

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

**MONDAY, FEBRUARY 8, 2010 AT 7:30 P.M.**

**MINUTES**

**1. Roll Call**

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

**2. Approval of minutes of January 11 and January 25, 2010**

Moved by Tom Perry and seconded by Lianne Harris. All voted in favor, 7-0.

**3. Public Hearings**

- a. To consider amendments to the Town of Orono, Chapter 18, Land Use Ordinance & Map implementing the March 2009 Addendum to the Comprehensive Plan (Forestry & Agriculture Zoning District).**

Public hearing a. opened at 7:31 p.m.

Planner Evan Richert stated that a public hearing was held on December 14, 2009 on the Forestry & Agriculture-related zoning amendments. During the review of the amendments, the Council made several changes that are substantive. It was then returned to the Planning Board for a new public hearing, which was held on January 20, 2010, and report to the Council and now before Council for its public hearing.

Mr. Richert briefly noted the changes since the last review: Clarification in the schedule of land uses that distinguishes between single-family attached dwellings involving only two dwelling units and those that involve more than two dwelling units; No minimum lot size requirement in clustered developments in the F&A District; Revisions to the open space provisions of clustered development, explicitly recognizing that agricultural and forestry uses are allowed uses in the reserved open space, including structures necessary to those uses; Requirement for unpaved (gravel) sidewalk in clustered developments in the F&A District that choose the new private road standard, but with the choice of an unpaved pathway outside of the street right-of-way.

The Planning Board made two clarifying changes: If a subdivider chooses to include a pathway outside of the right-of-way rather than a sidewalk, it must be accessible to each lot or unit in the subdivision; and, that the maintenance of such a pathway must be included in the maintenance agreement along with maintenance of the private road.

No comments from the public were made.

Mark Haggerty thanked Mr. Richert for his work throughout this amendment process. Ms. Harris commented that the amendments are a good product.

Public hearing a. closed at 7:35 p.m.

**b. A Class XI Restaurant/Lounge Malt, Spirituous & Vinous Liquor License, Victualer's License and Special Amusement Permit for Music, Dancing and Entertainment for RI Snow Co., LLC, d/b/a 103 Ultra Lounge, 103 Park Street.**

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

Code Enforcement Officer Bill Murphy reported that he inspected the building on February 2, 2010 and did not find any violations of local or state codes. He noted that Mr. Snow addressed new signage on the restroom doors and showed him the location of his external grease trap tank. Mr. Snow acknowledged that he does not have cleaning records for the tank, but will start keeping records for the future.

No comments from the public were made. Public hearing b. closed at 7:37 p.m.

**Order 10-23 Order, approving a Class XI Restaurant/Lounge Malt, Spirituous & Vinous Liquor License for RI Snow Co., LLC, d/b/a 103 Ultra Lounge, 103 Park Street.**

Moved by Cindy Mehnert and seconded by Lianne Harris. The vote was 1-6 (with Mark Haggerty, Tom Perry, Lianne Harris, Geoffrey Gordon, Tom Spitz and Cindy Mehnert opposed). Motion fails.

Discussion

Fire Chief Webb reported that the Fire Marshal inspected the facility and found it to be in compliance. He described a violation in the Consent Decree regarding a blocked exit.

Police Chief Duquette commented that 14 incidents were presented in his report. Council members asked Chief Duquette a series of questions. He responded with the following answers:

Is the business responding better to incidents and why was there a gap from April to September? Chief Duquette - some calls are being made during incidents, but mostly the police are being flagged down while in the area. There is little activity during the summer months.

Mark Haggerty - Mr. Snow pledged to make several changes over the year, have you seen any changes? Chief Duquette - there is better staffing in the parking lot.

Lianne Harris – asked about the restaurant being open regular hours? Chief Duquette - it was open on Monday night; they are supposed to have a dedicated cook; does not seem to operate on a regular basis.

Tom Spitz asked if improvements have been made? Chief Duquette commented there are still over-intoxicated patrons, whether they arrive that way or get that way inside.

Tom Perry commented that it is disturbing that the Consent Decree lists violations that are evident in the police report and that they are still occurring.

Geoff Gordon asked whether the overcrowding was addressed and whether Mr. Snow met with the Town Manager and Police Chief to discuss issues from last time. Chief Duquette commented he was not aware.

Mr. Snow explained that the blocked access was a drum riser that had been there for some time and never an issue. After the compliance check it was moved.

Judy Sullivan asked if Mr. Snow was serving food. He commented that he has a few line cooks; the doorman cooks on Mondays, and on Tuesdays and Wednesdays he's closed. He commented that a person can get food if his facility is open. He commented that most of his revenue comes from the cover charge/entertainment.

Mr. Snow described his operation, noting that he only allows 18+ dance nights as he promised. He requires IDs, his incidents have reduced from 70 last year to 45 this year. He commented that his staff calls the police more often for assistance, he has had the surveillance cameras fixed and has provided the police with tapes to assist them in situations.

Ms. Harris asked Mr. Snow to explain why the incidents are happening. Mr. Snow described power drinking and commented that people are showing signs of being over-intoxicated 30 minutes after they have been admitted into the club. He commented that it is something they cannot control.

Ms. Conlow suggested that a different type of liquor license may be needed. Mr. Snow commented on the capacity of the restaurant being 50 people (100 without chairs) and the capacity of the lounge is 340. Mr. Gordon commented that he did not see Mr. Snow's business operating as a restaurant and questioned whether he needed a different license.

Mr. Snow described how he keeps track of the number of people that enter his club by the register receipt count at the door. When the capacity is reached they lock the doors and only let people in as the same number of people leave. He commented that he had not been overcrowded with the past incident even though he signed the Consent Decree saying that the club had been overcrowded.

Mr. Haggerty commented that the Council is looking at the facts before them where he signed the Consent Decree. Attorney Tom Russell advised the Council to rely on the Consent Decree which was signed by all parties.

Mr. Gordon asked Mr. Snow to explain the license and food sales. Mr. Snow commented that he meets the state guidelines and confirms that he sells food when serving alcohol. He clarified that he does not serve if it is not ordered, but it is available. He noted that \$20,000 gross in food sales is needed for his license.

Ms. Sullivan stated that she is concerned for the safety and welfare of his patrons. She commented on the underaged drinking, overintoxication, assaults and fighting. Mr. Snow stated that the incidents have improved from last year. He explained that people are removed when fighting occurs. He also described how the underaged patrons are separated by a caged area from the drinking patrons and that IDs and wrist bands are checked.

Tom Spitz commented that the other establishments in town do not seem to have the issues 103 Ultra Lounge has. Mr. Snow commented that they service 400+ patrons compared to a lot less at other establishments.

Police Chief Duquette stated that 103 Ultra Lounge's kitchen was dark and vacant during an inspection. He commented that no other restaurant operates that way. He also commented that there are no other establishments like this with these issues.

Mr. Gordon noted that it was not the intent that this type of restaurant license would be used in this way.

Mark Haggerty commented that 103 Ultra Lounge is open approximately 16 days per month and the percentage of incidents have not changed over last year. He commented that there is a history of violence even though Mr. Snow assured us that he would take steps to correct it.

Dan LaPointe spoke in support of the town helping business in the community.

Mr. Snow commented that he is trying to find ways to improve; he knows he is liable and does not want bad things to happen.

Ms. Sullivan asked whether the town can regulate what happens through the year. Mr. Gordon commented that it is a yearly license approval.

Lianne Harris commented that the issues seem to be germane to the location and the type of entertainment. She commented that it is not the first, second or third time these issues have occurred.

#### Stated Reasons for Denial

Mark Haggerty stated that there is a continued pattern of violence and excessive drinking. He noted that the Council has had extensive conversations with Mr. Snow and the nine points he agreed to address at last year's Council meeting have not been successful. The continued violence and incidents have not made the place safe.

Tom Perry cited the pattern of violent incidents and over-intoxication as his reasons for denial.

Lianne Harris cited Police Chief Duquette's report. She noted that she voted against granting the license with a heavy heart. She stated that it is clear that not enough has changed.

Geoff Gordon stated that he did not believe a restaurant license was appropriate for their business. He noted that a Class 1 license would be more appropriate. He noted that due to the infractions and over-intoxication issues, not enough has changed and it is unacceptable.

Tom Spitz stated that the business is not safe for the community. He noted that other drinking establishments do not have the same level of issues. He noted that it is just not right.

Cindy Mehnert commented that there has to be a better way to screen over-intoxication. She stated that there are too many infractions.

**Order 10-24 Order, approving a Victualer's License for RI Snow Co., LLC, d/b/a 103 Ultra Lounge, 103 Park Street.**

Moved by Lianne Harris and seconded by Cindy Mehnert. All voted in favor, 7-0.

Attorney Tom Russell noted that the criteria for granting a Victualer's License is based on building safety and preparing food safely.

**Order 10-25 Order, approving a Special Amusement Permit for Music, Dancing and Entertainment for RI Snow Co., LLC, d/b/a 103 Ultra Lounge, 103 Park Street.**

Moved by Lianne Harris and seconded by Cindy Mehnert. The vote was 6-1 (with Mark Haggerty opposed). Motion passes.

Attorney Tom Russell noted the criteria for granting a Special Amusement Permit is based on facility standards relating to health and safety.

**4. Acknowledgments by Council Members**

Judy Sullivan commended Public Works and the staff for their workplace safety efforts. She acknowledged the work of the Assistant Town Manager. Ms. Sullivan also acknowledged the cooperative work being done with other towns.

Cindy Mehnert thanked Rob Yerxa for obtaining funds through MDOT to upgrade the traffic lights and for his work with the pedestrian crosswalks. She acknowledged the efforts being made to regionalize and make connections. She acknowledged the enthusiasm of the staff to make the budget season work. Tom Spitz stated he was impressed with the staff and their good attitude.

Lianne Harris thanked the police officers that volunteered their time in helping out with the Orono High School New Year's Eve Bash. Tom Perry added that he was pleased to read the letter from the high school principal thanking the police officers.

Mark Haggerty acknowledged the tragedy in the community with the recent hit and run. He noted that he was pleased with the work of the police department and State Police. His thoughts went out to the parents.

**5. Unfinished Business - None**

**6. Consent Agenda**

**Order 10-26 Order, appointing Judy Sullivan as the Council Representative on the Orono Economic Development Committee for a 3-year term, expiring February 2013.**

**Order 10-27 Order, setting March 8, 2010 at 7:30 p.m. as the date for a public hearing to consider the Conveyance of Real Estate and Personal Property to RSU#26.**

**Order 10-28** Order, setting the hours of voting as 7:00 a.m. to 8:00 p.m. and the polling place as the Council Chamber of the Municipal Building for Wards 1 & 2 for the March 9, 2010 Municipal Election.

**Order 10-29** Order, changing the hours that the Registrar will accept registrations of applicants who appear in person as follows: On the last five business days before the March 9, 2010 Municipal Election, from 8:30 a.m. to 4:30 p.m. [MRSA 21A, Sec. 122.6.A (2) and (8)].

**Order 10-30** Order, approving the Town Clerk's appointment of Warden and Assistant Warden for the March 9, 2010 Municipal Election:  
Warden – Geoffrey Gordon and Assistant Warden – Cynthia Mehnert.

**Order 10-31** Order, committing a true list of sewerage service assessments to Wanda J. Thomas, Treasurer, in the amount of \$125,461.08.

Moved by Tom Perry and seconded by Lianne Harris to approve the consent agenda. All voted in favor, 7-0.

## 7. New Business

**Order 10-32** Order, authorizing the Town Manager to sign and execute an agreement with MDOT regarding the Installation, Operation and Maintenance of Traffic Signals on Mill Street, Pine Street and Park Street on Main Street (project #17727.00) (25% match to be funded in the FY2010-11 Budget)

Moved by Tom Perry and seconded by Cindy Mehnert. All voted in favor, 7-0.

Public Works Director Rob Yerxa stated that the new upgraded equipment will allow for better traffic flow and safer management of pedestrian traffic. The fiber interconnect will allow the system to better handle special events and peak traffic flow periods. He commented that funding was acquired through BACTS as part of a larger grant proposal that was submitted to MDOT. The total budget for the project is \$110,000, requiring a 25% local share (\$27,500.00) due in FY2010-11. MDOT is currently in the design phase of the project, it will be advertised in July 2010 and completed in December 2010.

Judy Sullivan asked about the town paying 100% of the cost if it is over \$110,000. Mr. Yerxa stated that to be true; however, it is a strict budget and not anticipated to go over. He noted that any changes would require a change order.

Mark Haggerty asked if pedestrian safety was considered with the traffic flow. Mr. Yerxa stated that it was and there will be better cues for pedestrians with a countdown signal.

Ms. Conlow commented that an application has been submitted to create a school zone on Route 2. She also noted that truck traffic has been reduced with the trucks now being allowed on I-95. She commented that the University Capstone project has also helped to study the traffic and pedestrian safety issues.

## **8. Future Agenda Items/Items of Concern**

Ms. Sullivan commented that with the budget process public participation will be important.

Tom Perry stated that he would like to have a meeting with the RSU #26 Board of Directors to discuss the budget process.

Mark Haggerty asked about the status of the Domesticated Chickens Ordinance and for an update on the Rental Registration program. Ms. Conlow stated that both issues will be on the Community Development Committee agenda for February 22, 2010.

Ms. Conlow commented that with tough budget times ahead, the Maine Service Centers Coalition is discussing bipartisan ways to work together to benefit all.

## **9. Public Petitions - None**

## **10. Public Comments - None**

## **11. Adjournment**

At 9:15 p.m., Tom Spitz moved and Cindy Mehnert seconded to adjourn. All voted in favor, 7-0.

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

Respectfully submitted,

Nancy W. Ward, Administrative Assistant