

Town Council Minutes

August 1, 2005

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Councilor Tucker submitted his resignation from the Council effective immediately since he had been appointed as a district court judge. He had no idea this would happen when he ran for office. Under the Code of Judicial Conduct, he is unable to continue to serve on the Council. He gave his best wishes to fellow Councilors, town staff and the people of Brunswick. He thanked Jerry Hinton, Craig Worth, Pat Harrington, and Don Gerrish for all their hard work and assistance to him. If citizens are interested in these types of debates, he encouraged them to run for office so they can become involved in serving the town.

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

Chair Lowe congratulated Councilor Tucker on his judicial appointment, but was disappointed to see him leave the Council. His participation has been thoughtful and Chair Lowe thanked him for his service on the Council.

Councilor Galloupe said he has been on the Council for twelve years and for the most part it has been very enjoyable, but it is time for another person to serve his district; he will not be running again. He encouraged people to run to fill his seat.

Brunswick Sewer District letter re sewer line extension

Manager Gerrish said there is a letter from the Town Planner and the Sewer District indicating that the MacMillan V Subdivision has been approved by the Planning Board and that the proposed extension of sewer service to this development will meet town and Sewer District standards. As part of the process, the Council needs to approve this extension.

(A copy of a memo from the Town Planner and a letter from the Brunswick Sewer District will be attached to the official minutes.)

Councilor Rice moved, Councilor King seconded, to approve extension of sanitary sewers to the MacMillan V Subdivision. The motion carried with eight (8) yeas.

Manager's Report:

a) Donation from Bowdoin Student Athletes (Ironbear Triathlon)

Steve Balboni, Deputy Director of the Parks and Recreation Department, said the Bowdoin student athletes will be presenting to the Council the proceeds from the 2005 Ironbear Triathlon. This is the third year the town has worked with Bowdoin on this event.

Roger Burleigh, Bowdoin student, triathlon race director, and summer intern for the Planning Department, presented a donation check for \$2,650 to be used by the Parks and Recreation Department. He thanked Bowdoin College for their assistance and the police for keeping people safe.

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Councilor Sartoris moved, Councilor Watson seconded, to accept and to expend the donation from the Bowdoin student athletes in the amount of \$2,650 to be used by the Parks and Recreation Department. The motion carried with eight (8) yeas.

b) Appointment of Bill Torrey to the BEDC

Chair Lowe said there is an opening on this committee and the nomination committee has nominated Mr. Torrey to fill this spot.

Councilor King moved, Councilor Desmarais seconded, to appoint Bill Torrey to the Brunswick Economic Development Corporation. The motion carried with eight (8) yeas.

c) Grant from the Bureau of Highway Safety to Police Department

Jerry Hinton, Police Chief, said this grant is regarding the 2005 Safety Belt Grant Cash Incentive from the Bureau of Highway Safety to the Police Department. The grant money will be used to purchase a hand held radar unit and a dash mounted unit. The second grant from the Bureau of Highway Safety is a matching grant at a 25 percent match for lap top computers for the police cars. The town's share will be between \$1,100 to \$1,500 per laptop.

(A copy of a Police Department memo will be attached to the official minutes.)

Councilor Desmarais moved, Councilor Watson seconded, to accept and expend the grant from the Bureau of Highway Safety for radar equipment, in the amount of \$2,779, and to appropriate out of the police budget funds for the matching grant from the Bureau of Highway Safety for laptop computers. The motion carried with eight (8) yeas.

d) Traffic Study of Pleasant Hill, Church & Casco Roads

John Foster said a traffic study done by Case & Godfrey Engineers recommends changing the traffic control to make Church Road and Casco Road approaches "stop" streets, and allow Pleasant Hill Road to be the "through" street. In order to make this change there is an ordinance amendment that is required.

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

Councilor King moved, Councilor Sartoris seconded, to set a public hearing for August 15, 2005, to make the Church Road and Casco Road approaches "stop" streets, and allow Pleasant Hill Road to be the "through" street. The motion carried with eight (8) yeas.

e) BRAC Update

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Manager Gerrish said the BRAC Commission put BNAS on the list for possible closure and there will be a public hearing on August 10, 2005, in Washington DC. The three options available are 1) to close the base 2) to confirm realignment or 3) to keep the base at full capacity. The position of the town is it would like to keep the base open at full capacity, and between realignment and closure, the town would rather have closure so it could be redeveloped and provide economic development for the area.

Chair Lowe said the Commission could do any of the three, and he feels that if the town is not able to keep the base fully open, he would rather see it closed for development.

Councilor Desmarais, Councilor Ansari, Councilor Watson, Councilor Sartoris, Councilor Rice and Councilor King all agreed the best scenario is to keep the base fully operational, the next best option is to close it, and the worst case scenario would be realignment.

Councilor Watson added it is the only active air base in New England and with all of the homeland security issues, should be expanded. It is vital to the entire state that the base remains open.

Councilor Galloupe said the base realignment will be a disaster. In the long run developing it would help the community, but to keep the vote strong, he will vote to keep it open as the number one option.

Councilor Sartoris added she strongly opposed the realignment.

Chair Lowe moved, Councilor Desmarais seconded, to strongly support NASB being fully operational, however, should a decision between realignment and closure be required, the Town of Brunswick would support closure. The motion carried with eight (8) yeas.

f) Financial Update

Manager Gerrish said the town is one month through the fiscal year and is in good shape.

g) Council Committee Updates

Manager Gerrish said the ground breaking for the Cooks Corner Fire station will be on August 8, 2005, at 5:00 p.m.

Councilor Desmarais said the Maine Street Station Committee had a public presentation of their designs for that area and the consultants are putting numbers to them. The Comprehensive Plan Committee is still working on the land use plan. Councilor Sartoris said their next meeting is on August 9, 2005, and there is a chance for public comments at the end.

Chair Lowe said with Councilor Tucker's resignation, there are openings on subcommittees. Without objection, he appointed the following: Councilor Watson to the

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Appointments Committee, Councilor Ansari to the Times Record Committee, and Chair Lowe to Fire Union negotiations.

Adjustments to Agenda:

To add Item 138 to call for a Special Election to fill the District 7 Councilor vacancy.

To remove Item 136.

To table Item 137.

130. The Town Council will hear public comments on the following requests for Food Service Licenses, and will take any appropriate action:

Food Service Establishment with Malt and Vinous:

**The Corner Pocket, Inc.
d/b/a Jesse's Corner Pocket
4 Pleasant Street**

Jesus Laurelez

Food Service Establishment with No Alcohol/Sit Down:

**Simply Divine Brownies, LLC
d/b/a Simply Divine Brownies
14 Maine Street #7**

Margaret Beaulieu or Suzanne Rand

**W.M. Donuts, LLC
d/b/a Dunkin Donuts
15 Tibbetts Drive**

Joseph DaRosa

Chair Lowe opened the public hearing; hearing no comments, he closed the public hearing.

Councilor King moved, Councilor Desmarais seconded, to approve the requests for Food Service Establishment licenses for Jesse's Corner Pocket and Simply Divine Brownies. The motion carried with eight (8) yeas.

(A copy of the public hearing notice will be attached to the official minutes.)

Although not included on the agenda item, Dunkin Donuts had been advertised and could be approved by the Council.

Chair Lowe opened the public hearing; hearing no comments, he closed the public hearing.

Councilor Desmarais moved, Councilor Sartoris seconded, to approve a request for a Food Service Establishment license for Dunkin Donuts at 15 Tibbetts Drive. The motion carried with eight (8) yeas.

131. The Town Council will hear public comments on a \$10,000 planning grant being applied for by Midcoast REACH, and will take any appropriate action.

Mat Eddy, Economic Development Director, said because this is a CDBG grant, REACH needs a community sponsor, which requires a public hearing. This planning grant is designed to do the following things:

- Update the region's creative sector inventory
- Educate the public about creative economy
- Establish business training for self-employed artists
- Develop a marketing plan

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

Harriet Mosher, Executive Director of Midcoast REACH, thanked the town for their support over the years. She discussed the grant and its benefits to her group.

Chair Lowe opened the public hearing.

Roger Fenn, co-chair of Midcoast REACH, said the quality of life will be increased with this grant. He hopes for Council support.

Chair Lowe closed public hearing.

Councilor Desmarais moved, Councilor Sartoris seconded, to adopt a Resolution authorizing the application for and acceptance of CDBG grant money in the amount of \$10,000 for Midcoast REACH. The motion carried with eight (8) yeas.

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

132. (Tabled) The Town Council will continue discussions on the proposed amendments to the Town's Zoning Ordinance regarding the Rural Brunswick Smart Growth Report, and will take any appropriate action.

Manager Gerrish gave a recap of the history of this ordinance and a list of times the advisory committee met.

Steve Walker, Natural Resource Planner, said he had conversations with concerned residents about this proposed ordinance. He has prepared a memo with summaries of those conversations. There was no one who came in who could not develop their land. The two changes being proposed are as follows:

1. Increasing the density bonus potential if a landowner puts land into conservation.

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2. Removing language about the \$5,000 per acre fee and replacing it with having the town maintain a list of landowners who voluntarily “ask to be identified as willing sellers of development rights on a portion of their property or are willing to sell acreage in fee within the overlay district.”

(A copy of two memos will be attached to the official minutes)

Mr. Walker said, responding to Councilor King’s question about a requirement to have homes close to the road in order to keep wooded areas untouched, this is not necessarily accurate. The way it works is the town would assess impact based on any portion of the lot not subject to deed restrictions or not part of development. For example, if there is a two acre parcel all in the habitat area, under the proposal the owner could designate a building envelope with a long driveway, and it may not trigger mitigation.

Mr. Walker said, responding to Councilor Watson’s question about how the process will be different under the proposal versus today, larger developments will remain pretty much the same, with different performance standards. Once a person doing a single lot split gets a building permit, the Codes Department will look at the layout and recommend changes to the location of the building envelope and the driveway. The proposed language would not extend the process or prevent development. The process is not different, just the performance standards as to how impacts are calculated.

Mr. Walker said, responding to Councilor Rice’s question about the open space development approach, the net density calculations remain the same. The current open space process requires a 50 percent set aside, but the proposal does not require that much and could be used to get a bonus density, with the possibility of less land set aside. Again responding to Councilor Rice’s question about set asides and later wanting to build a second structure, Mr. Walker responded he envisions there would be deed restrictions relative to accessory structures, and as to whether it could be changed is a legal question which he cannot answer given the wide range of how such restrictions can be worked.

Councilor Rice asked about open space having zero value in the adjacent lots being accessed at a higher rate.

Mr. Walker responded, under the amendments to 308 standards, they are proposing to allow folks with land used primarily for production, like agriculture, to sell down to a 20,000 square foot parcel rather than selling off a full two acres. They would file an encumbrance that went with the deed for the balance of density on another location on their property. The net density would be gone. Under an open space subdivision scenario the smaller lots would take the tax value for the open space. There is no loss in tax revenue. On smaller splits, the new creation of a lot would increase values since it is now a buildable lot and the rest would be valued at a “back lot” amount, or put the value to the smaller lot, which would have the bulk of the tax burden.

Councilor Ansari thanked Mr. Walker for the spreadsheet and it was very educational. She said it was good to see the list of meetings, with there being nineteen meetings of the rural smart growth committee. Her question was what is net density and bonus density.

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Mr. Walker explained net density is the total number of acres that can be developed and a bonus density would be a percentage of extra lots a developer could realize by clustering or setting land aside.

Councilor Sartoris said she is looking to get more public comments this evening, but this process was very public. She would like to put off the decision for a couple of weeks to allow for more time for the public to get their questions answered. She wanted to table this item.

Councilor King said she will be requesting a workshop because this is a major issue, with a lack of understanding of the document. It is important to have understandable language based on a recent court decision. The intent of the document is supported, but the town needs to do it correctly.

Councilor Watson agreed with Councilor King about holding a workshop and hoped to have citizen input and to provide them with more information.

Mr. Walker said, responding Councilor Rice's question, an in-law apartment, since it is attached to an existing building, will still be allowed without mitigation requirements.

Chair Lowe opened for public comments. He asked speakers to present questions on the ordinance if they have them and on any new information.

Carolyn Tufts, River Road, owner of sixty-six acres, is concerned about this ordinance being mandatory. The town is taking control of property owners' land rights and creating restrictions. Yet, there is no real commitment from the town to the land owners. She asked the Council to vote against the ordinance.

Dave Marstaller, Freeport resident, and Brunswick property owner, said he likes a larger lot for his home. He thinks the ordinance is acceptable relative to developments, but single family lots or split-offs are not acceptable. This ordinance forces them to buy a lot twice as big as needed to meet set sides. People all want to save open space, but there needs to be a balance with single lots.

Todd Janeski, 5 Shulman Drive and Manager of Maine's Coastal Nonpoint Pollution Program and Maine Healthy Beach Program, said as a person working in conservation, he supports this ordinance. This is a unique opportunity to plan for growth while providing a legacy for the town's children.

Colleen Ryan, 34 Bowker Street, sees many different strategies across the state with her job at the Inland Fisheries Department. The Smart Growth Report is good, sound and exceptional. It has become a model for other towns. If people as a community value open space, basing land use on this sound science is critical for success. She supports the ordinance.

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Kate Maringer, 161 Moody Road, said she strongly supports this ordinance. It is important to keep the wildlife corridors. She listed some of her neighbors on Moody Road that also support this ordinance.

Loraine Kohorn, 344 Casco Road, read a letter from Nat Wheelright, 299 Durham Road, in support of the ordinance. Some points included the biologists who support this are nationally respected, it protects natural habitats; and growth should be done in a correct way. Others who supported it signed the letter. On her own behalf, she owns thirty-five acres with 60 percent of it in the overlay corridor and she is a strong supporter of the proposed ordinance.

Lisa Martin, Hacker Road, said she owns parcels in the overlay district and supports the ordinance. It does not prohibit growth, but is designed for the public good. A lot of work has gone into this process and she hopes the ordinance will not be stopped this late in the process.

Bruce Clark, Highland Road, said he does not support the ordinance. He does not think it is necessary to preserve wildlife. Any wildlife here now is very adaptable, with more wildlife now than years ago. Rural land values could increase by four or five times under a revaluation and no one is going to want to pay that amount for wood lots. He suggested the Council not vote for anything that they do not understand.

Ted Crooker, 44 Storer Road, said when the Council holds their public hearings is when it all comes together. It is great that there were a lot of meetings, but he would like to see the Council consider everything. There is a lot of land going off the tax rolls and not all landowners are being affected by the ordinance change. This is probably a good thing, but there should be a higher credit than 20 percent. If the Council could get landowners together to have discussions, that would be a good thing.

Todd Buchheit, 105 Collinsbrook Road, said he has a list of sixty-eight signatures of those opposed to the ordinance. There is a lot of confusion about what is being proposed. No one in the group wants the land stripped. He has a much clearer understanding of the ordinance after speaking with Mr. Walker. The key to success of other smart growth groups in other towns has been getting the right people involved in the process. Citizens should be involved. There are other strategies that could be used, and the town should look at some voluntary programs.

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

Duane Hickley, property owner on Collinsbrook Road, said he would like to see a voluntary system.

Penny Mains, 105 Weed Way, said she would like to see more objective points of views. She wants an answer to the question about deed changes in the future if one wants to make changes to their property. She is concerned about it being over-restrictive and asked that all involved to sit down to discuss the issues.

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Steve Prescott, 102 Echo Road, spoke in support of the ordinance. He discussed statements made against the ordinance that he believes are not true. Densities are not changed. His development has ninety acres and only twenty acres are developed. It is very beautiful there. No plan is not a solution. Without an ordinance, development could damage rural areas. This is a sound plan that does not reduce land value.

Ann Weed, 41 Weed Way, said the ordinance should include coastal areas and she would like to see more areas looked at.

Louis Marstaller, Freeport resident and Brunswick property owner, said he felt that owners should be reimbursed for lost land if it is damaged. He suggested taking another long look at this ordinance before taking action.

Norman Thibeault, Durham Road, said if this is not voluntary, he does not support the ordinance. He does not want someone to say what he can do with his property.

Doug Cameron, Cameron Road, said he has developed in this area. His land is not perfect and he does not think it should be clustered so it takes two acres to create a lot that could be built on.

Ruth Fraser, 21 Collinsbrook Road, said she did not understand the ordinance until she spoke to Mr. Walker. This language is not clear and she hopes to have a workshop on it to clarify the language. She added she did not receive notices for all those meetings.

Harold Hickley, property owner on Collinsbrook Road, said he would like to have the right to say if he wants to participate or not. As a landowner, he would like a choice.

Wendy Jacobs, Lunt Road, said the proposal has too many restrictions on property owners and would devalue land. There needs to be further evaluations of this proposal.

Adam Wagner, owner of twenty-five acres on Collinsbrook Road, architect, and member of Growth Smart Maine, said he read the ordinance and it is very confusing. The ordinance is complex and there should be an educational workshop on this. His biggest concern is what this will do to property values. This should be looked at and re-valuated since it has been stated that it would not effect values. This will increase the cost to develop land and will hurt affordable housing in Brunswick.

Chair Lowe closed the public hearing.

Councilor King moved, Councilor Rice seconded, to hold a workshop in September and to have more clear and concise language to discuss at that meeting.

Councilor Watson said at the workshop the Council should allow citizens to participate by having questions written out and then answered.

Councilor Desmarais said she is in favor of more information up to a point. The Council needs to let citizens participate and the language needs to be clear.

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Manger Gerrish said the issues to address include:

- 1) Determining impact on land values
- 2) Answering legal questions for future uses
- 3) Taking some parcels and showing what the proposal means to its development
- 4) Expand the "Frequently asked questions and answers"

Councilor Sartoris added how land was identified to begin with. The workshop is valuable, but she wants to make the decision.

After a discussion of possible dates, September 8 was selected.

Councilor King moved, Councilor Rice seconded, to hold a workshop on September 8, 2005, and to have more clear and concise language to discuss at that meeting. The motion carried with seven (7) yeas. Councilor Rice was opposed due to fact he was unable to attend the meeting.

After more discussion, the Council changed the date of the workshop to September 12, 2005.

133. The Town Council will discuss the process regarding the sludge and sludge-derived product moratorium, and will take any appropriate action.

Councilor Sartoris explained the draft charge for a Brunswick Aquifer Protection Zone and Coastal Protection Zone Residuals Peer Review group. It contains suggested revisions based on the Council's input. One change is from the word "sludge" to "biosolids" and the big changes are the requirements for the peer review group and a stipend of \$200 per member per meeting.

Councilor Rice said the stipend was in fact an "expense reimbursement" item, which is appropriate. He wanted that clearer in the charge.

Councilor Sartoris said she received e-mails from **Tom Fusco** and **Louisa Hart** stating that their group, which put the petition forward, did not support the peer review as proposed. One e-mail stated they do not think the process is legitimate since it does not represent the intent of the moratorium petition. Councilor Sartoris stated the Council did not adopt the intent of the moratorium.

Geoff Hole, Town Attorney, said he has reviewed the moratorium language and the Council did enact the ordinance, but that is the first of two issues. Did each Councilor enact every word as if it was their view. He did not think so and did not think that was required. There was no question that the Council was clear as a body that what they wanted to do was to make sure the town's citizens understood what the issues were in the moratorium, and make changes they felt were appropriate.

Councilor Sartoris read the Council minutes of July 5, 2005. She stated that more information needs to get out to the citizens and there is an obligation to do so. The town

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should have a group look at this and also the Coastal Protection Zone. The minutes continued to say that Councilor King said she would support the moratorium so more information could get out. The idea that by adopting the moratorium the Council adopted the group's specific intent and purpose of the moratorium is not the case. The group has said they will not participate in the peer review process. This is something that the Council should move forward on since the Council said they were going to do it, plus this is still a valid process to embark upon. All materials presented by both sides will be given to peer reviewers. This is a fair process, and the Council wants to know from a third party about the product's safety.

Councilor Ansari said she hopes that the petition group will change their minds. She is disappointed and hopes the group would be willing to work with the town and the peer review group. Whether or not the petition group participates, the Council needs to go forward with the peer review process.

Chair Lowe said the crux of the moratorium was for more time to determine if these products are safe or not. The Council is honoring the intent of the language and he is also disappointed the petition group is not participating.

Councilor Sartoris said there will be a commitment to get public input in the peer review process.

Councilor Sartoris moved, Councilor Ansari seconded, to approve the Brunswick Aquifer Protection Zone and Coastal Protection Zone Residuals Peer Review, as amended this evening. The motion carried with eight (8) yeas.

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

134. The Town Council will discuss the Times Record Building/Municipal Facilities proposals, and will take any appropriate action.

Chair Lowe said due to the late hour and the subject matter, he suggested tabling this item and holding a workshop on August 8.

Chair Lowe moved, Councilor King seconded, to table this item and to hold a Council workshop on this item on August 8, 2005, at 6:00 p.m. The motion carried with eight (8) yeas.

135. The Town Council will discuss a Times Record Tax Increment Financing (TIF) District, and will take any appropriate action.

Manager Gerrish said this public hearing is part of the requirement for the TIF for the new Times Record building.

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

Councilor King moved, Councilor Desmarais seconded, to set a public hearing for August 15, 2005, to establish the Times Record Tax Increment Financing (TIF) District. The motion carried with eight (8) yeas.

136. The Town Council will consider approving a contract with AFSCME Local 2011, Council #93/Municipal Employees, and will take any appropriate action.

Manager Gerrish said the fiscal note has not yet been prepared for this item so he asked that the item be tabled.

Chair Lowe moved, Councilor Desmarais seconded, to table this item until August 15, 2005. The motion carried with eight (8) yeas.

137. The Town Council will discuss utilities crossing both Town mall areas, and will take any appropriate action.

This item was withdrawn from the agenda.

138. (ADDED) The Town Council will discuss setting a Special Election to fill the District 7 Councilor vacancy, and will take any appropriate action.

Councilor Desmarais moved, Councilor Sartoris seconded, to set a Special Election to fill the vacancy for the District 7 Council seat, for November 8, 2005. The motion carried with eight (8) yeas.

The meeting adjourned at 10:38 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
September 10, 2005*

August 15, 2005

Date of Approval

Council Chair