

**TOWN OF OLD ORCHARD BEACH
SPECIAL TOWN COUNCIL MEETING
Thursday, May 24, 2012
TOWN HALL CHAMBERS
7:00 p.m.**

A Special Town Council Meeting of the Old Orchard Beach Town Council was held on Thursday, May 24, 2012. Chair Quinn opened the meeting at 7:06 p.m.

The following were in attendance:

**Chair Bob Quinn
Vice Chair Michael Tousignant
Councilor Sharri MacDonald
Councilor Robin Dayton – *arrived after the approval of Emergency Items*
Councilor Michael Coleman
Town Manager Mark Pearson
Assistant Town Manager V. Louise Reid**

**Pledge to the Flag
Roll Call**

CHAIR: I would like to add two Emergency Items to the Agenda this evening:

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to add Agenda Item Number 5662 to follow Agenda Item 5659 – Discussion with Action: Approve the Special Event Permit application for WPOR/OOB Recreation Department to have a “Young Country Concert” in the Square on Tuesday, May 29, 2012; set up at 5:30 p.m., performance at 6:00 p.m.; and 6:30 – 7:00 p.m. – breakdown; request to close the Square to vehicular traffic starting at 3:00 p.m.; and a request to waive the fee.

VOTE: Unanimous – Councilors Coleman, MacDonald, Vice Chair Tousignant and Chair Quinn.
Councilor Dayton arrived after the vote.

MOTION: Vice Chair Tousignant motioned and Councilor Coleman seconded to add Agenda Item Number 5662 to follow Agenda Item 5660 – Discussion with Action: Authorize and Request the State of Maine Retirement System to Refund to the Town of Old Orchard Beach the entire balance, in full, of the IUUAL credit immediately.

VOTE: Unanimous – Councilors Coleman, MacDonald, Vice Chair Tousignant, and Chair Quinn.
Councilor Dayton arrived after the vote.

CHAIR: I open the Public Hearing at 7:06 p.m.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

Charles J. Rimas (202-1-4-3), 9 Parcher Avenue, Unit #3, one year round rental; Luca Pizzuti dba/Roma Pizza (206-31-8), 39 Old Orchard Street; Victualers with Preparation, No Alcohol; Stanley J. & Ann Marie Quinlan (211-1-16-#19), 7 Old Salt Road, one year round rental; Marcel Nunes (301-3-1-303), 189 East Grand Avenue, #303, one year round rental; Wayne Simmons (304-1-2-Unit 2), 1 Walnut Street, Unit #2, one year round rental; James & Linda O'Brien (305-2-1-73), 31 East Grand Avenue, Unit #73, one year round rental; Leland A. Boutwell (305-3-1-1), 1 Boisvert Street, Unit 1, one year round rental; Carla Dube (314-11-12), 90 Seaview Avenue, one year round rental (Main House); and Thomas P. & Kathleen Vacca (318-8-6-43), 146 West Grand Avenue, #43, one year round rental.

CHAIR: I close this Public Hearing at 7:10 p.m.

MOTION: Councilor MacDonald motioned and Councilor Coleman seconded to Approve the Business Licenses as read.

VOTE: Unanimous.

CHAIR: I open the Public Hearing at 7:10 p.m.

PUBLIC HEARING SPECIAL AMUSEMENT PERMIT:

Jumpin Jakes LLC dba/Jumpin Jakes Café (208-3-3) 181 Saco Avenue, Music (Amplified) – Inside & Outside, 12:00 p.m. to 12:00 a.m.

CHAIR: I close the Public Hearing at 7:11p.m.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Approve the Special Amusement Permit as read.

VOTE: Unanimous.

PUBLIC HEARING LIQUOR LICENSES:

CHAIR: I open the Public Hearing at 7:12 p.m.

Jumpin Jakes LLC dba Jumpin Jakes Café (208-3-3), 181 Saco Avenue, Changing from an s-m-v in a Restaurant to a s-m-v in a Restaurant/Lounge.

CHAIR: I close the Public Hearing at 7:13 p.m.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Approve the Liquor License as read.

VOTE: Unanimous.

NEW BUSINESS:

5656 Discussion with Action: Approve the Special Event Permit application for Palace Playland and the Pier to hold Fireworks displays every Thursday at 9:45 p.m. on the beach in front of Palace Playland, starting June 21st, 2012 to August 23rd, 2012, to also include July 4th and 6th, rain dates would be the following day. Approval by the State Fire Marshall's Office to be provided to the Town Clerk's Office at least one week prior to the first display; and a request to waive the fee.

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Approve the Special Event Permit as read.

VOTE: Unanimous.

5657 Discussion with Action: Approve the Special Event Permit application from RS Fireworks LLC to hold a Fireworks display on Thursday, June 7th, 2012 after the game (game begins at 6 p.m.). Approval by the State Fire Marshall's Office and insurance listing the Town as additionally insured, to be provided to the Town Clerk's Office at least one week prior to the event. Notification of the date, location and approximate time of the Fireworks display to be sent to each property owner within a radius of the Ballpark to be determined by the Town Council; and a request to waive the fee.

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to Approve the Special Event Permit as read.

VOTE: Unanimous.

5658 Discussion with Action: Approve the Memorandum of Understanding between the Town of Old Orchard Beach (the Town) and the Old Orchard Beach Free Public Library Association (Library), effective May 24, 2012.

**Town of Old Orchard Beach, Maine
Old Orchard Beach Free Public Library Association
aka Edith Belle Libby Memorial Library**

Memorandum of Understanding:

The Town of Old Orchard Beach, Maine (the Town) and the Old Orchard Beach Free Public Library Association (Library) both acknowledge that the two organizations serve

the same constituency and have the same goal and objectives. Both organizations want to maximize service to the residents of Old Orchard Beach and patrons of the Edith Belle Libby Memorial Library.

The Town and the Library also acknowledge that the Town has the capacity to provide certain services that the Library needs. Examples of these services include payroll processing and accounts payable processing. Both organizations acknowledge that there are potential dollar savings and other benefits to having the Town perform certain functions for the Library.

The Town and the Library now agree to the following arrangements for services:

1. The Town will process all payroll related functions for employees at the Library. This is intended to include regular payroll processing as currently provided to Town employees, officials and other entities with similar memorandums of understanding. This includes but is not limited to regular paycheck processing, direct deposit, tax deposits, necessary and selected deductions and any other service that may be appropriate.
2. The Town will process accounts payable upon receipt of coded invoices from the Library. The Library Trustees will have full authority over purchasing decisions. ~~On an as needed basis, the Town will pay out manual checks invoices that need to be paid prior to the~~ The Town will prepare regular processing of an AP warrant to be signed by the Library Trustees.
3. The employees of the Library remain under the control and direction of the Board of Trustees of the Library.
4. This memorandum of understanding is considered to be in place until such time that either the Town or the Library chooses to modify or discontinue the terms of the agreement. Any modification will be subject to mutual agreement. Either party may choose to discontinue terms of this Memorandum of Understanding by giving notice of termination at least one year prior to the beginning of the Town's next fiscal year. ~~agreement by mutual consent. or by giving notice within one year of the end of the current fiscal year.~~

Robert Quinn, Chairman, Old Orchard Beach Town Council

Date

Jerome Plante, President, Library Board of Trustees

Date

Discussion regarding the Memorandum of Understanding as defined with the changes reflected above, was initially proposed by the members of the Library's Board of Trustees and would officially sanction the Town to not only take control of Library's finances, but also oversee direct deposits, necessary tax deposited and selected deductions and any other service that may be appropriate. It would also allow either party to back out of the agreement within one year of the end of the

Town's next fiscal year. It was evident during the discussions that the consensus of Council was that the document needed to be reviewed by the Town's legal department to make sure both interests are protected. It was indicated by the Town Manager that the Town's attorney indicated that the document could be interpreted multiple ways and the language needed to be clarified and spelled out so there is no ambiguity in the future. In an effort to move forward with this Memorandum of Understanding Councilor Coleman reminded everyone that the responsibility of the Town Council is to assure that the good of the taxpayers is protected and he was concerned over recent acknowledgement that the 503©3 designation of a non-profit has been negated because of the lack of filing required documents and that his concern is not only of the finances of the Library but donations to the Library building fund are a concern. Jerome Plante, Chair of the Library Board of Trustees agreed that there is a need for more accountability and that the Board and staff are working diligently to see that new processes and procedures are put in place. Again the request from Council was that they needed to see these processes and procedures. The Town Manager expressed his concern that there was a need for specificity in the language of the Memorandum of Understanding and that some of the concerns related to issues such as line item budget restrictions which he has been told by our attorney are not requirements for the Library. The Finance Director indicated her concern as a CPA that she needed to sign that there is defined allocation of payroll and operating expenses and that by not having to be defined by the line item budget the transferring of funds by the Library from one account to another will complicate the clarity and transparency. Councilor MacDonald and Councilor Dayton indicated that they believed that the manner in which to assign Purchasing Numbers had been explained last meeting and agreed to by each group. The Finance Director indicated that in a recent meeting with Library personnel, it appeared that there were still questions related to this area although she expressed that the meeting had been very positive. The concern is that the Town's appropriated funding to the Library could be moved between payroll and operations and not spent for the intended purposes. The intended purpose of the Council via the budget process is what that Memorandum of Understanding memorializes and it clarifies how that money is going to be spent on the Library side according to how Council has appropriated. The question was also asked that with the 501©3 status up in the air, exactly who or what is being signed. It was agreed that in the benefit of transparency the agenda item would be tabled to date certain, June 19, 2012, for action from the Council.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to Table Agenda Item 5658 to date certain, June 19, 2012 - Discussion with Action: Approve the Memorandum of Understanding between the Town of Old Orchard Beach (the Town) and the Old Orchard Beach Free Public Library Association (Library), effective June 19, 2012.

VOTE: Unanimous.

5659 Discussion with Action: Consider statutorily required procedures relative to 36 M.R.S.A., Section 841 - Poverty Abatements.

The Town Manager discussed the policy/procedure relative to Poverty Abatement. Maine Municipal Association (MMA) has a different approach than the policy/procedure the Town has been using for at least the past fifteen years. The discussion was whether to follow the policy/procedure as recommended by previous Bernstein Shur attorney, Chris Vaniotis, or follow the policy/procedure suggested by MMA.

CURRENT PROCEDURE:

Enter into executive session:

MOTION: A motion was made by _____ and seconded by _____ to enter into Executive Session to discuss an Abatement Request.

VOTE: Yea – Unanimous

Consider Abatement Request 2012 -____, Pursuant to 36 M.R.S.A., Section 841 (2)

MOTION: _____ motioned and _____ seconded to end discussion on the Abatement Request.

VOTE: Yea – Unanimous

MOTION: _____ motioned and Councilor _____ seconded to approve the Abatement Request.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: _____ motioned and _____ seconded to adjourn the meeting at _____ p.m.

VOTE: Yea – Unanimous

MMA PROCEDURE:

Enter into executive session:

MOTION: A motion was made by _____ and seconded by _____ to enter into Executive Session to discuss an Abatement Request.

VOTE: Yea – Unanimous

Consider Abatement Request 2012 -01, Pursuant to 36 M.R.S.A., Section 841 (2)

MOTION: _____ motioned and _____ seconded to end discussion on the Abatement Request.

VOTE: Yea – Unanimous

MOTION: _____ motioned and Councilor _____ seconded to approve the Abatement Request.

VOTE: Unanimous.

After coming out of Executive Session, the Council should make a motion:

MOTION: _____ I move to grant an abatement of the amount of \$_____ to Title 36 M.R.S.A, Section 841(2), seconded by _____.

VOTE: Unanimous.

OR THE FOLLOWING:

MOTION: _____ motioned to grant/deny or partially grant) an abatement request made pursuant to 36 MRSA, Section 841(2) in the sum of \$_____ for the tax year 20__, seconded by _____.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: _____ motioned and _____ seconded to adjourn the meeting at _____ p.m.

VOTE: Yea – Unanimous

DECISION MADE

Once the decision is made this evening which procedure to follow:

The Council discussed this at great length and it was determined that the Council would follow the MMA procedures as follows:

Enter into executive session:

MOTION: _____ motioned and _____ seconded to enter into Executive Session to discuss an Abatement Request.

VOTE: Yea – Unanimous

Consider Abatement Request 2012 -01, Pursuant to 36 M.R.S.A., Section 841 (2)

MOTION: _____ motioned and _____ seconded to end discussion on the Abatement Request.

VOTE: Yea – Unanimous

MOTION: _____ motioned and Councilor _____ seconded to approve the Abatement Request.

VOTE: Unanimous.

After coming out of Executive Session, the Council should make a motion:

MOTION: _____ motioned to grant or partially grant) an abatement request made pursuant to 36 MRSA, Section 841(2) in the sum of \$____ for the tax year 20__, seconded by _____ but in the case of deny – no amount or tax year would be presented..

VOTE: Unanimous.

THEN PROCEED TO THE NEXT AGENDA ITEM.

The consensus of the Council was to follow the following procedure relative to

MOTION: Councilor Coleman motioned and Vice Chair Tousignant seconded to grant or partially grant) an abatement request made pursuant to 36 MRSA, Section 841(2) in the sum of \$____ for the tax year 20__; or in the case of deny – no amount or tax year would be presented.

VOTE: Unanimous.

5662 Discussion with Action: Approve the Special Event Permit application for WPOR/OOB Recreation Department to have a “Young Country Concert” in the Square on Tuesday, May 29, 2012; set up at 5:30 p.m., performance at 6:00 p.m.; and 6:30 – 7:00 p.m. – breakdown; request to close the Square to vehicular traffic starting at 3:00 p.m.; and a request to waive the fee.

MOTION: Councilor Coleman motioned and Councilor MacDonald seconded to Approve the Special Event Permit application for WPOR/OOB Recreation Department to have a “Young Country Concert” in the Square on Tuesday, May 29, 2012; set up at 5:30 p.m., performance at 6:00 p.m.; and 6:30 – 7:00 p.m. – breakdown; request to close the Square to vehicular traffic starting at 3:00 p.m.; and a request to waive the fee.

VOTE: Unanimous.

5563 Discussion with Action: Authorize and Request the State of Maine Retirement System to Refund to the Town of Old Orchard Beach the entire balance, in full, of the IUUAL credit immediately.

MOTION: Councilor Coleman motioned and Councilor Dayton seconded to

Authorize and Request the State of Maine Retirement System to Refund to the Town of Old Orchard Beach the entire balance, in full, of the IUUAL credit immediately.

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Councilor MacDonald motioned and Councilor Dayton seconded to Adjourn the Special Town Council Meeting.

VOTE: Unanimous.

Respectfully Submitted,

**V. Louise Reid
Town Council Secretary**

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of nine (9) pages is a copy of the original Minutes of the Special Town Council Meeting of May 24, 2012.

V. Louise Reid