

-- Approved --
BRUNSWICK TOWN COUNCIL MINUTES
January 18, 2005
6:45 p.m.
Municipal Meeting Facility

6:45 P.M. Chair Lowe called the meeting to order.

Councilors Present: Chair Forrest Lowe, W. David Watson, Jacqueline A. Sartoris, Douglas A. Rice, Louise V. Ansari, Barbara A. Desmarais, and Ralph L. Tucker.

Councilors Absent: Joanne T. King and Robert A. Galloupe.

Town Staff Present: Donald H. Gerrish, Town Manager; Fran Smith, Town Clerk; Steve Walker, Natural Resource Planner; Theo Holtwijk, Director of Planning and Development; John Eldridge, Finance Director; Clark Labbe, Acting Fire Chief; and the TV video crew.

EXECUTIVE SESSION: 6:45 P.M. Acquisition of Property

Councilor Desmarais moved, Councilor Watson seconded, to go into executive session pursuant to 1 M.R.S.A. §405(6)(C) to discuss acquisition of property. The motion carried with seven (7) yeas.

MEETING CONTINUES: 7:00 P.M.

Approval of Minutes: January 10, 2005

Hearing no objection from the Council, Chair Lowe declared the minutes of January 10, 2005, accepted as written.

Public Comment

Maria Parker, 272 Maine Street, said she would like to see the Council agenda published in the newspaper a week in advance of the meeting.

Correspondence: None

Manager's Report:

Update on Legislative Property Tax Reform

Manager Gerrish said this item is rescheduled from the last Council meeting. Representative Stan Gerzofsky and Representative Arthur Lerman (Augusta), a member of the Joint Select Committee on Property Tax Reform, will discuss what is happening in Augusta on this issue.

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Representative Stanley Gerzofsky, District 66, said the proposed language on tax reform was voted out of committee and debate will start tomorrow. Representative Lerman will present more information.

Representative Arthur Lerman, District 57, said the Legislature has worked on this issue for six (6) weeks. The action being taken is historic and they have tried to be very thoughtful. This is a solid and positive first step toward tax reform. There may need to be some adjustments made when it is closer to being enacted. They are trying to provide tax relief and to put in a spending cap. They are also looking at the structure of the education funding. For property tax relief, the state will increase the amount it pays towards education, which should provide some direct property tax relief. Brunswick will get over \$2.5 million more next year for the essential educational programs. The state is looking at increasing the circuit breaker program by adding twenty million dollars (\$20,000,000) to the program next year. There will be changes to the homestead program.

On the spending cap side, the state is trying to be reasonable. They have created a formula on the municipal side, based on personal income and growth averaged over ten (10) years. At the state level, it is similar but also includes population. There is an override of the cap, with a majority vote of the Council, and on the school cap with a majority vote of the School Board and Council. There needs to be a public acknowledgement that they want to exceed the cap and then the vote to override it. The essential programs for schools' model is still being refined, after much work which has already been done to develop it. As far as funding, it can be adjusted based on a town's request to do so.

The Legislature has proposed a series of constitutional amendments to see who pays for what and represents a shift in some areas. Examples would be allowing fixed valuation for commercial waterfront; allowing towns to do their own circuit breaker and homestead programs; and allowing for different mill rates for first and second homes. Second homes could be twenty five percent (25%) higher than other real estate. To protect second homes for Mainers, the hope is to exempt the first one hundred thousand dollars (\$100,000) to one hundred fifty thousand dollars (\$150,000) of value to avoid this increase. Another proposal allows people a protection from value increases. In addition to all these proposals, there will be a change in revenue sharing, capping it at \$100 million, with the potential to put some back into the pot. The Legislature tried to look at the many issues and challenges being faced by the municipalities. They looked at a balance of what is best for all. They hope to enact something by the end of the week.

Representative Lerman said, responding to Councilor Tucker's question on when the legislation will go into effect, the Legislature hopes to pass it by 2/3 majority, so it would be effective on any emergency basis. It will go into effect after the Governor signs it. If they do not get those votes, it will be done on a regular basis.

Councilor Desmarais thanked both Representatives for working on the tax reform issue. She expressed concerns about the inconsistency of school funding relative to the timing

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of when information gets to the municipality. (Representative Lerman responded he would take that concern back to Augusta).

Councilor Rice asked about overriding the cap and if this would have to be done each year on an approved project and be subject to a citizen challenge each year.

Manager Gerrish said currently under the Town Charter, there is not an initiative process for the budget since it is passed by resolution, not an ordinance.

Later in the discussion, John Eldridge, Finance Director, explained when the town measures next year's limit, they look at the prior years limit, not what was levied. Therefore, if voting to exceed the cap, it is possible the Council will need to vote every year.

Representative Lerman said he would take this concern back to the Legislature. He feels there will be practical adjustments to the legislation either prior to or after passage. He responded to Chair Lowe's comments on the School Board and Council both having to vote to override the tax cap being different than how it is done with the Council approving the budget. He said the vote by both boards allows consideration and more public discussion. It actually would require a majority vote of the School Board to recommend the budget with its override and the Council majority vote to override it.

Councilor Sartoris said the essential program model should acknowledge those programs it does not include, like the gifted and talented program. This would allow for more information to be presented as to why they may want to exceed the cap. As far as regionalization, there is not much help available from the state, so there needs to be more grants or facilitation of programs.

Representative Lerman said he will give to the education commissioner the point on listing those educational programs not included. Under regionalization, there are two (2) pieces of legislation that encourage cooperation among towns. The school funding is one area where a big element of it supports efforts for efficiency in schools programming. On the municipal side, there will be more funding to encourage and promote greater municipal cooperation.

Manager Gerrish said under this new legislation, the two (2) budgets (town and school) will be more separate than ever before. It is going to be more difficult to look at them as one thing.

Chair Lowe said, regarding the timing with the quick action on this issue, there are many details that need to be worked out. He asked the Legislature to keep in mind when municipalities are dealing with budgets and encouraged them to make adjustments as quickly as possible so the town knows what direction to go with its budget.

Representative Gerzofsky said, for those who are watching from home, there will be help with the circuit breaker doubling to two thousand dollars (\$2,000) and the homestead going from seven thousand dollars (\$7,000) to thirteen thousand dollars (\$13,000), with

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the town providing half. When this legislation is done, it will give taxpayers a break and help towns, especially with school funding. The towns will know what they will need to do after it is passed.

Adjustments to Agenda: None

- 9. The Town Council will hear public comments on the following license applications for Food Service Establishments with Mobile Carts, Takeout and Catering and will take any appropriate action.**

Shaw's Supermarket, Inc. D/B/A Shaw's Supermarket

147 Bath Road

Shaw's Supermarket, Inc

Kyong Kim

2 Arrowhead Drive

Kyong Kim

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

Councilor Sartoris moved, Councilor Rice seconded, to approve requests for Food Service Establishments for Shaw's Supermarket and Kyong Kim. The motion carried with seven (7) yeas.

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

- 10. The Town Council will consider accepting Wood Pond Road as a public way and will take any appropriate action.**

Manager Gerrish said the Council is being asked to accept Wood Pond Road as a town road. The Public Works Department has inspected the road and deemed that it meets the town's standards; therefore, staff recommends approval of this request.

Councilor Rice moved, Councilor Tucker seconded, to accept Wood Pond Road as a town road. The motion carried with seven (7) yeas.

(A copy of the road acceptance information will be attached to the official minutes.)

- 11. The Town Council will consider a request to draft a letter to Senators and Representatives for an appropriation from the Coastal and Estuarine Land Conservation Program for funding to be used for protection of coastal habitat on Maquoit Bay and will take any appropriate action.**

Councilor Desmarais explained this opportunity for landowners to maintain the conservation status on a large parcel of land on Maquoit Bay through applying for a Coastal and Estuarine Land Conservation Program (CELCP) grant.

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(A copy of Councilor Desmarais' statement will be attached to the official minutes.)

Steve Walker, Natural Resources Planner, explained the CELCP grant and the role of the Trust for Public Land. He feels this is a great opportunity for Brunswick to seek protection for a waterfront parcel this size.

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

Sam Hodder, project manager for the Trust for Public Land, talked about the CELCP program and his organization. He explained similar projects in other communities. The CELCP program is a federal grant to be used to purchase properties, which helps to maintain coastal areas.

Bill Ferdinand, Chair of the Conservation Commission, said the property fits into the Rural Smart Growth Plan and it is rare to see this. This bay is almost all developed and this may be the last chance to get this parcel before it could be developed. They are trying not to use town funds by working with grants and private funds.

Loraine Kohorn, from the Brunswick Land Trust, said they support this project and she can attest that the property is a fine piece of habitat.

Councilor Sartoris said the Recreation Commission members were polled and they supported this unanimously, with the understanding the property's primary use is for conservation.

Councilor Ansari said if this project comes back to Council, she wants the Council to be informed about what the town will be responsible for as far as funding and maintenance costs. (Mr. Walker said the property would be visited by a park ranger daily and the trails probably would be maintained largely by volunteers.)

Eric Butler, 8 Bunganuc Landing, said he thinks this is a good project, but he does not want to have this be a blank check. He wants to ensure that no town funds will be committed until it comes back for Council approval.

Mr. Walker confirmed this step does not commit the town to any funding.

Councilor Rice said he is glad to see the conditions laid out in the memo. He asked about the penalty for taking the property out of the open space program. (Mr. Walker said that the parcel is in the open space program, which is similar to tree growth with a penalty to withdraw.) Councilor Rice wanted to know how much taxes will be lost if the town takes over the parcel. (Mr. Walker said the taxes are about fourteen hundred dollars a year, but if it was not under the open space program, they would be thirty four hundred dollars.) Councilor Rice asked about the matching funds that are required for the grant, which could be up to two million dollars.

Mr. Hodder answered that the way the program is designed there are a variety of ways to come up with the matching funds. A key way is an in-kind match, such as a property

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received in donation or other conservation property being used toward the match. A key would be a grant from the Maine Trust for Public Land. At the federal level, this letter will go to the state's delegation members so it can go to the next level, and they can request funds. The cost of the property has not been determined yet, but the two million dollars (\$2,000,000) is a threshold. There is a chance of getting less than the requested amount. There are many steps left and the town is not committing to the total amount at this point.

Councilor Ansari asked why Council's support is needed now, is it because of the presented timeline? (Mr. Hodder responded it is a timing issue since it would be harder to get the project request in at a later time.)

Councilor Rice said it might help to have two (2) Councilors involved in this process, such as Councilor Sartoris and Councilor Desmarais, who have done work on this already.

Councilor Sartoris said she would keep on top if it and a group like Friends of Cox Pinnacle would be needed to make this project a success.

Ms. Parker said this is a great opportunity for the town and hopes the Council votes for it.

Councilor Desmarais moved, Councilor Sartoris seconded, to draft a letter from the Town Council to request an appropriation from the Coastal and Estuarine Land Conservation Program, for funding to be used in the protection of coastal habitat. The motion carried with seven (7) yeas.

12. The Town Council will receive a report from the Comprehensive Plan Update Committee and will take any appropriate action.

Margaret Wilson, Chair of the Comprehensive Plan Update Committee, provided this report. The current plan was adopted in 1993, and the Committee is working to update it. She listed the members of the Committee. She is asking for thirty five thousand dollars (\$35,000) to finish the necessary research to update the plan. This plan provides important information. This process has had more complicated issues than originally thought.

Councilor Ansari asked how much money had been originally budgeted and where the extra funds would come from. (Manager Gerrish answered thirty five thousand dollars over a year and a half. The additional funds will come out of the Planning Department's budget.)

Councilor Sartoris said the whole Committee supports the additional funding needed to complete the work. The complexity of the plan and the number of meetings have been greater than expected. She hopes the plan will be completed soon.

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Ms. Wilson, responding to Councilor Ansari's question, assured the Council no more additional funds will be needed.

Councilor Watson asked if someone is going to monitor funding to ensure not going over that amount. He feels it is important to do so for the public interest. (Ms. Wilson responded she and the Planning Department will be doing this.)

Councilor Sartoris moved, Councilor Desmarais seconded, to allow the Comprehensive Plan Update Committee to expend an additional thirty five thousand dollars (\$35,000) from the Planning and Development Department budget. The motion carried with seven (7) yeas.

13. The Town Council will consider a Declaration of Official Intent Pursuant to Treasury Regulation §1.150-2 regarding the Fire Substation Project at Cook's Corner and will take any appropriate action.

John Eldridge explained that the Intent says the Council intends to spend money on this project and the town can then roll preliminary expenses into the bond.

Councilor Sartoris said she is concerned with taking independent action without considering the whole tax picture in the face of tax reform. This needs to fit into the big picture, which is not known without a budget being done.

Manager Gerrish said the Declaration of Intent does not commit the town to anything and the next item sets a public hearing to move forward on the bond. On January 31, 2005, he will present to the Council how the tax reform will impact the budget and CIP projects. As far as setting the public hearing, the Council needs to schedule it so the bond process can move forward. The Council does not have to pass the ordinance at the same meeting as the public hearing. It allows for the process to keep moving, without making a final decision. The design build teams are working on proposals.

Responding to Councilor Ansari's question, Mr. Eldridge said this does not commit the town to spending money. The design builds and purchasing of property cannot move forward without the ordinance. Adoption of an ordinance is a two (2) month process, part of which is the requirement to hold a public hearing. Again, responding to Councilor Ansari's question, the amount Mr. Eldridge said, one and a half (\$1,500,000) million dollars, does include the purchase of property.

Councilor Sartoris said the problem with holding the public hearing on February 7 is the Council asking the public to talk on the project's financial impacts, without the information on other projects and the possible tax impacts.

Manager Gerrish said he hopes at the January 31 workshop to bring an overview of the issues, the tax implications, and what is coming in the next year. There is much to look at with other projects and several union contracts being negotiated.

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Councilor Rice said the town owns a parcel and could sell it to offset the cost of a better parcel. This project was one of the Council's priorities last year. With the possible tax changes, there will be tough decisions to be made. This is a public safety issue so he hopes it will have a priority over other projects. It is important to move this forward to capture some of money being spent.

Mr. Eldridge said the Council has to look at this in the context of the capital and operating budgets. The operating budget will not be done until later. He does not want to move forward on purchasing property without an ordinance in place.

Councilor Sartoris moved, Councilor Watson seconded, to approve the Declaration of Official Intent Pursuant to Treasury Regulation §1.150-2 for the Cook's Corner Fire Substation Project. The motion carried with seven (7) yeas.

(A copy of the Declaration of Official Intent will be attached to the official minutes.)

- 14. The Town Council will consider an Ordinance authorizing the design and construction of a Fire Substation at or near Cook's Corner, and the Issuance of the Town of its Bonds and Notes in an amount not to exceed \$1,500,000 and will take any appropriate action.**

Councilor Tucker moved, Councilor Rice seconded, to set a Public Hearing on the proposed Ordinance pertaining to the Cook's Corner Fire Substation.

Chair Lowe said that the Council will be having a workshop on January 31, which will provide a better sense of the impact of tax reform legislation. If the hearing is the next week, the Council will not be able to have time to think about this new information and make some decisions. He suggested holding the public hearing at the second meeting of February.

Councilor Rice said either meeting will work. He feels the Council needs to get feedback from the people on what they think about this bond.

Councilor Tucker amended his motion to hold the public hearing on February 22, 2005. Councilor Rice agreed with the amendment.

Chair Lowe said, responding to Councilor Ansari's question, the Council does not have to make a decision the night of the public hearing.

Councilor Sartoris said she wanted to honor the Committee's process, but she does not want to take one item out of context of other projects and the rest of the budget.

Councilor Watson said this motion simply sets a public hearing to get public comments on this issue. This allows for a smooth transition to move forward and not be pressed for time. This is a project for public safety for the entire town, and the Council needs to move forward to do their job to serve the town's people.

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Councilor Rice said on January 28 the town will be opening bid proposals and will know what the substation will cost. He hopes to present those numbers at the February 7 meeting. The ordinance steps need to be completed before signing a contract with a contractor. The Council will have to prioritize future project and goals, but it is important to get public feedback and work with the schedule set by the Committee for the substation.

Councilor Tucker said he feels the Council should move forward to the public hearing stage. The town will be better off with a public hearing completed, and will be further in the process. He does not want the Council to be paralyzed by what might happen in Augusta regarding tax reform. He feels they should move forward until they are stopped.

Councilor Tucker moved, Councilor Rice seconded, to set a Public Hearing for February 22, 2005, on the proposed Ordinance pertaining to the Cook's Corner Fire Substation. The motion carried with six (6) yeas. Councilor Sartoris was opposed.

The meeting adjourned at 9:35 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
January 21, 2005

February 7, 2005

Date of Approval

Council Chair