



**JUNE 5, 2017
MONDAY
7:00 P.M.**

**AGENDA
REGULAR COUNCIL MEETING
City Council Chambers, 2nd Floor
265 Main Street-Old Town, Maine**

- I. CALL TO ORDER** (Please turn off or silent cell phones)
- II. FLAG SALUTE**
- III. ROLL CALL**
- IV. Approval of the Minutes of the May 1, 2017 Regular Council Meeting**
- V. PETITIONS, COMMUNICATIONS AND CITIZENS' REQUESTS**

Dick Andron from Hirundo Wildlife Refuge will give an overview on upcoming events.

Students from the Old Town High School will present a summary of their Storm Water findings from working in the forest next to Old Town High School.

- VI. REPORTS**
 - A. Council President**
 - B. Standing Committees (Finance, Public, Administrative & Economic Services; Landfill, Legislative, Sewer, Airport & Housing sub-committees)**
 - C. City Councilors**
 - D. City Attorney**
 - E. Special Committees**
 - F. City Manager**

VII. CONSENT AGENDA (New Business items 1, 2, 3 & 4)

Suggested motion: Resolved, the Old Town City Council hereby approves the Suggested motions under New Business items 1, 2, 3 & 4 as presented.

(Councilor Nuttall)

VIII. PUBLIC HEARINGS AND SECOND READING OF ORDINANCES

PUBLIC HEARINGS

1. The Old Town City Council will conduct a Public hearing on the proposed FY 2017-2018 Municipal, County and School Budget. The proposed budget calls for City expenditures of \$10,035,357, Penobscot County Taxes of \$627,134 and RSU #34 expenditures of \$5,559,615 for a total City, County and RSU #34 Budget of \$16,222,106 with total City revenue of \$6,099,643 for a net property tax requirement of \$10,122,463.
- 1a. The Old Town City Council will consider scheduling a Second Reading for final approval on the FY 2017-2018 Municipal, County and School Budgets.

Suggested motion: Resolved, the Old Town City Council hereby approves scheduling a Second Reading on June 19, 2018 for final approval on the proposed FY 2017-2018 Municipal, County and School Budget. The proposed budget calls for City expenditures of \$10,035,357, Penobscot County Taxes of \$627,134 and RSU #34 expenditures of \$5,559,615 for a total City, County and RSU #34 Budget of \$16,222,106 with total City revenue of \$6,099,643 for a net property tax requirement of \$10,122,463.

(Councilor Peterson)

2. The Old Town City Council will conduct a Public Hearing on the proposed FY 2017-2018 Pollution Control Budget containing gross appropriations of \$5,154,969, user fee revenue of \$4,125,800, debt redemption of \$405,697 and anticipated transfers from reserve accounts of \$435,000 with a net appropriation to/(from) Fund Balance of (\$188,472).
- 2a. The Old Town City Council will consider scheduling a Second Reading for final approval on the FY 2017-2018 Pollution Control Budget.

Suggested motion: Resolved, the Old Town City Council hereby approves scheduling a Second Reading on June 19, 2017 on the Proposed FY 2017-2018 Pollution Control Budget containing gross appropriations of \$5,154,969, user fee revenue of \$4,125,800, debt redemption of \$405,697 and anticipated transfers from reserve accounts of \$435,000 with a net appropriation to/(from) Fund Balance of (\$188,472).

(Councilor May)

IX. OLD BUSINESS

X. NEW BUSINESS

1. The City Council will consider approval of an application from Cindy Jennings, Director of the Old Town Public Library for a Major Special Event Permit for the Summer Concert Series to be held in the Riverfront Park and to waive the Permit fee.

Suggested motion: Resolved, the Old Town City Council hereby approves an application from Cindy Jennings, Director of the Old Town Public library, for a Major Special Event Permit for the Summer Concert Series to be held weekly in the Riverfront Park in July and August 2017 and to waive the Permit fee.

2. The City Council will consider approval of an application from Alisha Ryder on behalf of Old Town Cub Scout Pack 76 for a Minor Event Permit for Cub Scout Activities to be held at Sewall Park, to allow overnight camping and to waive the \$25.00 fee. The Cub Scouts will do a service project improving the flag pole.

Suggested motion: Resolved, the Old Town City Council hereby approves an application from Alisha Ryder on behalf of Old Town Cub Scout Pack 76 for a Minor Event Permit for Cub Scout Activities to be held at Sewall Park on July 15, 2017 to July 16, 2017 to allow overnight camping and to waive the \$25.00 fee.

3. The City Council will consider an appointment to the Old Town Orono Fiber Corporation.

Suggested motion: Resolved, the Old Town City Council hereby appoints Kasey Legaard to fill a vacancy on the Old Town Orono Fiber Corporation Board with a term to expire October 1, 2018.

4. The City Council will consider authorizing the City Manager to submit a Corporate Authorization Resolution to Peoples United Bank that lists the specific city staff along with their designated powers to execute day-to-day financial transactions. The specified staff includes Danielle Berube, Finance Director, Karen Dunton, Deputy Treasurer and Tax Collector and Bill Mayo, City Manager.

Suggested motion: Resolved, the Old Town City Council hereby authorizes the City Manager to submit a Corporate Authorization Resolution to Peoples United Bank that lists the specific city staff along with their designated powers to execute day-to-day financial transactions with Peoples United Bank in their capacity as a City official relative to their respective job requirements.

5. The City Council will review and discuss a proposed Recreational Marijuana Prohibition Ordinance.
6. The City Council will consider going into Executive Session for the purpose of discussing a Personnel matter.

Suggested motion: Resolved, the Old Town City Council hereby approves going into Executive Session pursuant to MRSA Title 405, Section (6)(A) for the purpose of discussing a Personnel matter.

(Councilor May)

XI. ADJOURNMENT



REGULAR COUNCIL MEETING – MAY 1, 2017

Council convened May 1, 2017 in the Old Town City Council Chambers at 265 Main Street.

Councilors present: President David Mahan, Janet Klitch, Carol May, John Nuttall, Eric Roach and Stan Peterson. Linda McLeod absent.

Administration present: Bill Mayo, Ed Bearor, Patty Brochu, Steve O’Malley, David Russell and Scott Wilcox.

Others present: Four citizens in the audience.

Council President Mahan called the meeting to order at 7:00 p.m.

Councilor Klitch, seconded by Councilor May, moved to approve the Minutes of the April 18, 2017 Special Council Meeting. *Approved all in favor, 6-0.*

REPORTS

President Mahan reminded Councilors of upcoming meetings and events. Miles Greenacres Retirement Luncheon on 5/10, Finance Committee Meeting on 5/11 and Committee of the Whole Budget Meeting on 5/15.

Councilor Roach stated he would like discussions on landlords and the community regarding the drug problems and trying to solve it. He wants landlords more accountable for their tenants and perhaps establishing a landlord registration program. Councilor Peterson commented that there is a program that once a person gets evicted, there’s a list of names of those people are displayed.

Police Chief Wilcox said the City has a Disruptive Property Ordinance which is working but he would prefer discussion on the drug epidemic be held in Executive Session.

Manager Mayo: 1) will be bringing more information on the Jefferson Street School on the 15th; 2) Public Works is behind on the spring cleanup because of all the rain; 3) Elm Street Sewer project has an extension-fall time frame for completion.

NEW BUSINESS

The City Council considered approval of an application from Tim Caliandro for a Major Special Event Permit to hold a Memorial Day Parade and Veterans Celebration in the Riverfront Park. Sponsors for the event are City of Old Town, Old Town Canoe, Old Town Trading Post, Old Town VFW and American Legion, Birmingham Funeral Home, Cyr Bus Co., Labree’s Bakery, O.J. Folsom and Dirigo Slip Form.

Councilor Klitch, seconded by Councilor May, Resolved, the Old Town City Council hereby approves an application from Tim Caliandro for a Major Special Event

Permit to hold a Memorial Day Parade and Veterans Celebration in the Riverfront Park on May 29, 2017 and to waive the Permit fee. **Approved all in favor, 6-0.**

The City Council considered authorizing the City Manager to sell a portion of city owned land to James Mitchell.

Councilor Peterson, seconded by Councilor Klitch, Resolved, the Old Town City Council hereby authorizes the City Manager to take all necessary steps to sell a portion of city owned land located on Tax Map 31, Lot 189 to James Mitchell.

Code Officer Russell passed out a map showing where the sewer main is and where the catch basins are. He said they are a minimum of 8 feet and maximum of 14 feet deep. He further stated that the property is in the 100 year flood plain on FEMA's 1978 flood maps. He said the city also has a flood plain management ordinance and there's a whole host of things Mr. Mitchell would have to do to comply.

Motion to sell a portion of city owned land to James Mitchell failed 6-0.

Councilor Nuttall, seconded by Councilor Klitch, moved to Suspend the Council Rules to take up an item not on the agenda. **Approved all in favor, 6-0.**

The City Council considered authorizing the City Manager to submit a Corporate Authorization Resolution to Bangor Savings Bank that lists the specific city staff along with their designated powers to execute day-to-day financial transactions. The specified staff includes Danielle Berube, Finance Director, Karen Dunton, Deputy Treasurer and Tax Collector and Bill Mayo, City Manager.

Councilor Roach, seconded by Councilor Klitch, Resolved, the Old Town City Council hereby authorizes the City Manager to submit a Corporate Authorization Resolution to Bangor Savings Bank that lists the specific city staff along with their designated powers to execute day-to-day financial transactions with Bangor Savings Bank in their capacity as a City official relative to their respective job requirements. **Approved all in favor, 6-0.**

The City Council considered approving a settlement to discharge Tax Collector Miles Greenacre from Real Estate and Personal Property Taxes committed.

Councilor Nuttall, seconded by Councilor May, Resolved, the Old Town City Council hereby accepts the settlement to discharge Miles Greenacre, Tax Collector for the City of Old Town as presented in Exhibit A. **Approved all in favor, 6-0.**

Councilor Peterson, seconded by Councilor Klitch, moved to adjourn at 7:45 p.m. **Approved all in favor, 6-0.**

Adjourned,

Patricia A. Brochu, CMC
City Clerk-Old Town, ME

**CITY OF OLD TOWN
 APPROPRIATION RESOLUTION 2017-1
 INBOARD OF COUNCIL, JUNE 5, 2017
 Municipal, RSU #34 and County Appropriation**

RESOLVED:

That whereas the annual budget for the fiscal year 2017-2018 after proper notice of hearing thereon and hearing in consideration thereof being had; now, therefore, be it resolved that the several sums of money in the recommended budget, as amended, be appropriated to the various accounts and the various sums of estimated revenues as listed in the budget be appropriated, and the net appropriation, as listed below, necessarily to be derived from general taxation, shall be assessed upon the taxable estates of the inhabitants of the City of Old Town, and upon estates of non-resident persons and proprietors within the City of Old Town, in accordance with the laws of Maine, and the provisions of the City Charter of the City of Old Town.

And be it further resolved that the Assessor of the City of Old Town be and is hereby instructed and authorized to assess upon said estates in the City of Old Town, as the same exist on the first day of April 2017.

The net totals of said grants & appropriations are as follows, to wit:

GENERAL FUND

	Municipal	RSU#34	Penobscot County	Total
Gross Appropriation	10,035,357	5,559,615	627,134	16,222,106
<u>Less:</u>				
TIF Financing Plan Transfer	171,232			171,232
Fund Balance Transfer	0			0
Heavy Equipment Reserve Transfer	0			0
City Facility & Infra Reserve Transfer	0			0
Highway Block Grant	75,000			75,000
State-Municipal Revenue	532,446			532,446
Other Estimated Revenue	5,320,965			5,320,965

Property Tax	3,935,714	5,559,615	627,134	10,122,463
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And be it further resolved that all taxes on real estate and personal estate within the present municipal year shall be due and payable upon approval of this Appropriation Resolution and one half (½) of all real estate and personal property taxes that remain unpaid on September 13, 2017 shall commence bearing interest on September 14, 2017 and that the final half (½) of all real estate and personal property taxes that remain unpaid on March 14, 2018 shall commence bearing interest March 15, 2018 at the highest rate per annum authorized by Maine law until paid and collected, and the Collector of Taxes and the City Treasurer of the City of Old Town are authorized and required to collect and receive thereof.

And be it further resolved, that the City Council authorizes the Finance Director to accept prepayment of real and personal property taxes.

And be it further resolved, that the Tax Collector shall apply all tax payments to the oldest balance due on that account regardless of any instructions the taxpayer may give. If, however, a tax lien has matured, the Tax Collector may not accept payment on that account unless a workout agreement is in place or approval has been granted by the City Council to accept payment. If a taxpayer has more than one tax account, any payment shall be applied to the oldest balance due unless the taxpayer specifies the account against which the payment is to be applied;

And be it further resolved, that pursuant to 36 M.R.S.A., Section 506-A, the City Council establishes an interest rate of **3% (4% less than late payment interest rate)** percent per annum to be paid on all real and personal taxes rebated to an over-assessment.

NOW, THEREFORE, the estimated amount of said budget for the municipal year beginning July 1, 2017 and ending June 30, 2018 is included in the **2017-1** Appropriation Resolution.

APPROVED AS TO FORM:
 Edmond Bearor
 City Attorney

ATTEST: _____
 Patricia A. Brochu, CMC
 City Clerk-Old Town, ME

**CITY OF OLD TOWN
 APPROPRIATION RESOLUTION 2017-2
 IN CITY COUNCIL, June 5, 2017
 Pollution Control**

The City Council, after proper notice, having conducted a public hearing on the annual pollution control budgets for the fiscal year 2017-2018 in accordance with Article IX, section 4 of the City Charter, it is hereby

RESOLVED that the several sums of money in the recommended budget, as amended, be appropriated to the pollution control fund and the various sums of estimated revenues as listed in the budget be appropriated, and the net appropriation, as listed below, necessarily to be derived from sewer user fees, shall be assessed quarterly upon the estates of the inhabitants of the City of Old Town, and upon estates of non-resident persons and proprietors within the City of Old Town that use the sanitary sewer treatment facility, in accordance with the laws of Maine, and the provisions of the City Charter of the City of Old Town.

And be it further resolved that the Finance Director of the City of Old Town be and is hereby instructed and authorized to invoice said estates in the City of Old Town, for quarterly payments due.

The net totals of said grants & appropriations are as follows, to wit:

POLLUTION CONTROL FUND

	Pollution Control
Gross Appropriation	5,154,969
<u>Less:</u>	
Revenues	4,125,800
Debt Redemption	405,697
Collection System Reserve	310,000
Plant and Equipment Replacement Reserve	125,000
Short lived Asset Reserve	0
Transfer To/(From) Fund Balance	(188,472)
Net General Fund Appropriation	-0-

And be it further resolved that all invoices for pollution control services for each property shall be due and payable no later than 30 Days after the date of mailing of the invoice concerned and all invoices that remain unpaid shall commence bearing interest at the highest rate per annum authorized by Maine law until paid and collected, and the Collector of Taxes and the City Treasurer of the City of Old Town are authorized and required to collect and receive thereof.

And be it further resolved, that the Finance Director shall apply all payments to the oldest balance due on that account regardless of any instructions the property owner may give. If, however, a sewer lien has matured, the Finance Director may not accept payment on that account unless a workout agreement is in place or approval has been granted by the City Council to accept payment. If a property owner has more than one sewer account, any payment shall be applied to the oldest balance due unless the property owner specifies the account against which the payment is to be applied;

And be it further resolved, that pursuant to 36 M.R.S.A., Section 506-A, the City Council establishes an interest rate of 3% (4% less than late payment interest rate) percent per annum to be paid on all real and personal taxes rebated to an over-assessment.

NOW, THEREFORE, the estimated amount of said Pollution Control budget for the municipal year beginning July 1, 2017 and ending June 30, 2018 is included in the **2017-2** Appropriation Resolution.

APPROVED AS TO FORM:
 Edmond Bearor
 City Attorney

ATTEST: _____
 Patricia A. Brochu, CMC
 City Clerk-Old Town, ME

CHAPTER 24

RECREATIONAL MARIJUANA PROHIBITION ORDINANCE

- Section 1. Title.** This ordinance shall be known and cited as the “Recreational Marijuana Prohibition Ordinance” of the City of Old Town.
- Section 2. Authority.** The ordinance is adopted pursuant to the Title 30-A M.R.S. §3001 and Title 7 M.R.S. c. 417.
- Section 3. Purpose and Intent.** The purpose of this ordinance is to impose a ban on the operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs in the City of Old Town to protect the health, safety, and welfare of the people of Old Town as these activities constitute a nuisance.
- Section 4. Prohibition.** The operation of Retail Marijuana Establishments which includes Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana Products Manufacturing Facilities, and Retail Marijuana Testing Facilities; and the operation of Retail Marijuana Social Clubs are prohibited within the City of Old Town, and therefore all activities related to the abovementioned retail uses such as, but not limited to, cultivation, possession, extraction, manufacturing, processing, storing, laboratory testing, labeling, transporting, delivering, dispensing, transferring, and distributing are expressly prohibited within the City of Old Town.
- Section 5. Exemptions.**
- A. Personal Use of Marijuana. This ordinance shall not be construed to prohibit the Personal Use of Marijuana per Title 7 M.R.S. c. 417 section 2452.
 - B. Medical Use of Marijuana. This ordinance shall not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary under the Maine Medical Use of Marijuana Act and the City of the Old Town Code of Ordinances, c. 56 Unified Development Ordinance.
- Section 6. Effective Date.** This ordinance enacted on the ___ day of _____, 2017 by the Old Town City Council shall take effect immediately upon the Maine Department of Agriculture, Conservation, and Forestry adoption of the rules for Title 7 M.R.S. c. 417.

Section 7. Relationship with Other Ordinances. Whenever a provision of this ordinance is inconsistent with another provision of any other ordinance, regulation, or statute, the more restrictive provision shall control.

Section 8. Validity and Severability. Should any section or provision of this ordinance be declared by the courts to be invalid, such a decision shall not invalidate any other section or provision of this ordinance.

Section 9. Enforcement.

A. Any duly designated Old Town Police Officer is authorized and shall have the authority to enforce all provisions of this ordinance.

B. The City Manager is authorized to order that legal action be taken to enforce the provisions of this Ordinance.

Section 10. Cease Operations Order.

A Police Officer may issue a written cease operations order directing the occupancy, use, and other activities prohibited under this ordinance to cease immediately, and that the premises be vacated. Upon notice of the cease operations order, all occupancy, use, or other activity subject to the cease operations order shall stop immediately and the premises shall be vacated and closed.

Section 11. Penalty. Any person violating the provisions of this ordinance may be liable for the penalties set forth below:

A. Civil Penalties.

i. **First Violation.** The maximum penalty for undertaking an activity related to Retail Marijuana Establishments or Retail Marijuana Social Clubs is \$2,500.

ii. **Multiple.** The maximum penalty for undertaking an activity related to Retail Marijuana Establishments or Retail Marijuana Social Clubs is \$25,000 when it is shown that there has been a previous conviction of the same person within the past five (5) years for a violation of the ordinance.

iii. **Economic Benefit.** The maximum penalty may be increased if the economic benefit resulting from the violation exceeds the applicable penalties. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.

iv. **Setting of Penalty.** In setting a penalty, the following shall be considered:

- a. Prior violations by the same party;
- b. The impact caused and/or potential impact posed by the operation of the prohibited activity to the health, safety, and welfare of the people of Old Town.
- c. The damage that cannot be abated or corrected; and
- d. The extent to which the violation continued following an order to stop.

B. Abatement and Mitigation. The violator may be ordered to correct, abate or mitigate the violations.

C. Damaged Incurred. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage incurred by the City by reason of such violation.

D. Attorney Fees. If Old Town is the prevailing party, the City must be awarded reasonable attorney fees, expert witness fees and costs.

Section 12. Definitions. The definitions below are per Title 7 M.R.S. c. 417, section 2442.

Marijuana: Means cannabis.

Extraction: The process of extracting marijuana with solvents or gases.

Person: A natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Retail Marijuana: Cannabis that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

Retail Marijuana Cultivation Facility: An entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

Retail Marijuana Establishment: Retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

Retail Marijuana Product: Concentrated retail marijuana and retail

marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

Retail Marijuana Products Manufacturing Facility: An entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

Retail Marijuana Social Club: An entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

Retail Marijuana Store: An entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

Retail Marijuana Testing Facility: An entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.