

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, June 20 2017
TOWN HALL CHAMBERS
6:30 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, June 20, 2017. Chair Thornton opened the meeting at 6:30 p.m.

The following were in attendance:

Chair Joseph Thornton
Councilor Kenneth Blow
Councilor Michael Tousignant
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid

Absent: Vice Chair Shawn O'Neill
Councilor Jay Kelley

PLEDGE TO THE FLAG:

ROLL CALL:

EMERGENCY ITEMS FOR TOWN COUNCIL:

CHAIR: We do not have a meeting on July 4th and as a result we have some Emergency Items to add to the Agenda.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to add the following Emergency items:

Add to Public Hearing Business Licenses the following:

Greg & Mary Desjardin (206-5-10), 94 Saco Avenue, two year round rentals; Donna Pike (323-15-5), 20 Temple Avenue, one seasonal rental; and Patio Pub LLC dba/Nat's Pizza (306-6-1), 2 Old Orchard Street, Victualers with preparation with beer/wine on premise.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the Business Licenses as read.

VOTE: Unanimous.

Add to Public Hearing Special Amusement Permits the following:

Alouette OOB Oceanfront Resort, Inc., dba/Alouette Beach Café (303-1-11), 91 East Grand Avenue, live music and other types of Music- 12:00 p.m. – 9:00 p.m.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to approval the Special Amusement Permits as read.

VOTE: Unanimous.

Agenda Item Number 6959 to be added to the Agenda following Agenda Item 6958:

MOTION: Councilor Blow motioned and Councilor Tousignant seconded: Discussion with Action: Approve the Special Event Permit application from the Ballpark Commission to host four bands at the Ballpark. Set-up will be Friday, September 15th, 2017 from Noon to 4 p.m. The Event takes place on Saturday, September 16th, 2017 from Noon to 7 p.m., with immediate take-down following the event. There is a requested rain date of Sunday, September 17th, 2017.

VOTE: Unanimous.

Agenda Item Number 6960 to the Agenda following Agenda Item 6959:

MOTION: Councilor Tousignant motioned and Councilor Blow seconded: Discussion with Action: Approve the Special Event Permit application for Duffy's Tavern and Grill to hold a wedding ceremony on the beach in front of 2 Cleaves Street on Saturday, July 15th, 2017. Set-up 3-4 p.m., ceremony 5-5:30 p.m. and take down by 6 p.m.

VOTE: Unanimous.

Agenda Item Number 6961 to the Agenda following Agenda Item #6960

MOTION: Councilor Blow motioned and Councilor Tousignant seconded: Discussion with Action: Accept the quote from Maine Line Fence, in the amount of \$6,300 to replace existing slide gate and repair existing operator and controls located at the Police Department; funding to come from Account Number 20118-50350 – Contingency Expense, with a balance of \$122,000.

VOTE: Unanimous.

Agenda Item Number 6962 to the Agenda following Agenda Item 6961

Agenda Item Number 6962 – Discussion with Action: Approve the Liquor License Renewals for Alouette OOB Oceanfront Resort, Inc. dba/Alouette Beach Café (303-1-11), 91 East Grand Avenue, m-v in a Hotel; and Bua Thai LLC dba/Bua Thai (211-12-4), 194 Saco Avenue, m-v in a Restaurant.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the Liquor Licenses as read.

VOTE: Unanimous.

ACCEPTANCE OF MINUTES:

Accept the Administrative Review Board Minutes of May 31, 2017; and the Town Council Meeting Minutes of June 6, 2017.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Accept the Minutes as read.

VOTE: Unanimous.

BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 6:35 p.m.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

Robert & Cynthia Gurry (205-7-7), 16 Imperial Street, six year round rentals; Plus Ultra Corp. dba/Moontide Motel, Cabins & Apartments (304-4-6), 10 Traynor Street, eight seasonal rentals; Plus Ultra Corp. dba/Moontide Motel, Cabins & Apartments (304-5-3), 87 East Grand Avenue, four seasonal and five year round rentals; Nancy Richards-Stower dba/Stower Real Estate LLC (310-6-1-31), 39 West Grand Avenue, Unit 310, one year round rental; Minguansis Sapiel dba/Air B&B (106-5-11), 19 Birch Lane, one seasonal rental; Jerry Sterritt dba/North East Ice Cream – Mobile Ice Cream Truck; Lindsay McNaughton dba/Seaview Holdings LLC (315-9-1), 19 Seaview Avenue, one year round rental; Karen Wildman (321-5-17), 6 Ancona Avenue, one seasonal rental; Charles Soleski dba/Chuckie’s Pizza (306-1-2-4 & 5), 1 East Grand Avenue, Retail, Victualers with preparation/no alcohol; Kevin Boyle (310-6-11-430), 39 West Grand Avenue, Unit 430, one year round rental; Larry & Janet Nay (320-11-9), 42 Free Street, Ocean Park, one seasonal rental; Salvatore & Mary Roselli (310-6-1-530), 39 West Grand Avenue, Unit 530, one year round rental; Robb Crawford (206-9-7-3), 88 Saco Avenue, #3, one year round rental; Sambala Gakou dba/Samba Arts & Crafts (306-1-2-4), 1 East Grand Avenue, Retail; Ahmed Rizk dba/Cobblestone Grille (206-31-7-A), 35 Old Orchard Street, Victualers with preparation with beer/wine/and liquor on premise; and Greg & Mary Desjardin (206-5-10), 94 Saco Avenue, two year round rentals; Donna Pike (323-15-5), 20 Temple Avenue, one seasonal rental; and Patio Pub LLC dba/Nat’s Pizza (306-6-1), 2 Old Orchard Street, Victualers with preparation with beer/wine on premise.

CHAIR: I close this Public Hearing at 6:38 p.m.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the business licenses as read.

VOTE: Unanimous.

PUBLIC HEARING AMUSEMENT PERMITS AND APPROVAL:

CHAIR: I open this Public Hearing at 6:40 p.m.

Joseph’s by the Sea dba/Joseph’s by the Sea (310-3-3), 55 West Grand Avenue, DJ/Wedding Music – Inside from Noon to 11:00 p.m. Scottish Pub LLC dba/GFB Scottish Pub (205-3-1B), 32 Old Orchard Street, D.J. & Live Music – Inside – 11:00 a.m. to 1:00 a.m., Administrative Review Board approving with closing time at midnight not 1:00 a.m.; and Alouette OOB Oceanfront Resort, Inc. dba/Alouette Beach Café (303-1-11), 91 East Grand Avenue, live music and other types of music, 12:00 p.m. to 9:00 p.m.

CHAIR: I close this Public Hearing at 6:40 p.m.

Councilor Tousignant did ask for an update on the Scottish Pub and the Town Manager indicated that a meeting was held with the Administrative Review Board, minutes were approved this evening, and that it was recommended by the Board that the closing time should be midnight and not 1:00 a.m.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the Amusement Permits as read.

VOTE: Unanimous.

PUBLIC HEARING LIQUOR LICENSES AND APPROVAL (NEW):

CHAIR: I open this Public Hearing at 6:43 p.m.

Ahmed Rizk dba/Cobblestone Grille (206-31-7-A), 35 Old Orchard Street, m-v- in a Restaurant.

CHAIR: I close this Public Hearing at 6:43 p.m.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to approve the Liquor License as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT:

The Town Manager reported that the J-1 program orientation is going well. We have been working collectively with the Chamber of Commerce and volunteers Pat Brown and Helene Whittaker to plan this year's orientation program which will take place tomorrow afternoon at The Salvation Army. Housing continues to be a significant issue. If there are residents who now of housing opportunities out there, please give us a call here at Town Hall or at the Chamber of Commerce. There are many student workers who do not have places to live at this time. We have a new incentive that is now available for residents who wish to rent space to student workers in their own occupied SFR. The Town will waive the fees for the require license to SFR owner occupied residences renting to international students. Also there is a new job opening for a seasonal position to coordinate and assist the J-1 workers. We are looking for someone with outstanding organizational and interpersonal skills. Please go on line for more information. He also announced that two streets are currently without pavement – Colby and Pavia – and that they should be paved in the next two to three weeks. We are asking the residents of these streets to be patient with us. There is an agenda this evening to award the bid for improvements to the Wastewater Process Building. The project includes \$250,000 in added improvements that are directed at odor mitigation in this building. Those improvements will not be on-line until next year. The Town Manager participated in mediated negotiation session with the Teamsters Union representing Town Hall administrative support staff as well as a negotiation meeting with the AFSCME Union representative the DPW employees. A pre-construction meeting was held on the Dunkin Donuts project at Ocean Park Road and Smithwheel. Site work is underway. Road work on Smithwheel will likely occur in August. Road work on Ocean Park Road will occur after Labor Day and will be coordinated with the Town of Old Orchard Beach and the MDOT. Completion is expected sometime in the Fall.

NEW BUSINESS:

6945 Discussion with Possible Action: Consider additional twenty-year extension of legal rights to accept a way or paper street, per Maine law.

BACKGROUND:

**FROM: Planning Department
SUBJECT: Paper Streets
DATE: 20 June 2017**

During 1997 municipalities (including OOB) exempted certain unaccepted ways, or paper streets, from being deemed vacated by operation of Maine law. According to Maine law, a proposed, unaccepted way laid out on a subdivision plan recorded prior to 29 September 1987 is deemed to have been vacated if by 29 September 1997 (or 15 years after the subdivision plan is recorded, whichever is later) the way has not been constructed, used or accepted as a public way or easement.

The law provides one exception to this rule- municipalities may prevent an automatic vacation by filing a notice of extension in the registry of deeds. The extension lasts 20 years. Municipalities may file for an additional 20 year extension by filing a new notice prior to the expiration of the first 20-year period (OOB expires on 26 September 2017). Filing a new notice saves these ways, or paper streets, from automatic vacation and allows a municipality to retain the public rights for another 20 years. OOB's 1997 list of papers streets excepted from operation of the law is attached (1st attachment). If no extension is filed and a way, or paper street, is deemed to have been vacated under Maine law, all public rights are immediately terminated- a municipality no longer has the ability to accept the way as a public street or public easement. Regarding the private rights left after the deemed vacation, the general rule is that all interest in the property will pass to the abutter, each owning to the center line. However, Maine law sets up a system associated with anyone claiming to own the rights of a paper street after it has been deemed vacated. See Maine Statute Title 23 MRSA § 3033 for this language.

As the Council thinks about which paper streets to keep and which to vacate, the overall question should be asked- what is the value of the paper streets the town has retained? Letting the town's public rights run out might be the cheapest and easiest solution but it may not be the most forward thinking. When weighing the positives and negatives the Council may choose to consider the following:

- Land locking property
- Future access (vehicle and pedestrian)
- Currently used for access but not commonly known (e.g., used for a turn-around, pedestrian/bike use)
- Value for future land development
- Loss of existing or future public benefits
- Impact on utilities
- With public rights intact the town knows the status of the paper street
- Existing encroachments (e.g., home built within paper street)
- Wetlands, topo or other physical features that make the property unusable

So, it is the Council's decision regarding which paper streets the town should keep and which should be vacated. Recommendations on moving forward:

- **Council provide guidance and questions for staff**
- **Town staff and Council review paper streets and decide which to keep**
- **Council discuss (possibly at a workshop) and create a list indicating which streets are proposed to be extended**
- **Publish the list and solicit public comment, schedule public hearing**
- **Council decide which streets to extend the deemed vacation period for another 20 years**
- **File notice of extension in the Registry of Deeds on or before 25 September 2017**

In addition to the 1997 notice of exception, attached (2nd attachment) is a letter from former town attorney, Chris Vaniotis, which provides a summary of the impact of the state statute which will cause paper streets to be deemed vacated. Although dated 1997, I believe it is still accurate and helpful. Also attached (3rd attachment) are maps identifying all the paper streets retained by the Council during 1997 and up for a 2017 decision. These maps should help Council members obtain a better perspective. We recommend all take a visit to each site, too.

Finally, it's important to remember the Council must act on this before 25 September 2017. If the Council does not act by that date, the paper streets public rights will be deemed vacated.

A paper street is a road or street that appears on maps but does not exist in reality. Paper streets generally occur when city planners or subdivision developers lay out and dedicate streets that are never built. Commercial street maps based only on official subdivision and land records may show these streets, which are legally public rights of way though usually undriveable.

Jeffrey Hinderliter, the Planner, explained in detail to the Town Council the importance of this agenda item. If the Council chooses to not act on this before September 25th, the paper streets public rights will be deemed vacated. There is a need to follow specific and defined procedures such as addressing which streets to keep and which to vacation; what is the value of the paper streets that the Town has retain; what is the most forwarding decision to be made on this issue; and weighing the positives and the negatives in making the decision. The Council was asked to consider Land locking property; Future access (vehicle and pedestrian); Current used for access but not commonly known (e.g., used for a turn-around, pedestrian/bike use); Value for future land development; Loss of existing or future public benefits; Impact on utilities; With public rights intact will the Town know the status of the paper street; Existing encroachments (e.g., home built within paper street); and wetlands, topo or other physical features that make the property unusable.

So, it is the Council's decision regarding which paper streets the town should keep and which should be vacated. The following recommendation was made on moving forward:

- **Council provide guidance and questions for staff**
- **Town staff and Council review paper streets and decide which to keep**
- **Council discussed (possibly at a workshop) and create a list indicating which streets are proposed to be extended**
- **Publish the list and solicit public comment, schedule public hearing**
- **Council decide which streets to extend the deemed vacation period for another 20 years**
- **File notice of extension in the Registry of Deeds on or before 25 September 2017.**

BK 8452 PG 065

(1ST Attachment)
7/16/97 KLS
043571

TOWN OF OLD ORCHARD BEACH

NOTICE OF EXCEPTION OF PROPOSED, UNACCEPTED WAYS FROM
OPERATION OF 23 M.R.S.A. § 3032(1)

Pursuant to 23 M.R.S.A. § 3032(2) the municipal officers of the Town of Old Orchard Beach hereby give notice that the ways identified on Exhibit A attached hereto, which have not been accepted as Town ways or constructed or used as ways, are excepted from the operation of 23 M.R.S.A. § 3032, subsection 1, for a period of twenty (20) years from the date of filing of this notice.

DATED: 9/26/97

MUNICIPAL OFFICERS OF THE
TOWN OF OLD ORCHARD BEACH

Norma B. Baker

Paul M. Smith

Kim M. Laughle

Joseph D. Mahoney

STATE OF MAINE
York County, ss.

September 26, 1997

Personally appeared before me the above-named Norma P. Brooks, Brian J. Mc Dermott
Kim McLaughlin, _____ and _____, each being a duly
authorized municipal officer of the Town of Old Orchard Beach, Maine, and acknowledged that
the foregoing instrument is their free act and deed in their said capacity.

Maureen S. O'Leary
MAUREEN M. O'LEARY
Notary Public
Comm. exp. 5/7/2002.

160/mel/ssa/clw/old orchard beach/notice of except

Exhibit A (page 1)

Larkspur Street ²,

Evergreen Avenue [?]

"C" Avenue [?]

West Hampton Avenue

North Avenue beginning at the intersection of Seaview Avenue and proceeding southerly for a distance of 280 linear feet

Bunchberry Street from Colby Avenue to Oceana Avenue

Oceana Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Clover Street

Winona Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street

Ancona Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street; and beginning at Clover Street and proceeding in a westerly direction for a distance of 200 linear feet

Colby Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street

Forest Avenue beginning from the intersection of Lake Avenue and proceeding southwesterly to the intersection of St. John Avenue.

Central Avenue beginning at Cookman Street and proceeding southwesterly to St. John Avenue.

Somerset Avenue from the intersection of Beecherii Street and proceeding southwesterly to St. John Street.

Bluff Street beginning at Ocean Avenue and proceeding in a southwesterly direction to Seaview Avenue.

Woodland Avenue from Forest Avenue to Central Avenue

Cookman Avenue from the easternmost end of the Town portion of Cookman Avenue and proceeding in a easterly direction to a point 40 feet west of the Hillside Avenue intersection.

Hampton Avenue beginning at Free Street and proceeding in an easterly direction for 350 linear feet

EXHIBIT A (continued, page 2)

Roanoke Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street.

Aspen Street beginning at the intersection of Cascade Road and Aspen Street and hence proceeding northeasterly to the terminus of Aspen Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.

Chestnut Street beginning from Cascade Road and proceeding northeasterly 430 +/- feet to the Town-accepted portion of Chestnut Street at a point 240 +/- linear feet from the southwesterly side of Homewood Boulevard.

Elm Street beginning at the northern end of the Town-accepted portion of Elm Street (a point approximately 340 +/- linear feet north of Homewood Boulevard) and proceeding northeasterly for 580 linear feet +/- to the terminus of Elm Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.

Poplar Street beginning from the intersection of Homewood Boulevard and proceeding northeasterly for a distance of 977 +/- linear feet to the terminus of Poplar Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.

Dogwood Street beginning at a point approximately 478 linear feet southwest of Homewood Boulevard and proceeding northeasterly for a distance of approximately 1,500 +/- linear feet to the terminus of Dogwood Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 402.

Homewood Boulevard beginning from the intersection with Arbor Street and proceeding easterly for a distance of approximately 240 feet +/- to the Town accepted portion of Homewood Boulevard; and hence commencing again at the eastern side of the intersection with Date Street and proceeding easterly to Elm Street; and hence commencing again on the eastern side of Garden Street and proceeding easterly for a distance of approximately 1,820 +/- linear feet terminating at the intersection of Alder Street, as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 404.

Hemlock Street beginning at the Cascade Road and proceeding northeasterly to the terminus as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.

Alder Street beginning at a point approximately 352 linear feet southwest of Homewood Boulevard and proceeding northeasterly for a distance of approximately 972 +/- linear feet to the terminus of Alder Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 404.

Kapok Street beginning at a point approximately 478 linear feet southwest of Homewood Boulevard and proceeding northeasterly for a distance of approximately 2,300 +/- linear feet to the terminus of Kapok Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 402.

RECEIVED YORK S.S.

1997 SEP 26 P 2:59

ATTEST: *Luis M. Quea*
REGISTER OF DEEDS

006
TOWN
7 PG

(2nd Attachment)

Counselors at Law

Bernstein, Shur, Sawyer & Nelson

A Professional Corporation

100 Middle Street
Post Office Box 9729
Portland, Maine 04104-5029
(207) 774-1200
FAX 774-1127
Web Site: www.mainerlaw.com

Christopher L. Vaniotis

Internet: cvaniotis@mainelaw.com

July 25, 1997

Peter Cook, Assessor
Town of Old Orchard Beach
P. O. Box O
Old Orchard Beach, ME 04064

RE: "Paper Streets"

Dear Peter:

At your request, I am providing a brief summary of the impact of the state statute which will cause so-called "paper streets" to be "deemed" vacated on September 29, 1997. That statute is 23 M.R.S.A. § 3032.

While the term "paper streets" is used somewhat loosely in many contexts, the statute is very specific about the scope of its coverage. It applies only to "[a] proposed, unaccepted way or portion of a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds prior to September 29, 1987..." According to the Maine Supreme Court, the words "subdivision plan" in that phrase encompass any plan showing a division of land into lots or parcels, even if not a formally approved subdivision. Consequently, the so-called "paper streets" may appear on very old plans. However, it must be remembered that only plans recorded in the registry of deeds are subject to this statute.

The statute operates on the later of two dates. One is 15 years after the date of recording of the subdivision plan; the other is September 29, 1997. For example, a subdivision plan recorded in 1985 will not be affected by the September 29, 1997 date, because the 15 years has not yet elapsed. In short, the September 29, 1997 date will affect only proposed streets shown on subdivision plans recorded before September 30, 1982.

62 Portland Road
Kennebunk, Maine 04043
(207) 985-7152
FAX 985-3174

Member Lex Mundi, A Global Association of 131 Independent Law Firms

146 Capitol Street
Augusta, Maine 04330
(207) 623-1596
FAX 626-0200

Peter Cook, Old Orchard Beach
July 25, 1997
Page -2-

What will happen on September 29th is that "paper streets" will be "deemed to have been subject to an order of vacation ...," but only if two conditions are met. The first is that the street has been neither constructed nor used as a way and the second is that it has not been accepted as a public way (or easement) by formal action of the Town. To state that in the affirmative, a "paper street" where a road has been constructed will not be deemed vacated, a "paper street" which has actually been used will not be deemed vacated and a "paper street" which has been accepted by the municipality will not be deemed vacated, even if it has not been constructed or used.

The Town Council has the ability to extend the September 29th date for a period of 20 years. In order to do so, the Council needs to file a notice in the York County Registry of Deeds stating that the way (or portion of the way) is excepted from the operation of the statute. That notice must be filed in the registry before September 29, 1997. (The statute also allows an additional 20 year extension at the end of the first 20 years).

If no extension is filed and a "paper street" is "deemed to have been subject to an order of vacation under § 3027...," all public rights are immediately terminated; the Town no longer has the ability to accept the proposed way as a public street or public easement. As to the private property rights left after the "deemed" vacation, the general rule is that all interest in the property will pass to the abutters, each owning to the center line. However, the affected property owners may have different ideas about who has title to the land formerly occupied by the "paper street." 23 M.R.S.A. § 3033 sets up a system whereby anyone claiming to own a "paper street" which has been "deemed vacated" by operation of the statute may record a notice of claim in the registry of deeds and then give notice to all owners of lots in the subdivision and their mortgagees. Once those owners and mortgagees receive such a notice, they have 180 days to file their own claims, and then an additional 180 days after that to commence court action to establish title. If they do not do so, then the person who filed the original claim becomes the owner. For assessment purposes, unless you become aware that such a notice of claim has been filed after a "deemed" vacation, you should treat the center line of the road as the dividing line between abutters.

The final question is: what should the Town do about all this? The Town is not obligated to do anything. It could simply allow the statute to operate on its own. On the other hand, there may be reasons why the Town wants to extend the September 29th date for certain "paper streets." There may be some which provide potential through connections which the Town might wish to turn into public streets in the future. And there may be situations where property owners would lose their only potential means of access; while the Town does not have a legal responsibility to keep those "paper streets" in existence, the Council could decide, as a matter of policy, that it will extend the life of those "paper streets" whose vacation would leave people landlocked.

Exhibit A (page 1)

- ① Larkspur Street ?
- ② Evergreen Avenue ? *Note: Not sure if it's Evergreen Avenue or Evergreen St. or Evergreen Lane. Ave is by Salvation Army
- ③ "C" Avenue ? St./Ln appears to be off Fern Park
- ④ West Hampton Avenue
- * North Avenue beginning at the intersection of Seaview Avenue and proceeding southerly for a distance of 280 linear feet (FIRST ST. - PARTIAL)
- ④ Bunchberry Street from Colby Avenue to Oceana Avenue
- ⑤ Oceana Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Clover Street
- ⑥ Winona Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street
- ⑦ Ancona Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street; and beginning at Clover Street and proceeding in a westerly direction for a distance of 200 linear feet
- ⑧ Colby Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street
- ⑨ Forest Avenue beginning from the intersection of Lake Avenue and proceeding southwesterly to the intersection of St. John Avenue.
- ⑩ Central Avenue beginning at Cookman Street and proceeding southwesterly to St. John Avenue.
- ⑪ Somerset Avenue from the intersection of Beecherii Street and proceeding southwesterly to St. John Street.
- ⑫ Bluff Street beginning at Ocean Avenue and proceeding in a southwesterly direction to Seaview Avenue.
- ⑬ Woodland Avenue from Forest Avenue to Central Avenue
- ⑭ Cookman Avenue from the easternmost end of the Town portion of Cookman Avenue and proceeding in an easterly direction to a point 40 feet west of the Hillside Avenue intersection.
- ⑮ Hampton Avenue beginning at Free Street and proceeding in an easterly direction for 350 linear feet

EXHIBIT A (continued, page 2)

- 16 Roanoke Avenue beginning at the Boston & Maine Railroad right-of-way and proceeding in an easterly direction to the intersection of Free Street.
- 17 Aspen Street beginning at the intersection of Cascade Road and Aspen Street and hence proceeding northeasterly to the terminus of Aspen Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.
- 18 Chestnut Street beginning from Cascade Road and proceeding northeasterly 430 +/- feet to the Town-accepted portion of Chestnut Street at a point 240 +/- linear feet from the southwesterly side of Homewood Boulevard.
- 19 Elm Street beginning at the northern end of the Town-accepted portion of Elm Street (a point approximately 340 +/- linear feet north of Homewood Boulevard) and proceeding northeasterly for 580 linear feet +/- to the terminus of Elm Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.
- 20 Poplar Street beginning from the intersection of Homewood Boulevard and proceeding northeasterly for a distance of 977 +/- linear feet to the terminus of Poplar Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.
- 21 Dogwood Street beginning at a point approximately 478 linear feet southwest of Homewood Boulevard and proceeding northeasterly for a distance of approximately 1,500 +/- linear feet to the terminus of Dogwood Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 402.
- 22 Homewood Boulevard beginning from the intersection with Arbor Street and proceeding easterly for a distance of approximately 240 feet +/- to the Town accepted portion of Homewood Boulevard; and hence commencing again at the eastern side of the intersection with Date Street and proceeding easterly to Elm Street; and hence commencing again on the eastern side of Garden Street and proceeding easterly for a distance of approximately 1,820 +/- linear feet terminating at the intersection of Alder Street, as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 404.
- 23 Hemlock Street beginning at the Cascade Road and proceeding northeasterly to the terminus as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 401.
- 24 Alder Street beginning at a point approximately 352 linear feet southwest of Homewood Boulevard and proceeding northeasterly for a distance of approximately 972 +/- linear feet to the terminus of Alder Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 404.
- 25 Kapok Street beginning at a point approximately 478 linear feet southwest of Homewood Boulevard and proceeding northeasterly for a distance of approximately 2,300 +/- linear feet to the terminus of Kapok Street as depicted on the Town of Old Orchard Beach Assessor's Tax Map # 402.

RECEIVED YORK S S.

1997 SEP 26 P 2: 59

ATTEST: *Louis M. Blum*
REGISTER OF DEEDS

006
TOWN
T P 2

The Council discussed in length whether they should consider a motion this evening to extend the legal rights on these streets and the overall consensus was that this should be done and that a workshop at this time was not necessary.

MOTION: Chair Thornton motioned and Councilor Tousignant seconded to retain legal rights including the streets listed on the third attachment provided to the Council – retaining an additional twenty-year extension of legal rights to accept a way or paper street, per Maine law.

VOTE: Unanimous.

6946 Discussion with Action: Approve the line item transfers from the Public Works Department:

In the amount of \$6,000 from Account Number 20151-50510 – Vehicle Fuel Expense, with a balance of \$19,482.80; to Account Number 20151-50111 - Overtime Wages with a balance of (\$4,991.16);

In the amount of \$12,000 from Account Number 20151-50300 – Professional Engineering, with a balance of \$26,721.80; to Account Number 20151-50506 - Road Maintenance, with a balance of \$19,481.93;

In the amount of \$2,600 from Account Number 20151-50101 – Department Head Salary, with a balance of \$5,900.24; to Account Number 20151-50515 - Road Salt-Winter, with a balance of (\$13,454.44); in the amount of \$5,000 from Account Number 20151-50511 – Grounds Maintenance, with a balance of \$11,400.99; to Account Number 20151-50515 - Road Salt-Winter, with a balance of (\$13,454.44); and In the amount of \$5,855 from Account Number 20151-50508 – Sewer Maintenance/Improvement, with a balance of \$9,138.49; to account number 20151-50515 - Road Salt – Winter, with a balance of (\$13,454.44).

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the line item transfers from the Public Works Department as read.

VOTE: Unanimous.

6947 Discussion with Action: Approve the line item transfers from the Police Department:

In the amount of \$4,000 from account number 20131-50128 Physical Fitness Expense with a balance of \$4,000 and \$12,800 from account number 20131-50104 Police Reserves with a balance of \$32,838.19 to account 20131-50111 Overtime Wages with a balance of (\$28,236.08).

In the amount of \$2,000 from account number 20131-50230 Clothing Allowance with a balance of \$2,988.65 and \$1,966.94 from account number 20131-50251 Conferences and Training with a balance of \$1,966.94 to account number 20131-50111 Overtime Wages with a balance of (\$28,236.08).

In the amount of \$1,500.00 from account number 20131-50405 Heating Fuel with a balance of \$3,089.17 and \$5,000 from 20131-50453 Vehicle Repair with a balance of \$7,462.82 and \$4,000 from account number 20131-50510 Vehicle Fuel with a balance of \$10,422.78 to account number 20131-50111 Overtime Wages with a balance of (\$28,236.08).

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the line item transfers from the Police Department, as read.

VOTE: Unanimous.

6948 Discussion with Action: Accept the bid from Penta Corporation , in the amount of \$622,700, for the dewatering and process building improvements at the Wastewater Treatment Facility, to be funded by General Obligation Bond scheduled for Fall of 2017, in the amount of \$857,000.

BACKGROUND:

The Waste Water Supervisor, Chris White, went out to bid for the Dewatering System Upgrade for the Waste Water Treatment Facility.

There were four bids received:

Apex Construction, Inc.	\$796,200
Penta Corporation	622,700
T Buck Construction, Inc.	762,613
Methuen Construction	865,585

With the assistance of Wright Pierce a close study of the bid documents were received and it was determined to select Penta Corporation for the Dewatering System Upgrade.

MOTION: Councilor Tousignant and Councilor Blow seconded to Accept the bid from Penta Corporation, in the amount of \$622,700, for the dewatering and process building improvements at the Wastewater Treatment Facility, to be funded by General Obligation Bond scheduled for Fall of 2017, in the amount of \$857,000.

VOTE: Unanimous.

June 8, 2017
W-P Project No. 11327K

By E-mail
Mr. Christopher White, Superintendent
Old Orchard Beach Wastewater Department
1 Portland Avenue
Old Orchard Beach, Maine 04064

Subject: WWTF Dewatering System Upgrade
Bid Evaluation

Dear Chris:

Water Wastewater Infrastructure

We have completed our review of the construction bids that were received on June 6, 2017 for the WWTF Dewatering System Upgrade. This letter represents a summary of our findings. Four bids were received and reviewed. A tabulation of the bids is attached to this letter.

Penta Corporation (Moultonboro, New Hampshire) submitted the low total bid of \$622,700.00. The second, third, and fourth bids were approximately 22.5%, 27.9% and 39.0% higher than Penta's bid. These bids show some discrepancy in bidding pricing; however, we find them to be reasonable bids. In addition, we confirmed with Penta Corporation that their bid was submitted without error.

In reviewing Penta's bid package, no deficiencies were noted and no mathematical errors were found. Penta Corporation is a general contractor which specializes in wastewater infrastructure and which has been in business for over 30 years. The experience statement submitted with their Bid indicates that they have 9 on-going water or wastewater treatment facility and pump station upgrade projects, ranging in size from \$80,900 to \$9,838,439. Wright-Pierce has worked with Penta on numerous past projects with satisfactory results. In addition, Penta recently completed the Town's WWTF Secondary Clarifier Upgrade in 2015. Based on our review of the Bidding Documents and past experience with Penta, we recommend that the Town award the bid to Penta as the lowest responsible and responsive bidder.

If the Town decides to award this contract, a Notice of Award should be issued to Penta Corporation. Penta will need to be notified whether the Town accepts or rejects any or all of the Bid Alternates. We are ready to assist you in preparing the necessary documentation for preparing and executing the Contract Documents. If you have any questions, please do not hesitate to contact us.

SECTION 00020 ADVERTISEMENT FOR BIDS TOWN OF OLD ORCHARD BEACH WASTEWATER TREATMENT FACILITY DEWATERING SYSTEM UPGRADE

Sealed Bids for the construction of the Wastewater Treatment Facility Dewatering System Upgrade will be received by the Town of Old Orchard Beach, at the Town Hall at 1 Portland Avenue, Old Orchard Beach, Maine 04064 until 3:00PM local time on June 6th, 2017, at which time the Bids received will be publicly opened and read. The Project consists of a dewatering system upgrade including installation of an Owner-furnished inclined screw press, installation of sludge pumps, modifications to sludge piping, installation of a new conveyor system, upgrades to the electrical and instrumentation systems, and other work as indicated in the Specifications and Drawings. Bids will be received for a single prime Contract. Bids shall be on a lump sum basis, with additive alternate bid items as indicated in the Bid Form.

The Issuing Office for the Bidding Documents is Wright-Pierce. Prospective Bidders may examine the Bidding Documents at the following locations:

1. Old Orchard Beach WWTF, 24 Manor Street, Old Orchard Beach, Maine
2. Wright-Pierce Online Plan Room (www.wright-pierce.com/projects.aspx)

Bidding Documents may be obtained in PDF format from the Issuing Office at www.wright-pierce.com/projects.aspx. Partial sets will not be distributed. Non-refundable fees for Bidding Documents are \$50 per PDF download.

To be considered a responsive Bidder, the Contractor shall have obtained at least one set of Bidding Documents from the Issuing Office. The Bid will not be awarded to a Bidder unless a record for obtaining at least one set of Bidding Documents exists in the Issuing Office. To meet this requirement and to establish the record of receipt, a prospective Bidder must obtain Bidding Documents using the name that is to appear on the Bid Form.

A pre-bid conference will be held at the OOB WWTF (24 Manor Street, Old Orchard Beach) on May 25th, 2017 at 10:00AM. Attendance and participation is encouraged.

Bid security shall be furnished in accordance with the Instructions to Bidders.

The Town of Old Orchard Beach reserves the right to reject any or all Bids, to waive any technical or legal deficiencies, and to accept any Bid that it may deem to be in the best interests of the Town.

By Order of the Town Council
Town of Old Orchard Beach, Maine

+ + END OF ADVERTISEMENT FOR BIDS + +

6949 Discussion with Action: Accept the bid from Poirier Guidelines, in the amount of \$30,565.65, for line striping and pavement markings, for the Public Works Department, from Account Number 20151-50506 – Public Works Road Improvement, with a balance of \$31,481.93.

BACKGROUND:

Public Department secured three bids for the Pavement Marking Request for Proposal:

Hi-Way Safety Systems, In.
Poirier Guidelines
Markings, Inc.

Using the three COG bid prices and last year's measurements, the Public Works Department is recommending accepting the bid from Poirier Guidelines for road marking and line striping. Poirier Guidelines would strip main lines in Old Orchard Beach, municipal lots, and all road markings.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Accept the bid from Poirier Guidelines, in the amount of \$30,565.65, for line striping and pavement markings, for the Public Works Department, from Account Number 20151-50506 – Public Works Road Improvement, with a balance of \$31,481.93.

VOTE Unanimous:

6950 Discussion with Action: Approve the bid of \$17,400 from Dayton Sand & Gravel for paving in front of the Waste Water Equipment Storage Building, from Account Number 31148-50398 –Wastewater Equipment Storage Building, with a balance of \$28,792.71.

BACKGROUND:

The Waste Water Department went out to bid for paving services in front of the Waste Water Equipment Storage Building. They received two bids:

Norman Ruck Excavating and Paving Inc.	\$28,000
Dayton Sand and Gravel Co. Inc.	17,400

The Waste Water Superintendent is recommending that we accept the bid of \$17,400 from Dayton Sand and Gravel Co. Inc.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the bid of \$17,400 from Dayton Sand & Gravel for paving in front of the Waste Water Equipment Storage Building, from Account Number 31148-50398 –Wastewater Equipment Storage Building, with a balance of \$28,792.71.

VOTE: Unanimous.

6951 Discussion with Action: Set the Public Hearing date of July 18th, 2017 to Amend the Zoning Map -- Change Zoning District from the Industrial District to the Rural District for a portion of a lot located at Ross Road (vacant lot between 91 and 93 Ross Road), MBL: 105-2-16. Lot Owner: David Deshaies.

BACKGROUND:

The purpose of this proposal is to amend the town zoning map by removing the Industrial District (ID) and replacing with the Rural District (RD) for the lot located at Ross Rd., MBL: 105-2-16. Currently the lot includes both ID and RD (see attachments). This proposal will remove the ID and create a lot that's entirely zoned RD. The reason behind this amendment is the owner would like to create two lots for residential building purposes and the ID standards would prevent this.

One of the primary tests associated with zoning district changes is its conformance with the comprehensive plan. Staff reviewed the Future Land Use Plans from both the currently adopted and draft comp plans and concludes that this proposal is in conformance with both plans. The current plan shows the subject area as RD. The draft plan shows the subject area as Residential 1 (R1) which will allow residential uses and be somewhat similar to the RD. It could be said the entire lot should have changed to RD years ago.

Because the proposal is a zoning map amendment, it requires a public hearing to be held by the Planning Board (PB) as well as a PB recommendation to the Council. The PB held a public hearing on 8 June and at the same meeting unanimously recommended that the Council adopt the map amendment. Note that amendments can be formally adopted only after a favorable vote of a majority of Council members.

Ordinance standard associated with map amendments:

Sec. 78-31. - Amendments to chapter.

(a) This chapter may be amended from time to time as the needs of the town require after public hearing on a proposed amendment held by the planning board and following posting and publishing of notice of the hearing.

(b) Such notice shall be posted in the town office at least 14 days before the public hearing and shall be published at least two times in a newspaper of general circulation in the town. The date of the first publication must be at least 14 days before the hearing, and the date of the second publication must be at least seven days before the hearing.

(c) Amendments to this chapter shall be adopted only after favorable vote of a majority of the members of the town council.

**Jeffrey Hinderliter
Planner**

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Set the Public Hearing date of July 18th, 2017 to Amend the Zoning Map -- Change Zoning District from the Industrial District to the Rural District for a portion of a lot located at Ross Road (vacant lot between 91 and 93 Ross Road), MBL: 105-2-16. Lot Owner: David Deshaies.

VOTE: Unanimous.

6952 Discussion with Action: Canvass and Certify the Results of the RSU23 Budget Validation Referendum held June 13, 2017.

BACKGROUND:

June 14th, 2017

**TO: MEMBERS OF THE TOWN COUNCIL
FROM: KIM M. MCLAUGHLIN, TOWN CLERK
SUBJECT: CERTIFY AND CANVASS ELECTION RESULTS**

The results of the RSU #23 Budget Validation Referendum is as follows:

RSU #23 Budget Validation Referendum

ARTICLE 1

YES	340****
NO	144

******Denotes the highest number of votes for the respective question and consequently the successful referendum result for that question.**

OLD ORCHARD BEACH UNOFFICIAL ELECTION RESULTS
June 13, 2017

RSU #23 BUDGET VALIDATION REFERENDUM

YES 340

NO 144

STATE OF MAINE SPECIAL REFERENDUM

YES 326

NO 161

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Canvass and Certify the Results of the RSU23 Budget Validation Referendum held June 13, 2017.

VOTE: Unanimous.

6953 Discussion with Action: Convey foreclosed property identified as 152 East Grand Avenue, #2, Parcel Number 0302-00007-001-2 to owners of record McHale Frank S. & Muriel), for the total amount of \$3,073.45 in outstanding taxes and accumulated interest, due on the effective date of conveyance, including FY2018 estimated taxes, plus any legal costs incurred by the Town of Old Orchard Beach.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Convey foreclosed property identified as 152 East Grand Avenue, #2, Parcel Number 0302-00007-001-2 to owners of record McHale Frank S. & Muriel), for the total amount of \$3,073.45 in outstanding taxes and accumulated interest, due on the effective date of conveyance, including FY2018 estimated taxes, plus any legal costs incurred by the Town of Old Orchard Beach.

VOTE: Unanimous.

6954 Discussion with Action: Convey foreclosed property identified as 42 Macintosh Lane, Parcel Number 00107-00003-01-F4 to owners of record Nicholson, Eric P., Nicholson Mark S, for the total amount of \$19,067.66 in outstanding taxes and accumulated interest due on the effective date of conveyance, including FY2018 estimated taxes, plus any legal costs incurred by the Town of Old Orchard Beach.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Convey foreclosed property identified as 42 Macintosh Lane, Parcel Number 00107-00003-01-F4 to owners of record Nicholson, Eric P., Nicholson Mark S, for the total amount of \$19,067.66 in outstanding taxes and accumulated interest due on the effective date of conveyance, including FY2018 estimated taxes, plus any legal costs incurred by the Town of Old Orchard Beach.

VOTE: Unanimous.

6955 Discussion with Action: Approve the Liquor License Renewals for Patio Pub dba/Nat's Pizza (306-6-1), 2 Old Orchard Street, m-v in a Restaurant/Lounge; and Joseph's by the Sea dba/Joseph's by the Sea (310-3-3) 55 West Grand Avenue, m-s-v in a Restaurant.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to approve the Liquor License Renewals as read.

VOTE: Unanimous.

6956 Discussion with Action: Approve the Special Event Permit Application for TGK Athletics to hold a Basketball Tournament in Memorial Park on Saturday and Sunday, July 8th and 9th, 2017. Set-up from 6:45 a.m. to 7:30 a.m. each day. Event is from 8:00 a.m. to 6:00 p.m.; take-down is from 6:30 p.m. to 7:30 p.m. each day. Restriction to one basketball court, leaving the other basketball court for public use.

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

VOTE: Unanimous.

6957 Discussion with Action: Approve the Special Event Permit Application for Spike University LLC to hold an Old Orchard Beachfest Volleyball Tournament on Saturday July 1 2017, on the beach in front of Palace Playland and the Brunswick. Set-up from 5:00 to 8:30 a.m.; Tournament 8:30 a.m. to 2:00 p.m.; and breakdown from 2:00 p.m. to 5:00 p.m.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approve the Special Event Permit Application as read.

VOTE: Unanimous.

6958 Discussion with Action: Approval and Ratification of the Old Orchard Beach Local 2247 International Association of Firefighters AFL-CIO-CLO Union Contract, effective July 1, 2016 – June 30, 2019.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Approval and Ratification of the Old Orchard Beach Local 2247 International Association of Firefighters AFL-CIO-CLO Union Contract, effective July 1, 2016 – June 30, 2019.

VOTE: Unanimous.

6959 Discussion with Action: Approve the Special Event Permit application from the Ballpark Commission to host four bands at the Ballpark. Set-up will be Friday, September 15, 2017 from noon to 4:00 p.m. The Event takes place on Saturday, September 16, 2017 from noon to 7:00 p.m. with immediate take-down following the event. There is a requested rain date of Sunday, September 17, 2017.

An extensive presentation was made by Robin Dayton of the Ballpark Commission detailing the previous history of the Blues Festival which will now be a Blues/Jazz Festival scheduled in September. She outlines in detail the financial history of the past four years including total revenues and total expenses along with the Ballpark profit. They explained their reasoning for changing the procedures of this year's event and the optimism they have that this will be a good money raising venture. They gave a listing of the activities they are planning and the audience they anticipate in reaching.

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

VOTE: Unanimous.

6960 Discussion with Action: Approve the Special Event Permit application from Duffy's Tavern and Grill to hold a wedding ceremony on the beach in front of 2 Cleaves Street on Saturday, July 15, 2017. Set-up 3-4 p.m.; ceremony 5-5:30; and take-down by 6:00 p.m.

MOTION: Councilor Kelley motioned and Councilor Tousignant seconded to approve the Special Event Permit as read.

VOTE: Unanimous.

6961 Discussion with Action: Accept the quote from Maine Line Fence, in the amount of \$6,300 to replace existing slide gate and repair existing operator and controls located at the Police Department; funding to come from Account Number 20118-50350 – Contingency Expense, with a balance of \$122,000.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to Accept the quote from Maine Line Fence, in the amount of \$6,300 to replace existing slide gate and repair existing operator and controls located at the Police Department; funding to come from Account Number 20118-50350 – Contingency Expense, with a balance of \$122,000.

VOTE: Unanimous.

6961 Discussion with Action: Approve the Liquor License Renewals for Alouette OOB Oceanfront Resort, Inc. dba/Alouette Beach Café (303-1-11), 91 East Grand Avenue, m-v in a Hotel; and Bua Thai LLC dba/Bua Thai (211-12-4), 194 Saco Avenue, m-v in a Restaurant.

MOTION: Councilor Blow motioned and Councilor Tousignant seconded to approve the Liquor Licenses as read.

VOTE: Unanimous.

GOOD AND WELFARE:

ADJOURNMENT

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Adjourn the Meeting at 8:20 p.m.

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 twenty-four (24) pages is a copy of the original Minutes of the Town Council Meeting of June 20,, 2017.

V. Louise Reid