

--APPROVED--
BRUNSWICK TOWN COUNCIL MINUTES
Tuesday, January 16, 2007
Executive Session 6:15 P.M.
Meeting Continues 7:00 P.M.
Municipal Meeting Facility

6:15 P.M. Chair King called the meeting to order.

Councilors Present: Chair Joanne T. King, W. David Watson, Jacqueline A. Sartoris, Hallie Daughtry, Jeffrey A. Schneider, Gerald E. Favreau, Ryan E. Ewing, Newell A. Augur, and David C. Webb.

Councilors Absent: None.

Town Staff Present: Donald Gerrish, Town Manager; Fran Smith, Town Clerk; Jeff Jordan, Deputy Director of LRA; Alexis Mann, Grants Coordinator for LRA; Dan Devereaux, Marine Resource Warden; Geoffrey Hole, Town Attorney; Mary Reindl, Director of Human Services; Mat Eddy, Director of Economic Development; Tom Farrell; Director of Parks and Recreation; Peter Baecher, Parks and Recreation Facilities Manager; and the TV video crew.

Executive Session: Acquisition of Real Property per 1 M.R.S.A. §405(6)(C)

Councilor Favreau moved, Councilor Augur seconded, to go into executive session to discuss acquisition of Real Property per 1 M.R.S.A. §405(6)(C) and to discuss a personnel matter per 1 M.R.S.A. §405(6)(A). The motion carried with six (6) yeas. Councilor Sartoris, Councilor Schneider, and Councilor Webb arrived after the vote.

Meeting Continued: 7:00 P.M.

Chair King called for the Pledge of Allegiance.

Public Comment: None.

Correspondence:

Letter from Brunswick & Topsham Water District regarding rate increase

Chair King said the District was asked to send a representative, but they were unable to come tonight. There will be a public hearing on January 18, 2007, at their office if someone wishes to comment on the increases.

(A copy of letter from the Brunswick & Topsham Water District will be attached to the official minutes.)

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Councilor Watson said he was extending a public apology regarding an inappropriate email. This weekend he accidentally forwarded a personal e-mail to a town committee on which he serves. He has apologized to the committee members and this evening he is apologizing to the Council and the community of Brunswick. Although it was a mistake to forward the e-mail, the content of the e-mail was itself an error in judgment. The e-mail was politically incorrect at best, and, at worst, very offensive. He apologized for any embarrassment his error has caused. He remains proud of his five years of Council service and truly hopes to put this behind the town as quickly as possible.

Manager's Report

a) Request regarding the Brunswick-Topsham Health Loop Trail

Nancy Randolph and **Roger Caouette**, Swinging Bridge Committee, gave an update on the bridge. There was a soft opening on December 16, 2006. They still have to complete the approaches. They showed the Council the bricks for which a person can donate funds and have names placed on them. If someone is interested, they need to donate by February 28, 2007, in order to ensure the brick is ready and in place for the June Grand Opening.

Ms. Randolph explained the request for the Brunswick-Topsham Health Loop Trail Committee. This has been thought about for a while, but now there is a Bowdoin student and professor who are interested in working on this project. She has talked to both sides, the Northwest Brunswick Neighborhood Association and Topsham Heights group, and they support it. She is asking the Council to form the Brunswick side of the Committee.

(A copy of information on the Brunswick-Topsham Health Loop will be attached to the official minutes.)

Cathy Lamb, President of Rotary, said they have been involved with the bike path, and they want to continue to fund raise to have a healthy downtown. She hopes the Council will consider doing this.

Manager Gerrish said he will look at the recommendation and will place it on the next regular meeting.

b) Update on Shellfish Resource

Dan Devereaux, Marine Resource Officer, gave an overview of where the town is and the status of licenses and flats closures. There was a reduction in licenses this year to 57 from 74. There were 16 license holders who did not do their required conservation time. There were over 300 hours of conservation time done. The goal next year is to reclassify Maquoit Bay. Brunswick has been recognized for its good management plan. They are working on legislation to help to encourage depuration not to come into these areas.

(A copy of a memo from Officer Devereaux will be attached to the official minutes.)

Chair King said Officer Devereaux did a great job working on these issues and she gave him a lot of credit for working with the state on them.

Manager Gerrish added that with Mat Eddy's help, there was a co-op put together with harvesters.

c) Council Committees Updates

Councilor Ewing provided a reminder that single-stream recycling and pay-per-bag will be starting on January 22, 2007.

d) (ADDED) Update on Council Retreat/Council Workshop

Manager Gerrish said the retreat went from 8:30 a.m. to 1:30 p.m. The Council will have a round table on January 25, 2007, at 7:00 p.m. to discuss the Comprehensive Plan Committee's recommendation for a business park in Brunswick.

Adjustments to Agenda:

To table Items 14 and 15 until February 5, 2007.

PUBLIC HEARINGS

- 10. The Town Council will hear public comments on the following Special Amusement license application, and take any appropriate action.**

Special Amusement

**Brunswick Lodge of Elks #2043
d/b/a Brunswick Lodge of Elks
179 Park Row**

Ms. Angela Brackett

Chair King said this item is for a public hearing on a special amusement license for the Brunswick's Lodge of Elks. They are proposing to continue to have dances and karaoke.

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

Councilor Ewing moved, Councilor Favreau seconded, to approve the special amusement license for the Brunswick Lodge of Elks # 2043. The motion carried with nine (9) yeas.

- 11. The Town Council will hear public comments on the proposed General Assistance Ordinance Maximums, and will take any appropriate action.**

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Mary Reindl, Director of Human Services, said this is a state requirement done on a yearly basis. She discussed the changes from last year with minimal or no increases.

Councilor Augur asked if many applicants have been here a short time. There is a bill at legislature to have there be a residence requirement of thirty days prior to being able to apply.

Ms. Reindl responded that between 85% to 90% of new applicants have not applied in Maine before.

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

Councilor Sartoris moved, Councilor Schneider seconded, to adopt the proposed General Assistance Ordinance Maximums on an emergency and regular basis. The motion carried with nine (9) yeas.

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

7. (Tabled) The Town Council will discuss the Times Record Building, and will take any appropriate action.

Manager Gerrish said he is pleased to report the town is getting closer to an agreement with Southern Maine Community College and the composites industry. They need to get moving so the project can get underway by February. They continue to work on funding issues. This is good for the community and good for developing the composite industry in Brunswick. There needs to be \$500,000 of funding from an emergency appropriation to make it happen, and the town is working with Brunswick Development Corporation (BDC) to get them involved.

Manager Gerrish said, responding to Councilor Augur's question, the intended use for the building is to be a training facility for students. The college intends to begin classes in the fall of 2007.

Mat Eddy, Director of Economic Development, added there will also be a private training program that will start in February, which will provide courses ranging from two to three weeks in length.

Manager Gerrish said additional funding is coming from the sale of the BTI Building, which is intended for economic development funding.

Manager Gerrish said, responding to Councilor Sartoris' question, the town paid \$1.3 million for the building, but since it is keeping an outbuilding, the selling price will be around \$900,000. Additional funds will need to be put into this project, and the town is looking for funding from the BDC, not from the town.

Councilor Sartoris moved, Councilor Webb seconded, to authorize the Town Manager to negotiate the sale of the Times Record building to the Brunswick Development Corporation; to authorize the Town Manager to work out a lease agreement with Southern Maine Community College for that property; and to adopt the Resolution for an Emergency Appropriation of \$500,000 from Unappropriated Available General Fund Revenues to Fund Renovations at the Times Record Building. The motion carried with nine (9) yeas.

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

8. (Tabled) The Town Council will discuss Maine Street Station, and will take any appropriate action.

This item was done prior to item 7 and after item 12

Forrest Lowe, Chair of Maine Street Station Implementation Committee, said he was excited about bringing forward a proposal for the development of the Maine Street Station after many years of discussion on it. The original committee did a lot of work, spending almost two years developing a mixed used development plan. The Implementation Committee was formed to move forward on this. They did an RFP to get development quotes. They have chosen JHR Development Corporation to go forward with this project.

Mr. Eddy gave a summary of the agreement. They are asking the Council to consider approval of a joint development agreement. There is a mixed used proposal, including using the old Saint Charles Church property (People Plus building). This property will be used for an upscale hotel. There is a \$1 dollar charge for the land, with the development occurring over three to four years. They are focusing on the east side at this stage. The cost of construction will exceed what its value is at the end since the coal ash has to be removed. The town has applied for a grant to assist with this cost. There will be a \$36 million dollar value with \$500,000 in new tax revenues. The private developer is taking the risks and financing up to \$35 million for this project. The reality is there is a \$3.6 million shortfall. The town has received a \$150,000 commitment from MDOT, and is applying for a grant from DEP. They are not going to put in an application for a CBGD grant for \$100,000 and are waiting to use it next year to apply so it can be used for infrastructure. Having a TIF is a possibility. The numbers for job creation are hopefully around 200 jobs on the east side and around the same for the west side. The town is donating the property, and is liable for \$1.5 million for mitigation and is looking for funding elsewhere for that cost.

Councilor Sartoris thanked the committee for their work. She is concerned about what the town gets in return if only the hotel is developed. She will bring this up at the next meeting. Overall, she is happy with the agreement.

Councilor Sartoris moved, Councilor Daughtry seconded, to set a public hearing for January 29, 2007, for an ordinance authorizing the execution of a Joint

Development Agreement and authorizing Bonds and Notes in an amount not to exceed \$2,000,000 to perform hazardous waste remediation of the Maine Street Station Property and to design and construct infrastructure on and to said site and other properties, and authorizing the conveyance of property. The motion carried with nine (9) yeas.

Hilary Rocket, developer, commended the Committee for their work on this plan. He is glad to be a part of it and will be proud of it as the community will be. He hopes to get the plans moving forward soon and looks forward to working with the town and businesses to make it happen.

12. **The Town Council will consider the submission of a 2007 pre-application for the Business Assistance Program through CDBG on behalf of the BLRA, and will take any appropriate action.**

This item was done prior to tabled items.

Jeff Jordan, Deputy Director of the Local Redevelopment Authority (LRA), said they are requesting that the Council allow them to submit the 2007 pre-application for the Business Assistance program through a Community Block Grant. This is the first step in applying for 2007 grant funds from the Maine Department of Economic and Community Development through their CDBG process. This is for the other 10% of funding, which does not come from the federal government.

(A copy of a memo from the LRA will be attached to the official minutes.)

Councilor Ewing moved, Councilor Daughtry seconded, to authorize the submission and acceptance of a 2007 CDBG Business Assistance grant application to the Maine Department of Economic and Community Development. The motion carried with nine (9) yeas.

13. **The Town Council will discuss emergency amendments to the Brunswick Community Health and Land Care Ordinance relative to Coffin Pond, and will take any appropriate action.**

Manager Gerrish said this item is to discuss how the town is going to handle the Community Health and Land Care Ordinance that was passed in November. The Council received a letter from Geoff Hole saying that the Ordinance is in conflict with state law. He also stated that the Ordinance would eliminate the use of sodium hypochlorite at Coffin Pond, resulting in the closure of the facility. The Council has three options on this issue:

- 1) Decide not to follow the Ordinance and let the Court decide the issue if challenged.
- 2) Decide to follow the Ordinance, but make an ordinance amendment to allow Coffin Pond to remain open.
- 3) Repeal or amend the Ordinance to comply with state law.

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Geoff Hole, Town Attorney, added about a year ago he wrote that certain provisions were not legal. The Attorney General's office will not give a legal opinion, so a Declaratory Judgment Act might be the route to go. The town would go to court and file a complaint in superior court as a matter of law. The town lays the statute before the court, along with some affidavits and asks the court to declare if the town has the right to have this ordinance. In the interim, the town could pass an emergency moratorium on the ordinance.

Councilor Augur asked, once the Council makes an amendment to allow Coffin Pond to continue, and assuming the superior court declares that prohibiting sludge is illegal, what would be left of the ordinance.

Mr. Hole answered the pesticide prohibition language would still be left.

Mr. Baecher said, responding to a Councilor's question, the town did not use any pesticides last year, and very little other years, but currently its use is not restricted except in the aquifer protection zone. The fields are done in the fall, and Maine Street and the trees are done in the spring.

Councilor Ewing asked how long the declaration process takes.

Mr. Hole said it could be done in two to three months, or up to eight to twelve months depending on where it ends up in the courts.

Councilor Sartoris said the safety issue has been determined by the scientific study that was done. Both sides are in agreement that Coffin Pond should be allowed to be opened, so she wants to have a moratorium until September so the other issues can be resolved.

Manager Gerrish said the Town Attorney can begin to work on a Declaratory Judgment and to prepare emergency language.

Councilor Sartoris moved, Councilor Ewing seconded, to have the town request a Declaratory Judgment on the Brunswick Community Health and Land Care Ordinance and to pay necessary legal fees to do this. The motion carried with nine (9) yeas.

Councilor Ewing moved, Councilor Augur seconded, to have the Town Attorney draft language for a moratorium on the Brunswick Community Health and Land Care Ordinance, and to set a public hearing for February 5, 2007, on the proposed language. The motion carried with nine (9) yeas.

Councilor Sartoris added that the Coastal Protection Zone does not allow biosolids to be spread so this language should be reviewed and amendments drafted to be consistent with state law.

14. The Town Council will discuss a revised Town Boards, Commissions, and Committees Policy, and will take any appropriate action.

Councilor Augur moved, Councilor Webb seconded, to table this item until February 5, 2007. The motion carried with nine (9) yeas.

15. The Town Council will discuss the creation of the Transportation Advisory Committee, and will take any appropriate action.

Councilor Augur moved, Councilor Favreau seconded, to table this item until February 5, 2007. The motion carried with nine (9) yeas.

CONSENT AGENDA

- a) Approval of the Minutes of December 18, 2006
b) Approval of the Minutes of January 2, 2007

Councilor Ewing pointed out some changes to his comments on page 4 of the December 18 meeting. He provided the Town Clerk with revised language.

Councilor Webb moved, Councilor Favreau seconded, to approve the Consent Agenda with corrections to December 18 as stated by Councilor Ewing. The motion carried with nine (9) yeas.

Councilor Sartoris moved, Councilor Daughtry seconded, to go back into executive session to discuss a legal matter with the town attorney per 1 M.R.S.A. §405(6)(E). The motion carried with nine (9) yeas.

The Council came out of executive session.

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

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
February 12, 2007*

February 26, 2007

Date of Approval

Council Chair