many family oriented activities happen on the beach. Mr. Blaney noted that businesses on the beach would be for personal profit only and not for the benefit for Town. He encouraged looking into the Charter and determine if this time was even legal. He noted that a referendum was not a good idea. Mr. Blaney stated that the answer is simply “no.”

Neal Weinstein – 32 Saco Avenue, Attorney: Attonery Weinstein stated that the Government for the Town should be working for the people and the businesses. Governments are always in the business of renting out public property for private use. He referenced Acadia National Park, Pine Point and Camp Ellis with that type of business model. He referenced that the Town would be making money on businesses opening up for the beach, which was a benefit. He suggested offering this opportunity for this Summer, at least, and then readdressing in the Fall. He noted that Old Orchard Beach is a tourist Town “everything we do is focused on a three month short season.”

George Kerr - 206 E. Grand Ave: Mr. Kerr noted how ironic that the topic was brought up for discussion. He referenced the Business License Working Group noted all the members of the group (i.e., Chiefs Kelley and LaMontagne, Town Manager Asanza, Code Enforcement Director Jim Butler, Town Councilors Shawn O’Neill & Larry Mead, as well as business owners Mike Halle, Thomas Lacasse, John Cloutier, Joel Golder, & Paul Golzbein). He summarized the issues of the bar scene and what the subcommittee could do to improve the behaviors occurring Downtown. He noted suggested solutions for adaptive lighting. Mr. Kerr believed the Town always works with the businesses. The beach is a public park. He referenced Ordinance 42-82: Alcohol beverages not to be consumed by public parks. He referenced adult use marijuana use ordinances that went through the process and defined the public space (i.e., beach) as off limits. He noted that he owned the buildings that housed Surf 6 and the Myst. He told his tenants no alcohol use on the beach, only on the patios within the businesses. He noted that the Emergency Act is over – he strongly encouraged that Council put a plan in place if they were to allow beach businesses.

Fire Chief LaMontagne was asked to come up and speak to Council by George Kerr. Chief LaMontagne broke down the recommendations from the Governors office two years ago. He noted that the beach permits were allowed April – October 31st. With the understanding that if the businesses were interested in keeping the extended business on the beach as permanent businesses, the business owners were encouraged to “go through the process” (i.e., Planning Department, restrictions, ordinance alignment, etc.).

George Kerr stated that the Town ordinance dictates there was to be no drinking on the beach. Strongly discouraged Council to consider the option. As “Town Fathers – take the time to go through the process.” He noted it was imperative to look into the future.

Rich Redmond - 8 Oregon Ave: wanted to point out that the State of Maine now allowed alcohol “to go.” The item had passed the House and Senate. He noted that there have been some historic changes happening to the State of Maine due to COVID.

Scott Eccleston – 16 West Old Orchard Street: Mr. Eccleston noted that the Town was sending the wrong message if the Council was going to “rack off” the beach to businesses.

Tom Leaney – bartender @ Bull Brew & Tequila Frogs: thanked Council for the opportunity to share his thoughts. He asked Council to consider that businesses continue to use the outdoor seating while a long-term decision was being put into place.

Billy Marshall spoke re: his concerns about the ownership of the Beach. He noted that The Beach belonged to the Town. He demanded it be protected by restoring the Dunegrass and maintaining it as a public beach. He encouraged a study and take issues re: ownership then. The beach does not belong to the abutters, but to the public.

Chair O’Neill noted the item will be on the Tuesday, April 5th, 2022 agenda. He continued by stating that the issues are bigger than just one workshop. He brought up questions concerning fees and legality. He suggested removing the agenda item

as removal without prejudice. He noted that the Town was still waiting for the Town Attorneys to weigh in re: drinking on the beach. He noted this topic needed to be fair, inclusive, and take time.

Councilor Mead thanked the audience who spoke. He noted that it was never his intention for continued use of beach and sidewalks under the use of emergency powers. The Town should not lean on that as the answer. He noted that a legal review needed to be completed. He wanted the answer to whether drinking can occur on the beach. He noted that private use of public property is not unusual whether it's an activity or restaurant – with the intention for the public. If the Town were to allowed use of public property – conditions would need to stipulated. He noted that families enjoy having meals and beverages on the beach. He wanted to keep an open mind.

Vice Chair Blow agreed with all that Councilor Mead stated. He wanted firm confirmation from Attorneys as to what can/cannot be done on the beach. He wanted legal clarification. Town Manager Asanza affirmed that legal Council had not gotten back to the Town re: beach use legality issues. Vice Chair Blow noted a fee structure would need to be set and possibly used to assist with reserve officers. He noted that he did not like the jersey barriers, but liked seeing people eating along sidewalks. He noted that The Brunswick area, that had been used for beverages, had not, in the past, been used by families.

Councilor Tousignant thanked the public's participation. He noted that the topic was a "hot" topic. He asked for the public to be patient. He noted that Council needed to await legal consultation. As he understood it, Council was not allowed to permit drinking on the beach, with the exception of COVID parameters.

Chair O'Neill noted that Council would keep the public apprised and hoped for answers by Tuesday, if not, the item would not be on the agenda.

Chair O'Neill transitioned the second topic of the workshop: business license application fees.

Town Manager Asanza noted two items were brought to Council, 1.)to increase the application processing fees for businesses. Currently in the ordinance annual fee for

new application processing as \$100. In place since June 2017. Looking to update to \$500. 2.) The renewal application fee is currently at \$25. Looking to update \$250 per year, \$500 for two years. She noted that these are the only two fees being brought forward to Council for the evening.

Chair O'Neill noted that he had confusion with licensing fee and renewal application fee.

Town Manager Asanza stated that there was an application processing fee and on top of that application an additional category fee based on ordinance.

Vice Chair Blow questioned if the Town issued licenses that cost more than \$250/year?

Town Manager Asanza stated that under schedule A, the Town has an application fee and a renewal application fee. Under that there are several categories (ie., professional services, etc.)

Vice Chair Blow noted he was still confused. He gave an example of a bowling alley.

Town Manager Asanza clarified the application processing fee and category fees. Currently the application fee is \$100. The new proposal was for an increase to \$500. Renewal fee is currently \$25. The new proposal was for \$250/year or \$500 for two years.

Councilor Tousignant questioned how many "hands" does an application process touch?: Two hours, five hours, how many different departments and days? What does it cost for average tax payer?

Code Enforcement Director Jim Butler spoke to a new business license application:

- 1.) New applications begin with a field of questions w/staff ranging from 5 minutes to half hour. Fees are discussed.
- 2.) Inspections are scheduled after an application is deemed to be intact.
- 3.) Staff confirm completeness

- 4.) Staff review, calculate and collect fees, schedule an inspection (week or two out)
- 5.) Code and Fire conduct joint inspections (looking at density, occupancy, electric, plumbing). Mr. Butler noted that inspections take 10 minutes to over hour and half.
- 6.) Issues are documented and if not signed off by the inspector, a reinspection is scheduled.
- 7.) If cleared by all Departments (including Tax, Code, Police), then the application heads to Town Manager Office in which the application is reviewed by Code Enforcement Director and Town Manager.
- 8.) The final destination is Council. If approved by Council the license is issued via in person or mailed.

Mr. Butler noted that 5-8 hours of staff time per application, on average. Some applications take longer.

Furthermore, for renewals, mailings are sent out Feb-March, and are labor intensive for accuracy. There has been much staff time dedicated to cleaning up data within the IWorks database (which houses the business license applications). The Code Department is currently working with company to send out a mass mailing to license holders.

From there:

- 1.) the mail is received,
- 2.) reviewed,
- 3.) the Code Department checks to confirm there are no issues,
- 4.) the Department takes the opportunity to reinspect,
- 5.) update the database,
- 6.) process the renewal,
- 7.) process payment,
- 8.) then send out license.

Mr. Butler noted that the renewal application process is a bit less in staff hours, 3-4 hours per application, but noted that the work was equally important.

Councilor Tousignant questioned if every property involves a reinspect?

Mr. Butler clarified that currently there was no reinspecting, unless a red flag was noted. However, Mr. Butler went on to state that he was currently working with Fire Chief LaMontagne to identify as an area of improvement for the Code Department.

Councilor Tousignant directed his next question to Town Manager, asking if the proposed increase application fees were going to be enough for the Town.

Town Manager Asanza confirmed in the positive, based on the process, that the fee increase was a sufficient and appropriate amount.

George Kerr - : where is the inequity in licensing? Example of The Brunswick vs. washing machines in a motel. When the fee of washing machines costs more than the license of the motel, there is inequity. The proposal offered this evening does not solve the problem. He encouraged an increase in the current schedule of fees. The \$500 does not cover the expense of the all the Departments. He noted the capture of monies on the short term and asked for confirmations that schedule of fee was being addressed. Town Manager confirmed. He noted that he wanted fairness and a united community. Supported Town Manager's offer of proposed fees but wanted to see more unity and more push to make things better.

Councilor Tousignant stated that he did not feel the fee increases were enough.

George Kerr requested that Staff look at the other fees that were not equitable. Councilor Tousignant confirmed that the other fees were not enough, too.

Vice Chair Blow stated he understood the reasoning for doing what it was being done. He noted that fees were reasonable and that other associated business fees would need to be addressed sooner rather than later.

Councilor Tousignant questioned whether the other fees would be addressed in four years.

Vice Chair Blow stated that it can be requested from Council to readdress the fees as needed.

Councilor Mead questioned if the schedule of fees would be addressed during the

budget process.

Town Manager Asanza stated that a big effort was underway to organize the Schedule of Fees. In addition, she noted that revenue for business licenses for FY'23 were included within the budget.

Councilor Mead requested clarification. New processing fee \$500? One time?
Confirmed by Town Manager.

Chair O'Neill stated that his initial thought was to begin with \$1,000. He was noted to state that he struggled with the renewal fee. He stated that once established with a business license, the fee should cover all. No need for a renewal fee. His suggestion was to take the \$250 per year and make it a license fee of \$750.

Chief LaMontagen stated that by separating out the fees as noted the Departments are making the businesses trackable. Over time, personal costs, etc. goes up. The application fee is the part that needs to be separate. The renewal fee is a way to catch businesses and monitor the scope of the business. Rubber stamping an application is going to make a loss of revenue. In addition, there is a large public safety component that was not mentioned (i.e., 911 call center, uploading, etc.). He finished by stating that the cost of doing business is an initial \$500 and then a \$250 renewal with a cursory review of the points noted previous.

Chair O'Neill stated that he didn't understand.

Town Manager Asanza relayed that to recoup the cost of the no charge of personal property tax the renewal fee cost of \$25 was presented in 2017.

Vice Chair Blow interpreted Chair O'Neill's comment as "what your saying is rather than having a separate fee, add \$250 into the license fees."

Fire Chief LaMontagne noted that the gross financial cost is exactly the same but the items that would change – the applicant may not be operating under the same scope, there would not be a break out of the fee.

Chair O'Neill stated that "what we charge and how you manage it should not

change. How you control the license shouldn't matter.”

Vice Chair Blow noted that he understood both sides of the argument. He stated he was having trouble having the fees being separate isn't costing any more, it is just helping the staff to separate out the items out for clarification.

Laurie Aberizk – Code Enforcement Office Administrator: explained that the logistics of the revenue stream would be difficult if combined to the Chair's point. She noted that there are some licenses that are large drains on staff resources.

Vice Chair Blow brought up the example of a business with three different licenses. He questioned if the \$250 would be one charge and then three additional licenses. This was confirmed by Ms. Aberizk.

Fire Chief LaMontagne noted that the difference would be a small business vs. a Walmart, the cost to process is the same. The impact of the license hot dogs vs. Walmart is far different. The goal is to cover staff costs.

Chair O'Neill stated he wanted a streamlined process and questioned why the license fee cover did not cover the Towns' costs.

Councilor Mead stated that he liked the separation of application vs. license fee. He didn't agree with language of \$250 for two years. Take the “years” out of the sentence. Example, \$500. Language needs to be clarified internally via staff.

Chair O'Neill – thanked staff for the hard work.

Councilor Tousignant – 500/250 enough? Council settled with this?

Code Enforcement Director Butler offered \$500 per license *cycle* as a compromise.

Fire Chief LaMontagne stated that there would be a minimal rework of the ordinance the word “renewal” is in the ordinance.

Chair O'Neill confirmed that a simple change would be ok by Council.

Motioned to adjourn by: Vice-Chair Blow

Seconded by: Councilor Mead

Vote: 7:57pm

The Town of Old Orchard Beach Council adjourned from workshop at 7:57pm on Tuesday, March 29th, 2022.

After the Workshop, Town Council meet in Executive Session regarding Town legal matters. *(Note: The item discussed consultation between the Town and its attorney under Title 1 M.R.S.A. Section 405 (6)(E) and the Council anticipated that the discussion would be held in Executive Session).*

Entered in Executive Session @ 8:05pm

Motioned by: Vice-Chair Blow

Seconded by: Councilor Mead

Vote: 5-0

Exited out of Executive Session @ 8:35pm

Motioned by: Councilor Mead

Seconded by: Councilor Reid

Vote: 5-0