

-- APPROVED --
BRUNSWICK TOWN COUNCIL MINUTES
June 6, 2005
6:00 p.m.
Municipal Meeting Facility

6:00 P.M. Chair Lowe called the meeting to order.

Councilors Present: Chair Forrest Lowe, W. David Watson, Jacqueline A. Sartoris, Robert A. Galloupe, Douglas A. Rice, Louise V. Ansari, Barbara A. Desmarais, and Joanne T. King. Councilor Ralph L. Tucker arrived after the roll call.

Councilors Absent: None

Town Staff Present: Donald H. Gerrish, Town Manager; Fran Smith, Town Clerk; John Eldridge, Finance Director; James Ashe, Superintendent of Schools; Theo Holtwijk, Director of Planning and Development; Steve Walker, Natural Resource Planner; Geoffrey Hole, Town Attorney; Tom Farrell, Director of Parks and Recreation; James Oikle, Business Manager for School Department; Rick Desjardins, Police Commander; Peter Baecher, Parks and Recreation Facilities Manager; William Dana, Becky Martin and Eileen Murphy, School Board Members, and the TV video crew.

Executive Session (6:00 P.M.): **Acquisition of Property**
 Union Negotiations
 Personnel Issue

Councilor Desmarais moved, Councilor Ansari seconded, to go into executive session pursuant to 1 M.R.S.A. §405(6)(C) to discuss acquisition of property, 1 M.R.S.A. §405(6)(D) to discuss union negotiations, and 1 M.R.S.A. §405(6)(A) to discuss a personnel issue. The motion carried with eight (8) yeas.

MEETING CONTINUES: 7:00 P.M.

Chair Lowe called for the Pledge of Allegiance.

Minutes of Previous Meetings: **May 2, 2005**

Hearing no objection from the Council, Chair Lowe declared the minutes of May 2, 2005, accepted with an amendment to remove Councilor Rice's statement at the bottom of page 6.

Public Comment: None

Correspondence:

Letter from Chamber of Commerce

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Manager Gerrish said there was a letter from the Chamber of Commerce regarding their capital campaign for a new regional chamber building located on Main Street in Topsham. They were requesting a twenty thousand dollars (\$20,000) donation from the town. This amount is not in the budget so the town does not have the funds at this time.

Councilor Sartoris noted the passing of Robert Williams from Inland Fisheries and Wildlife. He had worked hard to gain public boat access and had assisted on the Brunswick boat launch process.

Manager's Report:

1. Financial Update

Manager Gerrish provided this update with one (1) month left in the fiscal year. On the revenue side, excise tax is expected to be over thirty thousand dollars (\$30,000) more than projected, and state revenue sharing will also exceed what was expected. The other revenues are doing well. On the expenditure side, the town will bring the budget into where it should be. The legal services account is over, but with the federal reimbursements, the winter storms budget will not be over, as originally expected. Manager Gerrish said, responding to Councilor Ansari's question, the legal fees for the boat launch were about eighteen thousand dollars (\$18,000).

2. Council Committee Updates

Manager Gerrish said the plans are well in hand for going forward with the Cook's Corner substation. The town is working with owners of property on Bath Road to purchase it for a substation.

Councilor Desmarais said the Maine Street Station Design Committee will meet on June 18 for an all day workshop on planning for the location.

Councilor Galloupe said the Times Record Committee is still looking at the town office and police space needs. There will be a workshop in July to discuss their findings.

3. (ADDED) Update on BNAS

Manager Gerrish said the Navy base was toured by members of BRAC. He thanked citizens for coming to greet them. The meeting afterwards was very beneficial and provided the BRAC Commissioners information as to why the decision was wrong. There is work being done at all levels – the Governor, Senators, Congressman, and Council members. The next date of importance is July 6, when there will be a public hearing in Boston.

4. (ADDED) Grants for Police Department

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Manager Gerrish said the Police Department has received two (2) grants from the Bureau of Highway Safety and is asking for Council acceptance.

Councilor Galloupe moved, Councilor Rice seconded, to accept and allow expenditure of two (2) grants from the Bureau of High Safety, one (1) for twenty six hundred dollars (\$2,600) for OUI details and one (1) for four thousand dollars (\$4,000) for seat belt enforcement. The motion carried with nine (9) yeas.

Adjustments to Agenda:

To take Items 76, 77, 78 and 79 out of order and to do them before Item 73.

73. The Town Council will hear public comments on the proposed amendments to the Zoning Ordinance regarding the use of pesticides and fertilizer in the Aquifer Protection Zone, and will take any appropriate action.

Theo Holtwijk, Director of Planning and Development, introduced his memo on other issues the Council may wish to consider relative to the amendments.

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

Steve Walker, Natural Resources Planner, said he has reviewed all the correspondence relative to this issue. Sludge is a general word and what this ordinance is proposing is not sludge in its raw form. Biosolids is the next step in the refinement process, and the Class A product is refined even further. The Class A is a compost biosolid product. Under the Class A, pathogens have been reduced to ambient soil conditions and screened for volatile substances, pesticides, and PCBs. In his opinion, the Class A is a very safe product. In general, the minimum EPA standards require that biosolids be analyzed for health risks to a standard of one (1) in ten thousand (10,000) increase in the chance of cancer based on prolonged exposure. Maine's standards exceed EPA standards. Mr. Walker said that use of this material is recycling nutrients that would otherwise be landfilled or spread as a less refined product. He feels using it is the responsible and safe thing to do.

Mr. Walker said, responding to Councilor King's question, what is used in Bowdoinham is Class B, not Class A. Responding to Councilor Sartoris' question, he said Class B is not composted. He further explained that Class A can have odor issues; it depends on how it is handled and how long it is composted. The other products suggested for use would also have possible odor issues.

Mr. Walker said, responding to Councilor Ansari's question about the ban and why make a change now to remove it, there was a sludge and residual free zone prior to his employment with the town. There were issues with sludge products, but those products were not of the quality of Class A.

Mr. Holtwijk clarified when the ordinance was amended in 1999 there was no specific discussion on Class A or other sludge products at that time.

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Geoffrey Hole, Town Attorney, clarified that the original ordinance was approved in 1994.

Mr. Walker said in the past the Council had discussed the use of the Class A general distribution products as an exemption in this residual free zone, but to date they have only made exception for two (2) specific Class A products.

Mr. Holtwijk went through the points of his memo and the changes the Council needs to consider.

Peter Beacher made several comments regarding the long process to amend this ordinance. The points included information on the following:

- The turf management program being designed to eliminate pesticides use, with a few exceptions.
- Under fertilizer use, the town has come up with a compost-based program that minimizes the use of nitrogen fertilizer.
- The Class A compost is licensed by the state for unrestrained distribution, even on vegetable gardens, and it is included under best management practices in wellhead protection areas by the Maine Rural Drinking Water Program.

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

Chair Lowe opened the public hearing. He asked the comments to reflect new material that was not spoken on at the previous hearing.

Tom Fusco, 66 Board Road, said the one (1) thing the different sides can agree on is that they are not able to agree. The question is how to make a decision and what the Council has to base their decision on. Based on the scientific information, there are risks. The risk is for the citizens so he asked that they be allowed to vote. If it is put out to vote, he would bet the voters would err on the side of caution. There are significant questions about the safety of the product (Class A). He wanted the Council to err on the side on caution.

John Lemont, 21 Maple Street, said for many years people have used manure on land. There are pros and cons on the issue. He did some research on the internet. He found a list of things done to sludge to kill pathogens and microorganisms. If all this is done, the product is okay to use in vegetable gardens. He felt if the Council could guarantee it is safe, Class A compost could be used.

Richard Knox, 81 Simpson Point Road, spoke in favor of the Class A product. He would use it if he did not live in the Coastal Protection Zone. The composting element is important. The town has done a good job on getting information.

Bill Brown, 189 Rossmore Road, and environmental engineer, said he has had many years of experience with sludge and he is supportive of the use of the Class A product.

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The federal regulations involved input from many groups and truly benefit from science. There cannot be guarantees on environmental impacts for any type of fertilizer.

Chris Dwinal, Topsham environmental engineer, read a prepared statement from Ned Beecher of NEBRA. It explained the benefits of biosolid composting. Personally, he is supportive of its use and encouraged the Council to support it.

Ted Crooker, 44 Storer Road, said he would like to see the Council pass the amendments. He has seen how it is composted. It breaks down slowly.

Robert Morrison, 37 Bouchard Drive, said this is a serious debate and the Council should err on the side of caution. If the Council is serious about it, they should put the question out to vote.

Marji Greenhut, 10 Noble Street, spoke on the over use of water. She spoke against the use of Class A compost.

Pat Coughlin, 6 Thompson Street, said the Class A is safe and regulated. He is an environmental consultant. Everything contains heavy metals; it is the concentration that is the key. The Maine Department of Environmental Protection has set the levels and they are safe. This debate has happened at the state level. He supports the use of Class A.

Louisa Hart, 9 Jordan Avenue, thanked the Council for supporting not spraying pesticides. She spoke against the use of Class A in the aquifer protection zone.

Christine DeTroy said she did not want to change the current ordinance to allow the use of sludge type products.

David Brooks, 2 Meredith Drive, said the town has used the good science with good standards. He supported the Class A product. It is properly regulated at the state level and fits the best management practice for water protection.

Steve Weems, 44 Thompson Street, said there is a big distinction between sludge and the Class A product. It goes through a composting process. He urged the Council to approve the ordinance.

Catherine Longley, Bowdoin College, said they support the staff recommendations and through this fourteen (14) month process they believe there has been an excellent ordinance drafted. The permit process under Section 210.10 provides safeguards, with further staff review. Bowdoin supports the mixed use of fertilizer, manure and Class A product. She urged adoption on an emergency basis.

Wayne Davis, Richmond, supports the Class A product. He has experience in this area with watershed studying and compost. Utilizing compost in this way makes the soil healthy.

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Norm Cyr, Water District Superintendent, said prior to 1986 there was no aquifer protection zone so any products could be used. In 1997, the ordinance was studied and the Water District provided sample language from Southern Maine Regional Planning, which had a sludge prohibition in it. As for the new proposal, they have heard all the arguments and they have relied on the best water management practice for drinking water. That document states the Class A product can be used in this type of zone.

Mary McGloin, 1 Jeff Street, said cancer is the number one (1) killer and the town cannot be sure what this product will do in the long run.

Jeff Pinnette, Manager of Wastewater Control Association, supports the safety of biosolid products.

(A copy of a letter from MWWCA will be attached to the official minutes.)

Kathleen McGee, former Director of the Maine Toxic Action Coalition and from Bowdoinham, spoke against the use of Class A compost. There is no way EPA could know the cancer risk and the product cannot be tested for everything and what harm it can do. It cannot be known if it is absolutely safe.

Bruce Nicholson, 126 Lunt Road, supports the proposed amendments. Recycling this product is the safe and responsible thing to do.

Chair Lowe closed the public hearing.

Councilor Rice said he works for Wright Pierce Engineering, a firm that does work with this product and even though he is not directly involved he is not going to vote on this issue. His opinion is Class A is safe.

Manager Gerrish said, responding to Councilor Desmarais' question about petitions being circulated, the petitions seek to have a moratorium on the use of sludge based products. If the Council approves these amendments, the petition will not affect them from going into effect. The petition's language does talk about the moratorium being retroactive, but the town attorney does not think that part can be enforced. Manager Gerrish further explained the purpose for the one hundred eighty (180) day moratorium is to allow for more study to be done on land use.

Mr. Walker said, responding to Councilor Sartoris' question on use in this zone in other towns, it is likely that it had not been used in other aquifer zones since this term is somewhat unique to Brunswick, but it has been used in other sand type water zones.

Councilor Sartoris expressed concerns about the facts the opposition presented to the Council and lack of time to respond. On several occasions, the information was incorrect.

Mr. Beacher said, responding to Councilor King's question about the use of Class A on other fields, the town has used it on fields outside this zone. Last year they spread about

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one hundred eighty yards (180 yd). Over time, the amount of compost used would come down and the fertilizer rate would vary.

Chair Lowe recommended moving ahead and taking a vote, considering staff recommendations for amendments in the process.

Councilor Sartoris moved, Councilor Tucker seconded, to approve the Aquifer Protection Zone amendments regarding the use of pesticides and fertilizer in the Aquifer Protection Zone on an emergency and regular basis, as advertised.

Councilor Desmarais said after learning more she has gotten comfortable with the use of the Class A compost, but she understands the fears of cancer and other things that residents have. Therefore, she does not want to vote for the Class A part of the ordinance.

Councilor Ansari said there has been a ban in place for a while and she is voting against this since the zone is over the town's water source.

Councilor Galloupe said there are dangers in other things like aluminum pans, which people cook with, and copper pipes, which water runs through. He supports the ordinance.

Councilor King said she was against the pesticide and Class A compost in the beginning. She has been convinced by the science presented that the Class A is being tested well and is safe. She will vote for the ordinance.

Councilor Watson said he is concerned with the lack of testing for the organic product. The lesser of the two (2) evils is the Class A product. He is in favor of the ordinance amendments.

Councilor Sartoris said she is voting in favor of the amendments. The evidence is clear and she feels the Class A compost is a safe product. She urged the opposition to get their signatures so the residents can vote. She feels the voters will educate themselves and made a decision based on facts - not fear.

Councilor Tucker said the weight of the evidence is in support of the Class A product. It has support from the EPA, Maine Rural Water Association, and town staff.

Chair Lowe said initially he had concerns, but after listening to the experts and staff, he believes the Class A product would be safe to use. He supports the recycling concept. He added he appreciates the concerns and positions of those against its use.

Councilor Tucker moved, Councilor Watson seconded, to amend the ordinance to include the staff recommendation for 210.8.C.9.c.i. to revise language from "and which" to "or which" at the end of the subsection, and amend 210.8.C.9.c.ii. from "and which" to "or which" at the end of this subsection. The motion carried with eight (8) yeas. Councilor Rice abstained.

Councilor Sartoris moved, Councilor Tucker seconded, to amend the ordinance to include the staff recommendation for 10.8.c.9.c.iii to add to the end of the subsections "... Chapter 419 of the Maine Department of Environmental Protection regulations, titled "Agronomic Utilization of Residuals," as amended. The motion carried with eight (8) yeas. Councilor Rice abstained.

Councilor Sartoris moved, Councilor Tucker seconded, to amend the ordinance to include the staff recommendation for 210.9 to delete the end of the section "as well as 210.8.C.6, 8, and 9".

Councilor Sartoris said she had concerns and will not be voting in support of it even though she made the motion.

Councilor Tucker supports the amendment since it is a request from the Water District.

Councilor King said she is not voting in support of the amendment since it is not enforceable.

The motion carried with 5 yeas. Councilor Watson, Councilor Sartoris, and Councilor King were opposed. Councilor Rice abstained.

Chair Lowe moved, Councilor Watson seconded, to amend the ordinance to included the staff recommendation for 210.8.C.6 to add the following" "The disposal, storage, or application of sludge or other sludge containing products, except for the application of class A composted residuals." The motion carried with eight (8) yeas. Councilor Rice abstained.

Vote on Main Motion with Amendments:

Councilor Sartoris moved, Councilor Tucker seconded, to approve the Aquifer Protection Zone amendments regarding the use of pesticides and fertilizer in the Aquifer Protection Zone on an emergency and regular basis as advertised and incorporating the additional amendments as voted above. The motion carried with six (6) yeas. Councilor Desmarais and Councilor Ansari were opposed. Councilor Rice abstained.

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

76. The Town Council will hear public comments on requests for annual renewals of Innkeeper Licenses, and will take any appropriate action.

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

Councilor Desmarais moved, Councilor Sartoris seconded, approve requests for annual renewals of Innkeeper Licenses as attached. The motion carried with nine (9) yeas.

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

77. The Town Council will hear public comments on requests for annual renewals of Victualer Licenses, and will take any appropriate action.

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

Councilor Ansari moved, Councilor King seconded, to approve requests for annual renewals of Victualer Licenses as attached. The motion carried with nine (9) yeas.

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

78. The Town Council will hear public comments on the following Alcoholic Beverage License applications and will take any appropriate action.

Full-Time Vinous & Malt

**Morse Holdings, LLC (d/b/a Morse's Lobster Shack) Sheldon Morse, Jr.
18 Bath Road**

**Displaced Chef, Inc. (d/b/a The Humble Gourmet) Christopher Toole
103 Pleasant Street**

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

Councilor Sartoris moved, Councilor Desmarais seconded, to approve requests for Alcoholic Beverage License from Morse's Lobster Shack and The Humble Gourmet. The motion carried with nine (9) yeas.

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

79. The Town Council will hear public comments on a request for the following Special Amusement License, and will take any appropriate action.

**Somplace(s) Different (d/b/a Captain Daniel Stone Inn) Louise Holmes
10 Water Street**

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

Councilor Desmarais moved, Councilor King seconded, to approve a request for a Special Amusement License for the Captain Daniel Stone Inn. The motion carried with nine (9) yeas.

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

80. The Town Council will discuss the proposed 2005-06 Budget and the Capital Improvement Plan, and will take any appropriate action.

The Council discussed the proposed budget and CIP.

Councilor Tucker supports the budget as it is now being proposed.

Councilor King said she would like to see a one percent (1%) cut made. Citizens have called her asking why the town does so many studies and were not supportive of the proposed recreation study.

Councilor Desmarais said she wanted to keep out the things in the budget that the Manager is suggesting removing, instead of swapping them for the items being added in. She wants to revisit the Times Record building project.

Councilor Sartoris said she will vote to support the budget, but she has concerns about elements of the CIP. She indicated that she had received citizen support for the recreation study.

Councilor Ansari said she would like to see what the budget would look like with a one percent (1%) cut. She also would like to revisit the Times Record project. There is interest in renting the building out.

Councilor Galloupe suggested waiting until the Times Record Committee has their figures before making decisions on the future of that project. No commitment is being made at this time as what to do with the building. He supports the budget as it has been presented.

Councilor Rice said he is concerned about the recreation study. He would like to go with the budget with the recent swapping of items. He is concerned about the Times Record project, but he would like to look at the project once the numbers are in.

Councilor Watson said Brunswick is finally moving into the future and this budget helps go there. Public safety needs will be met. In the future, the town may need to be frugal. The Council will have to revisit the Times Record and other projects. He is supportive of the budget.

Chair Lowe supports the budget as currently proposed. It moves forward on some important issues and meets the goal of a zero percent tax increase. He concluded that the majority of the Council supports the budget as proposed with the recent adjustments.

- 81. The Town Council will discuss proposed amendments to Town's Ordinance regarding noise on public ways, and will take any appropriate action.**

Councilor King and Councilor Tucker did not want to rush through this item at this meeting.

Councilor Tucker moved, Councilor King second, to table this item until June 20, 2005. The motion carried with eight (8) yeas. Councilor Desmarais was opposed.

- 82. The Town Council will consider two utility location permit requests from the Brunswick Sewer District, and will take any appropriate action.**

(The Sewer District asked that one be removed from the agenda at this time.)

Councilor Sartoris moved, Councilor Watson seconded, to approve a request for a utility location permit for 7 Androscoggin Street for the Brunswick Sewer District. The motion carried with nine (9) yeas.

- 83. The Town Council will consider five utility location permit requests from Maine Natural Gas, and will take any appropriate action.**

Councilor Rice abstained from the vote since he works with Maine Natural Gas.

Councilor Ansari asked if people had been notified about what is going on, and when will they have an opportunity to speak on the permits. When gas came to her area, residents were not happy.

Manager Gerrish explained the company does not send out notices since it is in the right-of-way and is allowed by law.

Councilor Galloupe said the company will notify residents as a way to get customers.

Councilor Rice said the public utilities have the right to be there and the Council would have to have a good reason not to grant the permit. He hopes soon they do not have to be approved by Council, but instead the town will have a policy allowing staff to do it.

Councilor Sartoris moved, Councilor Tucker seconded, to approve a request for five (5) utility location permits for Maine Natural Gas. The motion carried with seven (7) yeas. Councilor Ansari was opposed. Councilor Rice abstained.

- 84. The Town Council will discuss appointments to Boards and Committees and will take any appropriate action.**

Councilor Sartoris nominated the following people to serve on boards: Ryan Ewing for the Bicycle and Pedestrian Advisory Committee and Recycling Committee; Janet Bodwell and David Knight for the Davis Fund Committee; Matthew MacLeod for the

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Marine Resource Committee as the No License Holder; Marlene Budd (Brunswick resident) and Theresa Hodge (Topsham resident) for the People Plus Board of Trustees; John Murphy for the Recreation Commission; and Steven Garrett for the Zoning Board of Appeals; she asked the Chair to cease nominations and cast one vote for the nominees. The Council voted nine (9) yeas to appoint those nominated above.

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

June 24, 2005

July 5, 2005

Date of Approval

Council Chair