

**TOWN OF OLD ORCHARD BEACH  
SPECIAL TOWN COUNCIL MEETING  
TUESDAY, MAY 27, 2014  
TOWN HALL COUNCIL CHAMBERS  
6:30 P.M.  
AGENDA**

A Special Town Council Meeting was held on Tuesday, May 27, 2014 at 6:30 p.m. Chair Shawn O'Neill opened that meeting at 6:35 p.m.

**PUBLIC HEARING, REFERENDUM QUESTION #1:**

Authorization for the granting of a permanent easement over the parcel identified on the Town Tax Maps as MBLU 205-1-22X, located at 4 Portland Avenue, Old Orchard Beach, Maine, to the Saco & Biddeford Savings Institution ("SBSI"), to allow SBSI, at its sole expense, to develop, maintain and use a parking lot on the Town of Old Orchard Beach/Historical parcel, the easement access and perpetual use of the parking lot to be constructed and maintained by SBSI, the granting and conveyance of an easement from SBSI to the Town for the Town's perpetual right of access over the SBSI lands located on the Town Tax Map as MBLU 205-1-21, located at 2 Portland Avenue, the construction of a paved walkway around the Historical Society building and an access ramp for the Historical Society building to be constructed by SBSI, and for such purposes and such other terms as agreed to by SBSI, the Town and Historical Society (the "Agreement"), the terms and conditions of the easement and Agreement subject to review and approval by the Town Council.

This Public Hearing was held to address a referendum question on the June 10 ballot regarding a proposed parking lot. Discussion relative to this agenda item was held with a previous Council on September 3<sup>rd</sup> and 17<sup>th</sup> of 2013 and March 4, 2014. The Town owns land where the Harmon Museum is located. The Harmon Museum has no parking and is not ADA compliant. Saco and Biddeford Savings Institution, who owns the property adjacent to the Museum is proposing to build and maintain a parking lot behind the Museum and ADA compliant access to the Museum's entrance; basically financing and constructing the entire project. In order to access the proposed parking lot, vehicles will need to travel through SBSI parking lot. In exchange for SBSI financing and building the parking lot, they are requesting an easement to allow bank employees to access and use the parking lot and an easement for the Town to cross SBSI property to access the parking lot. To allow this exchange, it needs to go to referendum in June. Below is what the referendum involves:

1. Authorizing SBSI, at its sole expense, to develop and maintain a parking lot on the Historical Society parcel;
2. For securing the Town's right of perpetual access and perpetual use of the parking lot to be constructed and maintained by SBSI;
3. For securing SBSI's perpetual right of access over the lands of the Town; and
4. For such purposes and such other terms as agreed to be SBSI, the Town and Historical Society and to further direct the Town Clerk to place such a referendum on the June 10, 2014 ballot.

**Overview of Proposed Parking Lot Arrangement and Easement**

Saco & Biddeford Savings does not have sufficient parking for its employees and customers at its Old Orchard Beach branch. As a result, over the last two years SBSI has been searching for

additional offsite parking for its employees. The Old Orchard Beach Historic Society has neither a driveway into the property on which its building is located nor parking facilities on that property. Over the years the Bank has allowed Officers and visitors of the Historic Society to park in the Bank's customer parking lot. Additionally, the Historic Society building is not accessible to individuals with disabilities. The Bank and Trustees of the Historic Society have held multiple meetings and have come to terms on a mutually beneficial arrangement that will create a shared parking lot with a total of thirteen parking spaces. Two regular spaces and one handicapped space will be reserved for the Historical Society and ten spaces will be reserved for Bank employees during bank hours. The entire lot would otherwise be available for use by the Historic Society. The basic premise of the agreement is that the two parties will exchange permanent easements providing the Town and the Historic Society with the right to cross the Bank property to access the new parking lot while allowing the Bank to use a portion of the lot for employee parking. The Bank has agreed to pay all costs associated with the construction of the parking lot and associated lighting and signage, a paved walkway to the front of the Historic Society building and an ADA compliant ramp at the front entrance of Historical Society. All work will be compliant with the Town Old Orchard Beach Building Code and zoning requirements. The Bank has also agreed to provide all maintenance of the parking lot (snow removal, sanding, salting, seal coating etc.) Other changes made to the item was the fact that OOB and the Historical Society shall be named as additional insured's with SBSI on any such policies that cover the OOB/Historical Society property including during the term of construction. In the area of Indemnification it was indicated that to the fullest extent permitted by law, SBSI shall indemnify, defend and hold harmless the Town and their respective officers, agents and employees, against and from all costs, expenses, liabilities, losses, damages, inspections, suits, actions, fines, penalties, claims and demands of every kind and nature (collectively "Claim), including reasonable counsel fees, asserted by or on behalf of any person, utility or governmental authority whatsoever arising out of (a) any failure by SBSI to perform any of the conditions of this Agreement on SBSI's part to be performed, or (b) the use of the OOB/Historical Society property by SBSI or its employees, agents. Guests, invitees, customers, contractors, or officers, however occurring and any matter or thing growing out of the occupation, maintenance, alteration, construction, repair, use of operation of the OOB/Historical Society property, appurtenances thereto or any part by SBSI or its employees, agents, guests, invitees, customers, contractors, or officers during the term of this Agreement, but excluding any claims to the extent caused by the negligence, acts or omissions of OOB or the Old Orchard Beach Historical Society, their agents, contractors or employees.

The Chair asked for public input.

TOWN CLERK: She explained that this Public Hearing will not change the fact that this item is on the June 10<sup>th</sup> ballot but rather to give more opportunity for input from citizens in efforts to convince those who will be voting in the June 10<sup>th</sup> election.

PAUL DORNAN: He introduced himself and his wife, Cheryl. "My house directly abuts the Harmon Historical Museum and this proposed parking lot. My wife and I attended a meeting early in April regarding this proposal and Mr. Mead indicated to me that the Bank has been working on this proposal for fifteen months. My wife and I have been setting money aside to purchase our home here for a little over fifteen years and have made many improvements to our home. We have a lot of time and money invested in our property. The Old Orchard Beach Assessor's office values the Harmon Historical Museum property at \$403,600, with a land value of \$211,600, which is \$14.32 a square foot for the land. The easement that is being given to benefit the Saco Biddeford Savings Institution is 6,500 square feet which is a land value of \$93,000. This is in exchange for capital improvements that could be put out to bid by the Town as all other improvements are. The estimated cost for a driveway, three parking spots and the ADA handicap compliance is likely in the area of \$20,000. This work should have been put out to bid by the Town so it could provide a cost analysis. The Town Hall is in need of

painting and will be put out to bid. Will the Town consider giving an easement for office space in the Town Hall, tax free for perpetuity in exchange? The Town has started a two million dollar improvement to the Libby Library that will have a parking lot and it will be ADA compliant. It can do the same for the Harmon Historical Museum at 203 percent of that cost. The new police station has parking and is ADA compliant, as well Town Hall, and many other Town properties. No easements were given to any of the serviced providers and the Town can certainly do the same at the Harmon Historical Museum. I own some property and many of you here tonight do as well. I have a very good relationship with my neighbors. They help me and I help them. Clearly the Old Orchard Beach Historical Society and the Saco Biddeford Savings Institution have a very good neighborly relationship. My neighbors here at my new home on B Street have been exceptionally good to me, one of the many reasons my wife and I plan to spend the rest of our lives here in Old Orchard Beach. If one of my neighbors approached me and wanted to cut down my trees, turn my back yard into a thirteen car parking lot, ten for them and three for me, I wouldn't even consider it. Would any of you? It would significantly decrease the financial and aesthetic value of my property. It definitely would not be in my best interest. If the Bank held a mortgage on your property and you wanted to give this same easement to a third party it would never happen, because it would not be in the best interest of the shareholders of the bank. The bank board of trustees always protects its asset equity interests. Is the Town Council protecting the financial interest of Old Orchard Beach in this agreement? April 13<sup>th</sup> I sent an e-mail to the Town Council and the Town Manager addressing some of my concerns, questions and the possibility for suggestions for alternatives. No one from the Town Council responded, only Mr. Mead responded. Mr. Mead indicated to me that the driveway access to the Portland Avenue was problematic because it is directly adjacent to the intersection of Portland Avenue, Saco Avenue, and Old Orchard Street and that Adelaide Road was a preferred means of access. I measured the distance to the intersection from the Harmon driveway and from Adelaide Road to the intersection and they were both 103 feet from the intersection. I have crossed this intersection as a pedestrian at Portland Avenue many times and it has never been a problem. The Old Orchard Beach Inn has a driveway immediately adjacent to the Harmon Museum and it is not a problem for them. The Harmon Historical Museum could easily grade and pave a driveway to the right of the building to parking in the rear and meet all of its parking needs identical to the right of the building to parking in the rear and meet all of its parking needs identical to the Old Orchard Beach Inn. I have seen cars parking to the right hand side of the Harmon Museum many times. This option would allow the apple trees to remain, save the natural historical beauty of the property, create far less impervious area, (better for the environment) and maintain the integrity of the Old Orchard Beach Historic Society. The Atlantic Birches Inn and the Milestone Foundation have all done the same and so can the Old Orchard Beach Historical Society. My wife and I took the tour of the Harmon Museum last year. It was very interesting and informative. When the tour moved to the rear room of the house, the back yard was in full view from the window; a woman in our group commented on the beauty of the back yard and asked if it was part of the "Old Orchard." The curator indicated that it was not and that the Rogers Family of Old Orchard Beach was in the area of Rite Aid and explained the story. We were also told of the historical significance of the apple tree to the town. These four apple trees and the beautiful grounds of the Harmon will be lost for perpetuity to meet the needs of the corporate self-interest of the Saco Biddeford Savings Institution. It is unethical. I'm a direct abutter to the Harmon and so is the Old Orchard Beach Inn, why were we not approached or considered by the Old Orchard Beach Historical Society and the Town for an easement. This reeks of nepotism. Mr. Vashon's letter that introduced this proposal to the Town Council states: "The Old Orchard Beach Historic Society has neither a driveway into the property on which its building is located nor parking facilities on that property." This is the beginning of the entire premise of "the agreement" that the Old Orchard Beach Historic Society is in need of an easement from the Saco Biddeford Savings Institution to gain access to its property for parking. The premise is false. Everyone here tonight can look out the window and see that there is driveway access from Portland Avenue, the same as the Old Orchard Beach Inn as I've said earlier, and there is room. If you view the

survey plan to access parking to the rear along the right of the building from Portland Avenue. The referendum question is being presented to the voters as if the only access to parking is through an easement from SBSI and it is deceptive and manipulating. This letter also states that SBSI will pay for all construction costs of the parking lot that will benefit itself by a very significant percentage (about 90 percent if you calculate time of use and space), and that SBSI will maintain the parking lot (snow removal, sanding, salting and sealcoating.) This is being presented as if this would somehow benefit the Town, taxpayers and voters. Every business and homeowner that has a parking lot or a driveway for parking, pays to build it if they need a new one and pays to maintain it themselves and paid for the land on which it lays and property tax to the Town. So who is the one that really benefits here – Saco Biddeford Saving Institution? Almost free land, and its tax free for perpetuity. I have viewed SBSI's current parking lot during all banking hours on various days of the week. It is not a busy banking branch serving one of the smallest coastal communities in southern Maine. It has twenty four spots and plenty of room for overflow on Adelaide Road. I have never seen more than nine cars in the bank's rear parking lot and most of the time there is only three or four cars in it. Expanding parking is clearly part of the operational business strategy of SBSI. This parking lot will consume the entire back yard area of the Harmon from its foundation and sixty-one feet to my property line, sixty one feet is exactly the required footage needed for two rows of parallel back-to-back parking. It is being squeezed in with a shoe horn and a can of grease. It could not be any tighter and there is absolutely no room for buffering. It will be within inches of my property line and only a little over thirty feet to the back of our house. The parking lot will run parallel to the entire length of our family's home. We will hear every car that enters this parking lot. We will hear engine noise on the way in and cars starting on the way out. We will hear every car door that opens and closes from inside our home, seven days a week. Everyone in this parking lot will be able to see directly into our home through our windows. Losing privacy in our backyard is disheartening losing it in our home is violating. We currently have beautiful views from the rear windows of our house and now we will have to install new shades drawn shut so people in this parking lot can't see into our home. In the late fall and winter early in the morning and late in the afternoon we will have headlights shining into our house. When it snows we will hear plows in the middle of the night and we hours of the morning and we will be awoken up by plow trucks and once again headlights shining into our house. Because this parking lot is so close to our house and property line it will be impossible to mitigate any of this noise and light pollution issues and complete invasion of our privacy. This will severely affect our quality of living as we now know it and it will certainly have a major effect on the financial value of our property. This is the only zoning district abutting a residential zone that would allow a parking lot to be so close to my home. If Mr. Harmon was still living in his residential home this would never be happening. I am very certain that he would be neighborly and considerate. We are incensed at the lack of empathy and consideration that has been given to us by Saco Biddeford Savings institution, the Historical Society, and the Town Council. Political payback to Saco Biddeford Savings Institution is what this is and I and my family will suffer the consequences. Now may I have a motion to the Town Council how many would vote YES to have this parking lot in your back yard?" After the meeting Mr. Dornan asked that the Minutes include the statement: "I have one other point that I regrettably failed to mention at last night's public hearing. If you calculate the square footage of land value that SBSI is being given us of tax free, what is the projected loss in tax revenue to the Town of Old Orchard Beach for perpetuity? Is this fair to all other businesses in town that pay property tax on their parking lots?"

CHERYL DORNAN said that the Museum could create several parking spots in the back for its patrons that would be accessible through their own driveway without having to pave the entire lot. There is actually room behind the back side of the Museum that wouldn't affect the Museum at all. There are so many other ways to approach this other than the bank taking it over. Right now it is very beautiful back there. The four apple trees on the lot would have to be cut down to build the parking lot.

**DAN BLANEY:** As Chairman of the Museum's Board of Trustees, he said that the Town Charter requires voter approval to grant an easement of public property. Mr. W. Warren Harmon bequeathed his home and lot to the Town upon his death in 1974 to be used by the Old Orchard Beach Historical Society. The Society and Town accepted the bequest naming the former home – "the Harmon Museum." There would be no cost to the town, no cost to the historical society. SBSI agreed to have the property paved, lighted, build a wheelchair ramp from the back parking lot to the front door. They will maintain it, clean it, salt it, sand it, and plow it, into perpetuity. He indicated that the Museum has had permission from the bank to use the bank's customer parking lot since 1974. He indicated that if the bank's employee's park in the bank's lot instead of the Church's parking lot, there would no longer be room for the Harmon Museum to use the bank's lot for parking. The rectory has been put up for sale and this could happen. He indicated that the archivist has indicated that the apple trees are near death and would have to be cut down anyway. If chopped down, the wood from the trees will be stored and used to make apple canes – honorary canes given to the oldest town residents who were born in Old Orchard Beach.

**JOHN BIRD:** He questioned that finalized agreement and the question of perpetuity – he said we are giving away town land forever. There will be limited access and encumbering the town property forever.

**JEROME BEGART:** Suggested that the bank consider addressing the view from the neighbor's windows.

**JEFF HINDERLITER:** He reminded everyone that should this pass on June 10<sup>th</sup>; it would still have to go back to the Planning Board for defining of issues relative to what they have to do conditionally upon issuing of their permit.

**LISA BOUCHARD:** She reminded the use of town land should be protected and that the privacy of good neighbors should be protected as well. The Harmon Museum could lease space somewhere else as could the bank. This is a beautiful spot of land and the Town needs to protect it.

**BILL KANE:** He reminded those in attendance that the Bank and the Museum have always worked well together and that the bank has already spent over \$20,000 for survey of the property and will work with the Planning Board to see that all requests are addressed and certainly the view of the ocean would be protected.

**RAY DELEO:** He addressed concern about water runoff, lighting, noise at the time of plowing, boundary questions and set back issues.

**JEFF VACHON:** This plan will make changes that will be invaluable to the Museum as well as the bank and the Bank has made a commit investment already in this property. We are the oldest bank in Maine and the Old Orchard Branch has been in its current location since 1951 and have been a vital part of this community from day one.

**JEAN GUERIN:** She works as a volunteer for the Museum and reminded everyone that they have thirteen year-round volunteers mostly between the ages of 60 to 75 and getting to parking is difficult and this would make it much easier for them to address those issues.

**CHAIR:** The Chair thanked everyone for their participation in the discussion and encouraged citizens to express their opinion at the polls.

**ADJOURNMENT:**

**MOTION: Vice Chair Quinn motioned and Councilor Kelley seconded to adjourn the Town Council Meeting at 7:25 p.m.**

**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 six (6) pages is a copy of the original Minutes of the Special Town Council Meeting of May 27, 2014**  
**V. Louise Reid**