

TOWN OF ORONO
COUNCIL VIRTUAL MEETING & WORKSHOP
MONDAY, MAY 10, 2021 AT 5:00PM
(The meeting will end by sundown.)

WATCH ONLINE AT
<https://zoom.us/j/99734447168>
For Dial in Only call 1-312-626-6799 Webinar ID: 997 3444 7168
(LINK AVAILABLE AT ORONO.ORG)
Comments can be submitted via email before the meeting at info@orono.org
and during the meeting by using Zoom comment features.

MEETING MINUTES

1. Roll Call

Present: Council Chair Tom Perry, Meghan Gardner, Terry Greenier, Laura Mitchell, Geoffrey Wingard, Laurie Osher, Cheryl Robertson (arrived at 5:13 p.m.), and Town Manager Sophie Wilson.

2. Agenda Review - None

3. Approval of Minutes of April 5, April 12, and April 26, 2021 *(Video record time 01:02-02:06)*

Moved by Meghan Gardner and seconded by Terry Greenier. All voted in favor, 6-0.

4. Public Hearings *(Video record time 02:06-01:19:45)*

a. A Class XI Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Orono Football Pub Co., LLC d/b/a The Common Loon Public House, 36-38 Main Street.

Public hearing a. opened at 5:02 p.m. Code Enforcement Officer Patrick Estey reported staff has completed all the inspections and recommends approval of the license. No public comments were made. Public hearing a. closed at 5:02 p.m.

b. A Class I – Malt, Spirituous and Vinous Liquor License and Victualer's License for Chou Enterprises Inc. d/b/a China Garden, 6 Stillwater Avenue.

Public hearing b. opened at 5:02 p.m. Code Enforcement Officer Patrick Estey reported staff has completed all the inspections and recommends approval of the license. No public comments were made. Public hearing b. closed at 5:03 p.m.

c. A Class IV – Tavern Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s for Timothy Gallon, d/b/a Black Bear Brewery, 19 Mill Street, Suite 4.

Public hearing c. opened at 5:03 p.m. Code Enforcement Officer Patrick Estey reported staff is recommending conditional approval of the license upon the applicant receiving a Certificate of Occupancy from the Code Enforcement Officer. The restaurant is currently closed and undergoing improvements. No public comments were made. Public hearing c. closed at 5:04 p.m.

d. A Class XI Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s License for Margs Mex Orono, LLC d/b/a Margaritas Mexican Restaurant, 15 Mill Street.

Public hearing d. opened at 5:04 p.m. Code Enforcement Officer Patrick Estey reported staff has completed all the inspections and recommends approval of the license. No public comments were made. Public hearing d. closed at 5:05 p.m.

e. A Class I – Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s License for The Bear’s Den, Memorial Union, University of Maine.

Public hearing e. opened at 5:05 p.m. Code Enforcement Officer Patrick Estey reported staff has completed all the inspections and recommends approval of the license. No public comments were made. Public hearing e. closed at 5:06 p.m.

f. A Class I – Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s License for Wells Catering, University of Maine.

Public hearing f. opened at 5:06 p.m. Code Enforcement Officer Patrick Estey reported staff has completed all the inspections and recommends approval of the license. No public comments were made. Public hearing f. closed at 5:07 p.m.

g. Ordinance Amendments to the Town of Orono Ordinances, Chapter 38, Vegetation Ordinance.

Public hearing g. opened at 5:08 p.m. Public Works Director Rob Yerxa stated the Tree Board has worked on a revision to the Vegetation Ordinance. The proposed amendment: Defines the purpose of the ordinance as regulating the planting, maintenance, and removal of trees located within the public rights-of-way along public streets, and in public parks and other municipal-owned property of the town; Establishes the Tree Board and its role/responsibilities as it works with the Tree Warden; Expands membership on the Board from seven regular members to also include two Associate Members; Establishes the Tree Board’s responsibilities; Codifies and describes the Tree Warden position; Regulates and requires the public to obtain permits from the Tree Warden to plant, prune, remove, or otherwise disturb any public trees; Preserve public trees; Provides the authority for the Tree Warden and Tree Board Chairperson to issue permits for the removal of public trees in the following circumstances: Prohibits the abuse of trees and

establishes a penalty of \$100 - \$500 per violation per day; and addresses diseased or pest infested trees within the municipal boundaries. The amendment would repeal and replace the current ordinance. No public comments were made. Public hearing g. closed at 5:32 p.m.

h. Regarding the granting of an easement(s) to Bangor Natural Gas across a portion of Webster Park and through an easement owned by the Town for the Stillwater Wastewater Interceptor.

Public hearing h. opened at 5:33 p.m. Jerry Livengood and Ryan Rancourt of Bangor Natural Gas presented detailed information about their company's request to move an existing gas main from under the Main Street bridge to under the riverbed; and, to acquire an easement through a portion of Webster Park (near College Avenue) and across an easement owned by the Town for the Stillwater Interceptor (on the southerly side of the river). They noted that MDOT prefers not having the pipeline under the bridge. They also noted that MDEP and the Army Corps of Engineers have approved their permit. *(See attached.)*

(Summary of agreement: The Town would convey an easement 10 feet wide that provides non-exclusive right for people and equipment to install, maintain, and operate a six inch steel coated underground natural gas line; and Bangor Gas will pay \$10,000 for this easement and provide the Town with a \$50,000 performance bond prior to the start of construction on this property with said performance bond remaining in full force until the property is restored to its prior condition.)

Council Discussion:

Councilors asked questions about the environmental impact to the river habitat; the possible stress on the bridge pipeline and design flaw; the cost/benefit of drilling beneath the riverbed or replacing the pipeline under the bridge; impact on public use of the park and river; the impact on the flowerbeds; and disturbance to the riverbed.

Mr. Rancourt explained drilling 40 feet below the riverbed with no impact on the river habitat; and Bangor Gas' need to replace the pipeline due to the stress on the pipeline (have approval from IF&W and MDOT); drilling is the most cost effective with least impact on the area; little impact on use of the river and park (except land section closer to the bridge); bridge design flaw and stability of boring underground; Bangor Natural Gas to assume liability; underground pipeline life expectancy 100 years; work with Beautification Committee to restore the flowerbeds; and no disturbance to the riverbed due to boring in solid rock 40 feet beneath it.

Public Comments:

Sonja Birthisel asked if this is the infrastructure the Town wants, and that natural gas contributes to climate change.

Virginia Hackney spoke in support of natural gas. Her concerns were about the disruption to the community garden near the guardrail. Mr. Rancourt showed a map of the pipeline area. He stated there would be disruption to the garden, but assured her that his company would restore the condition of the garden.

John Hackney asked about boring under the garden. Mr. Rancourt explained why that would not

be possible. Mr. Hackney asked about excavating without creating piles of dirt. Mr. Rancourt stated they would be using a trench box and can put the materials in the back of a dump truck. Mr. Rancourt said he would be willing to meet with the Hackneys to walk through the site.

Alice, a graduate student at UMaine seconded Ms. Mirthisel's comments and not wanting to continue the reliance on fossil fuels and move towards green energy.

Mr. Livengood understands about climate change and noted that natural gas will in the future transition to renewable sources of natural gas (i.e. landfill gas and hydrogen gas). He noted the pipeline is not being expanded, just replaced. He noted Orono has the highest per foot of pipeline customer base in the greater area. Public hearing h. closed at 6:19 p.m.

5. Acknowledgments by Council Members *(Video record time 01:19:46-01:23:00)*

Laurie Osher acknowledged staff for keeping Council informed and for delivering packets to their homes.

Geoff Wingard thanked the Tree Board for bringing Emerald Ash Borer information to the public and he thanked UMaine Students Sidney Young and Ashley Martone for their presentation. He appreciates the Tree Board is staying ahead of this issue.

Terry Greenier reminded people about events happening this weekend: The library will be painting lions for Pride Month; the Street and Stream Cleanup will be held May 15th starting at 9am; and, the Hazardous Waste Dropoff is also May 15th from 8am-noon in Old Town.

Laura Mitchel stated the Ad Hoc DEI Committee will meet on May 25th, June 29th, and July 27th. She noted it is not a public meeting yet, but is excited to get that work going.

Meghan Gardiner stated the Pride Zoo is growing. She noted she would be abstaining from voting on the consent agenda because her business is in it; however, she wanted to acknowledge the proclamations for Pride Month and Juneteenth, and all of the volunteers that will be appointed.

Mr. Perry thanked all of the people who came forward to serve on the Boards. He acknowledged Orono High School Principal Reg Ruin who will be leaving Orono to become the Superintendent in the Blue Hill area. He noted he was sorry to see him go, but wished him great success in his new position.

6. Unfinished Business - None

7. Consent Agenda *(Video record time 01:24:55-01:26:30)*

Order 21-64 Order, approving a Class XI Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer's License for Orono Football Pub Co., LLC d/b/a The Common Loon Public House, 36-38 Main Street.

- Order 21-65** Order, approving a Class I – Malt, Spirituous and Vinous Liquor License and Victualer’s License for Chou Enterprises Inc. d/b/a China Garden, 6 Stillwater Avenue.
- Order 21-66** Order, approving a Class IV – Tavern Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s for Timothy Gallon, d/b/a Black Bear Brewery, 19 Mill Street, Suite 4, conditioned upon the applicant receiving a Certificate of Occupancy from the Code Enforcement Officer.
- Order 21-67** Order, approving a Class XI Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s License for Margs Mex Orono, LLC d/b/a Margaritas Mexican Restaurant, 15 Mill Street, conditioned upon payment of personal property taxes and sewer fees.
- Order 21-68** Order, approving a Class I – Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s License for The Bear’s Den, Memorial Union, University of Maine.
- Order 21-69** Order, approving a Class I – Malt, Spirituous & Vinous Liquor License, Special Amusement Permit for Music, Dancing and Entertainment and Victualer’s License for Wells Catering, University of Maine.
- Order 21-70** Order, changing the time and place of the June 14, 2021 Regular Council Meeting from 7:00pm in Council Chamber to 5:00pm Via Zoom Meeting due to the declared Public Health Emergency.
- Order 21-71** Order, setting June 14, 2021 at 5:00 p.m. as the date for a public hearing to discuss the 2021-2022 Municipal, Capital and WPCF budgets.
- Order 21-72** Order, setting June 14, 2021 at 5:00 p.m. as the date for a public hearing to consider a Sewer Rate for FY2022.
- Order 21-73** Order, setting June 14, 2021 at 5:00 p.m. as the date for a public hearing to accept comments on the Proposed FY2022 Fee Schedule.
- Order 21-74** Order, setting June 14, 2021 at 5:00 p.m. as the date for a public hearing for reviewing the Orono Village Center District Development Program.
- Order 21-75** Order, setting June 14, 2021 at 5:00 p.m. as the date for a 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 2021. (Recommendation for FY22 is \$0.00/\$1,000 taxable value)

Order 21-76 Order, setting June 14, 2021 at 5:00 p.m. as the date for a public hearing on Ordinance Amendments to amend Section 18-106(f), Schedule of dimensional requirements, to reduce the minimum lot area and minimum lot width in the Medium Density Residential District.

Order 21-77 Order, setting June 14, 2021 at 5:00 p.m. as the date for a public hearing on Ordinance Amendments to create Section 18-114, Village Residential Overlay District.

Order 21-78 Order, proclaiming May 21, 2021 as the official day for the celebration of Arbor Day in the Town of Orono.

Order 21-79 Order, proclaiming the Month of June as Pride Month in the Town of Orono.

Order 21-80 Order, proclaiming June 19, 2021 as Juneteenth in the Town of Orono.

Order 21-81 Order, appointing Council Members to the following standing Council committees:

<u>Finance & Operations</u>	<u>Community Development</u>	<u>Comp Plan Implementation</u>
Tom Perry (Chair)	Terry Greenier (Chair)	Meghan Gardner (Chair)
Meghan Gardiner	Laura Mitchell	Laura Mitchell
Terry Greenier	Laurie Osher	Geoff Wingard
Geoff Wingard	Cheryl Robertson	Cheryl Robertson
Laurie Osher		

Order 21-82 Order, appointing the following Board/Committee Members:

- **Planning Board:**
Ashley Case, Associate Member (Remainder of 5-year term expiring April 2022)
Robert Bayer, Associate Member (Remainder of 5-year term expiring April 2022)
- **Orono Veazie Water District Board of Trustees:**
Thomas Schwartz, Trustee, (Remainder of 5-year term expiring December 2023)
- **Tree Board:**
Kenneth Fergusson, Associate Member (3-year term, expiring April 2024)
Jason Clarke, Associate Member, (2-year term (initial), expiring April 2023)

Order 21-83 Order, certifying and countersigning the June 8, 2021 RSU#26 Budget Validation Referendum Warrant and Notice of Election and setting the hours of voting as 7:00 a.m. to 8:00 p.m. and the polling place as the Council Chambers for Ward 1, Precincts 1, 2 & 3.

Order 21-84 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 June 8, 2021 RSU#26 Budget Validation Referendum Election, from 7:30 a.m. to 5:30 p.m. [MRSA 21A, Sec. 122.6.A (2) and (8)].

Order 21-85 Order, approving the Town Clerk's appointment of Belle Ryder, Angela Kohtala, and Judith Sullivan as Wardens and Patricia Davis and Danielle Nightingale as Deputy Wardens for the June 8, 2021 RSU#26 Budget Validation Referendum Election for Ward 1, Precincts 1, 2 & 3.

Moved by Terry Greenier and seconded by Cheryl Robertson. The consent agenda passed in favor, 6-0-1 (with Meghan Gardner abstaining).

8. New Business

Order 21-86 Order, approving Ordinance Amendments to the Town of Orono Ordinances, Chapter 38, Vegetation Ordinance, to repeal and replace the entire Chapter. (Video record time 01:26:33-01:27:59)

Moved by Meghan Gardner and seconded by Terry Greenier. All voted in favor, 7-0.

Ms. Wilson noted that Mr. Yerxa did an amazing job describing the Tree Board's work during the public hearing on this item.

Order 21-87 Order, approving the granting of an easement(s) to Bangor Natural Gas across a portion of Webster Park and through an easement owned by the Town for the Stillwater Wastewater Interceptor, and approve the Town Manager's execution of the Easement Purchase Agreement as presented. (Video record time 01:28:00-01:52:08)

Moved by Cheryl Robertson and seconded by Geoffrey Wingard.

Moved to amend by Laurie Osher and seconded by Cheryl Robertson. All voted in favor of the amendment, 7-0.

The vote on the motion as amended passed, 5-2 (with Cheryl Robertson and Laura Mitchell opposed).

Ms. Robertson stated she was not convinced of moving the pipe off the bridge and drilling under the river. She expressed concerns for the critical habitat of the river. Ms. Wilson noted the IF&W permit-by-rule approval. She noted that the Town Attorney is recommending an amendment order, if moving forward. Mr. Yerxa noted that IF&W noted the fishery will not be impacted due to the work being beneath the riverbed.

Ms. Mitchell felt frustrated by the work needing to be done due to a design flaw. Ms. Gardner was also frustrated about the work, but noted it was within the regulation of IF&W and MDEP who approved the work. Ms. Gardner stated she shares the public's comments on climate change, but noted the Town does not have a choice of renewable energy at this time and the situation is that the pipeline needs to be fixed.

Ms. Robertson spoke of her involvement in environmental issues and requested seeing a specific report on the environmental impact on this site. She was not convinced of drilling under the river.

Attorney Roger Huber offered amendment language to the order by adding, "... and approve the Town Manager's execution of the Easement Purchase Agreement as presented".

Ms. Mitchell asked how the \$10,000 was derived. Attorney Huber noted, in most cases, Bangor Natural Gas does not pay for easements.

Ms. Osher noted that she hopes the business being affected is being compensated in their agreement. She spoke in support of fixing the pipeline and placing it underground because it is resilient to climate change and the technology is so good.

Order 21-88 Order, authorizing the Town Manager to sign and execute an agreement with Sargent Corporation of Stillwater, Maine for the North Main Avenue, Chapel Road and College Heights Infrastructure Project in an amount not to exceed \$1,269,455 with funds drawn from the 2020 Infrastructure Bond Proceeds and WPCF Sewer Replacement Reserve. (Video record time 01:52:10-01:56:40)

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

Public Works Director Rob Yerxa noted that Sargent Corporation was the only bidder for a base amount of \$1,511,000. Mr. Yerxa explained the alternate bid of \$1,269,455 with a reduced scope that falls within the available budget for the projects. He spoke highly of Sargent Corporation and recommended approval of the bid. WPCF Superintendent Joe Madigan noted that his portion of the project was \$92,000.

9. Council Committee/Representative Reports

In the interest of time, the Council agreed to wait and do the Council reports next month.

10. Future Agenda Items/Items of Concern - None

11. Public Petitions - None

12. Public Comments - None

13. COUNCIL DISCUSSION: Status of the Town's Emergency Ordinance Requiring Persons to Wear Face Covering in the Town of Orono and Residential Housing Complexes to Implement Operations Plans in Order to Reduce the Risk of Exposure to COVID-19 During the Public Health Emergency and Recovery

Ms. Wilson suggested moving this discussion to the Council Community Development Committee Meeting on May 20, 2021. Mr. Perry agreed.

14. WORKSHOP: Elected Officials Training (Provided by: Roger Huber, Town Attorney) *(Video record time 1:58:00-02:44:35)*

15. Executive Session pursuant to 36 MRSA, § 841 et seq., to Consider a Request for Poverty Tax Abatement Based on Poverty and/or Disability #2021-001.

At 7:45 p.m., Cheryl Robertson moved and Laura Mitchell seconded to move into the non public session. All voted in favor, 7-0.

At 7:56 p.m., Cheryl Robertson moved and Laura Mitchell seconded to move into regular session. All voted in favor, 7-0.

Order 21-89 Order, approve a Request for Poverty Tax Abatement Based on Poverty and/or Disability #2021-001. (Video record time 2:56:36-02:57:45)

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

16. Adjourn

Motion to adjourn by Meghan Gardner and seconded by Geoff Wingard. All voted in favor, 7-0. The Council Meeting adjourned at 7:58 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