

-- APPROVED --
BRUNSWICK TOWN COUNCIL
MINUTES
September 2, 2008
7:00 p.m.
Municipal Meeting Facility

Councilors Present: Chair Joanne T. King, W. David Watson, Benjamin J. Tucker, Hallie Daughtry, Karen J. Klatt, Gerald E. Favreau, Margo H. Knight, and Newell A. Augur.

Councilors Absent: Councilor David C. Webb arrived for the executive session at the end of the meeting.

Town Staff Present: Donald Gerrish, Town Manager; Fran Smith, Town Clerk; Gary Brown, Assistant Town Manager; Pat Scully, Town Attorney; Anna Breinich, Director of Planning and Development; Jeff Hutchinson, Codes Officer; Amanda Similien, Economic Development Specialist; Terry Goan, Police Officer; and the TV video crew.

Public Comment:

Pem Schaeffer, Crestview Lane, referring to the Forecaster's article about the new elementary school and Hawthorne School, said less than 3 months after the vote the new school's cost is up by millions. The town has to now spend more and this is more offensive than the substation being added to the CIP a few years back. The Hawthorne School renovation will cost as much as two or three Cooks Corner Fire Stations. He did not support this. Cable TV space should be at the new school and it was originally said it would be, but that has changed. The town should find a place for the Police and keep others where they are. This is not the time to do this.

Correspondence:

A letter was received from Mike Ouellet regarding his role in the Maine Street Station Project.

(A copy of Mr. Ouellet's letter will be attached to the official minutes.)

Adjustments to the Agenda: None

Manager's Report:

(a) Financial Update

Manager Gerrish said the town is two months into the fiscal year. On the revenue side, state revenue sharing is ahead by \$20,000 and excise tax is \$15,000 less than last year. The town will be going out to bid again for fuel and hopes to get better bids than before and to get a fixed price close to what they budgeted.

Town Council Minutes

September 2, 2008

Page 2

(b) Council Committee Updates

Chair King said the Facilities Committee is working through the issues and will be voting on the CIP by the end of year, with a facilities plan in place.

Councilor Daughtry added that the Facilities Committee met on August 25 and the consultant had a generous design for future municipal uses for Hawthorne School with a new addition. This was “the sky’s the limit”; it was not realistic. There will be a new one using the space that currently exists and see where it comes out. They are going to look very hard at the reuse of the building. The Committee will be meeting Thursday at 4:30 p.m.

Councilor Favreau added that the Committee has not voted on this or decided; they are still studying all parts of this project.

Councilor Knight said the Downtown Master Plan Committee’s eleven members have met for the first time and have decided to meet on the first and third Thursdays of the month. The Maine Street Station Oversight Committee will meet on September 11, 2008.

Councilor Watson said the High School Farewell Committee will be meeting tomorrow at 7:00 p.m. and they will be working on the Dragon Alumni Association.

(c) Nomination Papers Update

Fran Smith, Town Clerk, said papers are available for both School Board and Council for Districts 5, 7, and At Large. They are due by Friday, September 5, 2008.

(d) Special Council Meeting for September 8, 2008

Manager Gerrish said there will be a Special Council meeting on Monday, September 8, to discuss a regional business park.

133. The Town Council will hear public comments regarding Winner’s Sports Bar Off-Track Betting facility relocating from their current location at Cook’s Corner to 20 Farley Road, and will take any appropriate action.

Manager Gerrish said this item is for public comments regarding Winner’s Sports Bar Off-Track Betting facility relocating from their current location at Cook’s Corner to 20 Farley Road. They were going to Pleasant Street but now are building new on Farley Road.

Chair King opened the public hearing.

Gary Sagris, owner of Winner’s, said he came before the Council on July 7 to move to Pleasant Street; since then there has been some developments and he has a chance to go to a new building on Farley Road. He had concerns with traffic on Pleasant Street so he felt this would be a better location; plus, it would be a new building.

Ted Crooker, Storer Lane, spoke in support of this project. This is a great location and it would be great to keep Winner's in Brunswick

Chair King closed the public hearing.

Councilor Watson said he wanted to ensure that this was not a conflict of interest for him since is related to the Crooker family, who own the property. Chair King said she did not believe this to be a conflict.

Councilor Klatt felt it was a conflict of interest.

Councilor Watson clarified that the Crookers are his first cousins, but he is getting no monetary gain for this project nor any political gain.

Councilor Klatt moved, Councilor Tucker seconded, to declare Councilor Watson unable to vote due to a conflict of interest. The motion failed with two (2) yeas. Councilor Daughtry, Chair King, Councilor Favreau, Councilor Knight, and Councilor Augur were opposed. Councilor Watson abstained.

Councilor Favreau moved, Councilor Augur seconded, to approve 20 Farley Road as the new location for Winner's Off-Track Betting facility. The motion carried with eight (8) yeas.

134. The Town Council will hear public comments on ordinance amendments to Chapter 5-52 (Building Construction) to incorporate the 2003 IBC Code requirements for swimming pools, and will take any appropriate action.

Manager Gerrish said this item is for public comments on ordinance amendments to Chapter 5-52 (Building Construction) to incorporate the 2003 IBC Code requirements for swimming pools.

Chair King opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Daughtry said she had received a call asking if any smaller pools will be covered by any changes.

Jeff Hutchinson, Codes Enforcement Officer, responded there is no change in pools covered under the ordinance. He added there is no grandfathering either for existing pools, responding to Councilor Favreau's question.

Councilor Augur moved, Councilor Favreau seconded, to adopt ordinance amendments to the Municipal Code of Ordinances Chapter 5, Section 5-52, to incorporate the 2003 IBC Code requirement for swimming pools. The motion carried with eight (8) yeas.

(A copy of adopted ordinance will be attached to the official minutes.)

135. The Town Council will hear public comments on ordinance amendments regarding No Parking on Merryman Lane, and will take any appropriate action.

Manager Gerrish said this item is to hear public comments on ordinance amendments regarding No Parking on Merryman Lane. This is part of the agreement on Merryman Lane.

Chair King opened the public hearing.

Cathy Eastman, property owner of 29 Merryman Lane, said this is not correct per the settlement. It also needed to include areas as stated in the Settlement Agreement Item #6. She also wanted to ensure that parking signs would be placed in accordance with Chapter 15 of the Code.

Chair King closed the public hearing.

Manager Gerrish felt, after consulting with John Foster, this language adequately fits the requirement of the settlement.

Councilor Watson moved, Councilor Daughtry seconded, to adopt ordinance amendments to the Municipal Code of Ordinances Chapter 15, Section 15-74, regarding No Parking on Merryman Lane.

Pat Scully, Town Attorney, said this was the first time he has heard the Eastmans' concern. As he understands the argument, the Eastman's concern is that it does not include the mouth of Coombs driveway. She wants it extended to the mouth of the driveway.

Councilor Augur asked if there is not already a part of the ordinance that prohibits parking in front of person's driveway.

Mr. Scully said he was not sure of that language in the ordinance, but if the Council wants to extend it to the mouth of the driveway, he felt that would be fine.

Councilor Favreau moved, Councilor Watson seconded, to amend the motion to include the mouth of the driveway and have the appropriate language added to the amendment to do this.

The amendment to the ordinance was fine with those Councilors making the motion.

Councilor Klatt said since she has been studying this document for a year, she explained that the settlement under Exhibit A and B lays out where the No Parking signs should go. She added there was a sign that Mr. Coombs removed and was told to put back and he did not get a fine.

Mr. Scully said the signage is not an issue, but including the east side of Merryman Lane from the southerly side of Coombs driveway to the end of the road should resolve the Eastman's concern.

Councilor Klatt had another question as to why Mr. Coombs asked for it to be removed, when there is not parking there to that sign.

Mr. Scully said in this phase of the negotiation in January that the sign would come out and the language that Ms. Eastman wanted was included in the no parking area. The final plan that the parties approved does not show a sign there.

Manager Gerrish said there was a trade-off on two signs that both parties agreed to.

Councilor Daughtry wants to make sure this will settle this since one party is not here.

Mr. Scully said it should be fine.

Councilor Favreau moved, Councilor Watson seconded, to adopt ordinance amendments to the Municipal Code of Ordinances Chapter 15, Section 15-74, regarding No Parking on Merryman Lane, additionally amended to include the mouth of the driveway. The motion carried with seven (7) yeas. Councilor Klatt was opposed.

(A copy of the adopted ordinance will be attached to the official minutes.)

136. The Town Council will hear public comments on amendments to Section 604 of the Town of Brunswick's Zoning Ordinance to extend the time to display temporary special events signs, and will take any appropriate action.

Anna Breinich, Director of Planning and Development, gave a quick overview. This item is to hear public comments on amendments to Section 604 of the Town of Brunswick's Zoning Ordinance to allow for a greater length of time for displaying temporary special events signs. The current Zoning Ordinance allows 90 days within a calendar year for special events signs to be displayed, and this change will allow 180 days total.

Chair King opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Augur moved, Councilor Knight seconded, to adopt ordinance amendments to Section 604 of the Town of Brunswick's Zoning Ordinance to extend the time to display temporary special events signs to 180 days per calendar year. The motion carried with eight (8) yeas.

(A copy of adopted ordinance will be attached to the official minutes.)

Town Council Minutes

September 2, 2008

Page 6

- 137. The Town Council will hear public comments on ordinance amendments prohibiting commercial vehicles from using Union Street from Weymouth Street to McKeen Street, and will take any appropriate action.**

Manager Gerrish said this item is for public comments on ordinance amendments regarding prohibiting commercial vehicles from using Union Street from Weymouth Street to McKeen Street, except for service or access to properties on or adjacent to those streets.

Chair King opened the public hearing.

John Donovan, 11 McKeen Street, said the traffic has been increasing over the years and the tractor trailer traffic has also increased. Their wide turns are a concern and a safety issue. He supported this amendment.

Sarah Brayman, 10 McKeen Street, spoke in support of amendments. This is a follow-up on action the Council took 1 ½ years ago when signage was tried, but did not work, so there needed to be an ordinance.

Chair King closed the public hearing.

Councilor Watson moved, Councilor Favreau seconded, to adopt amendments to the Municipal Code of Ordinances Chapter 15, Section 15-106, regarding prohibiting commercial vehicles from using Union Street from Weymouth Street to McKeen Street except for service or access to properties on or adjacent to those streets. The motion carried with eight (8) yeas.

(A copy of adopted ordinance will be attached to the official minutes.)

- 138. The Town Council will hear public comments on the grant funds from the State of Maine Investment Trust Fund program to be used to complete remediation and infrastructure at the Maine Street Station site, and will take any appropriate action.**

Amanda Similien, Economic Development Specialist, spoke on these two grants. The town received a grant for \$350,000 from the State of Maine Municipal Investment Trust Fund program and a Community Development Block Grant for \$300,000 to continue the remediation and infrastructure work at the Maine Street Station.

(A copy of a memo from Mat Eddy will be attached to official minutes.)

Chair King opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Klatt asked if the Council ever voted to hold a public hearing and why the advertisement was different than other ones done for other public hearings. She also asked if it was in the Times Record, to which Ms. Similien responded yes.

Manager Gerrish added since this is part of the Federal Program's requirements, the staff puts the advertisements out without the Council formally setting the public hearing like they do for changes to town ordinances. This process has been used in the past.

Councilor Daughtry moved, Councilor Watson seconded, to accept and expend grant monies in the amount of \$350,000 from the State of Maine Municipal Investment Trust Fund program to be used to complete remediation and infrastructure at the Maine Street Station. The motion carried with seven (7) yeas. Councilor Klatt was opposed.

139. The Town Council will hear public comments on the grant funds from the State of Maine Community Development Block Grant program to be used to complete remediation and infrastructure at the Maine Street Station site, and will take any appropriate action.

Chair King opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Knight moved, Councilor Favreau seconded, to accept and expend grant monies in the amount of \$300,000 from the State of Maine Community Development Block Grant program to be used to complete remediation and infrastructure at the Maine Street Station. The motion carried with seven (7) yeas. Councilor Klatt was opposed.

140. The Town Council will consider approval of the Merryman Lane Settlement and required easements, and will take any appropriate action.

Pat Scully, Town Attorney, gave an overview on what is happening. There is a copy of all settlement documents and mutual release; the settlement agreement is the core of it. It deals with a turnaround, plowing, and easements. The action for the Council is to approve the settlement, and, second, to accept three sets of easements, along with the discontinuance of a section of the road. The easements are for the Water District, the Eastmans, and the Coombs'.

(A copy of the Settlement and Mr. Scully's memo will be attached to the official minutes.)

Councilor Klatt said she was wondering if they as a Council directed the Town Manager to sign this settlement before them.

Manager Gerrish responded that the Council in Executive Session authorized him to work out an agreement.

Councilor Augur clarified that the Council directed him to find a resolution to this matter and that is what the manager did.

Councilor Daughtry moved, Councilor Knight seconded, to accept the Merryman Lane Settlement agreement and easements resulting from this settlement. The motion carried with seven (7) yeas. Councilor Klatt was opposed.

(A copy of the Merryman Lane Settlement will be attached to the official minutes.)

141. The Town Council will consider discontinuing a portion of Merryman Lane as part of the Merryman Lane Settlement, and will take any appropriate action.

Manager Gerrish said this item is also part of the Merryman Lane Settlement. The Notice of Discontinuance of a portion of Merryman Lane that the Council authorized has been sent to Victor and Cathy Eastman and the Planning Board. Now the Council needs to formally discontinue this section and sign the Discontinuance Order.

Councilor Augur moved, Councilor Knight seconded, to discontinue a portion of Merryman Lane as part of the Merryman Lane Settlement. The motion carried with eight (8) yeas.

(A copy of Discontinuance Order will be attached to the official minutes.)

142. The Town Council will consider setting a public hearing on ordinance amendments to update Chapter 7 (Fire Prevention and Protection) of the Municipal Code, and will take any appropriate action.

Deputy Fire Chief Emerson gave an overview. This is a simple issue that sounds complicated. If one looks at Chapter 7, there are two codes referenced, but the problem is the state has adopted NFPA 1 Uniform Fire Code 2006 Edition. BOCA has been dissolved. He wants the town's ordinance to be consistent with state rules.

Councilor Daughtry moved, Councilor Watson seconded, to set a public hearing for October 6, 2008, regarding ordinance amendments to update Chapter 7 (Fire Prevention and Protection of the Municipal Code). The motion carried with eight (8) yeas.

(A copy of Deputy Chief Emerson's memo will be attached to the official minutes.)

143. The Town Council will discuss the process, procedure, content, and timeliness of the agenda packets produced for the Councilors before each meeting and will consider making any amendments needed to the Brunswick Town Council Rules of Order and Procedure.

Councilor Klatt said she is for being open and this is one reason she brought this forward.

(A copy of what Councilor Klatt is presenting will be attached to the official minutes.)

Town Council Minutes

September 2, 2008

Page 9

Manager Gerrish explained the agenda preparation process. The Chair and Vice Chair meet with him, the Assistant Town Manager, and Town Clerk to set the agenda. Then they put together the agenda packet, and try to have it ready by Thursday afternoon.

Councilor Klatt said she has a concern with the packet. Usually she receives it on Friday night for a Monday night meeting. The Council only has Monday to ask staff questions, and this is not enough time to do it. She gave an example of the June 30th meeting when materials were not provided until the night of the meeting.

Chair King responded that was the year end meeting and the Council needs to have materials as current as possible, so the Finance Director is working on them until the very end.

Councilor Favreau agreed that was special, year end, and business had to be closed. The majority of packets are ready by Thursday.

Chair King added that since most of the Council has jobs, those who sponsor items cannot get the materials prepared any faster. When materials come at the very last minute, the Council can table the item or not take action if they feel that it's too late. This is the way things work with peoples' schedules.

Manager Gerrish said the goal is to get it Thursday night; a couple of times materials have not been ready until that Monday night. When the agenda is done, it is sent via email to the Council and the Press. He added that copies of all backup materials could be available on the web page in the future if that is what the Council wants them to do.

Councilor Favreau agreed that backup should be on the web page.

Councilor Daughtry agrees with many of Councilor Klatt's points. Historically, the Council has not wanted materials at the last minute and has expressed that concern. Providing the materials on the web page would be good. The town does not control when the agenda is in the newspaper. Her concern is about the timing of the agenda meeting; if moving it back too far, that will not work. She is willing to try to have meetings on Monday; this would move up packets one day.

Manager Gerrish said the Council Rules say the deadline for materials is Wednesday by 10:00 a.m.

Chair King said generally speaking, it does work well and if pushed too far back the agenda will be meaningless, so she is concerned about moving it back too much.

Councilor Tucker agreed with Councilor Daughtry. He would like to get the agenda ready a day earlier and he is respectful of the scheduling of Chair and Vice Chair. This would give a day more notice to the public and that would be helpful.

Manager Gerrish said if the Council wants to have it out by Wednesday, they would have to move it so materials are to them by Tuesday.

Town Council Minutes
September 2, 2008
Page 10

Councilor Knight agrees with many of the points of Councilor Klatt, especially on getting the information to the public, but does not want to jeopardize getting the public's work done. If it could be moved forward a day, that would be good.

Councilor Tucker asked if they could try moving it a day back without new rules changes.

Chair King said there could be a trial to see if can be out on Wednesday, prior to making rule changes.

Councilor Klatt said there are times that information is given at the meeting and she would like to discuss not allowing a vote on the item if that happens. She would like to make this a rule in the Council Rules.

Councilor Favreau and Councilor Daughtry said the Council can table an item if materials are received late; they have done that in the past. Councilor Daughtry added the Council needs to have the information that's placed on their desk identified as to who provided it.

Councilor Klatt said the agenda items need to take in the scope of the item. Currently, it says "and take any appropriate action." The scope and the intent should be included.

Manager Gerrish said staff tries to put in wording what they think the Council will do, but staff does not know for sure what the Council will end up doing or how they will vote. Staff tries to be as specific on an item scope as possible, but put "any appropriate action" since they do not know what the Council will do. Having back-up material on the web will help give more information to the public.

Councilor Klatt said on the Consent Agenda, she would like to have items voted on separately.

Chair King gave the history of this and said the Consent Agenda is a way to handle standard items. Councilor Daughtry added that they can remove an item from the Consent Agenda to discuss it. These are basically housekeeping issues and this is a time saver.

Councilor Klatt asked that emails be made public on the web site.

Councilor Daughtry said she would be hesitant to do this since it would limit comments if the public knew they were going on the web. Plus, it would take up a great deal of the web page. Councilor Favreau agreed.

Manager Gerrish said any email is a public document and if someone comes in staff will make copies. To post all of them would take a lot of time and effort.

Town Council Minutes
September 2, 2008
Page 11

Councilor Augur added those writing to the Council can also give their emails to the newspapers.

Chair King opened the floor to public comment.

Marybeth Burbank, Cumberland Street, said she feels a well educated citizen is the best thing the town could have. People get the paper Friday afternoon and have no access to town staff or the state level until Monday if they have questions or concerns. The point is the public is in a struggle for time and if information could get out earlier, that would be very helpful.

Manager Gerrish said he will work on having agenda packets ready by Wednesday afternoon and have backup materials on the website. The town can try and see how it will work.

144. The Town Council will consider appointments to the Town's Boards and Committees, and will take any appropriate action.

Councilor Favreau nominated the following people:

Patty Sparks to serve on the Elementary School Building Committee

Pauline Brilliant to serve on the Fair Hearing Authority

Elizabeth Marr to serve on the Village Review Board

Mary Anne Lawler to serve on the Water District Trustees

Seeing no other nominations, Chair King called for a vote. The above nominations were appointed with a vote of eight (8) yeas.

CONSENT AGENDA:

- (a) **Minutes of June 16, 2008 meeting**
- (b) **Utility Location Permits from Maine Natural Gas**

The utility location permits are from Maine Natural Gas for locations on Federal Street and Gilman Avenue.

Councilor Klatt asked that the minutes be removed from the consent agenda.

Councilor Augur moved, Councilor Favreau seconded, to approve the Consent Agenda without minutes for June 16, 2008. The motion carried with eight (8) yeas

(A copy of the permits will be attached to the official minutes.)

Councilor Klatt explained on page 10 of the June 16 minutes, under her comments, she wanted changes to what was printed, since they did not reflect what she said.

**Town Council Minutes
September 2, 2008
Page 12**

Manager Gerrish said they cannot change what took place if what was said did not reflect what they felt. He will ask the Clerk to listen to the tape and determine what was said and if a change is appropriate, or if a note can be added to indicate Councilor Klatt's intent.

Executive Session: Acquisition of real property as per 1 M.R.S.A. § 405(6)(C) and union negotiations per 1 M.R.S.A. § 405(6)(D)

Councilor Watson moved, Councilor Daughtry seconded, to go into Executive Session to discuss acquisition of real property per 1 M.R.S.A. § 405(6)(C) and union negotiations per 1 M.R.S.A. § 405(6)(D). The motion carried with eight (8) yeas.

Councilor Webb arrived after the vote to go into executive session.

Councilor Daughtry moved, Councilor Webb seconded, to adjourn the meeting. The motion carried with nine (9) yeas.

The meeting adjourned at 10:05 p.m.

PLEASE NOTE: THESE MINUTES ARE NOT VERBATIM. A VIDEO RECORDING OF THE MEETING IS AVAILABLE AT THE TOWN CLERK'S OFFICE DURING REGULAR BUSINESS HOURS.

*Frances M. Smith
Town Clerk
December 4, 2008*

December 15 2008

Date of Approval

Council Chair