



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

Regular Town Council Meeting Minutes

June 25, 2023

I, Tim Fleury, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of 43 pages is a copy of the original minutes from the regular meeting of the Old Orchard Beach Town Council held on 6/25/2023.

Prepared By:	Tim Fleury
Approved By:	Old Orchard Beach Town Council
Approval Date:	8/1/2023

Respectfully
Submitted,

Tim Fleury
Town Council
Secretary



Town Council - Meeting Agenda

July 25th, 2023 @ 6:30pm
6:42pm 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 or 1301 - check with your provider) or by clicking the Meeting Videos link on oobmaine.com.)*

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Tim Fleury called roll. The following individuals were present:

Chairman Shawn O'Neill
Councilor Mike Tousignant
Councilor V. Louise Reid
Councilor Larry Mead

Town Manager Diana Asanza
Council Secretary Tim Fleury

Vice Chairman Kenneth Blow had an excused absence.

ACKNOWLEDGEMENTS:

Town Manager Asanza – Mike Casasanto – facilities manager leaving after over 5 years. Instrumental in Town operations, will be missed. Chairman O'Neill – thanked Mike for his service – Councilor Mead – as chair of memorial park – thanked for his service for the park – Councilor Reid – congrats to Mike and thanked him.

GOOD & WELFARE:

Peter Mourmouras – sympathies to Vice Chair Blow – wants to move forward with adult use licensing process – asked Council to stand down and let the process move forward – wasting taxpayer money by continuing to use town lawyer to fight the process.

Gabe Warren – copies handed to Council – Preti Flaherty letter from business' lawyer – Mr. Warren read a letter into the record – copy of letter attached at end of minutes -

Thomas Mourmouras – summarized letter read by Mr. Warren – 3 applicants applied in March, one applicant was disqualified after the referendum – 2/3's of applicants can move forward – Mr. Mourmouras summarized legal actions taken by various parties involving adult-use cannabis license in town.

Chairman O'Neill – Council has never attempted to settle any lawsuits.

Nancy Frisco – hours to allow dogs on the beach should start at 10 am instead of 9 am – dogs should be allowed on the beach during inclement weather – public walkways are not clean and allow access to beach – discussing since winter – public access to beach needs to be maintained – Piping plovers on beach block off too much of the beach from cleaning – Fire Department goes above and beyond with their assistance – Ms. Frisco feels parking receipts needs the address where parking lots are so people can remember where they parked – fines are too high and parking violations are issued too quick.

Hank Forman – 38 Randall Ave – asked parking enforcement to cite a car across the street blocking the driveway and fire hydrant – no ticket issued – an ordinance that if the sidewalk is not cut in, it is not a driveway and is a lawn – if true, the town should be responsible on cutting in driveways that were there before sidewalk was installed.

ACCEPTANCE OF MINUTES:

Acceptance of the minutes from the 6/20/23 Regular Council Meeting.

Chair: Shawn O'Neill

Motion to accept: Councilor Mead

Second: Councilor Reid

Vote: 4-0

PUBLIC HEARING – LIQUOR LICENSE & APPROVALS:

Lazy Days Restaurant, David A. Begin/Eric Begin, Port Georgia LLC (206-31-19-A), 4 First Street, m-s-v in a Class 1 Restaurant.

Chair: Shawn O’Neill

Chairman O’Neill opened the hearing @ 7:02pm

Motion to approve: Councilor Tousignant

Second: Councilor Reid

Vote: 4-0

Chairman O’Neill closed the meeting @ 7:02pm

PUBLIC HEARING – BUSINESS LICENSE & APPROVALS:

Lazy Days Restaurant, David A. Begin/Eric Begin, Port Georgia LLC (206-31-19-A), 4 First Street, victualers with prep and alcohol.

Dana and Kathleen Kango, (319-3-2), 5 Hampton Ave, 1 seasonal rental, STR.

Heidi and James Sherman Jr., (312-3-7), 104 First Street, 1 year round rental, STR.

Kristin Riciardone, (313-2-11), 3 Bay Ave Unit 23, 1 seasonal rental, STR.

Sully's Seacoast LLC, Susan and Jeff Sullivan, (304-7-1), 78 East Grand #106, 1 seasonal rental, STR.

Joseph Slattery, (203-1-10), 91 Portland Ave, 1 seasonal rental, STR.

Abby & Wesley Jacobs, (304-7-1), 78 East Grand Ave # 208, 1 year round rental, STR.

LMM Hospitality LLC, Keshia and Zach Pratt, DBA BOBA (206-32-1), 15 Old Orchard St., victualers with prep, no alcohol.

Anne L'Heureux, (311-15-9), 8 Prospect Ave, 1 year round rental.

John & Jessica Mangini, (308-3-12), 74 Central Park, 1 seasonal rental, STR (new).

Dennis & Sharon Platt, (319-2-3), 11 Hampton Ave, 1 seasonal rental, STR (new).

Beach Days LLC, John Day, (205-17-14), 7 Smith Avenue, one year round rental – STR.

Chair: Shawn O'Neill

Chairman O'Neill opened the hearing @ 7:04pm

Councilor Mead – 8 Prospect Ave – staff notation on the card that it is an AirBNB – check to see if STR – 74 Central Park was a homestead exemption property prior to STR – loss of primary residence – 630 sq feet - \$440k sale price – Smith Avenue was a former year-round residence – Chairman O'Neill – feels the market is driving price, not necessarily what the property is being used as.

Motion to approve: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

Chairman O'Neill closed the hearing @ 7:08pm

TOWN MANAGER REPORT

No report tonight

NEW BUSINESS:

AGENDA ITEM #7925

Discussion with Action: Approve the Old Orchard Beach Police Patrolmen's Association Union Contract for the Police Department effective July 1, 2022 through June 30, 2025.

Chair: Shawn O'Neill

Motion to approve: Councilor Reid w/thanks to PD and staff

Second: Councilor Tousignant

Vote: 4-0

AGENDA ITEM #7926

Discussion with Action: Approve the Local 2247 International Association of Firefighters AFL-CIO-CLC Union Contract for the Fire Department effective July 1, 2023 through June 30, 2026.

Chair: Shawn O'Neill

The current contract expired at the end of June, 2023. This is the new contract that covers through June, 30th, 2026. It is the result of multiple meetings between all parties.

Motion to approve: Councilor Reid w/thanks to FD

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7927

Discussion with Action: To see if the Town of Old Orchard Beach will vote to change its plan for its firefighters for future service only effective August 1, 2023.

The Town agrees to:

- a) Adopt Special Plan 3C for its full-time firefighters who regularly work at least 37 hours per week, 52 weeks per year for service rendered after July 31, 2023. Service rendered by firefighters before August 1, 2023 remains under Special Plan 2C; and
- b) Continue to provide Special Plan 3C to its full-time police officers hired after October 11, 1992 who regularly work at least 37 hours per week, 52 weeks per year; and
- c) Continue to provide Special Plan 1C to its full-time police officers hired before October 12, 1992 who work at least 37 hours per week, 52 weeks per year; and
- d) Continue to provide Regular Plan AC to all other full-time employees who regularly work at least 37 hours per week, 52 weeks per year; and
- e) Continue to exclude all other employees, including per diem only employees, elected officials and election workers, from participating in the plan; and
- f) To authorize Diana Asanza, Town Manager to sign the Amended Agreement between the Town and the Maine Public Employees Retirement System.

Motion approved as written.

Chair: Shawn O'Neill

Motion to approve: Councilor Tousignant

Second: Councilor Reid

Councilor Mead – asked Town Manager Asanza to clarify that it is a change for FD the change goes into effect on August 1st for all firefighters – making the plan more advantageous for new hires.

Vote: 4-0

AGENDA ITEM #7928

Discussion with Action: Shall the Town Council adopt amendments to Ch. 78, Art. VI, Secs. 78-518, 717, 747, 803, 833, 869, 993, 1023, 1134 and Art. VII, Sec. 78-1281. This is a new ordinance proposing regulations for lodging establishment conversions to condominiums.

Chair: Shawn O'Neill

Motion to adopt: Councilor Mead

Second: Councilor Reid

Chairman O'Neill - thanked public members that went through workshops and assisted Council and staff with the ordinance

Vote: 4-0

AGENDA ITEM #7929

Discussion with Action: Appoint Mary Pat Donnellon and Peter Guidi to the Comprehensive Plan Committee, terms to expire 12/31/2025.

Chair: Shawn O'Neill

Motion to appoint: Councilor Mead

Second: Councilor Reid

Chairman O'Neill - thanked new committee members

Vote: 4-0

AGENDA ITEM #7930

Discussion with Action: Set the public hearing date for August 1st, 2023 for the Town Council to consider an amendment to the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 187, Restrictions and Prohibitions, Old Orchard Street, by adding one fifteen-minute parking space in front of 41 Old Orchard Street (MBLU 206-31-9).

Chair: Shawn O'Neill

This will add a sixth, 15 minute parking space on Old Orchard Street. Five have been previously approved, and a sixth was requested by Council.

The public hearing will have to be scheduled for the second meeting in August, 8/15/23, to meet the 10 day posting requirement per the Town Charter.

Motion to set the public hearing date for 8/15/23: Councilor Mead

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7931

Discussion with Action: Shall the Town Council adopt amendments to Ch. 78, Art. VI, Sec. 78-869 (b) (2); 78-870 (b); 78-871 (c) (1), (2) and renumber existing (2) and (3). These amendments propose changes to the NC3 District setback, multifamily, and parking standards.

Chair: Shawn O'Neill

This item proposes zoning ordinance amendments associated with the NC3 District. The amendments propose the following: 1. Allow multifamily building to have units on the sidewalk level; 2. Reduce principal and accessory building setbacks; and 3. Exempt on-site, off-street parking for residential and nonresidential uses. The amendments are proposed by the owners of 20 and 23 Washington Ave.

Motion to adopt: Councilor Tousignant

Second: Councilor Reid

Councilor Mead – concern on adding residential use on sidewalk level – has been tough to get commercial use on lower levels – would like to see year-round residential use instead of seasonal use – can be used for STR – would like to table to amend it to not allow STR rentals – Councilor Reid concur with Councilor Mead to table – Chairman O'Neill – applicant has been trying to move forward with this application for 3 years – don't want to punish owner for what current ordinances allow – Councilor Mead – how many units? JH – 1 unit potential – residential uses already exist – 9 properties – all either have long-term businesses or already have residential use – Councilor Mead will vote to approve

Vote: 4-0

AGENDA ITEM #7932

Discussion with Action: Approve the agreement between the Town of Old Orchard Beach and the Town of Scarborough for the Town of Scarborough to provide Dispatch and Public Safety Answering Point services for the Town of Old Orchard Beach for the time period of 7/1/2023 through 6/30/2024 for a fee of \$451,793.00 from account #20131-50310 Police Service Contracts with a FY 24 balance of \$544,200.

Chair: Shawn O'Neill

This is a renewal contract for dispatch services through the Town of Scarborough. It is for one year only because the Town of Scarborough is going through a system upgrade and the cost for services for year two and three were unknown at the time of the FY 24 budget adoption.

Motion to approve: Councilor Mead

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7933

Discussion with Action: Accept the Quote from Bill Dodge Auto Group in the amount of \$39,725.18 for a 2023 GMC Savana 2500 and the quote in the amount of \$5,950.00 from New England Vehicle Outfitters for the emergency light installation, for a total of \$45,675.08 to be financed through a lease purchase agreement with Androscoggin Bank at 5.62% (tax exempt) for five years with annual payments not to exceed \$10,734.47 from account 20197-50330 Debt Service Equipment Replacement with a balance of \$642,500.00.

Chair: Shawn O'Neill

Motion to accept: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7934

Discussion with Action: Accept the Quote from Motorola Solutions in the amount of \$100,950.00 for 50 Motorola APX-900 P25 Portable Radios for the Fire and Police Departments to be financed through a lease purchase agreement with Androscoggin Bank at 5.62% (tax exempt) with five annual payments in the amount of \$22,455.93 from account 20197-50330 Debt Service Equipment Replacement with a balance of \$642,500.00.

Chair: Shawn O'Neill

Portable radios are an essential component of the Public Safety Departments' Emergency Communications System, keeping users in the field constantly connected with dispatchers and other responders. These devices will replace older equipment that has reached the end of its serviceable life. They have been tested in the field by both the Fire and Police Departments and meet all requirements.

Motion to accept: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7935

Discussion with Action: Approve the Council Order 2023-1 to authorize the Lease Purchase of Public Safety Radio Equipment in the Principal Amount of \$100,950.00

Chair: Shawn O'Neill

Motion to approve: Councilor Mead

Second: Councilor Reid

Vote: 4-0

Town Manager Asanza – this is a legal requirement from Bank and IRS to retain tax exemption – any item over \$100,000 requires a Council order.

AGENDA ITEM #7936

Discussion with Action: Accept the quote from TSI for a Porta Count Respiratory Fit Tester in the amount of \$16,570.00 from account #52002-50927 Fire Safety Equipment with a balance of \$39,475.00.

Chair: Shawn O'Neill

PortaCount Respiratory Fit Tester is a device used to check that breathing masks worn by firefighters and emergency medical service (EMS) workers fit them properly and provide effective protection against harmful particles in the air. This device replaces an older model and increases our capability to test users on medical style respirators. This was approved as part of the FY 24 CIP budget.

Motion to accept: Councilor Tousignant

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7937

Discussion with Action: Accept the quote from Stryker in the amount of \$22,083.43 for a Lucas 3 Chest Compression System from account #52002-50927 Fire Safety Equipment with a balance of \$39,475.00.

Chair: Shawn O'Neill

Motion to accept: Councilor Mead

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7938

Discussion with Action: To accept grant funds in the amount of \$21,250.00 from The Recycling Partnership, to be used towards the purchase of recycling totes for municipal solid waste automated collection services.

Chair: Shawn O'Neill

Motion to accept: Councilor Mead

Second: Councilor Reid

Vote: 4-0

Town Manager Asanza – the new solid waste contract with Casella includes automatic waste removal and carts need to be compatible with the system – this is a grant towards the purchase of recycling carts – 5 bids were received, recommended to the low bidder – roll out program after Labor Day – plenty of public notice to notify residents – Nancy Frisco – not enough for short term rentals – Councilor Tousignant – size of containers? – Town Manager Asanza – 64-gallon containers – 2 per household, 1 recycling, and 1 trash – Hank Forman – expressed his concerns on small streets and issues with parking along the side of streets – Nancy Frisco – losing jobs with automated lifters – Councilor Tousignant – good questions from public tonight – Councilor Mead – town did not have choice, vendors not available anymore for municipal sized accounts – all vendors that can handle size are automated pickup – Eileen Carbonneau – 36 Gables Way – condos – asking about notification – Hank Forman – increase or decrease on costs? – Town Manager Asanza contract cost went up – Nancy Frisco – beach barrels? – Chairman O'Neill – no change – Councilor Reid – acknowledge staff getting grants and efforts needed

AGENDA ITEM #7939

Discussion with Action: Approve the bid from Rehrig Pacific Company in the amount of \$444,132.50 for the purchase of municipal solid waste and recycling carts, to be funded in part by the Recycling Partnership Grant in the amount of \$21,250 and a lease purchase agreement through Gorham Savings Bank, in the principal amount of \$422,882.50 financed for 10 years at 5.00% with annual payments in the amount of \$52,249.96 from account number 20197-50330 Debt Service Lease with a balance of \$642,500.00.

Chair: Shawn O'Neill

A total of 5 bids were received for the Residential Curbside Collection Container RFP released June 5th, 2023. The results of those bids are below. The recommendation is to approve the bid from Rehrig Pacific. It came in as the low bid and is a preferred vendor of Casella Waste Systems, our waste removal contractor.

	Company Name	Contact	Address	Contact information	Bid Amount per Container including assembly and distribution
1	Toter	Kellie Clark	841 Meacham Rd, Statesville, NC 28677	800-424-0422 ext 09584 kclark@toter.com	\$58.03
2	Rehrig Pacific Company	Kemrey Kidd	1738 West 20th Street, Erie, PA 30046	202-731-3937 kkidd@rehrig.com	\$51.25
3	Otto Environmental Systems	Sandra Abdow	12700 General Drive, Charlotte, NC 28273	980-275-5457 sandra.abdow@otto-usa.com	\$59.50
4	Schafer Plastics North America LLC	Travis McAlister	10301 Westlake Drive, Charlotte, NC 28273	704-588-2150 ext 5534 travis.mcalister@ssi-plastic.com	\$56.15
5	Cascade Cart Solutions	Matt Maes	5175 36th St. SE, Grand Rapids, MI 49512	507-514-1499 matt.maes@cascadeeng.com	\$51.88

Motion to approve: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7940

Discussion with Action: Approve the Council Order 2023-2 entitled “Order to Authorize Lease Purchase of Solid Waste and Recycling Carts in the Principal Amount of \$422,882.50.

Chair: Shawn O’Neill

Motion to approve: Councilor Mead

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7941

Discussion with Action: Authorize the Town Manager to enter into the Animal Shelter Agreement for Fiscal Year 2024 with the Animal Welfare Society for the purpose of providing shelter for stray and lost domesticated companion animals located within the Town of Old Orchard Beach, in the amount of \$13,069.92 from account #20131-50310 Service Contracts Expense with a balance of \$544,200.00.

Chair: Shawn O'Neill

Motion to authorize: Councilor Reid

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7942

Discussion with Action: Approve the quote from Precision Equipment Coatings to paint the John Deere 624k loader for an amount not to exceed \$18,000.00 from account 50002-50551 CIP Public Works Operating Equipment Capital with a balance of \$100,153.09.

Chair: Shawn O'Neill

This was approved as part of the FY 24 CIP budget to prolong the life of the John Deere Loader utilized by the Public Works Department.

Motion to approve: Councilor Mead

Second: Councilor Tousignant

Councilor Mead – painting extends the life of the equipment

Vote: 4-0

AGENDA ITEM #7943

Discussion with Action: Approve a budget carry from the FY 23 Operating Budget, account number 20151-50300 Public Works Engineering Fees in the amount of \$7,573 with a balance of \$54,809.14 to the FY 24 Operating Budget account number 20151-50300 Public Works Engineering Fees for MS4 Engineering Services.

Chair: Shawn O'Neill

The balance of the funds would primarily be used to complete dry weather outfall inspections and sampling that were scheduled for FY 23, but we were unable to complete because of the rain.

Motion to approve: Councilor Mead

Second: Councilor Reid

Town Manager Asanza – inspections planned could not take place due to wet weather conditions – inspections in the next 2 weeks

Vote: 4-0

AGENDA ITEM #7944

Discussion with Action: Approve a budget carry forward from the FY 23 Operating Budget, account number 20131-50519 Police Department K-9 Program in the amount of \$15,000 with a balance of \$15,000 to the FY 24 Operating Budget, account number 20131-50519 Police Department K-9 program to fund the K-9 program in the FY 2024 Budget.

The Police Department was unable to acquire a dog for their K-9 program before June 30th, because of new personnel, and being short-staffed, therefore instead of budgeting this item again in FY 24, the Department requested to carry forward the appropriation approved in FY 23 to FY 24.

Chair: Shawn O'Neill

Motion to approve: Councilor Reid

Second: Councilor Mead

Councilor Tousignant – who takes care of the dog now? – Police Chief Chard – no canine now, this will bring the K9 unit back

Vote: 4-0

AGENDA ITEM #7945

Discussion with Action: Accept the quote from Douglas Sports Equipment in the amount of \$15,393.00, for 6 Premier PPS-22SQ Portable Pickleball Systems from account 51002-50902 CIP Admin Rec-Loranger Tennis/Pickleball Court with a balance of \$67,018.00.

Chair: Shawn O'Neill

This was approved as part of the FY 24 Capital Budget for the Recreation Department.

Motion to accept: Councilor Reid

Second: Councilor Mead

Town Manager Asanza – a hot topic in town – this is the first item to purchase, Rec Dept will come with the rest of the project to convert courts in subsequent meetings.

Vote: 4-0

AGENDA ITEM #7946

Discussion with Action: Approve the purchase of ten Franklin 4-Station Voting Booths from Inclusion-Solutions, in the amount of \$10,206.96 from account number 20107-50501, Operating Supplies for Elections with a balance of \$15,000.00.

Chair: Shawn O'Neill

This was approved as part of the FY 24 Town Clerk's Operating Budget.

Motion to approve: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7947

Discussion with Action: To approve the proposal from Wright Pierce for the New Salt Road reconstruction, to include design, and construction administration and oversight, in the amount of \$58,300.00 from account number 50002-50506 CIP Road Maintenance and Improvement with a balance of \$1,025,414.31. This proposal is part of the Town's claim for disaster reimbursement through the FEMA Disaster Assistance from the December 23, 2022, storm event.

Chair: Shawn O'Neill

Motion to approve: Councilor Mead

Second: Councilor Reid

Hank Forman – is this an upgrade to the tide gate system on New Salt Rd? – Town Manager Asanza – this item is to reconstruct the road, next agenda item is to evaluate the tide gate system – Councilor Mead – design and engineering work, not construction – seeking FEMA assistance for reconstruction – Hank Forman – concern with traffic from the area now to Randall Ave – property on beach side of West Grand on Saco side – Town needs to open sight lines with vegetation on that area – Chairman O'Neill – agree on cleaning up area –

Vote: 4-0

AGENDA ITEM #7948

Discussion with Action: To approve the proposal from Wright Pierce for the New Salt Road Tide Gate Structural Assessment, to include inspection of the tide gates and culverts including appurtenant structures, in the amount of \$6,600.00 from account number 20151-50300 Public Works Professional Engineering Services with a balance of \$168,000.00. This proposal is part of the Town's claim for disaster reimbursement through the FEMA Disaster Assistance from the December 23, 2022, storm event.

Chair: Shawn O'Neill

Motion to approve: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7949

Discussion with Action: Renew the liquor license for Big Daddy's Bar and Grill, Guy Loranger, Big Daddy's Bar & Grill, Inc., (307-3-4) 13 Old Orchard Street, m-s-v in a Class A Restaurant.

Chair: Shawn O'Neill

Motion to renew: Councilor Mead

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7950

Discussion with Action: Accept Federal Grant funds in the amount of \$5,000.00 from the Juvenile Justice Assistance Program administered by the State of Maine Department of Corrections.

Chair: Shawn O'Neill

The funds will be allocated to assist in financing the current Old Orchard Beach Juvenile Community Resolution Board which focuses on restorative justice for juveniles involved in criminal activity.

The current JCRB (Juvenile Community Resolution Board) is fully financed by the town of Old Orchard Beach and administered by the Old Orchard Beach Police Department.

The available grant funding will offset the towns current costs of payment to a restorative facilitator along with other costs associated with the JCRB Program.

This program has been in place for several years and has been found to be highly successful with restorative justice involving juveniles within the Old Orchard Beach Community.

There is no cost to the Town of Old Orchard Beach and no match funding required for the acceptance of the allocated funds.

Motion to accept: Councilor Reid

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7951

Discussion with Action: Move the Special Event Permit for the Salvation Army Family Fun Night, closing the section of Church Street adjacent to their property, from August 2nd to July 31st, 2023, the same times of 3 p.m. to 9 p.m. This permit was approved August 3rd, 2021.

Chair: Shawn O'Neill

Motion to move the date: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

AGENDA ITEM #7952

Discussion with Action: Approve the Special Event Permit application for the Old Orchard Beach Recreation Department to hold Community Concerts in Memorial Park, the following Thursdays, July 20th, 2023, July 27th, 2023, August 3rd, 2023 and August 10th, 2023, rain date August 17th, 2023.

Chair: Shawn O'Neill

Motion to approve: Councilor Mead

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7953

Discussion with Action: Approve the Special Event Permit application for the Old Orchard Beach Recreation Department to hold Round Robin Basketball Games at the Memorial Park Basketball Courts on Saturday, July 22nd, 2023, from 8 a.m. to 7 p.m., including set-up and takedown. Rain date July 23rd, 2023, same times.

Chair: Shawn O'Neill

Motion to approve: Councilor Reid

Second: Councilor Mead

Councilor Mead -retro approvals due to postponed meeting from last week

Vote: 4-0

AGENDA ITEM #7954

Discussion with Action: Approve the Special Event Permit application for Ashley Hay to hold a wedding on the beach at the end of Parcher Avenue. Event, including set-up and take down, is from 2 p.m. to 8 p.m., Saturday, August 19th, 2023.

Chair: Shawn O'Neill

Motion to approve: Councilor Mead

Second: Councilor Tousignant

Vote: 4-0

AGENDA ITEM #7955

Discussion with Action: Approve the Special Event Permit for the New England Parkinson's Ride to set-up at the Ballpark on Thursday, September 7th, 2023 from 11 a.m. to 3 p.m., and hold their event on Friday, September 8th, 2023, at the Ballpark, from 4 p.m. to 9 p.m., and the race beginning and ending at the Ballpark on Saturday, September 9th, 2023 from 5 a.m. to 5 p.m. Clean-up is part of the contract with the Ballpark.

Chair: Shawn O'Neill

Motion to approve: Councilor Tousignant

Second: Councilor Reid

Vote: 4-0

AGENDA ITEM #7956

Discussion with Action: Approve the Special Event Permit applications for Pier Leasing Co. to hold their Bikefest on Saturday, August 26th, 2023 from 10 a.m. to 10 p.m. and to hold a Jeepfest on Saturday, September 9th, 2023, 10 a.m. to 10 p.m. Request to close the Square to parking with the exception that the horseshoe must be kept open for emergency vehicle access.

Chair: Shawn O'Neill

Motion to approve: Councilor Mead

Second: Councilor Reid

Vote: 4-0

ADJOURNMENT

Chair: Shawn O'Neill

Motion to adjourn @7:58pm: Councilor Tousignant

Second: Councilor Mead

Vote: 4-0

Malihew S. Warner
mwarner@preti.com
207.791.3067

VIA EMAIL & US MAIL

July 24, 2023

Richard Haskell, Code Enforcement Officer
Code Enforcement
1 Portland Avenue
Old Orchard Beach, ME 04064

Jeffrey Hinderliter, Town Planner
Planning Board
1 Portland Avenue
Old Orchard Beach, ME 04064

RE: Adult use marijuana licensing process

Dear Mr. Haskell and Mr. Hinderliter,

I represent Exit 710, LLC, one of the three companies that recently applied for the sole adult use marijuana retail license in Old Orchard Beach. I am writing because it is our view that the town must review and act on the applications it received during the March 6 – 10 application acceptance period and award the license to one of those three applicants. The ordinance does not permit the town to start the process anew now that applications have been accepted. Nor may the town pause licensing altogether. The process is underway, and it must proceed to conclusion.

The process established by Ordinance Sec. 18-610 and 18-612 plainly requires that there is a single application acceptance period, after which the town “will review the license applications for the purpose of determination of completeness and assign points in accordance with the merit criteria” established by the ordinance. Sec. 18-610(1)(d). “Within 60 calendar days after closing of the application acceptance period, the license administrator or their designee will conclude the determination of completeness review and merit criteria evaluation process and notify all applicants of the results.” *Id.*(1)(h).

The only reasonable way to read the ordinance is that there is one, and only one, opportunity to submit an application for the town’s license. After that window closes, the town must review the applications submitted and, based on that review, provide a single applicant the right to apply for a conditional use permit. This must occur within 60 days and there is nothing in the ordinance allowing the town to stop the process short and start over. In the town’s own words, as it explained in its public document summarizing the license selection process, “there’s only one shot to get it all in and right.”¹

We understand that the June 13 referendum affects the town’s licensing process and may disqualify one of the other applicants, but this is no excuse to ignore town ordinance or restart the application process. The town knew this referendum was scheduled for June when it decided to open the application window in March of this year. It would have been better to wait and see whether the referendum passed,

¹ See 2023 Adult Use Marijuana Ordinance License Selection Process Summary, Town of Old Orchard Beach, available online at <https://www.oobmaine.com/departments/code-enforcement/adult-use-marijuana-business-procedure/adult-use-marijuana-license-selection-process/>.

PRETI FLAHERTY

July 24, 2023

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something my client urged the town to do repeatedly. But the town insisted on plowing ahead with licensing and, as a result, my client had to petition the Superior Court and obtain an injunction to prevent the town from awarding a license in advance of the referendum.

Recognizing that the court order made it impossible for the town to review and score the three applications within 60 days, as ordinance requires, it is reasonable to conclude that the 60-day clock began running when the court's injunction lifted on June 13. This means that the town is obligated by its own ordinance to finish reviewing and scoring the applications by, at the latest, August 15, 2023.

The lawsuit filed by another applicant last week in federal court does not affect this clock. Recent history shows that the town is more than willing to proceed with licensing, even when lawsuits challenging that process are pending. Moreover, the lawsuit is plainly without merit. A zoning restriction on the size of a business does not discriminate against non-residents or lack a rational basis, and there is no reason to think the federal court will enjoin the licensing process at any point in time.

In terms of fairness, the town opened the application acceptance period in March at its own risk and cannot use the referendum as an excuse to ignore the requirements of ordinance and start the process anew. Likewise, the other applicants who applied in March knew that the referendum was scheduled for June and should have known since at least November 2022 that the referendum could result in restrictions on the size of any adult use marijuana establishment in Old Orchard Beach. One of these applicants chose to apply with a property and building that exceed the size allowed by the referendum. They do not get a do-over now when that choice turned out to be the wrong one.

The residents of Old Orchard Beach approved language in 2020 requiring the town to issue a limited number of adult use cannabis licenses and they have been waiting ever since for the town to follow through. We trust the town will not unduly or illegally delay the licensing process any further.

Sincerely,



Matthew Warner

cc: The Honorable Shawn O'Neill
Zachary Brandwein, Bernstein Shur