

-- APPROVED --  
**BRUNSWICK TOWN COUNCIL**  
**MINUTES**  
**December 4, 2007**  
**Meeting Postponed from December 3 due to inclement weather**  
**Municipal Meeting Facility**

**7:00 P.M.** Chair King called the meeting to order and asked for the Pledge of Allegiance.

**Councilors Present:** Chair Joanne T. King, W. David Watson, Jacqueline A. Sartoris, Hallie Daughtry, Jeffrey A. Schneider, Gerald E. Favreau, Margo H. Knight, and David C. Webb

**Councilors Absent:** Councilor Newell A. Augur

**Town Staff Present:** Donald Gerrish, Town Manager; Fran Smith, Town Clerk; Gary Brown, Assistant Town Manager; John Foster, Director of Public Works; Anna Breinich, Director of Planning and Development; Jeff Emerson, Deputy Fire Chief; Richard Desjardins, Police Commander; Jeff Hutchinson, Codes Enforcement Officer; Tom Farrell, Parks and Recreation Director; and the TV video crew

**Public Comment:**

**Rev. Richard Fisco**, 2 Lincoln Street, said his main talk is on communication; he had sent a copy of a video on human rights done by Eleanor Roosevelt to several Councilors. He wanted to have additional discussion regarding these rights. He has not received any responses on this item. He would like to effect some positive change for the town, especially when hiring a police chief. He does not want to see the continued pattern of police brutality. There is no citizen oversight of the police department. There should be such oversight and review board. There is no avenue to make a complaint other than to the police themselves. Good police officers need review to protect them and provide job security. This was a written request for information and it should be acknowledged. There seems to be a restriction on communication. Free and open communication is the key to the future.

Chair King said she has tried to communicate with him, but they have not been able to connect. It is not appropriate to make these statements against the police. This is not an appropriate use of the public comment period. The Council is doing the best they can, and they try to respond to communications, but sometimes they cannot connect with the citizen. This is not productive.

Manager Gerrish explained the process for police complaints and internal review. He gets involved, if necessary. People are responded to.

**Susan Johnson**, Harding Road and representative of the Restoration Advisory Board, said there are more than 19 sites that have been designated as Superfund cleanup sites on the base. She listed some types of contamination and possible human risks. Additional contamination

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is expected to be found. She discussed site clean up. The cost of remediation has not been budgeted for any additional contamination. Many areas have not been tested for problems. The citizen oversight group feels the current process is unsustainable given the types and amounts of contamination on this property.

Ms. Johnson asked who will pay the cost for ongoing brown water treatment. She put forth several issues to consider when looking at this site and all the cleanup that will be needed. Where are future funds to be obtained? If there were a time the town needed strong state and federal representation to require the Navy to clean up the property, it is now. Her group wants to ensure the federal government funds all of the cleanup.

*(A copy of Ms. Johnson's memo will be attached to the official minutes.)*

Councilor Sartoris confirmed she did not receive Rev. Fisco's correspondence, and then she thanked Ms. Johnson for her work. She asked if members of the LRA attend the meetings of the Restoration Advisory Board. Chair King confirmed there is a representative from the LRA who attends the meetings. Councilor Sartoris continued, with more cleanup needed, this also shows the need for prior economic development with other possible extensions before it is useable. Chair King said Senator Collins' aide said they are working hard to get the federal government to pay the cost of cleanup. She suggested the Council do a resolution at a future meeting to support this funding.

Manager Gerrish thanked Ms. Johnson for her work and said there is quite a process to sign off on transferring property.

### **Correspondence: Dan Scully letter to Committee Chairs Resignation of Recreation Committee Member**

Manager Gerrish said there was a letter from Dan Scully, a high school senior who is looking for opportunities for high school students to be involved in processes and committees. It is a great idea and should be encouraged.

Chair King said Ellen McPherson has resigned from the Recreation Commission since she has been elected to the School Board.

### **Adjustments to agenda:**

To do Item 166 and 169 prior to Item 147

### **Manager's Report:**

#### **(a) Council Committee Updates**

Councilor Favreau thanked those who worked on the straw vote and all those who came.

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Councilor Knight reported on the Maine Street Station project. The plans were revealed last Thursday. They will be on the web page; she encouraged people to review them and give the committee feedback.

Councilor Webb said the Economic Development Feasibility Committee met with MDOT to see if the town can get access to the Fox Run Property. They have been asked to do a brief traffic study. They should have an idea about what direction the traffic is going from River Road once it hits Pleasant Street.

Chair King said there will be a meeting with the Town of Topsham on December 12 regarding regionalization. They also will be meeting with the company owners on the tow truck guidelines.

### **(b) Financial Updates**

Manager Gerrish said State Revenue Sharing and Excise taxes are both flat; however, the town is on track to reach its goal. On the expenditure side, he will keep an eye on the winter works budget, but most other accounts are in good shape. There will be a big savings in health insurance.

### **(c) Council Workshops**

Manager Gerrish said he has tentatively scheduled January 5, 2008, from 12:00 noon to 5:00 p.m. for the Council Retreat. He has also tentatively scheduled January 14, 2008, for a Council workshop on the CIP, along with a workshop for January 28, 2008, on a subject to be determined.

### **(d) Closing of the Municipal Offices on December 24<sup>th</sup>**

Manager Gerrish asked the Council to authorize giving town employees the day before Christmas off (Monday, December 24<sup>th</sup>). The Governor has given all State employees the day off. For all Public Safety employees, the town will give them compensating time off, equal to one working day so they will be treated equally. The town authorized this in 2003; when Christmas was on a Thursday the town gave employees Friday off.

There was no objection from the Council to allow employees to have the day off.

### **(e) (ADDED) New Town Planner**

Anna Breinich, Director of Planning and Development, introduced herself and said she was very happy to be here.

**147. (Tabled) The Town Council will hear public comments on an amendment to the Traffic and Vehicle Ordinance, Chapter 14, Section 15-73, concerning overnight parking from November 15 to April 15, and will take any appropriate action.**

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Manager Gerrish said staff drafted the appropriate changes to the ordinance based on Council suggestions to go to an emergency parking ban in the winter months instead of an overnight parking ban from November 15<sup>th</sup> to April 15<sup>th</sup>. This proposal will give the Manager or his designees the authority to declare the ban with a six hour notice. He plans to notify residents by giving them a number they can call to find out about a ban, providing notification to media outlets including the local cable television station, and establishing a process for citizens to sign up for email notification. The new program would start thirty days from the Council's ratification. They are also looking at phone service like the school department has to do school closing notifications.

Councilor Webb asked about a grace period before towing and penalties.

Commander Rick Desjardins, responding to a question, said the issue of adding the violation section allows them to ticket so violations can be tracked. There were 38 incidents with several contacts in a recent ban so the vehicles were moved prior to being towed.

Councilor Favreau thanked staff for the effort to get word out on the ban.

Councilor Sartoris said she is not going to support it since it will be more costly and should have been done for a more specific area. She would like to see tracking of the number of those towed.

Councilor Schneider agrees with Councilor Sartoris and will also oppose the language changes.

**Councilor Favreau moved, Councilor Knight seconded, to change Chapter 15 of the Municipal Code of Ordinances to allow for an emergency parking ban in the winter months. The motion carried with six (6) yeas. Councilor Sartoris and Councilor Schneider were opposed.**

*(A copy of the adopted language will be attached to the official minute.)*

**166. The Town Council will discuss changes to the Zoning Ordinance language relative to definitions of family units for rental property, and will take any appropriate action.**

Done prior to item 147.

Manager Gerrish said Councilor Augur requested the Council look at this definition because of decisions on 17 Cleveland Street. The Council normally sends zoning proposals to the Planning Board for their review and recommendation.

Councilor Sartoris said the intent here is to look at single-family homes that have become places rented by multiple college students. This has occurred in a variety of locations, and there is a legitimate issue. Although Councilor Augur and she disagreed on many things, they looked for a balance of preserving neighborhoods and having a great college

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community. What would be heard tonight is peoples comments on this issue so this is fact finding. They did not have a good answer, but are working to making it better.

Chair King said tonight the most the Council would do is recommend it go to the Planning Board.

**Mark Wild**, 6 Boody Street, said the proposed amendments would speak to the issue of boarding homes. This does not change the present meaning of the current language and clarifies language to prevent other situations from occurring. There have been individuals who have purchased \$2 million of property in Brunswick and Somerville, Massachusetts, with the intent to do for profit transformation of properties into rental units for multiple students.

*(A copy of Mr. Wild's Comments will be attached to the official minutes.)*

**David Chittim**, property owner on Potter Street, disagrees with the last comments. He does not support the draft language. His home is rented to college students, who are not related to one another. If the language is removed, he cannot have students, eliminating potential renters and creating a hardship for him. His renters have met neighbors and integrated with their neighborhood. He read section 6a of the Maine constitution to illustrate that it would be discriminatory to prohibit those who are not related to live together.

**Trish Welsch**, 15 Cleveland Street, spoke in support of this ordinance change to prevent people from purchasing homes and turning them into residences for large groups of unrelated folks. At the Cleveland Street location, there are 11 people living there, paying a total of \$5,000 per month. Others could do the same. The town had another situation awhile back where a place on Longfellow Avenue was not allowed to be a boarding home. This will not prevent current lawful rentals from continuing to be rented. She urged the Council to support this amendment.

**Claudia Knox**, Cumberland Street, said 80% of her neighborhood is rentals and codes on rentals are important. This is a promising beginning, but needs more work. Two people is too low, the town should grandfather current rentals, and the proposal should be given to the Planning Board to review to make it work. The town cannot legislate everything; she wants good judgment used by staff when making these decisions.

**Grace Cooney**, 152 McKeen Street, said she rents to two others at her home. This should not be a town wide ordinance. The number of two is too low and should be adjusted higher.

**Susan Kaplan**, 26 School Street, said one should look at the end of School Street to see what can happen with this type of rental. Twenty-two and twenty-four School Street were apartments and about 5 years ago became dwellings for large numbers of unrelated members. There have been problems with the Police and Codes called. The result is this end of School Street has been destabilized. She urged the Council to look very closely at this problem. It is lowering property values. Her peace and quite has been disturbed multiple times.

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**Ben Swan**, 4 Page Street, said there is a law that should have prevented the situation that the town is in. Someone at Town Hall should have called this a boarding home and it should not have been allowed. What happened at Cleveland Street was a mistake and he does not want to have it happen again so there needs to be something done.

**Sandy Gray**, Attorney for the owners of 17 Cleveland Street, said the situation is in litigation so she would not speak to this. She did say this building is an existing two-family and remains a two-family unit. This is not an easy thing to deal with. She provided a suggestion on what is proposed. The average rent for 2 or more bedrooms is between \$900 and \$1,000. At this price students or new high school graduates could not afford such an apartment with only one other roommate. Most Maine towns do not have such language. In a community with a limit of five the CEO felt it would be hard to enforce this. How does one know if people are related or not? How is this enforceable? There have been no complaints about the students at 17 Cleveland Street. Creating an ordinance that becomes unenforceable is not a good way to deal with this concern.

**Dimitri Seretakis**, owner of 17 Cleveland Street, said he is against this ordinance and shared comments on it from many residents he spoke with, about discrimination, restrictiveness, not wanting to be told who they can rent to, and existing vacancies. It is clear these changes are not welcome in this town. He presented two petitions, one for property owners and the other for Bowdoin. He read the petition's wording; they have 375 signatures on both. This is not a business venture, it is he and his brother's summer home. They were very careful to restore moldings and other parts of this building. He has increased the property value of this home. It is the nicest and most preserved home on the street.

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

**Warren Dwyer**, Federal Street, said a neighbor had to move his bedroom to the front due to the noise at 17 Cleveland Street. They are nice students but they still make noise and there is trash out in front of the house. The number may need to be greater than 2 but should not allow 11.

**Grace Seretakis**, 262 Maine Street, wanted to correct errors. Her sons (owners of 17 Cleveland Street) are not outsiders, both attended Bowdoin College; they have a vested interest in the town. She owns the other property being discussed so her sons do not own both. She is outraged at comments about them. She wants to rent her home in summers to help pay costs and the proposal would not allow her to do so and others suggested this amendment would be unconstitutional.

**Glen Hosmer**, owner of 5 and 9 Cedar Street, said this should go before the Planning Board and the Codes Committee for review instead of solving it tonight.

**Anthony Seretakis**, 17 Cleveland Street owner, said this is not the entire town's problem, there is poverty on Federal Street and other areas of town. There is a housing crisis, which needs to be looked at.

Councilor Sartoris said this was talked about in only a few zones.

The Council had a recess.

Councilor Sartoris said this proposal was not intended to blanket Brunswick. It is a problem in some areas with single family homes and certain neighborhoods. This is an issue of compromise, not a constitutional issue. They are looking for a balance. This is a problem that needs to be addressed with more information and it should go to the Planning Board. The idea is to have them use what is being proposed as a guideline, along with considering what has been said. It could be better handled than the way Brunswick is currently doing it. Issues include maintaining peace and quiet, the number of two being too low, enforceability as a problem, and fines as a possible solution. There is also the possibility of landlords having tenants sign the rules. She also has law review articles that should go to the Planning Board, depending on whether the copyrights allow this.

**Councilor Sartoris moved, Councilor Watson seconded, to send it to the Planning Board to review the proposed language regarding definitions of family units and take into consideration comments and issues brought up tonight.**

Councilor Daughtry said she can sympathize with neighbors, but is concerned they are treading in dangerous waters by getting into personal rights. She is concerned about unintended consequences. The number of two is not a good number. What about those renting to Maine State Theatre folks or the Bowdoin Music Festival folks in the summer? She is uncomfortable about defining a family unit. Many Bowdoin students stay in Brunswick, and she does not want to do anything to discourage young people from being able to afford to live here. She is willing to send it to the Planning Board.

Councilor Favreau agrees that two is too low. He has rented to students and had a good experience. He has concerns with the proposed wording. It is up to the landlord to enforce lease agreements.

Councilor Knight said what concerns her is this is an issue that needs to be addressed. The problem is people living next to absentee landlords. The Planning Board needs to look at the landlords who are taking care of property. She wants to have affordable housing, but also needs to be able to preserve neighborhoods.

Councilor Webb thanked those who commented on both sides. He liked the idea of focusing on the behavior that affects quality of life. He hopes students can get involved. He supported sending it to the Planning Board for their review. He hoped they had the chance to review the video tape from tonight.

Councilor Schneider said that behavior or bad behavior is the real issue. Brunswick has laws against noise and littering; there do not need to be more ordinances.

Manager Gerrish clarified the existing ordinance. It was changed in 1997 and the Longfellow Avenue boarding house issue was prior to that change. The decision should be

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based on this language today. The Council may want to have the Planning Board look at definitions.

Councilor Watson said this needs to be reviewed, and what is before them is not acceptable, two is too low. There are avenues for enforcement at Police, Codes, and Fire. He encouraged neighbors to call the Brunswick Police, not Bowdoin College security, if there are issues with students.

Chair King said she was not comfortable changing the definition of household. She wanted to look at density issues instead.

Councilor Sartoris said they are not targeting 17 Cleveland Street, but instead trying to prevent other issues from occurring.

**VOTE**

**Councilor Sartoris moved, Councilor Watson seconded, to send it to the Planning Board to review the proposed language and take into consideration comments and issues brought up tonight. The motion carried with eight (8) yeas,**

**169. The Town Council will consider setting a public hearing to ban new wood boilers and to set guidelines on existing wood boilers, and will take any appropriate action.**

Done prior to Item 147

Manager Gerrish said the current moratorium on outdoor wood boilers expires on December 31, 2007. The proposed ordinance would permanently ban new boilers and not allow replacement of existing ones. It would still allow existing boilers to remain but they will fall under DEP rules. If the Council agrees, the Council needs to set a public hearing for December 17, 2007, and the ordinance will need to be enacted on an emergency and regular basis.

Chair King said the enforcement issue would be handled through the DEP process.

Jeff Emerson, Deputy Fire Chief, explained the proposal with banning new or replacement boilers. It also does not limit items needed for registration. The permitted fuels are referenced in Chapter 150 rules. The DEP would be the enforcement agency for any existing units. He will not be enforcing their rules.

Councilor Favreau said he was concerned this would not allow alternate heating sources.

Councilor Webb asked if current ones will comply with the DEP rules, and has the town had any complaints since the winter operation has begun again. Deputy Chief Emerson responded no to the second question, and he was not sure of DEP rules and where existing ones fit.

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Councilor Daughtry said she was interested in the numbers on emission levels. How many of the ones in town today does Deputy Chief Emerson have emissions numbers for. He responded he did not know any emissions numbers. That needs to be handled by the experts at DEP.

Councilor Sartoris asked if on new installations there are setback requirements. Deputy Chief Emerson said they are in the DEP rules and are well defined. Councilor Sartoris continued to say the Council is looking at this as a human health issue, and DEP rules do not address this. These are regulatory requirements only.

Chair King said she wants to hear what the Council has to say, but she thought there was support for banning any new ones.

Manager Gerrish said there are a couple of options. If the Council does nothing, this moratorium ends on December 31 and new wood boilers will have to follow state guidelines and the current ordinance. The Council can ban new or even existing one if they choose since they can be more restrictive than the state. He added that all existing boilers have been registered.

Councilor Webb said he wants to balance public health issues with existing owners' rights. He likes the idea that DEP has put rules into place, but their setback rules may not provide enough protection against the health issue. He does not want to encourage new ones.

Councilor Daughtry said she is concerned about emissions on existing ones; this is a public health issue. The Council can look at this again after 2008 regulations are in and see what happens, but there should be a ban on new ones.

**Phil Morin** said the Council should look at new boilers, which only give off steam. There was one at the fair and no one even knew it was there. He had problems with his when he started, but he has worked to improve it and there is very little smoke when idling.

**Councilor Daughtry moved, Councilor Sartoris seconded, to set a public hearing for December 17, 2007, on ordinance amendments to ban new wood boilers and adopt guidelines on existing wood boilers, to be advertised on an emergency and regular basis. The motion carried with six (6) yeas. Councilor Watson and Councilor Favreau were opposed.**

**170. The Town Council will consider recommendations for the A-B Wing and municipal uses on the McKeen Street property, and will take any appropriate action.**

Gary Brown, Assistant Town Manager, said the subcommittee has met several times on this issue. In the written report the committee is recommending the best use of this property is as a site for a new elementary school, and supports to the extent possible the outdoor recreational field that presently exists at the site be replaced. They made additional recommendations outlined in their report. He discussed the plan, which requires replacement

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of tennis courts and fields with ones close to what currently exists. They are looking to get an additional playing field at Crimmins Field and tennis courts at the high school. They will be working on a memorandum of understanding on the use of gym space so the request will be for a 10,000 square foot gym to be included with the new school. There was a lot of participation by recreation groups.

Councilor Daughtry added that one of the recommendations was based on public comments at the straw vote as to what is going to be in it for the rest of the town, and they added a sentence to encourage a school with meeting spaces that would be available to the general public when school is not in session.

Councilor Sartoris brought up the issue of the chimney swifts and asked it be referred to the Conservation Commission. She added there are rules and regulations under the Migratory Bird Act.

Councilor Daughtry shared Councilor Sartoris' concern for the chimney swifts. She would like to see what could be done to save their habitat. The architect provided some alternatives, which included a wooden tower. She would be willing to have someone else look at this option or have it go to the Conservation Commission.

Councilor Favreau said he is concerned that when construction occurs they will leave and he is concerned about the birds' waste on a school campus.

Councilor Sartoris asked for a brief presentation on the chimney swifts. There is some exiting opportunity.

Councilor Knight said it is important to be able to tell people about the cost so that should be added as a bullet.

Manager Gerrish said there will be another straw vote in March. There will be some numbers regarding storage issues and town meeting space presented for the CIP meeting in January.

Councilor Daughtry said there is a preliminary idea on the cost of what the state will cover. Youth groups are willing to help support funding.

Councilor Watson said there were concerns by Mr. Green on moving the tennis courts outside of the town center.

**Councilor Favreau moved, Councilor Watson seconded, to adopt the report and to add additional Council comments. The motion carried by eight (8) yeas.**

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

**171. The Town Council will consider acceptance of Otis Circle in the Spruce Pond Subdivision as a town way, and will take any appropriate action.**

Manager Gerrish said this is to accept Otis Circle, which is in the Spruce Pond Subdivision, as a town way. All work has been completed in conformance with the approved subdivision plan.

**Councilor Webb moved, Councilor Knight seconded, to accept Otis Circle in the Spruce Pond Subdivision as a town way. The motion carried with eight (8) yeas.**

*(A copy of the warranty deed will be attached to the official minute.)*

**172. The Town Council will discuss the CDBG Grant, and will take any appropriate action.**

Manager Gerrish said the draft resolution prepared by John Eldridge would forgive \$100,000 of the \$400,000 loan made by the town to BEDC as part of the Harbor Technology project. The \$100,000 is also being forgiven as part of the CDBG program. The town is receiving an additional \$100,000 for selling two lots in the Industrial Park as part of this project.

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

**Karen Klatt**, 32 Moody Road, said the BEDC is supposed to pay it back to the town and questioned if the town is losing that \$100,000. She wants the Council to look into this, and she is concerned about it.

Manager Gerrish responded that the town does not gain or lose anything. This is the same deal as before but a different type of funding. The town is not losing any funds.

Councilor Sartoris said she is a little concerned that the appraisal came in \$100,000 below the investment in the building.

Manager Gerrish said this CDBG grant is set up to create jobs and sometimes putting money in one is not getting a return on the state funds given. There is an understanding and there is some risk. Chair King added that with the quick turn around on the sale there was not enough time for equity to be built.

**Councilor Watson moved, Councilor Daughtry seconded, to adopt the Resolution Forgiving \$100,000 of a \$400,000 Loan Made by the Town to the Brunswick Economic Development Corporation. The motion carried with eight (8) yeas.**

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

Councilor Daughtry nominated the following persons for reappointments:

Richard McInnes to the Board of Assessment Review

Charles Updegraph to the Personnel Board

Meg Haskell to the Recycling and Sustainability Committee

The Council voted eight (8) yeas to appoint the above.

**174. Consent Agenda**

a) **Minutes of November 5, 2007**

**Councilor Schneider moved, Councilor Daughtry seconded, to approve the consent agenda. The motion carried with eight (8) yeas.**

**Executive Session: Personnel Matter as per 1 M.R.S.A. § 405(6) (A)**

**Councilor Favreau moved, Councilor Knight seconded, to go into Executive Session to discuss a Personnel Matter as per 1 M.R.S.A. § 405(6)(A). The motion carried with eight (8) yeas.**

**Councilor Favreau moved, Councilor Knight seconded, to adjourn the meeting. The motion carried with eight (8) yeas.**

The meeting adjourned at 10:34 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 13, 2007*

December 17, 2007

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*Date of Approval*

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*Council Chair*