

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

MONDAY, MAY 10, 2010 AT 7:30 P.M.

MINUTES

1. Roll Call

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

2. Approval of minutes of April 5, April 8, April 12, and May 3, 2010

Moved by Tom Perry and seconded by Judy Sullivan to approve the minutes. All voted in favor, 6-0.

3. Public Hearings

- a. To consider a Class I-A Hotel Malt, Spirituous & Vinous Liquor License, Victualer's License and Special Amusement Permit for Music, Dancing & Entertainment for Black Bear Inn Associates, d/b/a Black Bear Inn Conference Center and Suites, 4 Godfrey Drive.**

Public hearing a. opened at 7:32 p.m. Code Enforcement Officer Bill Murphy reported that he and the Fire Marshal inspected the property and no violations were found.

Tom Palmer, General Manager of the Black Bear Inn, was available to answer questions. He stated that the business is no longer a Best Western, but is independently owned. He noted that they added two new chefs. No other public comments were made. Public hearing a. closed at 7:35 p.m.

- Order 10-76 Order, approving a Class I-A Hotel Malt, Spirituous & Vinous Liquor License, for Black Bear Inn Associates, d/b/a Black Bear Inn Conference Center and Suites, 4 Godfrey Drive.**

Moved by Cindy Mehnert and seconded by Judy Sullivan. All voted in favor, 6-0.

- Order 10-77 Order, approving a Victualer's License for Black Bear Inn Associates, d/b/a Black Bear Inn Conference Center and Suites, 4 Godfrey Drive.**

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

- Order 10-78 Order, approving a Special Amusement Permit for Music, Dancing & Entertainment for Black Bear Inn Associates, d/b/a Black Bear Inn Conference Center and Suites, 4 Godfrey Drive.**

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

b. To consider an amendment to the Town of Orono Ordinances, Chapter 18 Land Use, Sec. 18-102 Zoning Map, to clarify policy that Shoreland Districts function as an Overlay of Townwide Districts.

Public hearing b. opened at 7:36 p.m. Planner Evan Richert stated that the proposed amendment is to clarify the long-standing practice and clear up ambiguous language that the Shoreland District functions as an overlay of the other districts. Mr. Richert commented that the ambiguity came to the foreground with the following shoreland property issues. He noted that with Attorney Tom Russell's assistance, they prepared this amendment to clarify that the Shoreland District is intended to be an overlay district, with the stricter of the two districts' provisions prevailing. Mr. Richert gave an example of how it would work.

Mr. Haggerty asked what happens if a property abuts two districts. Mr. Richert commented that it would be a rare case, except maybe in the resource protection area, but the more restrictive rules would apply.

Ms. Mehnert asked for clarification that the zone runs to the water, but the Shoreland zone overlays that zone. Mr. Richert confirmed that to be true and added that the stricter rule of the two zones prevails.

No other public comments were made. Public hearing b. closed at 7:45 p.m.

c. To consider a Proposed Zoning Map Amendment to Shoreland property at Water Street. 20

Public hearing c. opened at 7:46 p.m. Planner Evan Richert commented that three public hearings have been held on this issue. He stated that the Planning Board recommended approval of this amendment to be consistent with the Comprehensive Plan. He noted that this is the Shaw & Tenney property. The current zoning is Limited Residential and this amendment would change it to General Development.

Steve Holt, owner of Shaw & Tenney, spoke in support of the amendment. He stated that he purchased the property as a non-conforming use in the MDR zone, but he would like to have the zoning match with the business use. He noted that he has no intention of expanding the business in the near future. No other public comments were made.

Tom Spitz asked what the difference was between the MDR and GD Districts. Mr. Richert stated that there is a big difference, but this change only affects the overlay district. He noted that any contract zone change would require further action by the Council. This action only creates readiness in the Shoreland portion. Public hearing c. closed at 7:55 p.m.

d. To consider a Proposed Zoning Map Amendment to Shoreland property at Shore Drive. 5

Public hearing d. opened at 7:56 p.m. Planner Evan Richert stated that this is the Webster Mill property. He noted that the Town has received proposals and the property is being prepared for redevelopment. The Town is interested in rezoning the property for redevelopment and will also need to gain a contract zone. This is the first step to change the LR zone to a GD zone within the Shoreland

zone.

Ms. Mehnert asked how long it would take to get DEP approval. Mr. Richert stated that DEP's timeframe is 45 days from Council approval. No other public comments were made. Public hearing d. closed at 7:58 p.m.

e. To consider a Proposed Zoning Map Amendment to Shoreland property at 74 Mill Street.

Public hearing e. opened at 7:59 p.m. Planner Evan Richert stated that this is the Byer Manufacturing property and is the same as the previous item. This change would change the LR zone to a GD zone within the Shoreland zone.

Jay Shield, owner of Byers Manufacturing, stated that his business is on a non-conforming lot and he would like to have the zoning match the business use. He noted that having a non-conforming lot makes it difficult with any kind of loan financing. He stated that he would appreciate legitimizing the use of the property which will also help with the value of the land with any future resale.

Betsy Beattie asked what the impact of changing the property to General Development would mean to the neighbors. She noted that Mr. Shield has been a good neighbor, but she has concerns about the future.

Mr. Richert commented that the only portion of the property that will be changed to General Development is the portion in the Shoreland District, and the stricter rules will apply. He stated that any business would have to take the next step to rezone under contract zoning to change anything.

Ms. Sullivan noted that the key issue is that nothing changes unless they take the next step for contract zoning. Mr. Richert agreed, but stated that the investors would not take the next step with the Webster Mill site without it. Mark Haggerty noted that it is the first step in allowing development.

No other public comments were made. Public hearing e. closed at 8:10 p.m.

f. To consider a Proposed Zoning Map Amendment to Shoreland property at College Avenue. 5

Public hearing f. opened at 8:11 p.m. Planner Evan Richert noted this is the University Inn property. He explained that this change would change the Limited Residential zone to a Limited Commercial zone within the Shoreland zone.

Tracy Whitten, owner of the University Inn, commented that her business has operated as a commercial enterprise in a Limited Residential zone for 46 years. She noted that she does not like being a non-conforming use and would rather have the zoning reflect the current use. She stated that when she applies for credit, the non-conforming status creates a problem.

John Jemison of University Place, stated that Ms. Whitten has been a good neighbor, but he is more concerned about future owners. He asked the Council to look at any future contract zone change

carefully and only with a development plan. He stated that he appreciates the overlay district. No other public comments were made. Public hearing f. closed at 8:16 p.m.

4. Acknowledgments by Council Members

Mark Haggerty acknowledged and congratulated the graduates of the University of Maine.

Tom Perry acknowledged the Orono Police Department for their assistance in the arrest made in connection with the tragic hit and run situation this past winter. He also acknowledged the appointment of Doug Smith as the new RSU#26 Superintendent. He noted that Mr. Smith was the Glenburn Superintendent and most recently the RSU#26 Assistant Superintendent.

Tom Spitz also congratulated the graduates from the University of Maine. He announced that the Public Works Department is now picking up leaves and brush, and the landfill will be opening on Saturday, May 15-22, 2010 for the free drop off days.

Cindy Mehnert acknowledged the increased use of the new Orono Public Library on Birch Street. She noted that it was a great venture.

Judy Sullivan asked if everyone enjoyed the few days of summer we had, now that fall is here.

5. Unfinished Business - None

6. Proclamations

Order 10-79 Order, proclaiming May 11, 2010 as the official day for the celebration of Arbor Day in the Town of Orono.

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

Ms. Conlow thanked David Thompson for being such a great advocate for the town in achieving the Tree City USA designation.

7. Consent Agenda

Order 10-80 Order, appointing the following board/committee appointments, as recommended by the Community Development Committee:
Planning Board: Mark Kittridge (5-year term, regular seat: expiring 2015)
Board of Appeals: Shane Martin (3-year term, regular seat: expiring 2013)
Community Beautification Committee: JoAnne Hall, Chris Dorion and Molly MacLean (3-year terms, regular seats: expiring 2013)
Library Board of Trustees: Judith Hakola (3-year term, regular seat: expiring 2013) and Steve Colburn (2-year term, associate seat: expiring 2012)
Library Youth Member: Victoria Jain (1-year term, regular seat: expiring 2011)
Tree Board: Dianne Charland, Cynthia Blease and Molly MacLean (3-

year terms: expiring 2013) and Jason Charland (term expiring 2012)

- Order 10-81** Order, appointing the Town Manager, Geoff Gordon and Tom Perry to work with the Town of Veazie and City of Bangor on exploring opportunities for Cooperation.
- Order 10-82** Order, nominating Tom Perry as a Representative to the Maine Municipal Association, Legislative Policy Committee.
- Order 10-83** Order, setting June 7, 2010 at 7:00 p.m. as the date for a public hearing to discuss the 2010-2011 Municipal, Capital, and WPCF budgets.
- Order 10-84** Order, setting June 7, 2010 at 7:00 p.m. as the date for a public hearing for reviewing the Orono Village Center District Development Program.
- Order 10-85** Order, setting June 7, 2010 at 7:00 p.m. as the date for the public hearing on the estimating and assessing of assessments upon all lots or property within the Village Center Tax District (Municipal District) and establishing a tax rate for Fiscal Year 2011.
- Order 10-86** Order, setting June 7, 2010, 7:00 p.m., as the date for a public hearing to consider a sewer rate increase for FY 2011.
- Order 10-87** Order, setting the voting as 7 a.m. to 8 p.m. and the polling places as the Orono Council Chamber Municipal Building for Ward 1, Precinct 3 and Ward 2 and Birch Street School – Senior Center for Wards 1, Precincts 1 and 2 for the June 8, 2010 Primary/Referendum Election and RSU #26 Budget Validation Referendum Election.
- Order 10-88** Order, approving the Town Clerk's appointment of Wardens for the June 8, 2010 Primary/Referendum Election and RSU #26 Budget Validation Referendum Election:
- Ward 1, Precincts 1 & 2 – John McDonough and Thomas Perry
Ward 1, Precinct 3 – Geoffrey Gordon and Lianne Harris
Ward 2 - Stan Borodko and Cynthia Mehnert
- Order 10-89** Order, changing the hours that the Registrar will accept registration of applicants who appear in person as follows: On the last five business days before the June 8, 2010 Primary/Referendum Election and RSU#26 Budget Validation Referendum Election, from 8:30 a.m. to 4:30 p.m. [MRSA 21A, Sec. 122.6A (2) and (8)].
- Order 10-90** Order, setting June 14, 2010, 7:30 p.m., as the date for a public hearing to consider an amendment to the Ordinances of the Town of Orono, Chapter 2, Administration, Sec. 2-26 to change the time of the regular Council

meetings from 7:30 p.m. to 7:00 p.m. and Sec. 2-30, to allow the Council Chairman to be a voting member of the Council Committees.

Order 10-91 Order, committing a true list of sewerage service assessments to Wanda J. Thomas, Treasurer, in the amount of \$116,061.60.

Moved by Tom Perry and seconded by Cindy Mehnert to approve the consent agenda. All voted in favor, 6-0.

Mr. Gordon announced the public hearings and the election that are scheduled in June, 2010.

8. New Business

Order 10-92 Order, adopting amendments to the Ordinances of the Town of Orono, Chapter 18, Land Use, Article V. Performance Standards, Section 18-149. Domesticated Chickens and related sections.

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

Code Enforcement Officer Bill Murphy stated that the Town has been working on this ordinance amendment for some time. He gave a brief summary of the main provisions: that it applies to the MDR district only; residents can have up to six female chickens; proper setbacks must be met as outlined in the ordinances; and there are no fees for the keeping of chickens or for the construction of a pen unless the structure exceeds 200 square feet.

Ms. Conlow stated that the amendment to related Section 18-124 clarifies the exception of the MDR district.

Mark Haggerty thanked Mr. Murphy for his efforts in writing the ordinance.

Order 10-93 Order, accepting a Brownfields Cleanup Grant from the U. S. Environmental Protection Agency in the amount of \$200,000 for cleanup of the Webster Mill Site, and authorizing the Town Manager to sign and execute all necessary documents (The local match is \$40,000).

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

Mr. Richert stated that this order makes it clear that the funds have been accepted and the Town Treasurer can invoice to receive the funds.

Order 10-94 Order, awarding the low bid for Webster Mill Asbestos Abatement and Demolition of the southeast wing of the building to County Abatement, Inc. of Caribou in the amount of \$58,164 to be drawn from the Brownfields Cleanup Grant, and authorizing the Town Manager to sign and execute the contract.

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

Mr. Richert stated that asbestos abatement and the demolition of the southeast wing of the Webster Mill building are eligible uses of the Brownfields Cleanup Grant. He noted that County Abatement was low bidder and all their references were good.

Order 10-95 Order, awarding the low bid to H. E. Bridges of Glenburn in an amount not to exceed \$142,300 for the purpose of adding a Stormwater System (245 ft) and replacing the Sanitary Sewer (413 ft) at upper Middle Street, and authorizing a total project cost of \$189,185; \$86,435 to be drawn from the Public Works operating budget and \$102,750 from WPCF Sewer Replacement Reserve.

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

Ms. Conlow stated that the road work, stormwater and sewer were budgeted in this year's budget. She recommended awarding the bid and moving forward on the project.

Tom Spitz asked if the Orono-Veazie Water District was aware of this project. Ms. Conlow stated that she assumes they have been notified, but will check with them.

Order 10-96 Order, approving an additional \$1,000 for a Release Deed from David Sklar to be drawn from Contingency to allow the Town to install Underground Utility Lines within Sklar Wilderness Park.

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

Ms. Conlow commented that this Release Deed is a proactive arrangement to accomplish an east/west underground utility easement for the future development of the Kelley Road Business Park. She noted that \$5,000 was already approved by Council Order 09-202, however Mr. Sklar raised the price, and an additional \$1,000 is needed to finalize the deal.

9. Future Agenda Items/Items of Concern

Judy Sullivan reminded residents that the RSU#26 Budget is a separate vote from the Town budget and people should get out and vote on June 8, 2010.

Cindy Mehnert asked when the Council would be considering the option agreement on the Webster Mill site again. Ms. Conlow stated it would be next week at the Community Development Committee meeting.

Mark Haggerty asked about the bi-annual reports that were to be given to the Council. He asked when the meeting with the investment bankers would take place. Ms. Conlow stated it would be at a Finance Committee meeting, June 21, 2010.

Ms. Conlow commented that there would be a revised RSU#26 warrant for Council to consider next Monday night because the school has added a second question to the ballot.

Tom Perry asked when the RSU#26 Budget meeting was to be held. Ms. Conlow stated she would

check the date and make sure it is advertised on the board in front of the Fire Department.

10. Public Petitions - None

11. Public Comments

Mary Bird thanked the Council for voting in favor of the Domesticated Chickens Ordinance. She announced that there would be a free talk at the Page Farm, University of Maine, on Saturday, May 15, 2010 from 1:00-3:00 p.m. to learn more about raising chickens.

12. Adjournment

At 8:40 p.m., Judy Sullivan moved and Cindy Mehnert seconded to adjourn. All voted in favor, 6-0.

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

Respectfully submitted,

Nancy W. Ward
Administrative Assistant