

**TOWN OF ORONO
COUNCIL VIRTUAL MEETING
MONDAY, SEPTEMBER 13, 2021 AT 5:00 P.M.**

WATCH ONLINE AT
<https://zoom.us/j/93680957814>
(LINK AVAILABLE AT ORONO.ORG)

MINUTES

1. Roll Call

Present: Council Chair Tom Perry, Geoffrey Wingard, Terry Greenier, Cheryl Robertson, Laurie Osher, Laura Mitchell, Meghan Gardner, and Town Manager Sophie Wilson.

Mr. Perry acknowledged that Council will stop what it is doing at 6:00 p.m. to hear the report from the Town Council's Ad Hoc Diversity, Equity, and Inclusion Committee.

2. Agenda Review

Ms. Wilson presented three orders to consider adding to the agenda (Orders #21-175, #21-176 and #21-177). She noted any orders added to the agenda after being published must be approved by unanimous consent.

Moved by Geoffrey Wingard and seconded by Cheryl Robertson. All voted in favor, 7-0. Mr. Perry noted the orders will be added to the agenda.

3. Approval of Minutes of July 12, August 2, and August 25, 2021

Moved by Geoffrey Wingard and seconded by Cheryl Robertson. All voted in favor, 7-0.

4. Public Hearings (*Video record time 0:05:35 - 0:46:45*)

- a. To consider a Class I Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Marsh Island Brewing, LLC, 2 Main Street.**

Public hearing a. opened at 5:05 p.m. Code Enforcement Officer Pat Estey stated staff reviewed all of the paperwork, all of the inspections have been completed, and staff recommends approval of the licenses. No public comments were made. Public hearing a. closed at 5:06 p.m.

b. To consider a Victualer's License for Harvest Moon, LLC, 18 Mill Street.

Public hearing b. opened at 5:06 p.m. Code Enforcement Officer Pat Estey stated staff completed the inspections and staff is recommending approval of the license. No public comments were made. Public hearing b. closed at 5:06 p.m.

c. To consider a Class I Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Orono House of Pizza, Inc., 154 Park Street.

Public hearing c. opened at 5:06 p.m. Code Enforcement Officer Pat Estey stated staff completed the inspections and staff is recommending approval of the licenses. No public comments were made. Public hearing c. closed at 5:07 p.m.

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

Public hearing d. opened at 5:07 p.m. Code Enforcement Officer Pat Estey stated staff completed the inspections and is recommending approval of the licenses. No public comments were made. Public hearing d. closed at 5:08 p.m.

e. To consider a Class I Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Woodman's Brewing Co., d/b/a Orono Brewing Company, 61 Margin Street.

Public hearing e. opened at 5:08 p.m. Code Enforcement Officer Pat Estey stated staff completed the inspections and is recommending approval of the licenses. No public comments were made. Public hearing e. closed at 5:08 p.m.

f. To consider a Class XI Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Yama's Inc., dba Yama's Bar & Grill, 19 Mill Street.

Public hearing f. opened at 5:08 p.m. Code Enforcement Officer Pat Estey stated staff reviewed all of the paperwork, completed all of the inspections and is recommending approval of the licenses. No public comments were made. Public hearing f. closed at 5:09 p.m.

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

Public hearing g. opened at 5:09 p.m. Code Enforcement Officer Pat Estey stated inspection checklists were provided to all three licensed junkyards/automobile graveyards. He stated that staff is not able to recommend approval of this license because access to the junkyard was not given to do the inspection.

Owner Daniel LaPointe commented that Mr. Estey's file on his junkyard/automobile graveyard is empty. Mr. LaPointe spoke of the grandfathering and non-conforming status of his business that was not in the file and has been in existence for 25-50 years. Mr. Perry noted that Mr. Estey asked about his stormwater compliance and he presented a Notice of Termination of stormwater. He noted his confusion with the paperwork.

Mr. Perry noted that Mr. Estey is unable to approve the license due to not having access to the property to complete the inspection.

Benjamin Schrader (Mr. LaPointe's aid) commented that more is being asked of Mr. LaPointe than before: 1) requiring an inspection is a departure from the Town's past practice of asking questions at the gate; and 2) this is a grandfathered junkyard and is not subject to the statutory standards.

Ms. Wilson stated the property file contains annual junkyard inspection reports dating back many years which would indicate that staff completed inspections.

Mr. Perry noted that Mr. LaPointe has refused to allow the Code Officer on his property to physically inspect the items listed. He noted the Town does not want to deny his permit, but needs to conduct a physical inspection. Mr. Perry spoke of being grandfathered from compliance. Mr. Wingard noted that grandfathering applies to zoning and certain land use ordinances and allows for "legally non-conforming" use; however, the inspection must still be conducted. Mr. LaPointe stated the inspection has been done at the gate in the past.

Mr. Estey clarified that he did not make any threats regarding shutting down the business; he has just requested three times to do a proper inspection by seeing it for himself before providing Council with the information to approve or disapprove. Mr. Estey noted that all three junkyards are grandfathered on many items, but still need physical inspections. Ms. Gardner highlighted that legally and ethically we need to treat all businesses equally with the inspections.

Mr. James Varnam stated that he has represented the LaPointe family and noted by helping the LaPointes, the Council is helping the citizens of Orono with free access to his property, the junkyard, and by them paying their taxes. Mr. Varnam noted the property is in good standing.

Mr. and Mrs. Campbell spoke in support of Mr. LaPointe's business. Public hearing g. closed at 5:35pm.

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

Public hearing h. opened at 5:35pm. Code Enforcement Officer Pat Estey stated staff has completed all inspections and is recommending approval. No public comments were made. Public hearing h. closed at 5:36pm.

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

Public hearing i. opened at 5:36pm. Code Enforcement Officer Pat Estey stated staff has completed the inspections and is recommending approval. No public comments were made. Public hearing h. closed at 5:37pm.

j. To consider Maine Municipal Association Model General Assistance Ordinance Appendices A-H for the period of October 1, 2021 to September 30, 2022 to be in compliance with Title 22 M.R.S., Sec. 4305(4).

Public hearing j. opened at 5:37pm. Ms. Wilson stated, in accordance with State Law, each year municipalities are required to adopt appendices to the General Assistance Ordinance. These appendices establish the maximum benefit amounts allowed under the General Assistance Program. She noted Maine Municipal Association works closely with the Maine Department of Human Services to maintain model ordinances (which Orono previously adopted). By following the ordinance, the State reimburses at 71% of the qualifying amount spent. She noted that GA is short term bridge assistance. Council has the option of establishing alternative program maximums that are more generous than those provided in the model appendices; however, any greater amount will be borne exclusively by the Town and not eligible for reimbursement. Staff recommends the adoption of the General Assistance Appendices as proposed by the Maine Department of Human Services. No public comments were made. Public hearing j. closed at 5:41pm.

k. To consider a 6-month extension to the Moratorium Ordinance regarding Marijuana Retail Stores specifically limited to the Commercial-2 Zoning District.

Public hearing k. opened at 5:42pm. Town Planner Kyle Drexler stated the Town Council adopted a moratorium ordinance on accepting applications for retail marijuana establishments in the C-2 Zoning District along Park Street to allow staff to address inadvertently allowing marijuana establishments near the entrance to UMaine which was not the intent articulated during ordinance development. Staff has been working with the Town Council in Committee to define where such establishments would be permitted along the C-2 Zoning District along Park Street. The Council is considering a 6-month extension to complete the amended ordinance.

Mr. Campbell stated he was against a moratorium extension. Public hearing k. closed at 5:44pm.

l. To consider Ordinance Amendments to the Town of Orono Ordinances, Chapter 8, Section 8-90 (d) Construction and Maintenance of Solid Fuel Boilers, to allow for freestanding outdoor installation or installation in a freestanding accessory structure in the F&A and LDR Zoning Districts.

Public hearing l. opened at 5:44pm. Mr. Drexler stated this is a small ordinance change to be allowed in the LDR and F&A Districts. He stated that solid fuel boilers were not allowed in the past due to complaints about smoke and odor. In recent years, the technology has improved and state and federal regulations have been enacted which makes some applications of this use

appropriate to consider for the LDR and F&A Districts which have larger minimum lot sizes and can accommodate adequate set back requirements of 100 feet from the property line. He noted with the advances in technology and the setback requirements, staff feels that solid fuel boilers can be allowed without nuisance to abutting property owners. No public comments were made. Public hearing I. closed at 5:46pm.

5. Acknowledgments by Council Members *(Video record time 0:46:45 - 0:50:11)*

Cheryl Robertson acknowledged Orono's Beautification Committee for the new gardens at Webster Park after the Bangor Natural Gas line was installed.

Laura Mitchell acknowledged the work of the Ad Hoc Diversity, Equity, and Inclusion Committee and recognized them for their time, expertise and efforts. She also acknowledged RSU#26 and the staff for their efforts in launching school during Covid in pulling everything together.

Meghan Gardner acknowledged the new staff members at the library, police department, public works and parks and recreation department.

Laurie Osher acknowledged the sad news that opioid deaths have increased again this year in Maine and Penobscot County. She encouraged working on a plan to change the statistics.

Geoffrey Wingard acknowledged the Orono business community for its efforts in dealing with masks and Covid protocols.

Tom Perry acknowledged the passing of longtime resident and businessman Linwood White who was also a longtime principal of Asa Adams School. He noted he will be sadly missed.

6. Unfinished Business - None

7. Consent Agenda *(Video record time 0:50:13 - 0:51:04)*

Order 21-152 Order, approving a Class I Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Marsh Island Brewing, LLC, 2 Main Street.

Order 21-153 Order, approving a Victualer's License for Harvest Moon, LLC, 18 Mill Street.

Order 21-154 Order, approving a Class I Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing & Entertainment and Victualer's License for Orono House of Pizza, Inc., 154 Park Street.

Order 21-155 Order, approving a Class I-A Hotel Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing &

Entertainment and Victualer's License for Black Bear Inn and Conference Center, 4 Godfrey Drive.

- Order 21-156** Order, approving a Class I Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Woodman's Brewing Co., d/b/a Orono Brewing Company, 61 Margin Street.
- Order 21-157** Order, approving a Class XI Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Yama's Inc., dba Yama's Bar & Grill, 19 Mill Street.
- Order 21-158** Order, approving an Automobile Graveyard and/or Junkyard Permit for the Town of Orono, off Taylor Road.
- Order 21-159** Order, approving an Automobile Graveyard and/or Junkyard Permit to Silver's Auto Parts Inc, 485 Main Street.
- Order 21-160** Order, approving a "Blanket Letter of Approval" from November 30, 2021 to November 30, 2026 to operate Beano/Bingo and/or Games of Chance to the American Legion Post #84, 156 Park Street.
- Order 21-161** Order, proclaiming the week of September 17 through 23, 2021 as Constitution Week in the Town of Orono.
- Order 21-162** Order, changing the date of the Regular Council Meeting from October 11 to October 18, 2021 due to the Town's observance of Indigenous Peoples' Day and changing the time from 7PM to 5PM.
- Order 21-163** Order, setting the date of October 18, 2021 at 5PM for a Public Hearing to consider an Ordinance Amendment to the Town of Orono Ordinances, Chapter 18 Land Use, Section 18-152 Mobile Food Vendors, to amend the permitting process for mobile food vendors operating in the University District.
- Order 21-164** Order, setting the date of October 18, 2021 at 5PM for a Public Hearing to consider a Contract Zone Agreement for 163 Forest Avenue, to change the zoning of the lot from Low-Density Residential to Economic Development Zone to allow for a medical office/counseling office within the existing structure on the lot.
- Order 21-165** Order, designating Thomas Perry as Orono's Official Voting Delegate and Cheryl Robertson as the Alternate to the MMA Annual Business Meeting to be held Thursday, September 30, 2021.

- Order 21-166** Order, authorizing the Town Manager to execute a Memorandum of Understanding with the University of Maine that codifies the Regional Climate Action Planning Process and collaboration stemming from the Memorandum of Understanding between the City of Bangor and Town of Orono executed earlier this year.
- Order 21-167** Order, authorizing the Town Manager to accept and expend funds from the Maine Emergency Management Agency (MEMA) for expenses related to Hazardous Material Response Team operations; and, further, limiting this authority to those expenditures that are within the current scope of services provided by the Team, conform to the Town purchasing policy, and do not exceed \$15,000 in total for FY22.
- Order 21-168** Order, authorizing the Town Manager to execute an agreement with Black Bear Sports Properties for marketing services; and further, to authorize payment under the terms of the agreement not to exceed \$5,000 with funds taken from the approved FY22 Tax Increment Financing District Program Development Budget (Economic Development Budget).
- Order 21-169** Order, confirming authorization of an emergency repair to the Fire Tower (Ladder Truck) by Allegiance Trucks of Auburn, Maine in an amount not to exceed \$40,000 to be paid from Capital Equipment Reserve.
- Order 21-170** Order, authorizing the following carry forward funds from the balance of the FY21 municipal budget into FY22 to complete projects identified in FY21:
- \$3,000 for Information Technology Equipment
 - \$7,500 for Facility Upgrades, Technical Assistance, and Staff Support related to COVID

Moved by Cheryl Robertson and seconded by Geoffrey Wingard to approve the consent agenda. All voted in favor, 7-0.

8. New Business

- Order 21-171** Order, considering an Automobile Graveyard and/or Junkyard Permit for LaPointe's Enterprises, Inc., 201 Kelley Road. *(Video record time 0:51:04 - 0:52:37)*

Moved by Cheryl Robertson and seconded by Laura Mitchell to approve the permit, conditioned upon successful completion of the onsite inspection. All voted in favor, 7-0.

Order 21-172 Order, approving a six-month Moratorium Ordinance Extension regarding Marijuana Retail Stores specifically limited to the Commercial-2 Zoning District. (Video record time 0:52:38 - 0:53:48)

Moved by Meghan Gardner and seconded by Cheryl Robertson. All voted in favor, 7-0.

Order 21-173 Order, adopting Amendments to the Town of Orono Ordinances, Chapter 8, Section 8-90 (d) Construction and Maintenance of Solid Fuel Boilers, to allow for freestanding outdoor installation or installation in a freestanding accessory structure in the F&A and LDR Zoning Districts. (Video record time 0:53:49 - 0:54:46)

Moved by Meghan Gardner and seconded by Geoffrey Wingard. All voted in favor, 7-0.

Order 21-174 Order, reallocating \$127,171 of Assigned Fund Balance as of June 30, 2021 from Assigned Funds Interest Revenue (\$36,683) and Economic Development Debt Reserve (\$90,488) as follows: (Video record time 0:54:47 - 57:30)

- **Create a Council & Staff Professional Development Reserve to support identified initiatives aimed at building long-term institutional capacity and fund with \$45,000;**
- **Create a Winter Maintenance Reserve and fund with \$20,000;**
- **Add \$17,500 to the Assessing Revaluation Project Reserve to fund the balance of the project expense; and**
- **Add \$44,671 to the Capital Equipment Reserve.**

Moved by Meghan Gardner and seconded by Cheryl Robertson. All voted in favor, 7-0.

Ms. Wilson stated Council has discussed reassigning the funds in these two accounts. She noted it is a reallocation of existing funds, not new funds.

Order 21-175 Order, authorizing the Town Manager to execute a Bill Credit Agreement for a Maine C&I Net Energy Billing - Tariff Rate Credit Program with Dewitt Solar, LLC, provided that said agreement has substantially similar terms to the draft agreement reviewed by the Town Council Finance Committee on August 30, 2021. (Video record time 0:57:31 - 1:00:23)

Moved by Meghan Gardner and seconded by Cheryl Robertson. All voted in favor, 7-0.

Assistant Town Manager Belle Ryder commented that the Town would be buying in to support the creation of a solar project, that will be producing electricity for the grid and would provide a net credit on the Town's electricity bill of approximately 13% (about \$25,000 per year for 20 years). In addition, the Town would be purchasing Renewable Energy Credits (RECs) to claim renewable energy use.

9. Workshop (To Begin at 6:00PM): Report from the Town Council's Ad Hoc Diversity, Equity, and Inclusion Committee *(Video record time 1:00:25 - 2:06:10)*

The Ad Hoc Justice, Diversity, Equity, and Inclusion (JEDI) Committee introduced themselves to the Council. They gave a presentation on the Committee's charge to conduct a survey assessing perceptions and experiences of community members with regard to a sense of belonging and access to services in Orono. They also developed a set of recommendations for how the Town could further its work on DEI leveraging the experience and expertise of the committee members also with the survey results. They noted that 350 people responded to the survey (90% were from Orono). The Committee presented 10 recommendations; the primary recommendation was to create a permanent Justice, Equity, Diversity, and Inclusion Board committed to systematic change. They reviewed the ten recommendations. They also reviewed their JEDI Board charge recommendations going forward. *(See attached.)*

Council members thanked the Committee for their work and spoke of further supporting the work of the Committee. Ms. Robertson noted she did not see that the Committee had reviewed the Town's current policies and procedures. Ms. Percival Carter noted it was not part of their charge. She also provided information about the data collection and process. Councilors asked about the data. Ms. Gardner spoke of the work that Orono is already doing, of which people are unaware.

Ms. Wilson recommended bringing in DEI Consultant Mandy Levine to conduct DEI baseline training for Town staff and Council: to look at how to make the recommendations work within the confines of government; and to move the DEI report recommendations through the Council Community Development Committee to start unpacking the report with professional guidance.

Ms. Osher promoted having the JEDI Committee continue their work to the next step. Mr. Perry suggested discussing this further through the Council Community Development Committee to develop the next steps and committee charge.

Ms. Mitchell and Ms. Gardner spoke in support of creating a permanent JEDI Board.

Council agreed with the concept of creating a permanent JEDI Board and expressed commitment to discussing it further through the Council Community Development Committee.

Order 21-176 Order, authorizing the Town Manager to apply to the Maine State Library for American Rescue Plan Act (ARPA) Funds in the amount \$3,250 to be used to construct an outdoor storywalk on Town owned property located in Webster Park; to accept all funds awarded as well as donated local contributions; to enter into an agreement with Barking Dog Interpretive Design, Inc of Strum, WI for the signage at a cost not to exceed \$4,335; and, further, to authorize the Town Manager to expend up to \$5,500 in grant and donated funds as well as approved FY22 Municipal Operating Budget funds on the complete project budget (signage and installation). *(Video record time 2:11:05 - 2:16:12)*

Moved by Geoffrey Wingard and seconded by Cheryl Robertson. All voted in favor, 7-0.

Library Director Laurie Carpenter stated that staff applied for a grant from the Maine State Library (funded through State ARPA funds) to create and install an outdoor storywalk in Webster Park. The storywalk is a short trail of interpretive signage (18 exhibit stands) made from laminated pages from children's books. The stories would be changed out four times a year. The total cost of this project is estimated at \$5,334 (\$4,334 for signs and \$1,000 for installation materials). The Town has been awarded \$3,250 in State ARPA Funds for this project as well as a donation of \$1,000 from Mechanics' Lodge #66, and an anticipated \$1,000 from Kiwanis. She noted that all but \$85 has been donated and can be covered through her operating budget.

Mr. Wingard commented that this is a great extension of literacy for Orono and thanked the donors.

Order 21-177 Order, authorizing the Town Manager to execute documents necessary to accept and obtain \$1,140,545.04 in American Rescue Plan Act (ARPA) Funds from the Maine Local Fiscal Recovery Fund Program; and, further, to authorize the Town Manager to establish a cash account to maintain these funds, if necessary. (Video record time 2:11:05 - 2:16:12)

Moved by Meghan Gardner and seconded by Geoffrey Wingard. All voted in favor, 7-0.

Ms. Wilson stated the Town is currently in the process of accepting and making required assurances necessary to receive ARPA funds. This order provides the necessary authorization for the Town Manager to act on the Town's behalf to secure these funds. Staff continues to work with State and regional partners as they await the final rule regarding the expenditure of these funds. Ms. Wilson noted this order does not include any authorization to expend these funds - only to obtain them; 50% will be received immediately and 50% in approximately 1 year with 3 years to expend.

10. Council Committee/Representative Reports (Video record time 2:19:048 - 2:23:35)

Finance and Operations Committee - Tom Perry reported that the Finance and Operations Committee met on August 30th and reviewed the solar agreement, assessment process, Fire Department position and OLT trails.

Community Development Committee - Terry Greenier reported that the Committee met on August 30th and discussed the Black Bear Brewing request for year-round outdoor seating, and Outdoor Solid Fuel Boilers.

Environment Committee - Ms. Robertson reported the Committee met on August 26th to discuss community sustainability efforts, winterization project, a community tool lending library, window dressing inserts project, and weatherization support through Efficiency Maine.

11. Future Agenda Items/Items of Concern - None

12. Public Petitions - None

13. Public Comments (*Video record time 2:23:50 - 2:32:30*)

Dan LaPointe asked questions about agenda items and ordinance effective dates, and provided a list of questions regarding grandfathering and non-conformance status (regarding his property).

Laura Mitchell asked about the next steps with the DEI report/recommendations. Ms. Wilson stated the report will be forwarded to the Council Community Development Committee for further consideration, and the Town will also work with the DEI Consultant. Mr. Greenier noted the Committee will discuss the report and make recommendations to Council. Ms. Wilson explained that there will be more thoughtful discussions in the Council Committee before creating a JEDI Committee and its charge. Next steps will be discussed on Monday.

14. Adjournment

Motion to adjourn by Geoffrey Wingard and seconded by Terry Greenier. All unanimously agreed. The Council Meeting adjourned at 7:32 p.m.

Minutes are not verbatim. A video-recorded version is available on the Town's website at www.orono.org.

Respectfully submitted,

Nancy W. Ward
Executive Assistant