

**TOWN OF OLD ORCHARD BEACH
EMERGENCY SPECIAL TOWN COUNCIL MEETING**

March 26, 2013

Town Council Chambers

An Emergency Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, March 26, 2013. Chair MacDonald opened the meeting at 7:00

Pledge to the Flag

The following were in attendance:

Vice Chair Bolduc
Councilor Coleman
Councilor Dayton
Councilor Furtado
Chair MacDonald
Councilor Mailhot
Councilor Quinn

Councilor Quinn motioned to go into Executive Session per 1MRSA section 405 6A

Vice Chair Bolduc seconded

Councilor Coleman	Yes
Councilor Quinn	Yes
Councilor Mailhot	Yes
Councilor Furtado	Yes
Councilor Dayton	Yes
Vice Chair Bolduc	Yes
Chair MacDonald	Yes

At 7:34 Councilor Quinn made a motion to come out of Executive Session.

Seconded by Councilor Dayton

Chair MacDonald

Discussion with action: Appoint an interim Town Manager.

Council met last week to go over resumes and they interviewed three people for the interim position. Robert Peabody was selected. He is from Rockport Maine.

Vice Chair Bolduc made a motion that they appoint Robert Peabody as Interim Town Manager.

Seconded by Councilor Furtado.

Councilor Coleman said this process has been rushed. He is concerned that the candidate very recently left Rockport in what could be considered a cloud. With all we have been through, he thinks it is ill advised, he hopes he is wrong but at this time he can not support this appointment. He realizes he will be on the low end of the vote and if the vote is successful, he will look forward to working with Mr. Peabody.

Council Dayton had similar concerns in a way but different as she has been consistent in her communications with fellow councilors and others that we have a means to move forward with an interim and that is the Assistant Town Manager. She is currently unavailable but that is only for a short term. She has asked to wait a few more days to see what her return to work schedule could be. This situation has been rushed. She feels the Charter has other avenues available that we have

chosen to ignore. It is not for any reason for this particular individual but she wished they had taken more time and increased the pool of candidates.

Councilor Quinn said he would be happier if they were reinstating Mark Pearson as Town Manager. He realizes with this Council that is not possible and he thinks we need to move on.

Councilor Mailhot said that this action has been rushed with good reason. We are up against time issues regarding the Presentation of a Budget. That needs to be done by April 1st. Another time consuming issue is labor negotiations which have been not happening as of late. Actions have been filed and notifications given by those labor unions. It has been rushed for good purpose. We did all have interviews with the candidates. Everyone sitting up here was satisfied at one point in time. That being said, we had the issue of the Assistant Town Manager. The fact of the matter is the Assistant Town Manager is out on medical leave. She has not been cleared to come back by her doctor on any schedule. She is not scheduled to be seen by her doctor in the near future. (Both Councilor Coleman and Dayton tried to interject. Councilor Coleman continued to speak about disclosing information protected under state law). When she does see the doctor it will be discussed as to whether to ease her back in or not. With the deadlines we have coming up and the Town business that needs to be done. Staff wants a Town Manager to be able to go to with questions that need to be answered on a regular basis. We have asked people on town staff to step up and do it and they have all declined. And she does not blame them. She would not want to have to put one of the department heads in that position. We need an Interim Town Manager and she thinks we have been presented with a candidate that can fit that bill on an interim, temporary BASIS.

Councilor Furtado wanted everyone to know that after seeing the 7 resumes. He was able to do a Google background check on all of them and they were all qualified including one who had been town manager of our town before. What he liked about Mr. Peabody was that he came from a town like ours. A tourist based community. 8 plus years as a Town Manager in the same place is a good point. Some of the Councilors who are now having differing views of Mr. Peabody had ranked him high up. Mr. Peabody was first on his list and after doing his own research and checking his background (and he did come across the Bangor Daily News article... that was not news to him). He is backing up Councilor Mailhot's comments and thinks we need to move ahead and stop stalling and wasting time. The Community and the wounds need to heal. He appreciates the Assistant Town Manager's willingness to step into the roll but we can no longer wait. He is supporting Mr. Peabody's appointment.

Vice Chair Bolduc wanted to point out that the entire council agreed on the timeline. They knew the deadline for applications was Monday at 4. Everyone was in agreement that the process needed to happen this fast. At the 11th hours to have issues with the process is evidence of their obstructionist style.

Councilor Coleman said "Obstructionist style, that's rich. On December 7, 2012 our Chairman went into Mark's office after what appears to have been an illegal meeting of the Council majority and demanded, sorry allowed him to resign because the 4 had decided it was time for him to go. And then we fast forward to March 5th when Mr. Pearson was terminated against our charter for no cause. The budget we all know about. We know we have a March 31 deadline. We also knew labor negotiations were on going and that taking the manager out would delay those negotiations. This is holy constructive by the majority. This is what it is. What we really ought to be doing. The town is probable facing a major lawsuit for wrongful determination. Possibly application of the Federal Whistle Blower Protection Act. Some councilors may see them selves subject to action under 42 USCC section 1983. They have behaved recklessly and here we are today. Really want we ought

to be doing is as Councilor Quinn stated.. We should be reinstating Mr. Pearson. We will be facing a law suit. Sad to say but it is true and now he will let the process finish.

Jerome Begert said what was said was not pertinent to the subject at hand but that the charter violations by the previous Town Manager were propelled from what was done by the previous majority. He said the only reason the pervious majority are still councilors is by the forgiveness of the current majority. Actual illegal quorums not just innuendos. He said people need to reflect and move on or he will correct very media outlet on why the Town Manager had to go and why it is by the grace and forgiveness of your colleagues that 3 of you are still here. Now proceed with the business at hand.

Chair MacDonald said that they were going to appoint Mr. Peabody last Friday but they had a few more questions. She asked tough questions... he answered them firmly, strongly and with conviction. Today we asked more tough questions about the Bangor article and the payout. He was very up front on what his payout was. It was for back pay as he never took time off. She supports the appointment and supports moving Old Orchard Beach forward in a way that can try to heal this town. She said publicly that this whole situation is killing her and her town. The turmoil needs to stop on so many levels and she urges her fellow councilors.

The Chair called for the vote:

Council Dayton No

Councilor Furtado Yes

Councilor Coleman No

Council Quinn Yes

Councilor Mailhot Yes

Vice Chair Bolduc Yes

Chair MacDonald Yes

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Mr. Peabody said he was looking forward to working for the citizens of Old Orchard Beach. He looks at this as a go forward moment. There is positive energy that needs to be tapped into. We need to move forward proactively, productively and with the utmost optimism.

Motion to adjourn Councilor Coleman

Seconded by Councilor Furtado

Respectfully Submitted,

**Sheila M. Flathers
Interim Town Council Secretary**

I, Sheila M. Flathers, Interim Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of three (3) pages is a copy of the original Minutes of the Town Council Meeting of March 26, 2013.

Sheila M. Flathers