

--Approved--
BRUNSWICK TOWN COUNCIL
MINUTES
March 17, 2008
7:00 P.M.
Municipal Meeting Facility
44 McKeen Street

Councilors Present: Chair Joanne T. King, W. David Watson, Benjamin J. Tucker, Hallie Daughtry, Karen J. Klatt, Gerald E. Favreau, Margo H. Knight, Newell A. Augur, and David C. Webb.

Councilors Absent: None.

Town Staff Present: Donald Gerrish, Town Manager; Fran Smith, Town Clerk; Gary Brown, Assistant Town Manager; Anna Breinich, Director of Planning and Development; Mat Eddy, Director of Economic Development; Richard Rizzo, Police Chief; Tom Farrell, Director of Parks and Recreation Department; Dan Devereaux, Marine Resources Warden; Mark Waltz, Police Lieutenant; Amanda Similien, Economic Development Specialist; and the TV video crew.

Chair King called for the Pledge of Allegiance and asked the Town Clerk for roll call.

Public Comment:

Richard Morrell, Boody Street, said he left a packet of information for the Council in their boxes regarding his concerns with the base closure process. He expressed disappointment with how it was handled by state and federal officials. He added that Bill Cohen, former U.S. Senator from Maine, worked to keep the Jacksonville station open at a fee of \$500,000. Mr. Cohen has done damage to the State of Maine, betrayed its citizens' trust, and did a disservice to his home state.

Margaret Soulman of Topsham, member of the Brunswick Sustainability Group, informed the Council and the public about their upcoming bike fair on April 26 and film fundraiser on March 22.

Correspondence: None

Adjustments to the Agenda:

To take Item 38 out of order.

Manager's Report:

(a) **Introduction of New Police Chief**

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Manager Gerrish introduced Chief Richard Rizzo and said he was pleased to have him with the Town.

Chief Rizzo said it is an honor to be Police Chief here and he is happy to be back in Maine. He received a warm welcome from town employees and is looking forward to leading the Department into the next decade.

(b) Council Committee Updates

Councilor Webb reported the Business Park Committee selected the firm of Wright-Pierce to review the sites for a business park.

Councilor Klatt said the Brunswick Teen Center is looking for volunteers to help staff the hours they are open.

(c) Budget Meetings/Workshops Schedule

Manager Gerrish reviewed the schedule and said the Council will be meeting a fair number of times in April, May and June. On March 24, George Bald will make a presentation to the Council and other communities' representatives regarding his experience with the Pease base closure.

(d) Elementary School Straw Poll

Councilor Favreau and Councilor Daughtry said the School Department will be holding a straw vote on Wednesday, March 26, 2008, at 6:30 p.m. at the Junior High School. There will be a presentation on site plans, floor plans, and preliminary project costs for the new elementary school. There will be free child care provided.

32. The Town Council will hear public comments regarding a Community Enterprise Grant to assist with development of a strategic plan for the northwest neighborhood, and will take any appropriate action.

Amanda Similien, Economic Development Specialist, said the town is trying again for this planning grant; it will be done in conjunction with the Brunswick Downtown Association, the Northwest Brunswick Neighborhood Association and Tedford Shelter. This is a planning grant.

(A copy of memo from the Economic Development Office will be attached to the official minutes.)

Chair King opened public hearing.

Ann Marr, 34 Cumberland Street, said the Northwest Brunswick Neighborhood Association is excited to apply for this grant again. This is a walking neighborhood and

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the swinging bridge will help the Cushing Street area. They are seeking the Council's approval.

Chair King closed the public hearing.

Councilor Knight moved, Councilor Daughtry seconded, to apply for a Community Development Block Grant Program in the amount of \$10,000 to be used to assist with the development of a strategic plan for the northwest neighborhood. The motion carried with nine (9) yeas.

33. The Town Council will discuss the Planning Board's recommendation on changes to the Zoning Ordinance language relative to definitions of family units for rental property, and will take any appropriate action.

Anna Breinich, Director of Planning and Development, reviewed the Planning Board's process to determine if this is a zoning or an enforcement issue. After two public workshops and board discussion, the Planning Board voted 4 to 2 "to pass this issue back to the Town Council with the statement that the Board does not feel that this is a zoning issue and should be addressed as an enforcement issue." Once the Comprehensive Plan is adopted, then all zoning issues can be looked at including this one. Based on public comments, it appears there were concerns about enforcement and this being a nuisance situation.

Ms. Breinich said, responding to Councilor Webb's questions, staff met with Bowdoin College to talk about enforcement. Currently they have 120 students living off-campus and those students receive a flier on being a good neighbor. A citation ordinance could be done as a violation similar to a traffic citation.

Councilor Augur asked if there was any discussion of impacts on the character of neighborhoods with a home having groups of 5-6 people under the age of 30 living in a unit(s). There is a nuisance part along with the issue of preserving neighborhoods. That is a big piece of this and the Planning Board may have missed it if they were not provided this message.

Ms. Breinich responded that it was not missed, but should be done as part of the whole zoning ordinance update. As far as the definition of boarding home, they did not want that to be addressed until the current case has gone through the court system.

Councilor Favreau said this is not a student issue or affordable housing. There were comments made that calls were made to police and got no response.

Mark Waltz, Police Lieutenant, said over the last fifteen month period there have been only two calls for service.

Randy Nichols, from Bowdoin College Security, responded to Councilors' questions. As far as their role, the normal jurisdiction is the college campus, but they do patrol

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Longfellow Avenue and other areas student go. The public can call them directly, but if Bowdoin Security feels they need the Police, they call them or if there is an issue with students, the Police will call them as a way to handle issues. If there are calls on noise and they are off campus, security calls the Police Department, but often they work together. In addition, they try to have meetings with off-campus residents to help with issues on how to deal with Police, fire codes, and neighborhoods.

Councilor Watson asked if there was any discussion of state law and enforcement. Ms. Breinich responded that was not raised.

Councilor Klatt asked if the Planning Board felt that caps should be set. Ms. Breinich responded that could be part of the zoning ordinance to have caps, but the Board felt it was not necessary to revise it outside of the update process of the whole ordinance. There may be a change to put a cap on at that time.

Councilor Knight talked about what happened in Boston with an ordinance passed to limit the number of students to 4 or 5 per rental unit. She asked how that fits in Brunswick.

Ms. Breinich responded that the way Boston is structured there can be no more than 4 unrelated students, and it only applies to students. But, here, it is not just a student issue; for example, there could be multiple military living together.

Councilor Knight said the Boston decision was not a nuisance issue, but an erosion of neighborhoods. It is a quality of life issue.

Ms. Breinich said the Planning Board felt this was not just a student issue so looking at the ordinance as a whole would be better.

Councilor Augur said, referring to the language change regarding boarding house and dwelling 11 years ago, there appears to be a loophole in this language change. Councilor Augur said there should not be a limit on the number of residents in a dwelling unit if there is no fire code violation.

Ms. Breinich said different ways to define boarding home include owner occupied, but she could not answer if there was a loophole in the language. She added in the other towns they looked at there was no definition of household, but there were definitions of family.

Councilor Daughtry thanked the Planning Board for their wise decision on this issue; she agrees that this is an enforcement issue. Bowdoin College is a large part of the town. The character of a neighborhood can be changed for a variety of reasons. There is a need to enforce the noise ordinance, fire codes, and other applicable ordinances. She agreed with the Planning Board's decision.

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Chair King agreed with Councilor Daughtry, and Boston had 12,000 students; Bowdoin has 130 living off campus. It is not a comparison for Brunswick. It appears to be an enforcement issue with noise, trash, and safety. The Police and Bowdoin Security expect to be called. The density issue will be covered by the Comprehensive Plan Update and that is when the town should clean-up the language on the boarding home definition.

Chair King opened the item to public comments.

Claudia Knox, 36 Cumberland Street, said she is happy to hear the intention to carry on the details of what is on the books to make it work. She does not see it as an enforcement issue but a neighborhood issue. In Boston, neighborhoods are going away so landlords can get higher rent by renting to multiple students. In the Midwest, as landlords converted homes for students, rent went up and affordable housing disappeared. The low income folks in the downtown need to be able to afford housing. In her neighborhood enforcement is an issue; she gave an example of a disruptive family and how she was afraid to call police since they may “get even” with her so she did not call. Enforcement is important, but it is hard, with neighbors, to call. There are a number of widows who rent in her area, and when a bad group gets in a rental unit, they are terrified. It is better to get ahead of it.

Ernest Bevilacqua, Federal Street, said he lives next to 11 students. His concern is the boarding home definition, and there have been violations. Boarding homes are not allowed in this zone. Enforcement does not solve the problem of poorly written ordinances. Off-campus students are a major issue and ordinances are being changed in other places to address this issue. He provided the Council with copies of the Boston definition. The real issue is the wording of the ordinance. Off-campus rentals are profitable. The neighbors have identified multiple homes on Federal Street that could go that way. The problem of large numbers of unsupervised students is not compatible with neighborhoods. This situation will only get worse.

Chair King said they want the language clarified.

Councilor Augur requested information on how the ordinance has or has not changed in the last 11 years when it comes to boarding homes. He wanted to know why it was changed then. He wants to preserve neighborhoods for working families. He wants to make a motion to send this back to the Planning Board to come back with why there was a language change 11 years ago, the objection behind it, and come back with recommendations.

Manager Gerrish said, responding to Councilor Augur’s comments, there were two definition changes for boarding and dwelling units and under housing unit the word “family” was taken out. That was the key change that took place. The issue becomes not just about students, but how many to allow if not students. They could ask the Planning Board to look at those two definitions and see if they should be changed.

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Chair King agreed those two definitions need to be reviewed and any changes recommended.

Councilor Favreau said there should not be just students in any definition.

Councilor Daughtry said she did not see a need to send this back to the Planning Board since they have made a recommendation. Staff can get the Council the history of the issue. This issue is in the courts and should not be done until this is settled and the Comprehensive Plan Update is in place.

Councilor Augur said he feels the reason (preserving neighborhoods) was not clearly provided to the Planning Board. The issue of boarding homes and a dwelling place with 7 residents could fall into either category.

Chair King said this is a Comprehensive Plan issue and can be addressed then. Most of the comments made were more in reference to noise and parties, not neighborhoods, and the Planning Board responded to those concerns.

Councilor Augur felt there were many comments on neighborhood issues.

Manager Gerrish said staff can look at the history of what took place and the Planning Board said they will look at those definitions as part of the Comprehensive Plan process along with other density issues. The question is how soon the Council wants this to happen, with the Comprehensive Plan coming back in June or so.

Councilor Augur said he did not want to rush the issue and would like to see what the court will do.

Councilor Klatt said she has an issue with this; the Council needs to address this since these folks are citizens and they are spending money in legal costs. She questioned why their town cannot help these taxpaying citizens. There is a problem and she asked what the Council could do to help this.

Manager Gerrish said the town has to follow the ordinances on the books; the Council has the authority to change the ordinance; it is a matter of when and how, if they want to. The Planning Board reviewed it, but the Council can set a public hearing to change the ordinance. What is in court is what this is based on.

Councilor Klatt wanted to make the changes and wanted to make a motion to that effect.

Manager Gerrish said the Planning Board made their recommendation but the Council can draft something or direct staff to do so.

Councilor Daughtry said this is one of many issues that need to be looked at with the zoning ordinance and the direction the town is going. The Comprehensive Plan adoption

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has been delayed and she takes some responsibility with the business park issue being addressed. The changes need to be done as part of this update.

Councilor Augur said he wanted to have a draft of proposed changes to language and bring it back to the Council at their next meeting to look at the definition of a dwelling unit and household, and then send this to the Planning Board for their recommendation to see how it does or does not fit into the broader issue of the Comprehensive Plan.

Councilor Augur moved to table this item to the next meeting, but there was no second.

Councilor Webb said to look at this now is piecemeal if this is not done in the context of the Comprehensive Plan Update. He is willing to work on the language.

Councilor Knight said she is concerned about homes in the area, but the Codes Department has their antenna up on this; this should be done in the context of the update.

Councilor Watson said they are aware of what is out there, but have to follow laws. Councilor Klatt's comments have merit. There are citizens who are concerned about this. He suggested citizens call the Police and the Police take action until the language is addressed.

Chair King said if a Councilor wants to address this soon they could put the issue on an agenda.

Councilor Daughtry has total sympathy with the neighbors. This is an enforcement issue and there needs to be a stronger stricter noise ordinance.

The Council took Item #39 next.

34. The Town Council will hear a report from the Municipal Facilities Committee regarding the local cost related to the new Elementary School, and will take any appropriate action.

Chair King thanked those five Councilors who have served on this committee.

Mr. Brown said this Committee has been working since last summer, having recently been focusing on recreational facilities that have been lost. He reviewed his memo that outlined the Committee's proposal.

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

Councilor Augur liked the idea of incorporating items into the plan that would be done through fundraising since they can be included in the package.

Councilor Daughtry said these additional costs will be funded through private funds, but it would be more economical done at the time the school is built so they must be included

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as part of the approved concept design to be done at that time. Taxpayers and the state are not paying for them.

Councilor Favreau said the Chair of Recreation Commission said there is a lot of interest to have a turf field and he felt they could get funding for it.

Mr. Brown said demolition occurs in February 2009 and the construction of the field would be in fall 2009 at the earliest. The town wants to be able to get on the fields as soon possible, but if it is going to be a turf field that may delay it.

Manager Gerrish said when the project goes out to bid, the town is setting its course as to what direction to go and needs to have the money for the turf field so he expects this decision needs to be made around March 2009.

Councilor Daughtry said if funds are not raised in time, they go back to a sod field, so, by approving this it does not tie the town to a turf field.

Manager Gerrish said in the past the town has fronted money in anticipation of fundraising.

Councilor Augur said he does not want to put the town on the hook for this so if they want a turf field the town needs funds by March 2009. If it is not raised, they will get a sod field.

Councilor Watson said the state is not going forward unless everything is spelled out and if the town does not put in the turf field, it will be a sod field.

Councilor Favreau said this is not just for the Recreation Department but for school and sports' groups use, as well.

Chair King asked about the additional rooms for Cable TV and the Council Chambers.

Councilor Daughtry said the room is next to the cafeteria, which fits 200. The future expansion of the cafeteria is in this room. The TV would be a remote studio for those functions there and performances in the gym. Some of the cost in the room is the wiring.

Councilor Favreau said this option would be instead of moving the Council chambers elsewhere at a cost of over \$2 million.

Councilor Augur said when looking at the cost of a new Council Chambers, adding on room at the elementary school is the right economic decision to make.

Councilor Webb said it makes a lot of sense to have the possibility of having the chambers for under \$300,000. The Council could still have time to look at this again before a final location for the chambers is selected.

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Manager Gerrish said it should be put in and there will be time for a final decision.

Councilor Daughtry said the room is designed to fit 85 people; if it is going to be the permanent chambers, the room may have to be reconfigured or built later.

Councilor Favreau said on the issue of parking, the Recreation Commission chair asked for additional parking for the programs that use the sites and this cost is minimized at the time of construction.

Manager Gerrish said the state will only support a certain number of spots so the question is if the town wants to add the extra ones to their cost.

Councilor Knight said this should be as much of a green space as possible and there is plenty of onstreet parking for those special events.

Councilor Klatt asked if when the vote is taken, if it would be one cost or broken down.

Manager Gerrish said, responding to Councilor Klatt's question on how the cost will be broken down when it is voted on, the wording is being worked on by the School Department, bond counsel and the Finance Director. It will most likely be a total cost but be broken down into state and town amounts.

Chair King said the Council can approve the highest cost and can remove town items if deemed not popular at the straw vote or in the future.

Councilor Daughtry said although she would prefer green space, she wanted to have extra spaces to reserve the possibility for the future. Anything the town wants to include must be voted on next Wednesday at the straw vote or it cannot do anything extra.

Mr. Brown said the town can downsize even after the vote, but not upsize the project.

Councilor Watson moved, Councilor Favreau seconded, to approve the recommendation for the town funded items, as attached.

As far as the extra parking, Councilor Augur, Councilor Knight, Councilor Webb and Councilor Klatt oppose it.

Councilor Watson said extra parking is a safety issue and it can be removed later.

Chair King is in favor of approving this; it has to be part of the straw vote and the Council will be discussing this again.

Councilor Watson moved, Councilor Favreau seconded, to approve the recommendation for the town funded items, as attached. The motion carried with nine (9) yeas.

Councilor Favreau moved, Councilor Webb seconded, to approve additional fundraising items to be included as owners reserve for fund raising. The motion carried with nine (9) yeas.

- 35. The Town Council will consider approving transfers of asset forfeitures or any portions thereof, and will take any appropriate action.**

Lieutenant Mark Waltz said there are two items, an automobile (1997 Chevrolet Cavalier) and \$1,050.00 in cash, that are being given to Brunswick under the asset seizure forfeiture program.

(A copy of the Attorney General's Office letter will be attached to the official minutes.)

Councilor Augur moved, Councilor Daughtry seconded, to accept and expend forfeitures of \$1,050 in cash and a 1997 Chevrolet Cavalier. The motion carried with nine (9) yeas.

- 36. The Town Council will consider setting a public hearing on amendments to Chapter 14 (Streets, Sidewalks, and Other Public Places) of the Municipal Code of Ordinances to add the Mere Point Boat Launch to the list of Town parks, and will take any appropriate action.**

Manager Gerrish said the proposed amendments will add the Mere Point Boat Launch to the list of Town parks and facilities. This gives the town the authority to apply the ordinance to this launch. The Council will need to set a public hearing on the amendments.

Tom Farrell, Parks and Recreation Director, said the Mere Point Boat Launch Citizen Advisory Board met to work on some final issues and one was putting the launch under the town park ordinance and to add to 14-139 to limit tie up to 30 minutes. The tie up will be enforced by the Marine Resources officers and Park Rangers, with the possibility of a fine issued.

Councilor Watson moved, Councilor Daughtry seconded, , to set a public hearing for April 7, 2008, on amendments to Chapter 14 (Streets, Sidewalks, and Other Public Places) of the Municipal Code of Ordinances to add the Mere Point Boat Launch to the list of Town parks. The motion carried with nine (9) yeas.

- 37. The Town Council will consider setting a public hearing on amendments to Chapter 11 (Marine Activities, Structures and Ways) of the Municipal Code of Ordinances relative to housekeeping changes for the shellfish harvesting section, and will take any appropriate action.**

Dan Devereaux, Marine Resources Officer, said the proposed amendments to the Shellfish ordinance are primarily housekeeping in nature. The biggest change is an increase in the licensing fees as follows: Resident Commercial from \$200 to \$300,

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Nonresident Commercial from \$400 to \$450, Resident Recreational from \$15 to \$25 and Nonresident Recreational from \$30 to \$50; Resident Student from \$50 to \$75; and Nonresident Student from \$100 to \$125 There will be no Sunday harvesting for commercial harvesters and the amendment removes two species of shellfish that cannot be harvested since there is a limit to their resources. These changes have been reviewed and supported by the Marine Resources Committee.

Councilor Daughtry moved, Councilor Favreau seconded, to set a public hearing for April 7, 2008, on amendments to Chapter 11 (Marine Activities, Structures and Ways) of the Municipal Code of Ordinances relative to housekeeping changes for the shellfish harvesting section. The motion carried with nine (9) yeas.

- 38. The Town Council will consider a request from Wrappers for Sellers of Prepared Food on Public Ways on the Brunswick Mall, and will take any appropriate action.**

Mr. Brown, owner, spoke to the Council, seeking approval. He has purchased Wrappers and will continue to offer the same products.

Councilor Favreau moved, Councilor Augur seconded, to approve a request from Wrappers for a license for Sellers of Prepared Food on Public Ways on the Brunswick Mall. The motion carried with nine (9) yeas.

- 39. The Town Council will consider a request from The Station Espresso Bar for Sellers of Prepared Food on Public Ways for outdoor seating, and will take any appropriate action.**

Manager Gerrish said this item is to approve an application for a request for Sellers of Prepared Foods on a Public Way for the space in front of The Station Espresso Bar at 206 Maine Street.

Beth Leeman, owner, said she would like to have a couple of chairs and tables next to her building.

Councilor Daughtry moved, Councilor Watson seconded, to approve a request from The Station Espresso Bar for a license for Sellers of Prepared Food on Public Ways for outdoor seating. The motion carried with nine (9) yeas.

Executive Session: Acquisition of real property as per M.R.S.A. § 405(6)(C)

Councilor Webb moved, Councilor Augur seconded, to go into executive session to discuss acquisition of real property per M.R.S.A. § 405(6)(C). The motion carried with nine (9) yeas.

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

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The meeting adjourned at 10:35 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

June 30, 2008

July 7, 2008

Date of Approval

Council Chair