

--APPROVED--
BRUNSWICK TOWN COUNCIL MINUTES
May 16, 2005
6:45 p.m.
Municipal Meeting Facility

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

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

Councilors Absent: Barbara A. Desmarais.

Town Staff Present: Donald H. Gerrish, Town Manager; Patricia Harrington, Assistant Town Manager; John Eldridge, Finance Director; Theo Holtwijk, Director of Planning and Development; Mathew Eddy, Director of Economic Development; John Foster, Public Works Director; Clark Labbe, Fire Chief; Tom Farrell, Director of Parks and Recreation; Peter Baecher, Parks and Recreation Facilities Manager; James Ashe, Superintendent of Schools, several members of the School Board, and the TV video crew.

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

Councilor Sartoris moved, Councilor Ansari seconded, to go into executive session pursuant to 1 M.R.S.A. §405(6)(C) and (A) to discuss acquisition of property and a personnel matter. The motion carried with six (6) yeas. Councilors Rice and King arrived after the vote.

Meeting Continues (7:05 P.M.)

Chair Lowe called for the Pledge of Allegiance.

Public Comment: None.

Correspondence:

Chair Lowe invited the public to the Maine Street Station Committee meeting scheduled for Thursday, May 19, 2005 at 6:30 p.m.

Councilor Sartoris invited parents and teens to the first Teen Center Open House, scheduled for June 1, 2005 from 2:30 p.m. to 6:00 p.m. at the Teen Center in the basement of the People Plus Center.

Manager's Report:

1. Update BNAS

Town Council Minutes

May 16, 2005

Page 2

Manager Gerrish said the announcement by the Department of Defense that the Brunswick Naval Air Station is recommended to be realigned came as a surprise. The Town will work with the Task Force to review the proposal and will make an argument to BRAC that their recommendation is in error. Manager Gerrish said he is in the information gathering mode and will come back to the Council when more information is available, such as the time frame and what the proposal means for the recently privatized military housing.

Chair Lowe also expressed surprise at the realignment announcement. He said that everyone is mobilizing to try to reverse the decision and that the focus will be on supporting the effort, with every level of government helping.

2. Report on Upper New Meadows Watershed Grant

Manager Gerrish said the Town of Brunswick has been awarded a grant through the Maine Department of Environmental Protection's Non Point Source Grants Program. There is a requirement of an in-kind match but no monetary contribution by the Town.

Councilor Watson moved, Councilor Sartoris seconded, to accept and expend the grant from the Maine Department of Environmental Protection in the amount of \$38,500 for use in the New Meadows River Watershed Project. The motion carried with eight (8) yeas.

(A copy of a memo from Steve Walker and Theo Holtwijk will be attached to the official minutes.)

3. Report on Proclamation for "Town Commons Day"

Manager Gerrish read the annual proclamation.

Councilor Rice moved, Councilor Ansari seconded, to proclaim May 19, 2005, as Town Commons Day. The motion carried with eight (8) yeas.

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

Adjustments to Agenda: None.

68. The Town Council will hear public comments on the Proposed 2005/06 Budget and the Proposed Capital Improvement Plan, and will take any appropriate action.

Pem Schaefer, Crestview Lane, said the Council spends anything they get as fast as they get it. He gave several examples, such as the Times Record building, where it will cost three times the purchase price to renovate it and the fire stations that will exceed the amount recently rejected by the voters. He also spoke of secret contract negotiations and adding school positions and providing raises with borrowed money. He said plans for a new school should be cancelled.

Town Council Minutes

May 16, 2005

Page 3

Margo Knight, 22 Page Street, asked the Council to consider uses other than demolishing the old high school. She said the College Neighbors Association would work with the Town to identify possible uses.

Fred Blanchard, Harpswell Road, said the vote for the State to pay fifty five percent (55%) of education funding was intended to provide property tax relief. Brunswick received a two and a half million dollar increase in state funding and sixty-three percent (63%) went directly to salary increases and benefits. He said the average salary of a teacher at Brunswick High School is higher than eighty percent (80%) of all wage earners in the country.

Mary O'Brien, 7 Bowdoin Street, spoke in favor of this year's school budget. She said it meets critical needs without increasing taxes and is a win for the community. She is especially in favor of adding Talent Development staff. All academic levels should be learning and working to achieve full potential.

Dick Lancaster, 68 Columbia Avenue, listed many of the current uses of the AB wing of the old high school and urged reconsideration of tearing it down.

Carol O'Donnell, 305 Maine Street, said there are multiple uses for the old high school facilities and thanked the Town Manager for raising the issue in the budget.

Jamie Ecker, 67 Simpson Pt. Road, said he supports the school budget. He has concerns about the space needs and the thirty percent (30%) of students who are not gifted but who need more challenging programs.

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

69. The Town Council will hear public comments on the requests for the annual renewal of Victualer's Licenses and will take any appropriate action.

Manager Gerrish said there are over one hundred businesses requesting renewal of their licenses.

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

Councilor Sartoris moved, Councilor Watson seconded, to approve requests for the annual renewal of Victualer's Licenses, as attached. The motion carried with eight (8) yeas.

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

70. The Town Council will hear public comments on the requests for the annual renewal of Innkeeper's Licenses and will take any appropriate action.

Town Council Minutes

May 16, 2005

Page 4

Manager Gerrish read the list of applicants.

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

Councilor Sartoris moved, Councilor Watson seconded, to approve requests for the annual renewal of Innkeeper's Licenses, as attached. The motion carried with eight (8) yeas.

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

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

**Clare's Dolphin Restaurant, Inc.
D/B/A Joshua's Restaurant & Tavern
123 Maine Street**

T.J. Siatras

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

Councilor Sartoris moved, Councilor Watson seconded, to approve the request for a Special Amusement License for Joshua's Restaurant and Tavern. The motion carried with eight (8) yeas.

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

72. The Town Council will hear public comments on proposed amendments to the Licenses and Business Regulations Ordinance concerning sellers of prepared food on a public way and will take any appropriate action.

Manager Gerrish explained that this amendment would allow the Council the opportunity to waive the \$500 fee for businesses on portions of Maine Street and Pleasant Street.

Chair Lowe opened the public hearing.

Claudia Knox, 36 Cumberland Street, said this amendment is a really good idea. It adds vitality to Maine Street, helps competition with malls and chain stores, and encourages people to be in the downtown.

Stephanie Slocum, Executive Director of the Brunswick Downtown Association, said the BDA supports the modifications to the ordinance. She said the \$500 fee has been prohibitive. She also said residents have been supportive of the amendment.

Chair Lowe closed the public hearing.

Councilor Sartoris moved, Councilor Rice seconded, to adopt proposed amendments to the Licenses and Business Regulations Ordinance concerning sellers of prepared food on a public way. The motion carried with eight (8) yeas.

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

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

Manager Gerrish said he had received a letter from the attorney for the Katahdin Center for Education and Research late in the afternoon questioning the adequacy of the wording of the public notice announcing the public hearing on this item. At the suggestion of Town Attorney Geoff Hole, Manager Gerrish recommended that the public hearing go forward this evening but that action be tabled until the next meeting with an additional public hearing.

(A copy of the Katahdin Center's letter will be attached to the official minutes.)

Chair Lowe explained the process that would take place for the public hearing, stating that Theo Holtwijk, Director of Planning and Development, as well as representatives from the Maine Department of Environmental Protection would be available for questions, and taking a show of hands as to how many people wished to address the Council.

Theo Holtwijk, Director of Planning and Development, outlined a memo with two sets of changes to the draft that were made as a result of comments at the last Council meeting.

Responding to Chair Lowe's question, Mr. Holtwijk said staff has no problem with the changes Bowdoin College proposed in their letter.

(A copy of Mr. Holtwijk's memo regarding the possible additional revisions, and Bowdoin College's letter, will be attached to the official minutes.)

John Mitchell, Maine Department of Environmental Protection, said this is a local political issue, the State does not weigh in on it, but he will answer questions on the state regulatory program.

Councilor Sartoris asked if Class A residuals are tested for nitrates, the frequency and protocol for the tests, and if they can be applied to vegetable gardens.

Mr. Mitchell and Mr. Jim Pollock, also of the Maine Department of Environmental Protection, answered that Class A residuals are tested for nitrogen, on a quarterly basis, by the licensee. A license is granted for general distribution, with a plan approved by the DEP, which is given to product customers. Class A's are generally applied in a more

Town Council Minutes

May 16, 2005

Page 6

institutional setting, however, general distribution means it is all right to use them and some Class A's can be used in vegetable gardens.

Councilor King asked if any other communities are currently using Class A's in aquifer protection areas.

Mr. Mitchell and Mr. Pollock responded that they are unaware of any, or any addressing the issue, but that the DEP wouldn't necessarily know that as Class A's are approved for general distribution with no restrictions at the State level.

Chair Lowe opened the public hearing.

Laura Moon, Brunswick resident, on behalf of the Brunswick Pesticide Watch, read a letter thanking the Council for their consideration and courage in providing protections against unnecessary pesticide use.

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

Melissa Hamkins, project manager at Wright-Pierce and a chemical and environmental engineer, provided background and context on bio-solid and agricultural residuals. She said it is important and appropriate to test both sources of fertilizers. Maine treatment levels are higher than Federal or many other states. She also said bio-solids serve a useful function and she supports the amendments.

Tom Fusco, 66 Board Road, Acting Executive Director of the Katahdin Center for Education and Research, spoke about language in the proposed ordinance that requires further review, stating that the ordinance fails to adequately protect the public from potential contamination risks.

(A copy of the comments are in the letter from the Katahdin Center attorney to be attached to the official minutes.)

Sean Boyles, 16 Wheeler Park, talked about the long term problem at Edwards Field, pointing out that whatever goes on it comes out in drinking water or in the Androscoggin River. He urged consideration of alternatives where children play.

Leo Theberge, Old Portland Road, speaking about Class A compost, said that even though it is not as susceptible to leaching as commercial fertilizer it is still fertilizer and requires using more, as well as costing more. Lack of an irrigation system at Edwards Field has been the biggest problem and that is being addressed this year. A slow release commercial fertilizer and proper irrigation will provide minimal risk for leaching.

Norm Cyr, General Superintendent of the Brunswick Topsham Water District, spoke to section 210.9. He said Zone one (1) is an extremely sensitive area and product applied there will get to the wells in one (1) to two hundred (200) days, and it is not a good idea. He asked the Council to consider deleting the language "as well as 210.8.C.6, 8, and 9",

Town Council Minutes

May 16, 2005

Page 7

and said the Water District cannot support the changes to the ordinance if that language stays in there.

Louisa Hart, Brunswick resident, read from Sierra Club conservation policies, which state that while they support the use of pathogen pollutant free treated human waste as fertilizer such a practice is possible only when separating the industrial waste stream from human waste. She wanted to know of the current standards for acceptable levels of metals and sludge for land application and composting and where the threshold for safety is drawn. She said the federal clean water act defines sewage sludge as a pollutant and the Town is considering spreading it on Edwards Field, which sits directly atop an aquifer. Ms. Hart opposes land application of municipal sewage sludge as a fertilizer or soil amendment because the current policies regulating it are not adequate to protect human health and the environment.

Lori Bozeman, Brunswick resident who has a daycare center at 5 Charles Court, said there are five (5) daycares in the area. The children go to Edwards Field and the Recreation Department uses it as a playground. The children are low to the ground and she urged that the Town be sure of the safety of what is proposed and consider other alternatives.

Steve Weems, 44 Thompson Street, said Class A compost is not sewage sludge. He is very definitely in favor of the proposed ordinance. It is an opportunity to promote healthy land by use of safe materials. Class A compost is a safe and beneficial soil amendment. Maine has a rigorous testing program for Class A bio-solids compost; only certain ones are approved for unrestricted distribution by the Maine DEP. Class A compost residuals are approved for use in well head protection zones in accordance with best management practices for ground water protection, and he uses Class A bio-solids in his home vegetable garden. Mr. Weems went on to offer an endorsement of Jamie Ecker, Vice President of New England Organics, supplier of Class A compost, saying he believes Mr. Ecker's recommendations.

Mary McGloin, 1 Jeff Street, said there is a creek behind her house running from the direction of Edwards Field to the river and she hopes the Council is very careful when voting on this as the creek is very bad right now and this is over an aquifer zone.

Ted Crooker, 44 Storer Road, said two thirds of Brunswick sludge ends up at New England Organics and this is a chance to recycle and keep up water quality. Class A compost offers a huge savings; it is very clean and very useable. He hopes the Council passes the ordinance amendment, it is a good compromise.

Ted Stam, Bowdoin College, commended the Town and stakeholders for a reasonable compromise. He offered some adjustments to the proposed amendments, specifically, to permit the use of fertilizers, compost, manure, or Class A residuals that are compliant with DEP Rule Chapter 419.

(A copy of the letter from Bowdoin College will be attached to the official minutes.)

Town Council Minutes

May 16, 2005

Page 8

Ed Friedman, Bowdoinham, on behalf of Friends of Merrymeeting Bay, referring to a chart on Metals Concentration and Compost Standards, pointed out that Maine's standards are not so great in relation to the rest of the world. He refuted previous comments by Mr. Ecker that Cornell Waste Management Institute were not reflective of Cornell. Mr. Friedman passed out a copy of a narrative of violations and complaints against Casella Waste Systems, the parent company of New England Organics. He urged caution as there is no worse place to do this than on an aquifer protection zone, on a field where kids and dogs are playing.

(A copy of the chart included with a letter from Caroline Snyder, will be attached to the official minutes.)

Councilor Sartoris asked Mr. Friedman whether or not his position was the officially adopted position of his board. Mr. Friedman responded that he could represent board positions without a formal vote, that the letter was his but the position represented was that of the board.

Wayne Davis, President of Maine Environmental Services, said he supports the language in the proposed ordinance. The proposed ordinance has many safeguards. Class A bio-solid residual compost is the more tested and regulated compost of the two and has a good track record for quality control. The ordinance as written will protect the drinking water.

Will Everitt, Maine field director for Maine Toxics Action Center, a group working to reduce and prevent pollution, submitted a letter applauding the ban on pesticides, requesting clarity on the emergency use of pesticides in the zone, and urging that sludge products not be allowed on the parks. He also agreed with the previous comments from Bowdoin College regarding 210.8.C 9 c.i , c.ii, and c.iii.

(A copy of Mr. Everitt's letter and one he submitted from Caroline Snyder, will be attached to the official minutes.)

Councilor Rice asked Mr. Everitt for the testing to back up his statements regarding the things that are tested in Class A.

Mr. Everitt responded by referring to Ms. Snyder's letter and saying that while cows are also given pharmaceuticals, cow manure, even composted, has pathogens. There are a couple of differences, not even Class A is tested for pharmaceuticals, so if you claim cow manure is unsafe because it has pharmaceuticals you can also claim sludge is unsafe for the same reason.

Jamie Ecker, New England Organics, provided written comments and spoke briefly about them. He is supportive of the changes that have been made to the ordinance. This is not about New England Organics, but about dealing with the facts and sound regulations based on the facts. He said that composts in Maine are tested for one hundred fifty (150) compounds. Maine is way beyond the Federal requirements for testing, which were promulgated in 1992 and are inadequate. He also pointed out inaccuracies in the

Town Council Minutes

May 16, 2005

Page 9

information presented by Mr. Friedman regarding Class A standards. He uses Class A compost in his home vegetable garden, as do most of the people at his company.

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

Chair Lowe closed the public hearing.

Chair Lowe proposed considering three items tonight: adding the verbiage in Mr. Holtwijk's memo regarding 210.8.C.9 ii; deleting the addition for APZ 1 under 210.9.A.1; and handling the store and disposal elsewhere than in APZ 2.

Chair Lowe moved to adopt the three changes, as proposed.

Chair Lowe rescinded the motion regarding the third change as there would need to be language drafted by staff.

Councilor Tucker agreed with Chair Lowe's suggested changes, however, he said the Council should simply table this and take no formal votes tonight.

Hearing no second, Chair Lowe retracted his motion.

Councilor Ansari said she needed more time to look things over.

Councilor Rice said he was pleased to receive the comments. He has no concern with using organic product, however, whatever is spread should be tested in the same fashion. He is troubled with the ordinance only applying to a small percentage of the aquifer protection zone; it should be across the board and meet the same standards. He asked for and received confirmation from Mr. Cyr that the Water District has no problem with what was proposed by staff as long as it does not apply to APZ 1; if the testing is required on any product that is applied, the Water District has no problem with it.

Councilor Sartoris was concerned with taking the Chair's proposed amendments out of context of the entire ordinance. She also agreed with Councilor Rice's comments. She expressed concern about some of the language in the documents received and also asked that, when re-advertising, it be done for an emergency basis.

Councilor Watson agreed with Councilor Rice about testing requirements and said proof of testing should be required to be shown prior to purchase. He was also interested in definitions being applied, and knowing what the Maine standards are; Chair Lowe asked the staff to look at that.

Manager Gerrish suggested that under 210.8.C Zone 2, no. 6, the words "application of" be added into the underlined phrase, to read "except for the application of class A composted residuals..." to clarify that they would not be stored or disposed of in Zone 2.

Councilor King moved, Councilor Watson seconded, to table this item until June 6, 2005, and re-advertise the public hearing. The motion carried with eight (8) yeas.

Town Council Minutes

May 16, 2005

Page 10

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

- 74. The Town Council will receive a recommendation from the Recreation Commission to enter into a lease with the Brunswick Sewer District for the use of Lishness Field and take any appropriate action.**

Parks and Recreation Director Tom Farrell reviewed the points in his memo regarding these ten (10) year leases.

Councilor Sartoris moved, Councilor Watson seconded, to thank the Brunswick Sewer District, and authorize the Town to enter into lease agreements with the Brunswick Sewer District, for the use of Lishness Field. The motion carried with eight (8) yeas.

Councilor Watson said the Brunswick Sewer District is very civic minded and asked Mr. Farrell to explain the cost to the town for the leases.

Mr. Farrell said the rent is one dollar (\$1.00) per year, and that the new agreement changes the termination notice time from ninety days to one year.

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

- 75. The Town Council will consider the recommendations of the Davis Fund Committee for the 2005 allocations and will take any appropriate action.**

Millie Stewart of the Davis Fund Committee said that requests this year totaled over \$50,000. She then read the list of recommendations.

Councilor Sartoris said she regrets losing the Winterfest concert.

Councilor Sartoris moved, Councilor King seconded, to approve the recommendations of the Davis Fund Committee for the 2005 allocations. The motion carried with eight (8) yeas.

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

The meeting adjourned at 9:55 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.

Deputy Town Clerk
May 20, 2005

June 20, 2005

Date of Approval

Council Chair