

**TOWN OF ORONO
COUNCIL MEETING
COUNCIL CHAMBER - MUNICIPAL BUILDING**

MONDAY, JANUARY 11, 2010 AT 7:30 P.M.

MINUTES

1. Roll Call

Present: Council Chair Geoffrey Gordon, Mark Haggerty, Cindy Mehnert, Tom Perry, Lianne Harris, Judy Sullivan, and Town Manager Catherine Conlow. Absent: Tom Spitz.

2. Approval of minutes of December 14, 2009

Moved by Tom Perry and seconded by Cindy Mehnert. All voted in favor, 6-0.

3. Public Hearings

- a. **To consider a Class XI – Restaurant Lounge - Spirituous, Vinous and Malt Liquor License, Victualer’s License and Special Amusement Permit for Music, Dancing & Entertainment for Michael Limacher, Theoniki Martin & Guy N. Carmel, d/b/a The Bee Hive,19 Mill Street. [Continued from December 14, 2009 Council Meeting]**

Mr. Gordon stated that this public hearing is continued from the December 14, 2009 Council meeting. Code Enforcement Officer Bill Murphy stated that the applicant has withdrawn the application. Mr. Gordon closed public hearing a. at 7:32 p.m.

- b. **To consider a Class I-A Malt, Spirituous & Vinous Hotel Liquor License, Victualer’s License and Special Amusement Permit for Music, Dancing and Entertainment for University Inn Academic Suites, 5 College Avenue.**

Public hearing b. opened at 7:33 p.m. Mr. Murphy stated that he and the Fire Marshal inspected the facilities and found no violations. He noted that the bar on the premises is no longer open to the general public, but a Class I-A license is retained to provide liquor services to their hotel guests and on-site catered parties.

Mr. Murphy stated that he could not find evidence of a grease trap in the kitchen and discussed this with the owner. They will check outside the building in the spring to see if there is a grease trap in the ground. If not, the owner stated she will install one in the kitchen.

Ms. Conlow stated that the Town has adopted a policy on grease traps and through 2010 the staff will be working to educate businesses on the need for grease traps. Next year businesses will be required to show evidence of a grease trap and maintenance records.

No public comments were made. Public hearing b. closed at 7:35 p.m.

Order 10-01 Order, approving a Class I-A Malt, Spirituous & Vinous Hotel Liquor License for University Inn Academic Suites, 5 College Avenue.

Moved by Lianne Harris and seconded by Cindy Mehnert. All voted in favor, 6-0.

Order 10-02 Order, approving a Special Amusement Permit for Music, Dancing and Entertainment for University Inn Academic Suites, 5 College Avenue.

Moved by Lianne Harris and seconded by Cindy Mehnert. All voted in favor, 6-0.

Order 10-03 Order, approving a Victualer's License for University Inn Academic Suites, 5 College Avenue.

Moved by Lianne Harris and seconded by Cindy Mehnert. All voted in favor, 6-0.

c. To consider a Class I – Restaurant - Malt, Spirituous & Vinous Liquor License and Victualer's License for J.V.R. Hospitality, Inc. d/b/a The Roost, 19 Mill Street.

Public hearing c. opened at 7:36 p.m.

Mr. Murphy stated that this is a new owner/applicant. Renovations to the business are still underway and the owner is aware of what needs to be done. The State Health Inspector has not yet inspected the premises. A grease trap has been installed and the owner has been informed to maintain accurate records.

Mr. Murphy recommended approving the licenses conditioned on the business not opening until all final local inspections are conducted and all work is approved by the Code Enforcement Officer and Fire Inspector, and approval from the State Health Inspector has been issued.

Ms. Conlow reminded Council that they can place conditions on the Victualer's license, but not the State Liquor License.

Owner Jim Coleman stated that he is about two weeks away from opening. He described his business as a chicken wing franchise and family pub. No other public comments were made.

Public hearing b. closed at 7:40 p.m.

Order 10-04 Order, approving a Class I – Restaurant - Malt, Spirituous & Vinous Liquor License for J.V.R. Hospitality, Inc. d/b/a The Roost, 19 Mill Street.

Moved by Tom Perry and seconded by Cindy Mehnert. All voted in favor, 6-0.

Mark Haggerty asked about the distinctions between the classes of liquor licenses. Ms. Conlow commented she was unsure, but that she would get him an answer.

Order 10-05 Order, approving a Victualer's License for J.V.R. Hospitality, Inc. d/b/a The Roost, 19 Mill Street.

Moved by Cindy Mehnert and seconded by Lianne Harris and friendly amended to approve the license

conditioned on the Code Enforcement Officer's recommendation that the business not open until receiving final approvals by the Code Enforcement Officer, Fire Marshal and State Health Inspector. All voted in favor, 6-0.

d. To consider a Class XI - Malt, Spirituous & Vinous Restaurant/Lounge Liquor License, Victualer's License and Special Amusement Permit for Music, Dancing and Entertainment for Blue Moon LLC/ d/b/a I Gomelli, 36 Main Street.

Public hearing d. opened at 7:45 p.m.

Mr. Murphy stated that this is a new owner application for the restaurant and bar formerly known as the Bear Brew Pub. He stated that he discussed the grease trap requirements with the owner. Mr. Murphy explained that this business will operate on the first floor and on the second floor balcony and Matt Haskell's business will be on the second and third floors. He stated that there are renovations to be done to separate the two businesses. He noted that the State Health Inspector will inspect the business after receiving the application.

Ms. Conlow and Mr. Murphy agreed to recommend that the Victualer's License be approved with the condition that the terms and conditions set forth by the Code Enforcement Officer, Fire Marshal and State Health Inspector be met.

Ms. Conlow clarified that as soon as I Gomelli's portion of the building has met the requirements of the Code Enforcement Officer, Fire Marshal and State Health Inspector and they are okay with everything, the business can open.

Owner Tom Hashey commented that his business will be in the same building with Latitude Forty Four. He described his restaurant as a unique experience of color, smell, atmosphere and great food that is family-friendly. He spoke of making fresh breads, unique meals and brewing beer.

Dan LaPointe spoke in support of Mr. Hashey and his business and asked the Council to give him every benefit for success.

Matt Haskell also spoke in support of Mr. Hashey's business.

Public hearing d. closed at 8:00 p.m.

Order 10-06 Order, approving a Class XI - Malt, Spirituous & Vinous Restaurant/Lounge Liquor License for Blue Moon LLC/ d/b/a I Gomelli, 36 Main Street.

Moved by Tom Perry and seconded by Lianne Harris. All voted in favor, 6-0.

Mark Haggerty asked Mr. Hashey what the difference was between a Class XI license and other licenses. Mr. Hashey was not sure. Mr. Haggerty asked if his bartenders would be TIPS trained. Mr. Hashey stated that he has talked with the police and will do what it takes to prevent underaged drinking. Matt Haskell offered to include Mr. Hashey's employees in his TIPS training, scheduled for February 15, 2010.

Mr. Gordon asked what Mr. Hachey will do about noise control. He commented that the deck is enclosed for the winter and he plans to have music that adds to the ambience, i.e. violinist, folk singer, etc.

Order 10-07 Order, approving a Special Amusement Permit for Music, Dancing and Entertainment for Blue Moon LLC/ d/b/a I Gomelli, 36 Main Street.

Moved by Cindy Mehnert and seconded by Lianne Harris. All voted in favor, 6-0.

Order 10-08 Order, approving a Victualer's License for Blue Moon LLC/ d/b/a I Gomelli, 36 Main Street.

Moved by Cindy Mehnert and seconded by Lianne Harris and friendly amended to approve the license conditioned on the Code Enforcement Officer's recommendation that the business not open until receiving final approvals by the Code Enforcement Officer, Fire Marshal and State Health Inspector. All voted in favor, 6-0.

- e. To consider a Class X: Spirituous, Vinous and Malt - Class A Lounge Liquor License, Victualer's License, and Special Amusement for Music, Dancing and Entertainment for Crow Valley Brewing Co. Inc. d/b/a Latitude Forty Four, 36 Main Street.**

Public hearing e. opened at 8:10 p.m.

Mr. Murphy stated that this is a new license application at the former Bear Brew Pub. Crow Valley Brewing Co. d/b/a Latitude Forty Four will operate on the second and third floors.

Mr. Murphy reported that the State Fire Marshal has required structural changes to the egress doors on the second and third floors, which have not yet been completed. Inspections have not been done.

Ms. Conlow stated that this is a lounge liquor license and is not required to serve a full menu. Since the Town cannot condition a liquor license and a Victualer's License is not required, she recommended tabling the licenses until all the approvals have been issued.

Owner Matt Haskell stated that his business will have a small tapas menu. He will feature comedy shows, live bands and events that focus on all age groups. Mr. Haskell described the nature of his business as a fusion bar. He spoke of the renovations that will be made.

Dan LaPointe spoke in favor, stating that the business benefits the downtown. Tom Hashey also spoke in favor of granting the licenses.

Public hearing e. closed at 8:20 p.m.

Order 10-09 Order, approving a Class X: Spirituous, Vinous and Malt - Class A Lounge Liquor License for Crow Valley Brewing Co. Inc. d/b/a Latitude Forty Four, 36 Main Street.

Moved by Lianne Harris and seconded by Cindy Mehnert. Moved by Tom Perry and seconded by Judy Sullivan to table Order 10-09. All voted in favor, 6-0.

Order 10-10 Order, approving a Special Amusement for Music, Dancing and Entertainment for Crow Valley Brewing Co. Inc. d/b/a Latitude Forty Four, 36 Main Street.

Moved by Lianne Harris and seconded by Cindy Mehnert. Moved by Tom Perry and seconded by Judy Sullivan to table Order 10-10. All voted in favor, 6-0.

Order 10-11 Order, approving a Victualer's License for Crow Valley Brewing Co. Inc. d/b/a Latitude Forty Four, 36 Main Street.

Moved by Lianne Harris and seconded by Cindy Mehnert. Moved by Tom Perry and seconded by Judy Sullivan to table Order 10-11. All voted in favor, 6-0.

Ms. Mehnert asked if the taxes will be paid by the time the licenses are approved. Ms. Conlow confirmed that to be true. Mark Haggerty asked about the business' cooking arrangements, noting that they had no kitchen showing on the floorplan. Matt Haskell stated it would be cold food, tapas and sandwiches from I Gomelli.

f. To consider an Amendment of Shoreland Zoning Designations for four Non-residential Properties.

Public hearing f. opened at 8:21 p.m.

Mr. Richert explained that the proposal is to rezone the shoreland area (the 250-foot band along the river) associated with the University Inn property to Limited Commercial and to rezone the shoreland areas associated with Shaw & Tenney, Byer Manufacturing and Webster Mill to General Development. The shoreland area of each of these properties is presently Limited Residential.

He stated that the Town initiated this proposal as part of an overall review of the shoreland zoning map and to be more consistent with the established uses. He noted that the amendments have not been initiated by the property owners and no proposal for development or redevelopment, other than potentially for Webster Mill, is presently before the Town. If the shoreland zoning is amended as proposed, further rezoning will still be needed for expansion or redevelopment. He noted that that the only time sensitive property is the Webster Mill Site.

Mr. Richert explained the setbacks and the difference between Limited Residential and Limited Commercial. He noted that the Comprehensive Plan recognizes that the current zoning is not the correct long range zoning. He confirmed that no expansion would be allowed without further approvals. He noted that these commercial uses were important to the town.

Dan LaPointe spoke of the town as a diverse community that should be open for opportunity. He questioned the high water mark. Mr. Gordon commented that the high water mark is determined by State definition.

John Jemison of 8 University Place noted that he appreciates the improvements to the University Suites. His concerns are about how this proposal affects the 250-foot Shoreland zone. He stated that any development on the water side of the building would affect the water quality and drainage and would cause erosion problems. He noted that development would affect the tree coverage buffer. He urged

the Council to think about what should be done for resource protection.

John Beckett of 10 University Place stated that changing the zoning to Limited Commercial would open up too much leeway if any other business moved in. He noted that University Suites is a quiet place, but the residents' quality of life would change if they expanded. He commented that the bog would also be affected if they expanded.

Dan LaPointe of 201 Kelley Road commented that if an expansion was done correctly it would be an asset to the town. He stated that economic development is needed in the town and an owner should have a greater say for their development.

Nancy Prisk of 7 University Place stated that she understood the motivating factor behind rezoning the Webster Mill Site. She encouraged Council to consider the properties one at a time. She supported the zone change for Byer's Manufacturing and Shaw & Tenney due to their historic value. She did not support the proposed zone change for University Suites without supporting a reason why. She noted that the town would be setting up an opportunity without a plan and may regret it later.

Jay Shields, of 80 Mill Street and owner of Byer's Manufacturing, thanked the Town for taking the initiative to appropriately zone these parcels. He noted that Mr. Richert's plan is logical and he supports the changes.

Michelle Goldman, of 32 Mill Street and president of OVA, spoke in support of the changes and commented that it is her understanding that the rezoning is really a housekeeping measure to allow the properties to conform to their current uses. Mr. Richert stated that was correct, that he viewed it as a housekeeping measure to match the use.

Tracey Whitten, owner of University Suites, stated that her family has done a lot to improve the property and has no intentions of selling it. She supported the changes so that her property would not be non-conforming use. She commented that she sees the river as an asset to her business and does not expect to change it.

Mr. Beckett commented that he is in business and grew up in the town. He cautioned the Council to be careful and watch how they change things, and not change just because of good order.

Geoff Gordon noted that no decision would be made tonight. He recommended that people stay involved. He invited them to attend the Webster Mill meeting Wednesday night at 7:00 p.m.

Mark Haggerty stated that if people are interested, they can be notified of future meetings. Ms. Conlow suggested that people write their email address on the list provided in the back of the room.

Public hearing f. closed at 9:05 p.m.

4. Acknowledgments by Council Members

Judy Sullivan commented that she was delighted to hear from the public tonight.

Cindy Mehnert was pleased to acknowledge the employment contract renewals of the Police Chief, Fire Chief and Code Enforcement Officer.

Lianne Harris also acknowledged the employee's contract renewals and thanked them for serving the town so well. She thanked the Public Works crew for their snow removal efforts with the recent storm. Ms. Harris also commented that the lights around the downtown are wonderful.

Tom Perry echoed his appreciation of the town employees. He acknowledged and commended the Orono Police Officers who volunteered their time on New Year's Eve to participate in the Orono High School New Year's Eve Bash.

Mark Haggerty acknowledged the people that spoke at the public hearings. He noted that it makes the Council's work easier when they receive the public's input.

5. Unfinished Business - None

6. Consent Agenda

Order 10-12 Order, confirming the Employment Contract of Gary Duquette as the Police Chief for the Town of Orono, effective December 21, 2009 to December 31, 2012.

Order 10-13 Order, confirming the Employment Contract of Norman (Buddy) Webb as the Fire Chief for the Town of Orono, effective December 21, 2009 to December 31, 2012.

Order 10-14 Order, confirming the Employment Contract of William Murphy as the Code Enforcement Officer for the Town of Orono, effective December 21, 2009 to December 31, 2012.

Order 10-15 Order, setting February 8, 2010 at 7:30 p.m. as the date for a public hearing to consider amendments to the Town of Orono, Chapter 18, Land Use Ordinance implementing the March 2009 Addendum to the Comprehensive Plan (Forestry & Agriculture Zoning District).

Order 10-16 Order, committing a true list of sewerage service assessments to Wanda J. Thomas, Treasurer, in the amount of \$146,604.36.

Moved by Tom Perry and seconded by Lianne Harris to approve the consent agenda. All voted in favor 6-0.

7. New Business

Order 10-17 Order, amending the Sensor Research and Development Corporation Municipal Development and Tax Increment Financing District and Development Program.

Moved by Tom Perry and seconded by Cindy Mehnert and friendly amended by Cindy Mehnert and seconded by Tom Perry to include the entire language as presented in Exhibit D.

All voted in favor of the motion as friendly amended, 5-0.

Ms. Conlow stated that the Council packet included the entire order which is listed as Exhibit D. She noted that Attorney Shawna Cook Mueller of Bernstein and Shur recommends that the Council adopt and include the entire language in the order.

(Lianne Harris left the meeting at 9:14 p.m.)

Evan Richert explained that the reason for amending this TIF is to remove the overlapping area on Route 2. He stated that a community cannot have the same area represented in two different TIF districts.

Dan LaPointe commented that if there is any extra money in the community there should be a tax rebate. Ms. Conlow clarified that a TIF has nothing to do with a tax increase.

Order 10-18 Order, designating the Transit-Oriented Municipal Development and Tax Increment Financing District and adopting the Development Program for the District.

Moved by Cindy Mehnert and seconded by Judy Sullivan and friendly amended by Cindy Mehnert and seconded by Tom Perry to include the entire language as presented in Exhibit G.

All voted in favor of the motion as friendly amended, 5-0.

Mr. Richert stated that this TIF creates a way for the town to reinvest in the downtown area and establishes a development program. As a transit oriented TIF, it addresses transportation and infrastructure issues. The major benefit is that the TIF allows the town to shelter the tax increase in the district to be used in that district. He noted that appointments will be made to an Advisory Committee that will help in developing the yearly development objectives.

Mark Haggerty asked what happens to the accrued TIF funds after the 30-year life. Shawna Cook Mueller recommended spending the funds on the projects through the TIF term and noted that there is some flexibility to adjust projects.

Mr. Haggerty asked if there were rules for the credit enhancement and revolving loans. Ms. Mueller stated that draft contracts and examples of loan documents are available through an attorney.

Ms. Sullivan asked if the percentage amount dedicated to the TIF could be changed. Ms. Mueller stated that in the future the percentage could be changed through an amendment, but it would change the amount being sheltered.

Ms. Sullivan suggested that the page 4 narrative on Land Acquisition be rephrased to be broader so that it's not just trails. She also noted a typographical error that states the "Lower Stillwater Avenue" and it should read "Lower Stillwater River".

Geoff Gordon asked about the importance of the narrative in affecting the actual development. Ms. Mueller stated that the State pays higher attention to Exhibit A than the narrative.

Mr. Gordon suggested that Land Acquisition, Land Assembly be stated more clearly that it is for

economic development purposes. Evan Richert agreed to make the recommended changes.

Dan LaPointe commented that the funds should not be lobbied for non-profits and be used to reduce taxes. He also felt that the shuttle bus should not be free. Ms. Conlow stated that no one has been lobbied; the TIF was initiated by the Town and she did not appreciate the implications.

Order 10-19 Order, approving an amendment to the Town of Orono, Chapter 18, Land Use, Article X Nonconformance, Section 18-303 Nonconforming Structures, (c) ~~(d)~~ Reconstruction and Replacement ~~(4) Providing for Time Extensions for Public Interest.~~

Moved by Cindy Mehnert and seconded by Judy Sullivan and friendly amended to correct reflect Section (c) Reconstruction and Replacement. All voted in favor, 5-0.

Evan Richert explained that this amendment will allow non-conforming structures that are destroyed more time to rebuild if it is in the best interest of the community. This language is recommended by the Town’s attorney and supports to Tolling Agreements. He noted that the language allows for 18 months, except in the Shoreland Zone where it is 12 months by State law.

Order 10-20 Order, accepting a Dedication from Boathouse Associates, LLC pursuant to 23 M.R.S. §3025 of Shadbush Lane (road and associated easements), as shown on the subdivision plan for the Shadbush Lane Subdivision recorded in the Penobscot County Registry of Deeds in Map File 2006-254 and as described in the Quitclaim Deed with Covenant on file with the Town Clerk, and establishing the same as a Town Way.

Moved by Tom Perry and seconded by Cindy Mehnert. All voted in favor, 5-0.

Mr. Murphy stated that Boathouse Associates, LLC has met all of the subdivision requirements for acceptance of the roadway.

Ms. Sullivan asked if the trail easements are part of the Quitclaim Deed. Mr. Richert stated that the trail easements are not with the town, they are will the Orono Land Trust. The easements included are utility easements.

Mr. Gordon asked if the Town collects GIS coordinates from each development project. Mr. Richert stated that it does not but it could easily be done with the surveyors.

Order 10-21 Order, pursuant to 29-A M.R.S. Sec. 2395, the Council hereby designates Bennoch Road from Main Street to the Orono-Old Town Line, Forest Avenue from Main Street to I-95, and Taylor Road from Forest Avenue to Putnam Road as being closed to vehicular traffic carrying heavy loads from January 15, 2010 until May 1, 2010, when necessary, unless solidly frozen and that said road shall be subject to the same restrictions and definitions of heavy loads as promulgated by the Department of Transportation for State and State Aid Highways, which restrictions are incorporated herein by reference. The Town Manager shall be authorized to cause the enforcement thereof.

Moved by Tom Perry and seconded by Judy Sullivan. All voted in favor, 5-0.

Ms. Conlow noted that this is the standard posting of the roads to prevent damage.

8. Future Agenda Items/Items of Concern

Mark Haggerty asked whether the issues at 5 Summer Street have been resolved. Mr. Richert suggested that he and Mr. Murphy re-examine the definition and review the situation. Mr. Haggerty stated he would like clarity on the issue.

Mark Haggerty asked about the status of the revenues. Ms. Conlow stated that excise taxes are a little higher than projected. Revenue sharing was cut by \$125,000, but she had included a \$100,000 buffer. She noted that the town will take a bigger hit next year. Ms. Conlow commented that the town will have to look differently at what it will be in the future (i.e. increase taxes or decrease services). Tom Perry supported having a discussion on this topic as soon as possible.

Judy Sullivan stated that she would like to look at the budget with the department heads input in the discussion. Ms. Sullivan clarified that the school budget is now separate from the town

budget. Ms. Conlow confirmed that to be true. Ms. Conlow stated that she would be talking with Superintendent Clenchy about the budget and the end of the year audit funds.

9. Public Petitions - None

10. Public Comments

Dan LaPointe requested that there be a reduction in taxes or no increase. He commented that everyone is struggling and the Town needs to be fiscally responsible.

11. Adjournment

At 10:15 p.m., Tom Perry moved and Judy Sullivan seconded to adjourn. All voted in favor, 5-0.

Minutes are not verbatim. A tape-recorded version is available in the Town Office.

Respectfully submitted,

Nancy W. Ward
Administrative Assistant