

-- APPROVED --
BRUNSWICK TOWN COUNCIL MINUTES
March 7, 2005
7:00 p.m.
Municipal Meeting Facility

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

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

Councilors Absent: None

Town Staff Present: Donald H. Gerrish, Town Manager; Fran Smith, Town Clerk; Patricia Harrington, Assistant Town Manager; Jerry Hinton, Police Chief; Phil Carey, Planner; John Eldridge, Finance Director; John Foster, Public Works Director; and the TV video crew.

Approval of Minutes: February 22, 2005

Hearing no objection from the Council, Chair Lowe declared the minutes of February 22, 2005, approved as written.

Public Comment:

Kenneth Hough, owner of Wrappers, explained that his business has been on the Mall for several years, and he missed the deadline to apply for this year. He wants to transfer the ownership of his cart so he would like to be considered for a food vendor spot on the Mall.

Correspondence:

Councilor Sartoris said she wanted to let people know the Rotary will hold a benefit for the Teen Center on April 1. The event will be a comedy night.

Manager's Report:

1. Financial Update

Manager Gerrish gave this financial update. The town is now through eight (8) months of the fiscal year. On the revenue side, the town is still in good shape, with state revenue sharing and excise tax in line with or exceeding projected amounts. On the expenditure side, there are some accounts in trouble, including the winter maintenance budget and legal fees. The winter budget is thirty six thousand dollars (\$36,000) over at this point. The legal account is close to being over since eighty thousand dollars (\$80,000) out of a budgeted amount of ninety thousand dollars (\$90,000) has been spent. The boat launch

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legal fees are the major cause for this expenditure being so high. The good news is there is almost a one hundred thousand dollar (\$100,000) savings in health insurance costs. It will be close, but he hopes the budget will even out with savings in some areas. The saving in the insurance is a result of the second six (6) months of the budget's increase being less than the town budgeted, plus some of those hired have not taken health insurance.

2. Rotary Check from Androscoggin Days

Manager Gerrish explained that the Rotary is donating money from the proceeds of its 2004 Regatta. The funds will be used for the upkeep of the bike path.

Councilor Galloupe moved, Councilor Watson seconded, to accept and allow expenditure of a donation from the Brunswick Rotary in the amount of one thousand dollars (\$1,000) from the proceeds of the 2004 Rotary Androscoggin Days. The motion carried with nine (9) yeas.

3. Discussion of Consolidation of Voting Polls

Fran Smith, Town Clerk, explained that in the event of a special election, the Council could choose to consolidate voting places into one, once they held a public hearing and voted to be able to do so for any future special elections. This would be the choice of the Council if such an election was to come about; it would not make it mandatory.

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

Councilor King moved, Councilor Desmarais seconded, to set a public hearing for March 21, 2005, to allow for the establishment of a polling place for special elections at the Municipal Meeting Facility. The motion carried with nine (9) yeas.

4. Update on Cook's Corner Fire Sub-Station

Councilor Rice explained the bids for the Cook's Corner Fire Sub-Station. He outlined the bids in a memo. The committee is going to meet and decide which design team to move forward with, but the cost will be above the \$1.25 million budgeted.

(A copy of the Brunswick Fire Department Cooks Corner Sub-Station Revised Proposal Information summary will be attached to the official minutes.)

Councilor Rice said, responding to Councilor Sartoris' question about the amount originally budgeted, it was based on a consultant's figure of \$2.1 million. The Council felt that through the design build process and cutbacks in programs, the amount could be reduced to \$1.25 million. However, costs have increased, for example, steel and concrete costs have greatly risen.

Councilor Galloupe asked if the 2004 budget had money for property acquisition and other elements of the project.

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Manager Gerrish responded there was some money for assistance to the committee and for design. The \$1.25 million was planned to be spent in the next year budget. Councilor Rice further explained how some of those funds had been used.

Councilor King thanked the companies that came forward for this project. It was a challenge for the committee and the companies.

Manager Gerrish said there will be a workshop on Wednesday, March 30, 2005, to discuss the Aquifer Protection Zone and update the Council on the noise ordinance.

Adjustments to Agenda: None

- 33. The Town Council will hear public comments on the following application for an Alcoholic Beverage License and will take any appropriate action.**

Full-time Spirituous, Vinous & Malt

MCM Corp., d/b/a Hacienda Pancho Villa Mexican Restaurant

110 Pleasant Street

Alma Baines

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

Councilor Desmarais moved, Councilor Ansari seconded, to approve a request for an Alcoholic Beverage License from Hacienda Pancho Villa Mexican Restaurant. The motion carried with nine (9) yeas.

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

- 34. The Town Council will hear public comments on the following application for a Food Service License and will take any appropriate action.**

MCM Corp., d/b/a Hacienda Pancho Villa Mexican Restaurant

110 Pleasant Street

Alma Baines

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

Councilor Sartoris moved, Councilor Watson seconded, to approve a request for a food service license from Hacienda Pancho Villa Mexican Restaurant. The motion carried with nine (9) yeas.

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

- 35. The Town Council will hear public comments on the following application for a Special Amusement License and will take any appropriate action.**

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**El Camino, d/b/a El Camino
15 Cushing Street**

Eloise Humphrey

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

Councilor Desmarais moved, Councilor Sartoris seconded, to approve a request for a special amusement license from El Camino. The motion carried with nine (9) yeas.

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

21. The Town Council will consider approving a new pay plan for Non-Union and Department Head positions and will take any appropriate action.

Manager Gerrish said this item was tabled from an earlier meeting and it had been discussed at a workshop. The current pay plan has not been updated since 1994, unlike the union plans that are done through negotiations. This new scale will provide a fair salary for non-union employees.

Manager Gerrish said, responding to Councilor Ansari's question, employees move up the pay scale annually unless there is a major problem with their job performance.

Councilor King said, originally her main concern was the large increase without knowing all the information to support it. Now she has been provided that information, she will be supportive of the plan, but in the future, she would like to have all the information provided initially. She was not supportive of having Portland included as a comparable community.

Councilor Ansari said fair pay is important, but she also felt that Portland should not have been included in the pay survey.

Manager Gerrish said, responding to Councilor Sartoris' question about crossing guard's pay, their pay has been raised three (3) out of the last four (4) years and has increased from eight dollars (\$8) per hour to nine dollars fifty cents (\$9.50) per hour. Councilor Sartoris suggested their pay be compared with surrounding communities, in addition to being compared with the school monitors.

Councilor Tucker moved, Councilor Sartoris seconded, to approve the Manager's proposed pay plan for non-union employees and department heads. The motion carried with nine (9) yeas.

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

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- 36. The Town Council will consider the following requests for Sellers of Prepared Food on Public Ways on the Brunswick Mall and will take any appropriate action.**

Brunswick Farmers Market Association, Inc. d/b/a Brunswick Farmer's Market Linda Routhier, President

Sean McDonald d/b/a Danny's Dogs

Scott B. Stuckey d/b/a Pop's, Inc.

Gary J. Murphy d/b/a Gary's

Michael Paul Rioux d/b/a M&S Enterprises

Manager Gerrish explained the ordinance states that applications need to be into the Clerk's office at least seven (7) days prior to the Council meeting. A current vendor, Downeast Hot Dog, did not make that deadline so their application is not on the agenda tonight.

Councilor Ansari asked about the new carts' appearance.

Mike Rioux, owner of M & S Enterprises, explained what his cart was going to look like and what it was going to sell. His daughters have had experience running hot dog stands and they will be working this stand. They will be selling hot dogs, veggie burgers, lobster rolls, crab rolls and more.

Manager Gerrish and Chair Lowe said, responding Councilor Sartoris' question on size and standards for carts, the Recreation Commission did not come up with any standards and referred this back to the Council and Village Review Board. This is still an open question. To set standards would take a great deal of effort and the standards would need to be very clear.

Councilor King said that the Council should make the decision on the carts case by case and this should not fall on others.

Gary Murphy, owner of Gary's, said the size of his cart is eight feet (8 ft.) by twenty feet (20 ft.) and is six feet six inches (6 ft, 6 in.) high. He will be selling seafood.

Manager Gerrish said Mr. Foster thought the pad was twenty four feet (24 ft.) long.

Mr. Hough, Wrapper's owner, said he wanted an opportunity to be on the Mall and would like to transfer Wrappers to someone who wants to continue to be there.

Mr. Foster said, responding to Councilor Watson's and Councilor Rice's concerns for safety and ability to get on and off the pad, that Peter Baecher from the Recreation Department works with the vendors to show them how to get on and off. The problem is

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getting on and off of the brickwork, which creates a high demand on the sidewalk's surface.

Councilor Rice said for those who did not get an application in on time, the Council cannot change the ordinance. For the new carts, he would like there to be a condition of approval to work with the town engineer to make sure they can get on and off the Mall properly.

Councilor Rice moved, Councilor King seconded, to approve the requests for Sellers of Prepared Food on Public Ways on the Brunswick Mall for the following: Brunswick Farmer's Market, Danny's Dogs, Pop's Inc., Gary's and M&S Enterprises, with the condition that the vendors work with the town to ensure they can get on and off the Mall properly.

Chair Lowe and Councilor Desmarais said they were concerned about the size and look of Gary's.

Councilor Sartoris said she is concerned about the wear and tear on the pad structures. She would like to vote for all except Gary's.

Councilor Ansari said her concern is the sheer size of Gary's cart; with the others, one can still see the Mall area.

Mr. Murphy said his cart is made by the same company as Downeast Hog Dogs. He has concerns, as well, about getting on and off the mall. If the Council feels his cart is inappropriate, he has other options, which he has explored.

Chair Lowe suggested voting on each applicant one by one. Councilor Rice agreed to allow that under his motion.

Manager Gerrish said, responding to Councilor Galloupe's question about the order in which they will select a pad, it will go with the oldest vendor who gets first pick and so on down the line.

Councilor Sartoris said the issue of standards and grandfathering sites needs to be worked out before next year. She would like to discuss holding a spot for civic groups in the future.

The Council voted on the applications individually.

The Brunswick Farmer's Market received eight (8) votes in favor of the application, with Councilor Watson opposed.

Danny's Dogs received nine (9) votes in favor of the application.

Pop's Inc. received nine (9) votes in favor of the application.

Gary's received zero (0) votes in favor, with all nine (9) Councilors opposed.

M& S Enterprises received nine (9) votes in favor of the application.

The four receiving a majority of favored votes were approved.

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(Gary's was the only one of the five (5) applicants that was not appointed.)

There is still one (1) spot on the mall for a food vendor. The opening will be advertised on Cable TV and applicants will have until Monday, March 14, 2005, to bring in their applications to be considered at the next Council meeting.

37. The Town Council will receive a report from the Chief of Police concerning State-wide Police Powers and will take any appropriate action.

Chief Hinton said this item deals with the Council authorizing the Police Department to have State-wide Police Powers. The Council authorized limited authority to the Police Department in September, 2003, for a one-year period. The police did not use any of the authority authorized to the Department during the one-year period. He is asking to extend the authorization and to allow the authorization for more than Class A, B and C felonies. He described times the policing power could have been used with the extended powers. As an example, they could help with vehicle accidents.

Chief Hinton said, responding to Councilor King's question about the criteria to allow an officer to have this power, once an officer has passed the academy and passed probation, they would be authorized to use it.

Councilor Sartoris said before she can make a decision, she would like to review the law, which was not in the packet, and will need to do some more research.

Chair Lowe said he would like to look at the law again as he has concerns with Class D and E crimes, as does Councilor Sartoris.

Councilor Watson said he is a retired police officer and has been in situations outside Brunswick. As a police officer, they are going to respond, and they need to have these protections. Brunswick is in a unique situation with three (3) communities its officers travel through, and they will see things that they need to respond to. He is in full support of this.

Chief Hinton said, responding to Councilor Rice's question about how many other communities have the powers, he does not have the full number but he listed several.

Representative Stan Gerzofsky said initially when the Police Chief contacted him to support this bill, he was not in favor of it, but with the work done to make it narrow enough and with no opposition from a variety of sides, he supported the bill. With the problems out there, especially since the September 11th event, this law is important to be able to address issues throughout the state. The bill passed unanimously in both houses, with the Senate adding the misdemeanor clause. This bill was debated inside and out. There has not been one (1) misuse of the law.

Councilor King said she supported it last time and she hopes the Council does not drag their feet in making this decision.

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Councilor Sartoris also wanted a list of towns that have supported these powers.

Councilor Rice said he supported this last time and would support it this time.

Councilor Watson moved, Councilor Desmarais seconded, to table this item until the next meeting. The motion carried with nine (9) yeas.

38. The Town Council will receive a report from the Bicycle and Pedestrian Advisory Committee and will take any appropriate action.

John Balicki, Chair of the Bicycle and Pedestrian Advisory Committee, gave this presentation. He highlighted the plan. The benefits of biking and walking include:

- 1) It has economic benefits as gas prices rise;
- 2) It is good for the environment;
- 3) It reduces the number of vehicles; and,
- 4) It is social and fun, with many health benefits.

He added Brunswick is on the East Coast Green Way. The town received the only Bicycle Friendly Community award given in New England.

The plan summaries included the importance of the following:

- 1) Providing education on bike safety;
- 2) Enforcing speed limits for vehicles; and,
- 3) Engineering and planning to build better facilities for walking and biking.

The executive summary of the plan included the three (3) most important locations to make improvements:

- 1) Mill Street, which needs a sidewalk;
- 2) Jordan Avenue, which needs sidewalk improvements; and,
- 3) Mere Point Road, which needs bike lanes.

Type of road improvements needed include:

- 1) Shared lanes
- 2) Wide outside lanes
- 3) Bike lanes
- 4) Multi use paths

The goal of the plan is to allow a middle school age child to get through the town either on foot or by bike. Mr. Balicki asked for the Council's endorsement of the plan. It does not commit the town to spending funds; it is a planning tool for developers, budgeting and future improvements.

Councilor Ansari said she supports saving sidewalks and roads. She wants to improve Jordan Avenue and other locations. It would be good for community uses, for students, for the elderly, and others.

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Councilor Sartoris said the plan is well written and thanked the Committee for their work to prepare it.

Councilor Ansari said the dirt on roads is making it unsafe for use of bikes and asked if this was looked at as part of the study.

Mr. Balicki said that once the streets are swept, they tend to be okay to travel on, but if someone sees a problem, they should call public works.

Chair Lowe said the report was well written and asked if the committee will be going over the sidewalk issues with public works.

Mr. Balicki said they will be meeting to discuss recommendations for a five-year plan.

Councilor Rice said this is a blueprint and the town will finance projects when they can do so.

Councilor Ansari moved, Councilor King seconded, to endorse this Bicycle and Pedestrian Advisory Committee plan, as presented. The motion carried with nine (9) yeas.

(A copy of the Bicycle and Pedestrian's Advisory Committee plan will be attached to the official minutes.)

39. The Town Council will consider a request to amend the Parking Ordinance to eliminate parking on the east side of Swett Street and will take any appropriate action.

Councilor Desmarais said the neighbors on Swett Street have requested to have parking on only one (1) side of the street. With the narrow street and cars parked on both sides, it is not safe for children. There have also been problems getting emergency vehicles through. All those living on the street seem to have a place to park off street.

Councilor Desmarais moved, Councilor Rice seconded, to set a public hearing on an amendment to the Traffic and Vehicles Ordinance to eliminate parking on the east side of Swett Street. The motion carried with nine (9) yeas.

40. The Town Council will receive a request from the Planning Board to consider making South Street one way and to accept a donation of \$17,000 from Bowdoin College to install granite curbing on all uncurbed areas on the north side of South Street and will take any appropriate action.

Manager Gerrish said this item deals with a request from the Planning Board to have the Council consider making South Street one-way and to accept a donation of seventeen thousand dollars (\$17,000) from Bowdoin College to place granite curbing on any uncurbed areas on the north side of South Street. When Bowdoin College received approval for their two new dorms on South Street, the Planning Board requested a plan to

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deal with parking and traffic on South Street. This request is part of the plan that was approved by the Planning Board after meetings with Bowdoin, the town, the School Department and with neighbors. The action necessary would be to agree to accept the funds from Bowdoin College and to set a public hearing on making South Street one-way. The one-way section would start after the driveway to the Schwindt/Riley property.

Councilor Rice said he is concerned about having a short section as a two-way and the rest one-way. He wanted all of South Street to be one-way.

Chief Hinton explained how the street would work with the section that is two-way and labeling no right turns.

Councilor Sartoris said she is concerned about the parking lot for Longfellow School since cars are being backed out and said signage could help.

Chief Hinton said by making the street one-way, it would be safer for those backing out since they are only looking in one (1) direction and there could be cautionary signage, also.

Manager Gerrish said, responding to Councilor Ansari's question about the town's cost, the only cost could be drainage, with the rest of the curbing project being contracted out. The change to the ordinance for the one-way section will be brought back to the Council at a later time.

Chair Lowe and Councilor Sartoris explained connections they had with Bowdoin, but they felt that there was not a conflict of interest.

Councilor Tucker moved, Councilor King seconded, to accept and allow expenditure of a donation of seventeen thousand dollars (\$17,000) for granite curbing for sections of the north side of South Street. The motion carried with nine (9) yeas.

41. The Town Council will consider the Municipal Dog Warrant and will take any appropriate action.

Councilor Sartoris moved, Councilor Tucker seconded, to approve the 2005 Municipal Dog Warrant. The motion carried with nine (9) yeas.

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

42. The Town Council will consider going into Executive Session to discuss union negotiations and will take any appropriate action.

Councilor Desmarais moved, Councilor Watson seconded, to enter into executive session pursuant to 1 M.R.S.A. §405(6)(D) for the purpose of discussing union negotiations. The motion carried with nine (9) yeas.

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The regular part of the meeting adjourned at 9:30 p.m., with the Council going into executive session.

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

March 14, 2005

March 21, 2005

Date of Approval

Council Chair