

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

MONDAY, SEPTEMBER 13, 2010 AT 7:00 P.M.

MINUTES

1. Roll Call

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

2. Approval of minutes of August 2, August 9, and August 16, 2010

Moved by Tom Perry and seconded by Lianne Harris and friendly amended by Judy Sullivan to include a paragraph on page 2 of the August 16, 2010 minutes as follows:

“Mr. Poirier stated that the tennis courts will bring in revenues through tennis lessons to offset some expenses. He explained that this grant application would fund \$25,000 of the cost. He will also seek \$10,000 from USTA, \$10,000 from RSU#26 and the remaining \$10,000 was budgeted.”

All voted in favor of the motion as friendly amended, 7-0.

3. Public Hearings

a. To consider a Victualer’s License for Ali Aghamoosa, d/b/a Lissus Pizza, 6 Mill Street.

Public hearing a. opened at 7:07 p.m. Code Enforcement Officer Bill Murphy reported that all inspections have been done and staff is recommending approval of the license. No public comments were made. Public hearing a. closed at 7:08 p.m.

Order 10-171 Order, approving a Victualer’s License for Ali Aghamoosa, d/b/a Lissus Pizza, 6 Mill Street.

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

b. To consider a Victualer’s License for Orono Donuts LLC d/b/a Dunkin Donuts, 3 Stillwater Avenue.

Public hearing b. opened at 7:09 p.m. Mr. Murphy reported that all inspections have been done, there are no violations and staff is recommending approval of the license. No public comments were made. Public hearing b. closed at 7:10 p.m.

Order 10-172 Order, approving a Victualer’s License for Orono Donuts, LLC, d/b/a

Dunkin Donuts, 3 Stillwater Avenue.

Moved by Judy Sullivan and seconded by Tom Perry. All voted in favor, 7-0.

Mr. Murphy confirmed that the establishment has an external grease trap. Mr. Gordon asked when the grease traps were required to be installed. Ms. Conlow stated that all businesses received notification on January 1, 2010 and they have one year to comply.

c. To consider a Victualer's License for Harvest Moon Deli, 18 Mill Street.

Public hearing c. opened at 7:11 p.m. Mr. Murphy reported that all inspections have been done, a grease trap has been installed and staff is recommending approval of the license. No public comments were made. Public hearing c. closed at 7:12 p.m.

Order 10-173 Order, approving a Victualer's License for Harvest Moon Deli, 18 Mill Street.

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

d. To consider a Victualer's License for Verve, Inc., 2 Mill Street.

Public hearing d. opened at 7:13 p.m. Mr. Murphy reported that all inspections have been done, a grease trap is in place and staff is recommending approval of the license.

Owner Abe Firth commented that they have had a good first year and appreciate everyone's business. He noted that he would be making some updates to the building's exterior.

Ms. Conlow congratulated Harvest Moon Deli for being selected "Best Sandwich" and Woodman's for "Best Cocktail" for the second year in a row for the Reader's Choice Best Restaurants 2010 in the Bangor Metro. Ms. Harris congratulated the businesses and commented that they are a great recruitment tool for the area. Public hearing d. closed at 7:14 p.m.

Order 10-174 Order, approving a Victualer's License for Verve, Inc., 2 Mill Street.

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

e. To consider a Class XI – Spirituous, Vinous & Malt Liquor License, Victualer's License and Special Amusement Permit for Music, Dancing & Entertainment for First Peoples Initiative Inc. d/b/a The Elysian, 103 Park Street.

Public hearing e. opened at 7:15 p.m. Mr. Murphy reported that all inspections have been done and there are a few issues noted in the Fire Marshal's report that need to be addressed. He recommended approving the Victualer's License with the following conditions: 1) that the business not open until all issues have been addressed and work is approved; and 2) that it not open until approval from the State Health Inspector has been issued.

Owner Garth Grandchamp spoke about his past restaurant/bar experience. He stated that most of the issues cited in the State Health Inspector's and Fire Marshal's reports have been addressed and he will meet with the Code Enforcement Officer to make sure he is in compliance. He spoke of his past

military and police training and stated he wants to run a calm, orderly business.

Mr. Grandchamp described the menu as Italian and American influence. He stated that he has hired an excellent staff of people from the area and his other business in Portland.

Dan LaPointe stated he was happy to see a new business in the community. He noted that the town should help wherever possible.

Public hearing e. closed at 7:36 p.m.

Order 10-175 Order, approving a Class XI – Spirituous, Vinous & Malt Liquor License for First Peoples Initiative Inc. d/b/a The Elysian, 103 Park Street.

Cindy Mehnert recused herself from the discussion and votes of First Peoples Initiative Inc. d/b/a The Elysian due to her business association and relationship with Mr. Grandchamp.

Moved by Tom Perry and seconded by Tom Spitz. The vote was 6-0-1, with Ms. Mehnert abstaining.

Mr. Haggerty questioned whether the Town was being more restrictive with this business than others. Mr. Murphy explained that some of the issues are minor repairs and cleanliness. Ms. Conlow noted that many of the issues are easy fixes, such as the batteries going dead. Mr. Grandchamp commented that as a new owner he is painting and repairing the interior, replacing lights to make sure they are all working and has replaced power packs as needed.

Mr. Haggerty asked how Mr. Grandchamp would overcome the legacy of the old establishment. Mr. Grandchamp stated that he would not put up with misbehavior, would work with the Police Department and would not let problems get out of hand.

Lianne Harris spoke in support of the interesting and sophisticated menu. Mr. Grandchamp noted that the menu will be scaled back to begin with, but intends to offer a high end food experience.

Tom Perry asked whether Mr. Grandchamp has talked with the Police Chief and Town Manager about the past underaged drinking, violence and lack of food served. He acknowledged that they had.

Mr. Spitz questioned whether the parking lot should be included in the description of the premises to be licensed. Ms. Conlow explained that the business is responsible for activity in the parking lot.

Mr. Gordon asked if Mr. Grandchamp understood the occupancy limits of the building. Mr. Grandchamp commented that he would agree to whatever is set by the fire marshal. He also noted that he would be conducting TIPS training and security training on site.

Ms. Mehnert asked about the hours for dining and the nightclub. Mr. Grandchamp stated that dinner would be available from 4:00 p.m. to 9:00 p.m. with appetizers at the bar after 9:00 p.m.

Order 10-176 Order, approving a Victualer's License for First Peoples Initiative Inc. d/b/a The Elysian, 103 Park Street.

Moved by Tom Perry and seconded by Lianne Harris, and friendly amended to approve the license with the following conditions: 1) that the business not open until all issues have been addressed and

work is approved; and 2) that it not open until approval from the State Health Inspector has been issued. The vote on the motion as friendly amended was 6-0-1, with Ms. Mehnert abstaining.

Order 10-177 Order, approving a Special Amusement Permit for Music, Dancing & Entertainment for First Peoples Initiative Inc. d/b/a The Elysian, 103 Park Street.

Moved by Lianne Harris and seconded by Judy Sullivan. The vote was 6-0-1, with Ms. Mehnert abstaining.

f. To consider a Class III Vinous & Class IV Malt Liquor License for the University of Maine, d/b/a Collins Center for the Arts, 5746 Collins Center.

Public hearing f. opened at 7:35 p.m. Code Enforcement Officer Bill Murphy reported that all inspections have been done and staff is recommending approval of the license. No public comments were made. Public hearing f. closed at 7:36 p.m.

Order 10-178 Order, approving a Class III Vinous & Class IV Malt Liquor License for the University of Maine, d/b/a Collins Center for the Arts, 5746 Collins Center.

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

Mr. Murphy described this as a portable bar that will be used for events at the Collins Center.

g. To consider an Automobile Graveyard and/or Junkyard Permit for LaPointe's Enterprises, Inc., 201 Kelley Road.

Public hearing g. opened at 7:37 p.m. Code Enforcement Officer Bill Murphy reported that State law requires that salvage areas be screened; this is accomplished with plantings and a fence. The mobile home that is currently in the receiving area will be moved to a different area of the salvage yard per Mr. LaPointe. The business is in compliance with Maine DEP Stormwater. Mr. Murphy recommended approval of the permit.

Mr. LaPointe commented that it has been a difficult year for his business. He spoke of the benefit that his company provides to the community. Public hearing f. closed at 7:42 p.m.

Order 10-179 Order, approving an Automobile Graveyard and/or Junkyard Permit for LaPointe's Enterprises, Inc., 201 Kelley Road.

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

Mr. Haggerty asked if DEP had inspected the property. Mr. Murphy confirmed that they did inspect in August 2010. He noted that there were minor issues at all three junkyards.

Mr. Haggerty noted that Mr. LaPointe had checked "no" that the junkyard laws were not explained to him. Mr. LaPointe stated that was a mistake and he should have checked yes and he checked the same box in past years.

h. To consider an Automobile Graveyard and/or Junkyard Permit for Town of Orono, off Taylor Road.

Public hearing h. opened at 7:45 p.m. Code Enforcement Officer Bill Murphy reported that the junkyard is in compliance with state and local regulations. No public comments were made. Public hearing h. closed at 7:46 p.m.

Order 10-180 Order, approving an Automobile Graveyard and/or Junkyard Permit for the Town of Orono, off Taylor Road.

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

Mr. Haggerty asked if the property was in compliance with DEP. Mr. Yerxa confirmed that it was and that it was inspected in July 2010.

i. To consider an Automobile Graveyard and/or Junkyard Permit for Silver's Auto Parts, Inc., 485 Main Street.

Public hearing i. opened at 7:47 p.m. Code Enforcement Officer Bill Murphy reported that the junkyard is in compliance with state and local regulations. He commented that the gate is closed at the end of the business day, a temporary hold area is used before the vehicles are moved to the storage area, and vehicles for sale are in the area along the roadway. Mr. Murphy stated that he talked with one of the owners and he has agreed to move the campers and old jeeps to the salvage area because there has been no sales activity. No public comments were made. Public hearing i. closed at 7:48 p.m.

Order 10-181 Order, approving an Automobile Graveyard and/or Junkyard Permit to Silver's Auto Parts Inc, 485 Main Street.

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

4. Acknowledgments by Council Members

Judy Sullivan commented that she was sorry she missed Orono Festival Day, but heard it was successful. In reading the monthly reports, Ms. Sullivan stated she was impressed with the Fire Department, especially Henry Vaughan, for taking the time to be a part of the Brewer Public Safety Youth Academy.

Cindy Mehnert welcomed the University of Maine students and the Orono students back.

Tom Spitz also welcomed the students back. He commented that he was impressed with Festival Day and thanked everyone that attended.

Lianne Harris commented on the recent vandalism to the Orono Bog Walk and thanked the people involved in repairing it and Bangor Savings Bank for funding the repairs. Ms. Harris thanked Norm Poirier and everyone involved in making Orono Festival Day a great event. She also thanked everyone involved in the Volunteer BBQ celebration.

Tom Perry acknowledged receiving a school newsletter from RSU #26 and commented on appreciating

the good communication. Mr. Perry acknowledged the new sidewalks on Middle Street and Pine Street, and the new handicapped accessibility and temporary parking spaces at the Orono Public Library.

Mark Haggerty commented that he agreed with all the acknowledgements stated by Councilors. He added an acknowledgement of the Black Bear-Orono Express shuttle bus being up and running. He commented that adding Penobscot Street was a positive change to the shuttle route.

Geoff Gordon thanked everyone involved in making Orono Festival Day a big success. He commented on seeing Norm Poirier on a ladder in a tree taking care of details for the Festival.

5. Unfinished Business - None

6. Consent Agenda

Order 10-182 Order, changing the date of the Regular Council Meeting from October 11 to October 18, 2010 due to the Columbus Day Holiday.

Order 10-183 Order, committing a true list of sewerage service assessments to Wanda J. Thomas, Treasurer, in the amount of \$118,139.88.

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

7. New Business

Order 10-184 Resolve, recognizing the 75th Anniversary of the Orono-Old Town Kiwanis Club and their numerous contributions to the citizens of Orono.

Moved by Judy Sullivan and seconded by Tom Spitz. All voted in favor, 7-0.

Mr. Gordon read the resolution. The Council congratulated and thanked the Kiwanis Club.

Judy Sullivan commented that she had fond memories of attending the Kiwanis Auction back to when she was a child. She also noted that she was an Orono High School scholarship recipient and was grateful to them for how they had helped her personally.

Order 10-185 Order, appropriating funds from the Sewer Replacement Reserve account for emergency repairs to the existing 10" Margin Street collector sewer in the amount of \$14,887.12 and to the 6" Noyes Drive collector sewer in the amount of \$3,900.

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

Ms. Conlow stated that emergency repairs were made to Margin Street and Noyes Drive and this order allows funds to be allocated from the Sewer Replacement Reserve account to pay for the repairs.

Ms. Sullivan asked if there were quarterly inspections of the sewer system. Ms. Conlow stated that due to manpower constraints, the system is inspected every couple of years. She noted that the inspection process has been successful in locating problems and when possible the town has relined pipes before they collapse. Tom Spitz noted that there is a pipe size limit on what can be relined; six inches or less is not possible.

Order 10-186 Order, authorizing the cooperative replacement purchase of an Automated Pool Vacuum from Recreonics, Inc. for an amount not to exceed \$4,594 from the Capital Equipment Account, with half the amount reimbursed from the City of Brewer (\$2,297).

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

Parks and Recreation Director Norm Poirier stated that the Orono and Brewer Recreation Departments have shared the use of a pool vacuum for twelve years and the arrangement has worked very well. He noted that Orono actually uses the vacuum more than Brewer, but the expenses will be shared equally.

Mr. Gordon commented that it is a great arrangement with another community.

8. Public Comments

Cassandra Babbit thanked the Town employees for their assistance with the DI Pie in the Sky Race during Orono Festival Day. She commented that the race was a great success and appreciated all the help she received.

Chrysalis Wild of 38 Colburn Drive, expressed concerns about deep base noises that are not addressed in the Ordinances and requested that the Council write an ordinance to address this noise issue. She spoke of being unable to sleep due to the noise coming from neighborhood stereos, a local bar, and car stereos. She stated she had taken meter readings of the low base noise. She noted that towns in another state have passed ordinances to address this issue.

Mr. Gordon commented that Council has spent a lot of time in the past on this issue. He noted that regulating noise is not simple and noise meters have not been successful as evidence in court. He explained a situation where Council had attempted to address this issue in the past without success. He noted that the best way to pursue the issue is through the Disorderly Property Ordinance. He also stated that Council cannot regulate noise coming from a vehicle; that is addressed through the State.

Ms. Conlow commented that the Town cannot easily measure low level noises because they are not sustained over a period of time and we cannot isolate the source because it is not coming from one single location and is difficult to enforce.

Chief Duquette explained the process the Police Department follows when receiving a noise complaint.

Ms. Wild stated that she also hears gun shots behind her house and suspects that deer poaching is occurring.

Ms. Wild also requested, on behalf of her neighbor, deer crossing signs on Route 2 near Colburn

Drive. Public Works Director Rob Yerxa stated he would check with the Maine Department of Transportation about signs.

Mark Haggerty questioned why the Disorderly Property Ordinance is not working for Ms. Wild. She stated that because it is a low level noise, sometimes the police do not think it is a problem. Ms. Wild suggested the University work with the community to provide community service for violators.

Dudley LaPointe commented that the Disorderly Property Ordinance has worked with a situation with his tenant.

Dan LaPointe commented that it is easy to confuse noises; the shots could have been duck hunters. Ms. Conlow noted that there is no hunting on Marsh Island where Ms. Wild lives.

Michael Serota of Silver's Auto commented that his business in connection with Kiwanis has donated \$1.4 million to the community over the years.

9. Discussion of Solid Waste Disposal

Public Works Director Rob Yerxa stated that there are two major issues to discuss: How will we handle the landfill in the future and how will we handle curbside trash and recycling?

He noted that the current landfill cell will reach capacity and the curbside refuse contract will expire in 2011.

Mr. Yerxa provided Council with landfill cost estimate options prepared by CES Engineering. Option 1 would be to partially close the first cell and open a new adjacent cell for a total cost estimate of \$175,000. This would provide for approximately 30 years of capacity.

He stated that Option 2 is to close the landfill, capping all four sides for an estimated cost of \$73,000. The Town would then have the option of discontinuing any disposal or permitting and developing a new transfer station for offsite disposal at a cost estimate of \$151,000 with an annual transfer fee of \$38,000. Mr. Yerxa stated that there is \$277,000 currently in the landfill closure reserve account.

Ms. Harris asked Mr. Yerxa what his opinion was on the best option. Mr. Yerxa suggested hiring a consultant to study each option and provide Council with more information.

Mr. Gordon asked who was using the landfill and for what purpose. Mr. Yerxa described a typical day of 6-8 residents with white goods, building debris, metal, household items, siding and/or shingles. A typical day has 5-10 yards of material, but during the free week there is 300-500 yards of material.

In describing the other options for disposal around the greater area, Mr. Yerxa stated that residents would have to make multiple stops at various locations that would be less convenient. Mr. Yerxa also noted that the Town is its own customer in using the landfill. Mr. Perry noted that even if the landfill is closed, the town would continue longterm monitoring of the site.

Mark Haggerty suggested prioritizing a list of services before making any decisions. Ms. Conlow stated that the Town has the funds available to look at the options.

Mr. Yerxa stated that curbside refuse pickup and recycling is the other issue. He noted that currently the Town has its own recycling truck and labor costs and bring the product to Bangor. Eco-Maine would provide a single sort recycling option with the product trucked to Portland.

Mr. Yerxa stated that the next step would be to bring a consultant on to look at the costs and options and to do an Eco-Maine feasibility market study.

Ms. Sullivan asked about the town's recycling percentage. Mr. Yerxa stated that the Town of Orono, including the University of Maine, is at 46% recycling. The state is at 50%.

Ms. Conlow suggested that it is the time to look at policies for the landfill, curbside pickup and recycling.

Mr. Gordon proposed that Mr. Yerxa and Ms. Conlow get RFQs for assistance with these issues.

Tom Perry moved and Lianne Harris seconded to move forward with requesting RFQs for consulting services and find out what other communities are doing. All voted in favor, 7-0.

Ms. Sullivan asked if the town would also get RFPs for pricing. Mr. Yerxa stated the town would set a budget, settle on a qualified firm and then negotiate with that firm.

10. Future Agenda Items/Items of Concern

Mark Haggerty asked if there would be a public meeting about the Colburn Forest Management Plan. Ms. Conlow confirmed that there would be a meeting with the neighborhood.

He also urged Councilors to contact their representatives about State subsidies being potentially cut and the cost of school choice and its effect on the towns.

Tom Perry asked for a Council Workshop on the various classifications of liquor licenses. Ms. Conlow stated she would arrange it with the Town Attorney and Police Chief being present.

Cindy Mehnert commented she was glad the Town was looking at the solid waste issue because she has had many people talk with her about it.

Judy Sullivan stated she was disappointed when reading the Code Enforcement Officer's report that only one person has obtained a permit for their chickens. She would like to see more registered.

Geoff Gordon asked about the status of the next visioning session. Ms. Conlow stated that the date would be set soon.

11. Public Petitions

Dan LaPointe presented a request to Council to have a hearing to discuss being denied access to his 50-foot right-of-way at 201 Kelley Road and his right-of-way due to a berm at his Pushaw Lake property.

12. Adjournment

At 9:44 p.m., Judy Sullivan moved and Tom Perry seconded to adjourn. All voted in favor, 7-0.

Respectfully submitted,

Nancy W. Ward
Administrative Assistant