

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

MONDAY, JUNE 14, 2010 AT 7:30 P.M.

MINUTES

1. Roll Call

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

2. Approval of minutes of May 10, May 12, May 17, May 24, June 2, 2010

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

3. Public Hearings

- a. To consider a Class I - Spirituous, Vinous and Malt Liquor License, Victualer's License and Special Amusement Permit for Music, Dancing and Entertainment for The Maine Marketplace, Memorial Union, University of Maine.**

Public hearing a. opened at 7:35 p.m. Code Enforcement Officer Bill Murphy reported that he and the Fire Marshal inspected the property, all licenses are current and no violations were found. No other public comments were made. Public hearing a. closed at 7:36 p.m.

- Order 10-100 Order, approving a Class I - Spirituous, Vinous and Malt Liquor License for The Maine Marketplace, Memorial Union, University of Maine.**

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

- Order 10-101 Order, approving a Victualer's License for The Maine Marketplace, Memorial Union, University of Maine.**

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

- Order 10-102 Order, approving a Special Amusement Permit for Music, Dancing and Entertainment for The Maine Marketplace, Memorial Union, University of Maine.**

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

- b. To consider a Class I - Spirituous, Vinous and Malt Liquor License, Victualer's License and Special Amusement Permit for Music, Dancing and Entertainment for Wells Catering Services, University of Maine.**

Public hearing b. opened at 7:37 p.m. Code Enforcement Officer Bill Murphy reported that he and the Fire Marshal inspected the property, all licenses are current and no violations were found. No other public comments were made. Public hearing b. closed at 7:38 p.m.

Order 10-103 Order, approving a Class I - Spirituous, Vinous and Malt Liquor License, for Wells Catering Services, University of Maine.

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

Order 10-104 Order, approving a Victualer's License for Wells Catering Services, University of Maine.

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

Order 10-105 Order, approving a Special Amusement Permit for Music, Dancing and Entertainment for Wells Catering Services, University of Maine.

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

c. To consider Victualer's Licenses for: American Legion, Big Apple, Burger King, Dysart's Travel Stop, Farnsworth Enterprises, Margarita's, Mill Street Creamery, The Store/Ampersand, and Wendy's.

Public hearing c. opened at 7:38 p.m. Ms. Conlow stated that taxes have been paid for all the businesses. Code Enforcement Officer Bill Murphy reported that he and the Fire Marshal inspected the properties, all licenses are current and no violations were found. He noted that he is working with The Store/Ampersand regarding their grease trap. No other public comments were made. Public hearing c. closed at 7:40 p.m.

Order 10-106 Order, approving a Victualer's License for the American Legion.

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

Order 10-107 Order, approving a Victualer's License for the Big Apple.

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

Order 10-108 Order, approving a Victualer's License for Burger King.

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

Order 10-109 Order, approving a Victualer's License for Dysart's Travel Stop.

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

Order 10-110 Order, approving a Victualer's License for Farnsworth Enterprises.

Moved by Lianne Harris and seconded by Judy Sullivan. All voted in favor, 7-0.

Order 10-111 Order, approving a Victualer's License for Margarita's.

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

Order 10-112 Order, approving a Victualer's License for Mill Street Creamery.

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

Order 10-113 Order, approving a Victualer's License for The Store/Ampersand.

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

Order 10-114 Order, approving a Victualer's License for Wendy's.

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

d. To consider a Lunch Wagon License for Lucinda McLaughlin, d/b/a North East Ice Cream.

Public hearing d. opened at 7:41 p.m. Code Enforcement Officer Bill Murphy reported that he inspected the vehicle, their licenses are current and no violations were found. No other public comments were made. Public hearing d. closed at 7:42 p.m.

Order 10-115 Order, approving a Lunch Wagon License for Lucinda McLaughlin, d/b/a North East Ice Cream.

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

e. To consider a Proposed Moratorium Ordinance entitled "Moratorium on Marijuana Dispensaries and Sites of Marijuana Cultivation".

Public hearing e. opened at 7:43 p.m.

Ms. Conlow stated that the Moratorium Ordinance before Council was modeled after Bangor's ordinance. She explained that the six-month moratorium would give the town adequate time to examine the zoning and location of a dispensary and cultivation site. She added that when everything is worked out the town can pull the moratorium. She noted that the State is still working out the rules.

Mark Haggerty commented that the use is similar to a pharmacy or medical facility and did not feel there was need for additional use classifications. He noted that there are less issues with medical marijuana than many other drugs and alcohol use. He also did not agree with some of the language within the "whereas" section of the ordinance. Mr. Haggerty concluded that he did not believe in the moratorium and felt it would be a waste of staff time.

Public hearing e. closed at 7:47 p.m.

Order 10-116 Order, approving a Moratorium Ordinance entitled “Moratorium on Marijuana Dispensaries and Sites of Marijuana Cultivation”.

Moved by Cindy Mehnert and seconded by Tom Perry.

Mr. Haggerty suggested that language be added to the Town Ordinances to spell out the use without establishing a moratorium ordinance. Cindy Mehnert spoke in favor of the moratorium, noting that the State has not given the communities information on what to do and there may be other issues involved.

Councilors discussed striking the 4th, 5th and 8th “whereas” paragraphs due to the morality issues stated.

Judy Sullivan commented that the people of the State voted to approve medical marijuana and it is clear they support it as a legal business. She did not feel a moratorium was necessary. Mark Haggerty noted that nothing can be done until the State makes decisions.

Tom Perry made a motion to amend and Lianne Harris seconded to strike paragraphs 4, 5 8 and 13 of the “whereas” section. The Council decided to discuss the issue further.

Mr. Gordon, Mr. Perry and Ms. Mehnert were in favor of approving the moratorium. Ms. Harris, Mr. Haggerty and Ms. Sullivan did not think it was necessary. Mr. Spitz agreed it was a new issue and needs to be looked at, but also felt that the dangers involved were not as severe as other drugs. Mr. Spitz suggested tabling this issue and discussing it further at the next committee meeting.

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

f. To consider authorizing the disposal of the Webster Mill property, 5 Shore Drive, pursuant to Sec. 2-150(b)(4) of the Code of Ordinances.

Public hearing f. opened at 8:15 p.m. Mr. Richert stated that the Town Ordinances require that a public hearing be held for the disposal of any town property. The disposal of this property involves an Option Agreement with the developer which has gone through a qualified process. Public hearing f. closed at 8:16 p.m.

Order 10-117 Order, authorizing the disposal of the Webster Mill property, 5 Shore Drive, pursuant to Sec. 2-150(b)(4) of the Code of Ordinances.

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

Order 10-118 Order, authorizing the Town Manager to enter into an Option Agreement with Developers Collaborative for the redevelopment of the Webster Mill Site

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

Planner Evan Richert gave an overview of the key terms of the agreement as outlined in the agenda supplement.

Ms. Sullivan asked about the timeframe of demolishing the building. Mr. Richert confirmed that it would be 2-3 years, but the section to be removed with the Brownfield's Grant would be this summer.

Ms. Sullivan asked about the assignment section of the agreement. Mr. Richert noted that at least one of the current managers has to hold a controlling interest. Ms. Mehnert commented that this may be necessary for financing flexibility.

Mr. Gordon asked about the property remaining taxable with a fee in lieu of taxes if the property is ever tax exempt. Mr. Richert commented that a memorandum of the Option Agreement will be recorded at the registry.

- g. 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.**

Public hearing f. opened at 8:34 p.m. Ms. Conlow stated that this ordinance change will allow the regular Council meetings to begin at 7:00 p.m. instead of 7:30 p.m. and allow the Council Chairman to be a voting member of the Council Committees where duly appointed. She noted that the purpose of the committees is to review the items before Council votes on them. No public comments were made. Public hearing f. closed at 8:35 p.m.

Order 10-119 Order, approving 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.

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

4. Acknowledgments by Council Members

Council members congratulated the Orono High School graduates and wished them success in their future endeavors.

Tom Perry acknowledged the passing of Larry Berthiaume. He noted that he had a great impact on the students, teachers and community and will be sadly missed by all who knew him.

Lianne Harris and Tom Spitz thanked all the workers that assisted with the recent election including the Town staff for their long hours of work. Mr. Spitz also acknowledged all the people who voted.

Cindy Mehnert acknowledged the use of the Keith Anderson Community House and Birch Street School.

5. Unfinished Business - None

6. New Business

Order 10-120 Order, awarding a bid for a 2010 Ford F-150 XL, 4 x 4 Truck to Darlings Ford of Bangor in an amount not to exceed \$18,180 from Parks and Recreation Capital Equipment Funds.

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

Ms. Conlow stated that this is the low bidder, the bid is under budget and staff is recommending approval. Ms. Conlow noted that two vehicles will be retired with this purchase.

Mr. Perry asked that the old vehicles not be used elsewhere in the town due to their age and condition.

Ms. Sullivan acknowledged the low mileage on the vehicles and questioned whether it would be wiser to lease a vehicle or reimburse employees for their mileage. Ms. Conlow commented she would look into it.

Order 10-121 Order, approving 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.

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

Mr. Richert noted that the public hearing was held last month. He commented that this change clarifies that the shoreland districts are intended to be an overlay to the abutting town-wide district, and that the stricter provision prevails.

Order 10-122 Order, approving a Proposed Zoning Map Amendment to Shoreland property at 20 Water Street.

Moved by Tom Perry and seconded by Lianne Harris. The vote was 6-1, with Mark Haggerty opposed.

Mr. Richert stated that several public hearings have been held on this issue. He noted that this is the Shaw and Tenney property. The current zoning is Limited Residential with a proposed change to General Development within the Shoreland area.

Mark Haggerty commented that he walked the property and the proposed change makes sense; however, he is hesitant to make this change without a plan for development.

Ms. Sullivan commented that the change will match the use and make it easier for the owners to get financial assistance. She noted that the Planning Board and the Comprehensive Plan both support the change. Ms. Sullivan stated that approving the change sends a message of readiness to the business owners.

Order 10-123 Order, approving a Proposed Zoning Map Amendment to Shoreland property at 5 Shore Drive.

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

Mr. Richert stated that this is the Webster Mill site and it is the same proposed changes as the order before it.

Order 10-124 Order, approving a Proposed Zoning Map Amendment to Shoreland property at 74 Mill Street.

Moved by Cindy Mehnert and seconded by Judy Sullivan. The vote was 6-1, with Mark Haggerty opposed.

Mr. Richert stated that this property is Byer Manufacturing and is the same proposed changes as the orders before.

Ms. Mehnert commented that the Town needs to support this small change. She noted that there are several steps before they could move forward.

Order 10-125 Order, approving a Proposed Zoning Map Amendment to Shoreland property at 5 College Avenue.

Moved by Cindy Mehnert and seconded by Judy Sullivan. The vote was 5-2, with Mark Haggerty and Tom Spitz opposed.

Mr. Richert stated that this property is the University Inn. The current zoning is Limited Residential with a proposed change to Limited Commercial within the Shoreland area.

Mark Haggerty commented that this change has been the most contested by concerned residents in the neighborhood. He noted he is not in opposition to its use, but did not support making a change without a plan for development.

John Jemison of 8 University Place commented that the concern is down the road, but this is the first step. He urged the Council to make the change in zoning when there is a plan, not now.

Ms. Sullivan noted that this change shows support for the businesses, but before anything can be done a contract zone change would be required.

Order 10-126 Order, approving the Fiscal Year 2010-2011 Municipal Budget.

<u>Municipal Expenditures</u>	<u>\$7,936,927</u>
<u>Contingency</u>	<u>\$ 10,000</u>
<u>Total Expenditures</u>	<u>\$7,946,927</u>
<u>Less Anticipated Revenues</u>	<u>\$4,905,555</u>
<u>Plus TIF, BETE Homestead Exemption</u>	<u>\$ 228,207</u>
<u>Total Amount to be Raised by Taxes for the Municipal Budget</u>	<u>\$3,269,579</u>

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

Councilors acknowledged the effort by the town staff in maintaining a flat budget. Mr. Gordon expressed concerns about not funding the capital reserves. Ms. Sullivan noted that rainy day funds were used to balance the budget and she is concerned about future years.

Order 10-127 Order, approving the payment of the Penobscot County Tax Assessment in the amount of \$463,446.

Moved by Judy Sullivan and seconded by Lianne Harris. All voted in favor, 7-0.

Ms. Conlow noted that this is a reduced assessment to the Town of Orono over last year.

Order 10-128 Order, approving the Water Pollution Control Facility budget for the 2010-2011 fiscal year in the amount of \$1,691,223.

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

Ms. Conlow noted that the WPCF budget was increased 3.3% over last year.

Order 10-129 Order, approving a sewer rate increase to be effective July 1, 2010. For General Metered Service, the quarterly charges will be: Consumption Rate, \$4.54/100 cu. ft.; Minimum Charge, \$54.48; and Unmetered Service, \$86.26.

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

Ms. Conlow noted that the sewer rate increase is 2.2% over last year.

Order 10-130 Order, approving the Five-Year Capital Forecast 2011-2015, final plan dated June 4, 2010.

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

Ms. Conlow noted that although this a five-year forecast, Council is only approving fiscal year 2011.

Order 10-131 Order, adopting the Orono Village Center District Development Program and establishing the boundaries of the District:

Said District shall include real and personal property located on land shown on Orono tax maps as follows: Tax Map 019-004, Lots 061, 062, 063, 065, 066, 067; Map 027-002, Lots 017, 018, 019, 020, 021, 047, 048, 050, 051, 052, 053, 054, 055, 056, 057, 058, 059, 060, 062, 063, 119, 120, 121, 122, 123, 124, 125, 139, 140, 141, 142, 143, 144, 145, 146; Map 027-12, Lots 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035 (maps on file in the assessor's office at the Municipal Building, 59 Main Street, Orono, ME 04473). The preceding map and lot numbers encompass an area generally described as follows: most properties abutting Route 2 from Merrill Merchants Bank to Murray's Campus Service, properties abutting Canal, Oak and Summer

Streets, most properties abutting Mill Street from Route 2 to Byer Manufacturing, properties abutting the West side of Pleasant Street, most properties abutting Pine Street from Route 2 to Birch Street and 4 Myrtle Street.

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

Ms. Conlow noted that nothing has changed with the boundaries and assessments.

Order 10-132 Order, establishing the amount of the implementation assessments of the Village Center Tax District for the July 1, 2010 to June 30, 2011 Fiscal Year at \$.50 per \$1,000.00 of valuation on all real and personal property located within the District as of April 1, 2010 and hereby committing said assessments to the Tax Collector of the Town of Orono for collection in accordance with the authority established under 30-A M.R.S.A., Section 5255(5).

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

Order 10-133 Order, awarding a 1-year contract to Purdy Powers and Company of Portland for year 2009-2010 in the amount of \$13,600 for Auditing Services and authorizing the Town Manager to execute a contract.

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

Ms. Conlow commented that this is the fifth year of a 5-year proposal from Purdy Powers and Company and the first year without the school included.

Order 10-134 Order, approving the 2010-2011 Fee Schedule, to be effective July 1, 2010.

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

Order 10-135 Order, voting to elect Thomas Perry to MMA's Legislative Policy Committee

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

7. Consent Agenda

**Order 10-136 Order, appointing the following board/committee appointments, as recommended by the Community Development Committee:
Board of Appeals: Andrew Gavett (regular seat: expiring 2013)
Library Board of Trustees: Steve Colburn (moving from an associate seat to a regular seat: expiring 2013).
Library Board of Trustees: Laurie Hamilton (associate youth seat: expiring 2011)**

- Order 10-137** Order, committing a true list of sewerage service assessments to Wanda J. Thomas, Treasurer, in the amount of \$130,660.
- Order 10-138** Order, establishing the due dates for Real Estate and Personal Property Taxes of September 24, 2010 and February 11, 2011, rate of interest at 7% and September 25, 2010 and February 12, 2011 as dates on which interest will commence on uncollected Fiscal Year 2010-2011 Real Estate and Personal Property Taxes.
- Order 10-139** Order, that the Tax Collector be, and hereby is, authorized to accept money prior to the tax commitment in prepayment of taxes, and to issue receipts for the same.
- Order 10-140** Order, that the rate of interest to be paid by the town for the overpayment of taxes to be set at 7%.
- Order 10-141** Order, authorizing the Tax Collector/Treasurer, pursuant to Title 36, M.R.S.A., Sec. 906, to apply any tax payment received from an individual as payment for any property tax against outstanding or delinquent taxes due on said property in chronological order beginning with the oldest unpaid tax bill, provided, however, that no such payment may be applied to any tax for which an abatement application or appeal is pending unless approved in writing by the taxpayer.
- Order 10-142** Order, establishing that the FY 2010-2011 implementation assessments for the Village Center Tax District shall be due and payable on September 24, 2010 and February 11, 2011, with interest to accrue on any unpaid assessments or portions thereof at the same annual rate and on the same dates established by the Town Council for delinquent taxes for the July 1, 2010 to June 30, 2011 Fiscal Year of the Town of Orono.
- Order 10-143** Order, authorizing and directing the Tax Collector of the Town of Orono to take all necessary or appropriate action to collect the FY 2010-2011 implementation assessments for the Village Center Tax District as may be provided by law.
- Order 10-144** Order, setting the rate of interest of 7% per annum to be collected on delinquent sewer accounts. Interest will be charged on unpaid balances 30 days after due date.

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

8. Future Agenda Items/Items of Concern

Judy Sullivan commented that she would like to look at where the Town stands with the current budget. She asked if Council would be meeting with department heads a few times through the year. Ms.

Conlow commented that a review of the numbers for the end of the year will be happening soon. She also stated that the Finance Committee will be meeting with our bankers in July.

Mark Haggerty asked about the status of the demolition of the Pine Street building. Mr. Murphy stated that the owners have one year from the time the building burned to rebuild.

9. Public Petitions - None

10. Public Comments – No comments were made.

11. Adjournment

At 9:25 p.m., Lianne Harris 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