

--Approved--
BRUNSWICK TOWN COUNCIL MINUTES
September 19, 2005
6:15 p.m.
Municipal Meeting Facility

6:30 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.

Councilors Absent: None.

Town Staff Present: Donald Gerrish, Town Manager; Tracy Johnson, Deputy Town Clerk; Patricia Harrington, Assistant Town Manager; Clark Labbe, Fire Chief; John Eldridge, Finance Director; Theo Holtwijk, Director of Planning and Development; Tom Farrell, Director of Parks and Recreation Department; Steve Walker, Natural Resource Planner; Phil Carey, Town Planner; and the TV video crew.

**Executive Session: Legal Matter
Union Negotiations**

Councilor Desmarais moved, Councilor Watson seconded, to go into executive session pursuant to 1 M.R.S.A. §405(6)(D) to discuss union negotiations, and 1 M.R.S.A. §405(6)(E) to discuss a legal matter. The motion carried with eight (8) yeas.

Meeting Continued at 7:00 p.m.

Chair Lowe asked for the Pledge of Allegiance.

Minutes of Previous Meetings: August 1, 2005 and September 6, 2005

Hearing no objections from the Council, Chair Lowe declared the minutes of August 1, 2005, and September 6, 2005, accepted as written.

Public Comment: None.

Correspondence:

Councilor Desmarais said State Representative Gerzofsky is willing to speak to interested groups about the BRAC process.

Councilor Rice said Ray Labbe and Sons recently celebrated fifty years of being in business and that it is nice to see companies in town that have been around for that long. He congratulated the Labbes on their accomplishments.

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Manager's Report:

(a) Recognition/Appreciation to Phil Carey

Chair Lowe thanked Phil Carey, Town Planner, for fifteen years of dedicated service to the Town of Brunswick and its citizens.

Mr. Carey thanked the Council for their support over the years and said they have helped the Planning Department be part of many good things that have happened in Brunswick.

Mr. Gerrish said tomorrow at 5:30 p.m. in the Council Chambers there will be an official thank you to Mr. Carey. The gathering is open to the public, the Planning and Village Review Boards, the Council, and staff.

(b) Base Closure Update

Mr. Gerrish asked Assistant Town Manager Patricia Harrington to give a brief overview on the base closure process and said this will be a regular item on Town Council agendas from now on.

Ms. Harrington said last Thursday President Bush approved the BRAC panel's recommendation and sent it to Congress. Congress can stop the BRAC list process all together but it cannot pick and choose to make changes to it. It is not expected that it will be overturned. To prepare for redevelopment and community impacts, the town website has the Base Closure Preparedness Strategy Report for the public to access and they can call with any questions. The staff and the Council are working on the following: governance, coordination, and review of regulations. In addition, a request for additional funding from the Office of Economic Adjustment is being prepared.

Ms. Harrington said, responding to Councilor Sartoris' question, passes are still required to get onto the base. The Citizens Restoration Advisory Board meeting to discuss policy and what actions need to take place is open to the public, and will be held on the evening of October 4, 2005.

Mr. Gerrish said, responding to Councilor Desmarais' question about keeping the public informed, more information will be put out to the public on Cable 7 to explain the process of the base closure.

(c) Mere Point Boat Launch Update

Councilor Sartoris said the Board of Environmental Protection has issued a permit for the boat ramp. Friends of Mere Point have issued an appeal, however, Inland Fisheries and Wildlife intends to move forward with the next steps at the local level. There will be a Citizens Advisory Committee meeting on September 29, 2005, at 7 p.m. It is open to the public and will be televised.

(d) Household Hazardous Waste Collection Day – Oct. 8th

Craig Worth, Deputy Public Works Director, spoke about the Household Hazardous Waste Day which offers an opportunity for citizens to bring hazardous waste to the Public Works facility between 9 a.m. and 1 p.m. Citizens need to call and set up an appointment.

Mr. Worth said, responding to Chair Lowe's question, one of the biggest items people bring is oil based paints. He asked that they consolidate the paint into one bucket. Other items people can bring include engine degreasers, insecticides, moth balls, and stains. This day is set up for dangerous materials that are not otherwise handled by Public Works. He said not to bring old motor oil, fluorescent bulb, or batteries, because they now have collection areas for these items.

(e) Certificate of Achievement – John Eldridge III

Chair Lowe congratulated Mr. Eldridge for receiving this Certificate of Achievement for Excellence in Financial Reporting for the sixth consecutive year.

Mr. Eldridge thanked everyone for their support and recognized his department for their hard work.

(f) Donation of Historic Plaque for Mall

Tom Farrell, Director of Parks and Recreation, said the Rotary Club has requested to place a commemorative marker on the Lower Mall. The Planning and Development Department, along with advice and consent of the Village Review Board, approved the proposed wording and design. The plaque will recognize the long history of the Mall and will be placed near the gazebo. Mr. Farrell extended his appreciation to John Bibber and the Rotary Club.

John Bibber, Rotarian, said Brunswick Rotary Club has been in existence for eighty years. During that period Rotary has sponsored and assisted many local and international programs. He said they have been involved with the placement of several plaques in the Town of Brunswick and he is excited about this plaque to be placed on the Mall.

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

Councilor Desmarais expressed appreciation for the Rotary Club and the plaques they place around town.

Adjustments to Agenda: None.

161. The Town Council will hear public comments on a proposed bond ordinance for replacing the Fire Department's 1977 ladder truck, and will take any appropriate action.

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

Mr. Eldridge said the town will pay for the fire truck with a ten year bond.

Fire Chief Labbe said they have sold the old ladder truck and Topsham is still covering for Brunswick. He hopes to get the new truck ordered and delivered by the time the new substation is opened.

Chief Labbe said, responding to Councilor King's question about why Brunswick needs a truck of its own, there are eighty square miles in Brunswick and Topsham. This is a lot of territory to be covered by one truck. Also, the timing is perfect since Topsham's truck is half way through its life span and it will keep the two communities in a good balance to have service all the time. In addition, if Brunswick continues without a truck the insurance rating will be lowered, causing an increase in everyone's rates.

Chief Labbe said, responding to Councilor Watson's question, though the incidents of fires in the downtown or built up areas are low, when they do occur there are two to five ladder trucks assisting. If trucks get spread out too far regionally, there are not second or third ones to come in and help.

Councilor Desmarais moved, Councilor Watson seconded, to adopt the Bond Ordinance Authorizing the Acquisition of a Fire Truck and Issuance by the Town of its Bonds and Notes in an Amount not to Exceed \$800,000 Plus 2% for Costs of Issuance. The motion carried with eight (8) yeas.

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

162. The Town Council will hear public comments on proposed zoning amendments intended to promote and stimulate the creation of affordable housing units, and will take any appropriate action.

Theo Holtwijk, Director of Planning and Development, said the list of zoning amendments would require the town to waive impact fees, award bonus units to affordable housing projects, and provide the ability for the town to allow development flexibility. All of this will promote guaranteed affordable housing projects. Responding to Councilor Desmarais' question, he also said that in a previous memorandum Mark Eyerman suggested fifteen to twenty years of affordability on ownership and thirty years on rental units. The Council chose to amend the proposed ordinance to twenty years on ownership.

Claudia Knox, Cumberland Street, said she would like the timeframe changed before the ordinance is adopted. She suggested that in paragraph 310.2 the timeframe for ownership should be lowered from twenty years to ten years.

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

Jane Millett, 10 Franklin Street, said she has been on the Brunswick Housing Coalition for five years. She agrees with Ms. Knox that the timeframe should be reduced. This amendment is the first step in affordable housing for many people, not just the poor. She hopes the Council will support the proposed zoning amendments. She said developers will see section 310.2 as a real risk for them and it needs to be more specific.

Brett Farbstein, 14 Middle Street, Executive Director of the Bath/Brunswick area Habitat for Humanity, said he would like to see the amendments pass and looks forward to partnering with the town and other housing providers to ensure that affordable homes are available to everyone.

Sally Delgreco, 90 River Road, Secretary for Bath/Brunswick Habitat for Humanity said there is a limited supply of affordable housing in this town, and urged the Council to vote favorably on this ordinance.

Chair Lowe closed the public hearing.

Mr. Holtwijk said, responding to Chair Lowe's question concerning the period of enforceability timeframe, section 310.2, on page 3, came from Geoff Hole, Town Attorney; there is a period of enforceability but it depends on the project. Mr. Hole also wanted to ensure that the agreement between the builder and the town was upheld and would be recorded in the registry of deeds. Mr. Holtwijk said, referring to a memorandum dated August 11, 2005, that the opinions about ownership timeframes range from ten to fifty years. Mr. Holtwijk is supportive of less time for those seeking fewer subsidies.

Councilor Rice asked if there is a cap on how much the homeowner could recapture and, if so, is there something in place that allows the remainder of the funds to be put back into the program to promote more affordable housing.

Mr. Holtwijk said it is reasonable to recapture some of the cost when the homeowner sells and roll it back into affordable housing. If the property is financed by the Maine State Housing Authority the issues would be laid out already on the restrictions and limitations of what the homeowner can do.

Chair Lowe rewrote the language in section 310.2 as follows: "The period of enforceability shall be guaranteed by the developer in a document recorded at the Cumberland County Registry of Deeds, satisfactory to the Town."

Councilor Sartoris moved, Councilor Galloupe seconded, to adopt the Affordable Housing Zoning Amendments, as amended to change ownership from 20 years to 15 years and to include in section 310.2 the words "a document recorded at the Cumberland County registry of deeds."

Councilor Ansari said she would prefer the timeframe to be reduced further to ten years.

Councilor Desmarais agreed with Councilor Ansari.

After Council discussion it was decided that the ten year timeframe would be sufficient.

Councilor Sartoris withdrew her prior motion.

Councilor Sartoris moved, Councilor Galloupe seconded, to adopt the Affordable Housing Zoning Amendments, as amended to change ownership from 20 years to 10 years and to include in section 310.2 the words “a document recorded at the Cumberland County registry of deeds.” The motion carried with eight (8) yeas.

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

163. The Town Council will consider setting a public hearing on proposed amendments to the Town Charter that the Town Council has placed on the November 8, 2005 ballot, and will take any appropriate action.

Mr. Gerrish said the Council needs to set a public hearing to discuss the proposed charter amendments that the Council authorized at the September 6 meeting. He recommended setting a public hearing for the October 3, 2005 meeting.

Chair Lowe moved, Councilor Watson seconded, to set a public hearing for October 3, 2005, on proposed Charter Amendments pursuant to Title 30-A §2528(5). The motion carried with eight (8) yeas.

164. The Town Council will consider naming an Aquifer Protection Zone and Coastal Protection Zone Residuals Peer Review Committee, and will take any appropriate action.

Councilor Sartoris said she and Councilor Ansari, along with Steve Walker, Natural Resource Planner, are recommending five individuals to serve on the APZ-CPZ Biosolids Peer Review Committee. They are: Samantha Langley, Sharon D’Orsie, Andrews Tolman, Michael Deyling, and John Tewhey.

(A copy of the recommendations and their resumes will be attached to the official minutes.)

Councilor Sartoris asked the Council to approve the group. The first meeting will be at the Morrell meeting room on October 7, 2005, at 7 p.m. They then will meet every other Tuesday through November 29, 2005.

Councilor Ansari said she is pleased with the group selection and impressed by their accomplishments.

Councilor Sartoris said, responding to Councilor Rice’s question, the Council will not be involved. It is a peer review group and the group will conduct the meetings. She and

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Councilor Ansari will attend the meetings, Mr. Walker will field questions, and the only Councilor involvement would be to answer questions about the Council process. This is intended to be a factual scientific review. She asked that the public please not contact the peer review group members at their homes. The public is welcome to come to the meetings and ask questions.

Councilors King and Ansari said it would be better if the public did not get involved until the end, after the group has made a decision.

Mr. Walker said, responding to Councilor Ansari's question, staff is compiling all of the Planning Board minutes, staff packages, correspondence, and Council minutes and materials to give to the Peer Review Committee to help them determine how they want to structure the meetings.

Councilor Rice said if they are appointed it is because they have expertise in a variety of related areas. He feels it should be up to the group whether they allow public involvement throughout the meetings.

Chair Lowe said, given the fact that they assembled the Peer Review Committee based on a recall of an ordinance the Council passed, some form of public comment should be allowed at meetings. He said the committee should be allowed to determine the amount of public participation.

Councilor Galloupe and Councilor Rice agreed the Peer Review Committee is to review the material and give factual decisions, not emotional thoughts. The report will come back to the Council and at that time the public should be allowed to voice their opinion.

Councilor Watson moved, Councilor Sartoris seconded, to approve the five members for the Aquifer Protection Zone and Coastal Protection Zone Residuals Peer Review Committee, and will take any appropriate. The motion carried with eight (8) yeas.

Councilor Rice said, responding to Councilor Desmarais' inquiry regarding a ballot question pertaining to the old high school, he was given the opportunity to have something on the agenda this evening, but did not have enough time, so he asked to have it delayed until the October 3, 2005, meeting.

Councilor Sartoris said they talked about a Times Record committee update for this meeting, but preferred to have a workshop instead, because more time is needed to discuss the issues concerning the old high school.

165. The Town Council will consider setting a public hearing to amend the shellfish ordinance to allow for Sunday harvesting year round, and will take any appropriate action.

Steve Walker, Natural Resources Planner, said the Marine Resources Committee has been working for a year on four amendments to the shellfish ordinance. Currently,

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Sunday harvesting for commercial and recreational diggers is only allowed in June, July and August. This amendment would increase the number of days the diggers are on the flats by thirty-nine days. However, this change was requested based on the increased number of rainfall closures. When there is two inches of rain or more the flats have to be closed statewide. This year there were twenty rainfall closures and seven weeks of red tide closures. Therefore, the number of days the flats are unavailable has increased and this amendment is intended to balance out those days.

Mr. Walker said, responding to Chair Lowe's question, the total number of days the shellfish harvester will be allowed to dig is still only 245 days. The other days are set aside for rainfall and red tide closures.

Councilor Sartoris moved, Councilor King seconded, to set a public hearing for October 3, 2005, on proposed amendments to the shellfish ordinance to allow for Sunday harvesting year round, to be advertised on a regular and emergency basis. The motion carried with eight (8) yeas.

166. The Town Council will consider setting a public hearing to amend to the shellfish ordinance to create a conservation time requirement, and will take any appropriate action.

Mr. Walker said this is to require the shellfish harvesters to take an active role in managing the resource. Several other towns such as Freeport and West Bath already require conservation time. Harvesters would get credit for attending Marine Resource Committee meetings and helping with shellfish surveys. They would be required to get at least ten credits in order to be eligible to get a license the next year.

Mr. Walker clarified, responding to Manager Gerrish's question, harvester's receiving licenses in the 2006 licensing year will be required to start putting in conservation time during that year to be eligible for the 2007 licenses.

Ralph Keyes, Chair of the Marine Resource Committee, clarified that this amendment would require currently licensed diggers to obtain conservation credits but not new applicants.

Councilor Sartoris moved, Councilor Desmarais seconded to set a public hearing for October 3, 2005, on proposed amendments to the shellfish ordinance to create a conservation time requirement. The motion carried with eight (8) yeas.

167. The Town Council will consider setting a public hearing to amend the shellfish ordinance to allow for a licensee's designated representative to pick up his/her license at the Town Clerk's office, and will take any appropriate action.

Mr. Walker said there is concern by some harvesters that they are unable to leave town in late winter or early spring when licenses are issued. The licensee would be required to

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submit a notarized statement to the Town Clerk's Department designating someone to pick up their license should they be unable to do so.

Tracy Johnson, Deputy Town Clerk, said, responding to Councilor King's question regarding mailing the licenses, one reason for the requirement to pick up a license is because the licenses are paid for at that time and there have been problems in the past with harvesters receiving their mail.

Councilor Sartoris moved, Councilor Desmarais seconded, to set a public hearing for October 3, 2005, on proposed amendments to the shellfish ordinance to allow for a licensee to designate a person to pick up his/her license. The motion carried with eight (8) yeas.

168. The Town Council will consider setting a public hearing to amend the shellfish ordinance to permit persons over 65 to obtain free commercial licenses, and will take any appropriate action.

Mr. Walker said several senior harvesters requested this amendment based on the recreational license ordinance that allows for persons sixty-two years old to obtain a free license.

Councilor King said she is reluctant to eliminate the fee because there are many different types of licenses that require a fee regardless of the age of the licensee.

Councilor Rice said he is typically in favor of giving seniors breaks, but since this is a commercial license for their profession he is hesitant to agree and he will not support this item.

No action was taken.

The meeting adjourned at 8:45 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.

*Tracy R. Johnson
Deputy Town Clerk
September 22, 2005*

October 3, 2005

Date of Approval

Council Chair