

-- APPROVED --
BRUNSWICK TOWN COUNCIL
MINUTES
July 21, 2008
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; John Eldridge, Finance Director; Jeff Hutchinson, Codes Officer; John Goran, Cable TV Coordinator; Russ Wrede, Police Lieutenant; and the TV video crew.

Executive Session: Acquisition of Property as per 1 M.R.S.A. § 405(6)(C)

Councilor Augur moved, Councilor Knight seconded, to go into Executive Session to discuss acquisition of property as per 1 M.R.S.A. §405(6)(C). The motion carried with six (6) yeas. Councilor Klatt, Councilor Daughtry, and Councilor Webb arrived after the vote.

Meeting Resumed at 7:00 p.m.

Chair King called for the Pledge of Allegiance.

Public Comment:

None

Correspondence:

Manager Gerrish said there was a letter from the Department of Commerce stating the town will be getting a grant for \$850,000 after it completes a few steps. The funds are to be used to assist with the Maine Street Station project.

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

Adjustments to the Agenda: None

Manager's Report:

(a) Financial Update

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Manager Gerrish said the town finished the Fiscal Year with revenues between \$325,000 and \$375,000 more than the town budgeted, and with expenses \$200,000 under budgeted amounts. This would add between \$500,000 and \$550,000 to the fund balance.

(b) Council Committee Updates

Councilor Webb said on July 10, 2008, the Economic Feasibility Committee met with the consultant regarding infrastructure cost for the parcels. They hope to have construction costs next week. There has been a site walk by the Department of Environmental Protection (DEP), with an update expected at their next meeting.

Chair King said there have been comments on the Brunswick Economic Development Corporation's (BEDC) role with the business park, and she wants to clarify some things. Citizens donate their time and expertise to committees and this includes the economic development specialists on the BEDC. If the Council is going to publicly discredit them, she recommends disbanding them instead of continuing to insult people by discrediting their work. Chair King also thanked the Rotary, who donated historic plaques throughout the town, and the more recent one at Wharton's Point. At the last Council meeting she let Councilor Klatt abstain from minutes, but she was wrong to do so since the Council rules did not allow abstaining unless there is a conflict of interest.

Councilor Klatt announced she is going to be at the Little Dog Coffee Shop from 10 a.m. to noon this Saturday for anyone who has questions. She added, in response to Chair King's statement, the BEDC is a nonprofit corporation - not a committee. The committees are open and minutes are available. The BEDC meetings and minutes are not open to the public.

Manager Gerrish said he and Chair King attended a meeting on the Harpswell/Brunswick town line issue to listen to what was being brought forth by Harpswell citizens. At this point it is up to Harpswell if they want to do anything else. Chair King added there was no new information since the issue had been settled years back.

(c) Update on Mere Point Boat Launch

Manager Gerrish said the final issue is the moorings, and there has been a plan submitted to the DEP. The Department is reviewing it and they hope to have it done by this week. The launch will then be able to open. He thanked Representative Gerzofsky for his assistance on this matter.

Representative Gerzofsky added that the project is closer to being finalized based on information he heard from DEP.

(d) MDOT Paving Project

Manager Gerrish said the Maine Department of Transportation (MDOT) is going to be repaving Route One from Mill Street and then repaving Route 1 from where it first

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becomes divided at the Mill Street underpass to the Cooks Corner on-ramp. The work will not start until August 11 and must be completed by September 19.

(A copy of an email from John Foster will be included the official minutes.)

(e) Digital TV Transition

John Goran, Cable TV Coordinator, explained what will be happening with the Digital TV Transition and who will need a converter box. He has additional information on the Cable TV site.

(Information regarding this transition will be attached to the official minutes.)

(f) Update on new Maine Legislation (LD-2133) Act to Amend Cable TV Laws

Mr. Goran updated Council on the new Maine Legislation (LD-2133) Act to Amend Cable TV Laws. This law will strengthen the Maine Consumer Protection Law regarding Cable TV Subscribers. The state is now standing behind towns recognizing their authority around cable franchise agreements. Brunswick is in good shape since they had an ordinance in place prior to doing their franchise agreement. There is a working group to develop a model franchise agreement that will be good enough so that cable companies and towns accept it, and the legislature will be happy. It should reduce the cost of attorneys when negotiating cable agreements.

(A copy of a press release related to this, along with the Legislation, will be attached to the official minutes.)

(g) Nomination Papers available

Fran Smith, Town Clerk, said the Nomination papers for the November 4 Municipal Election will be available beginning July 25, 2008, and are due back to the Town Clerk's Office by Friday, September 5, 2008. The offices up for election are Town Council and School Board members for District 5, 7 and At Large.

Councilor Augur announced he will not be running for re-election in District 7.

(h) Subcommittee on Disposition of the Old High School

Manager Gerrish said the Superintendent of Schools asked to have the Council talk about this. He added Chair King would like to appoint a subcommittee of three Councilors to work with the School Board subcommittee on the events and memento opportunities that exist around the razing of the old Brunswick High School.

Chair King appointed Councilor Favreau, Councilor Watson, and Councilor Tucker, who are alumni of the old high school, to serve on the committee.

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Councilor Knight asked to recycle materials from the school. Councilor Daughtry said the majority of the building will be recycled and used on site.

Councilor Watson said they are meeting Wednesday night at Town Hall.

122. The Council will hear public comments on an amendment to Chapter 5, Section 5-52 (Building & Building Regulations), Article II, (Building Standards) of the Municipal Code of Ordinances relative to swimming pools, and will take any appropriate action.

Chair King opened the public hearing.

Michele Brock, 4 Balsam Avenue, thanked the Council for enacting this ordinance on an emergency basis. Their goal was to ensure a tragedy will not happen elsewhere. It is imperative that the codes be up to date. She would like the Council to update the 1990 BOCA (Building Officials and Code Administration International Inc.) version the town follows and she asked why it had not been updated. She has begged the Council to look into their hearts to update this code. Pools should have restricted access at all times. In conclusion, she believes most homeowners want to do the right thing and by adopting the more strict pool guidelines, this will help them to do that.

Christopher Ledwick, 4 High Street, spoke in support of updating the BOCA codes, which will address the gap and explain better what a 4 foot gap is. He asked the Council to consider adopting the 1996 BOCA guidelines for the pools section.

Scott Taylor, 11 High Street, spoke in support of the Brocks and the importance of updating the BOCA Codes. He has concerns about portable blowup pools that have no fencing.

Manager Gerrish said the town needs to let people know that the blow up pools need to have permits.

Chair King said the Council will be addressing that and other issues, like the Code update, in the future.

Chair King closed the public hearing.

Manager Gerrish said, responding to Councilor Augur's question, the 1996 Code will be the same as the 2006 codes regarding pools.

Councilor Daughtry asked why the Council could not update the code prior to 2009 (when all towns have to adopt it by state law.)

Manager Gerrish said this is relative to all building construction and it has been looked at in the context of what ordinance changes would be needed. They can make a difference

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for pools sections, but the bigger code requires changes to town ordinances, which will take time to work on.

Manager Gerrish said, responding to Councilor Klatt's question about why the town has not changed the code, the town looked at this in the past and the Council did not want to make just some of the changes, so they chose not to update it then.

Councilor Klatt asked if the Council could add stricter language to require having a fence around any pools. Also, she asked what the violation is for having a ladder hanging off a pool.

Manager Gerrish responded the town could require the fencing; the town first would have to tell them to move the ladder and then if that did not happen, the violation process could begin, which includes the court.

Councilor Klatt added if someone is irresponsible by leaving a ladder or other thing next to pool, it could cause a death and should be a violation that is strong. Manager Gerrish said the town is looking at getting something beyond the normal process, and responding to Councilor Daughtry's question, if given notice and not take care of, it could fall under the new Citation Ordinance.

Councilor Augur moved, Councilor Favreau seconded, to adopt an amendment to Chapter 5, Section 5-52 (Building & Building Regulations), Article II, (Building Standards) of the Municipal Code of Ordinances relative to swimming pools on a regular basis. The motion carried with nine (9) yeas.

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

123. The Town Council will hear public comments on an amendment to Chapter 15, Article IV of the Municipal Code of Ordinance to designate a No Parking area on a section of Potter Street, and will take any appropriate action.

Councilor Knight said some constituents felt this was a dangerous intersection. John Foster felt it should be 36 feet of No Parking to make it safe.

Chair King opened the public hearing; hearing no comments, she closed the public hearing.

Councilor Watson asked if anyone notified the neighbors. Manager Gerrish responded there was no notice beyond the normal advertising.

Councilor Watson moved, Councilor Webb seconded, to table this item until neighbors are notified.

Manager Gerrish said he would need some guidance as to who to notify and added that this is something that was not done in the past with similar situations.

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Councilor Tucker said he did not support tabling.

Councilor Knight added it is a public safety issue.

Councilor Daughtry will support the ordinance adoption, but asked that the neighbors get a notice.

Councilor Watson moved, Councilor Webb seconded, to table this item until neighbors are notified. The motion failed with two (2) yeas. Councilor Tucker, Councilor Daughtry, Councilor Klatt, Chair King, Councilor Favreau, Councilor Knight, and Councilor Augur were opposed.

Councilor Watson said he will favor this change since it is public safety issue, but he would like to notify abutters. He also wanted other locations identified as safety issues, like the corner of Page and Union Streets.

Councilor Knight moved, Councilor Augur seconded, to adopt an amendment to Chapter 15, Article IV of the Municipal Code of Ordinance to designate a section of Potter Street, commencing from Union Street and extending easterly 36 feet, as a No Parking area. The motion carried with eight (8) yeas. Councilor Webb was opposed.

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

124. The Town Council will consider setting a public hearing on the Comprehensive Plan Update, and will take any appropriate action.

Manager Gerrish said this item is to consider setting a public hearing for August 4, 2008, on the Comprehensive Plan Update. The planner has prepared a memo, which the Council can discuss, that she wishes to include in the Comprehensive Plan for the public hearing.

(A copy of Ms. Breinich's memo, which will be referenced in the following Council discussion, will be included in the official minutes.)

Councilor Knight said under #2 of the memo, she appreciated the new paragraph.

Anna Breinich, Director of Planning and Development, responding to Councilor Knight's question on the removal of Table "A" under #3 of memo, explained the table supplements text that is there. There is language in the Comprehensive Plan to look at current zoning districts and see how they can change.

Ms. Breinich said, responding to Councilor Augur's question about the flexibility of a long range planning committee under #4 of the memo, currently there is language on having a long range planning committee. The Planning Board would like to serve in that

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regard, and there should be more flexibility in determining plan implementation oversight. They can also be task oriented, like for reviewing the zoning ordinance.

Councilor Webb asked about the recommended language for #1 (the Gateway issue). There is some question if the Comprehensive Plan thought about this.

Ms. Breinich added this is a guide and basically leaves room for interpretation by Planning Board or the Council.

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

Councilor Tucker said he is against adding the new language since it is too broad. The Planning Board looked at this already, and Councilor Augur wanted to add language to support the project. It is improper to add this language at this time.

Councilor Augur said he felt the language is not promoting a result, but gives the Planning Board and the Council the flexibility to address issues throughout town, not just on Stanwood Street. Because the Council had this discussion two weeks ago, he thought it made sense to specify that the plan did not mean the Town and/or Planning Board could not do something specific on this issue. It would give the Council the flexibility to address issues in this and other locations.

Chair King said for the record some of the Update Committee members did not feel that it was appropriate to stand at the microphone and disagree with the presenter, but they did contact her that they disagreed with the what the majority was portrayed, but the decision is the Council's and allows for more flexibility.

Councilor Augur read the memo from Ms. Breinich on the gateway issue and this gives more ability to look at what this means, and the planner said this memo was in response to the review being done on the highway commercial change for Stanwood Street. It gives the Planning Board and Council the flexibility to do it.

Councilor Webb said this language will give the Planning Board and/or Council the flexibility they need on this issue. He will support it, but it does not mean he will support Walgreens.

Councilor Tucker said he is extremely disappointed in bringing changes without a chance to review.

Councilor Klatt said she is confused and has not been able to watch the video of the workshop. She was also concerned about getting the information so late.

Chair King said the bottom line is the Council has to make a decision what goes to public hearing, and Ms. Breinich has outlined the issues that had been discussed at the workshops.

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Councilor Webb said he had concerns that the Council does not have the final report from the consultants on the business park, and this might be a reason to postpone the public hearing. He added he will not be at the August 4 meeting.

Chair King said she felt that the Council covered this in their discussion and covered steps as outlined in business park.

Item #1 – Gateways

Councilor Augur moved, Councilor Favreau seconded, to add language as prepared by Ms. Breinich to the Gateway Corridor District section of the Comprehensive Plan (pg 86) by adding “as well as areas as shifting between incompatible zoning districts, i.e., high intensity commercial to low density residential.”

Councilor Tucker said he wanted the original language included in the Plan to be what went to public hearing.

Councilor Daughtry added the Committee supported that rather than inserting sentence tonight. She will be supporting the original language.

Councilor Watson ask if could put in new language in. Chair King said this is not ordinance and could be added now or later.

Councilor Augur said he is willing to withdraw his motion tonight, but include possibly for a future meeting.

Chair King said she wanted to have a vote to see where the Council is on this issue.

Manager Gerrish added even after the public hearing, changes can be made to the Plan.

Chair King felt it might be better to put language out there so that the public will have the opportunity to look at it.

Councilor Klatt suggested tabling since Councilor Webb will not be there.

Councilor Daughtry expressed concern about the public hearing in August with so many people on vacation.

VOTE ON MOTION:

Councilor Augur moved, Councilor Favreau seconded, to add language as prepared by Ms. Breinich to the Gateway Corridor District section of the Comprehensive Plan (pg 86) by adding “as well as areas as shifting between incompatible zoning districts, i.e., high intensity commercial to low density residential.” The motion carried with six (6) yeas. Councilor Tucker, Councilor Daughtry, and Councilor Klatt were opposed

Item #2 – Town Core Density

Councilor Knight moved, Councilor Favreau seconded, to add the language under #2 of Ms. Breinich’s memo regarding Town Core Density.

Councilor Daughtry said she strongly opposed this change. It will be opening a can of worms and issues if a neighborhood can set its own standards. She prefers to leave it as is.

Councilor Webb asked what would be the process to make changes to density.

Ms. Breinich responded this is a guide, not an ordinance; there is guidance given in other areas except in town core. The language is saying it’s consistent with maintaining character and. She worked with Margaret Wilson on the language and it was given to Comprehensive Plan Committee and Planning Board to review.

VOTE ON MOTION

Councilor Knight moved, Councilor Favreau seconded, to add the language under #2 of Ms. Breinich’s memo regarding Town Core Density. The motion carried with eight (8) yeas. Councilor Daughtry was opposed.

Item #3 – Removal of “Table A”

Councilor Knight moved, Councilor Augur seconded, to remove Table A as outlined under #3 of Ms. Breinich’s memo. The motion carried with nine (9) yeas.

Item #4 – Establishment of a Long-Range Planning Committee

Chair King said she would feel more comfortable removing this language under #4 and have Town Council appoint a subcommittee to help with implementation.

Councilor Daughtry said she would like the Council to appoint a committee.

Manager Gerrish said there are two issues; one is an implementation committee and how the Comprehensive Plan implementation will work over time; Second, there will need to be a special committee to look at zoning issues and changes.

Charles Frizzle, Chair of Planning Board, said the board discussed this item with four members present; they felt appointing a separate committee to implement would further dilute the process. They felt they could handle the implementation and the Council could appoint task force(s) if necessary. Appointment of a second committee would be wasteful of town staff’s time and resources.

Councilor Augur said the one concern that has been raised is the time commitment added to Planning Board.

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Mr. Frizzle said he spoke with five members and felt they could handle the workload.

Councilor Favreau said they could appoint subcommittees if necessary.

Councilor Webb asked about how to add language to the document to help look at long range planning that the Planning Board and/or Council are doing.

Mr. Frizzle said he supports the proposed language.

Chair King said the second paragraph in #4 gives this language.

Ms. Breinich added this change gives the Council flexibility to determine how to implement it.

Councilor Webb moved, Councilor Watson seconded, to have the Planning Board in charge of the implementation of the Comprehensive Plan.

Councilor Daughtry said she would like the flexibility of having a committee but not that she is opposed to Planning Board doing it.

Manager Gerrish said this allows having a long-term planning committee or Planning Board do this. The Council always has the authority to appoint committees to help out.

Councilor Augur said under the added language, the Council may appoint additional committees to assist to the Planning Board if they feel it necessary to help process. Councilor Webb and Councilor Watson agreed.

VOTE ON MOTION

Councilor Webb moved, Councilor Watson seconded, to have the Planning Board in charge of the implementation of the Comprehensive Plan. The motion carried with seven (7) yeas. Councilor Tucker and Councilor Daughtry were opposed.

Item #5 – Growth Area Expansion:

Ms. Breinich said this gives the option of expanding the growth area include base property and possible West Brunswick.

Councilor Daughtry moved, Councilor Tucker seconded, to delete beginning Chapter 5 Policy Area 8 under on page 51 all paragraph except first sentence which has a reference to a business park, to delete the key objection 1, 2, 3 which is the process that we have followed, and delete Chapter 7, under D Rural Areas page 79 and 80 which talks about business park on Old Portland Road and all development standards on page 80.

Councilor Daughtry said they have already followed the process, but it is too specific language to be in a general guideline.

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Chair King said if that language removed, can they can still change growth zone?

Councilor Augur recommended rephrasing to the effect the town sought out opinion of economic specialist and they completed the report. He would object to the remaining removal since this was such a major part of their discussion. Plus, if there is a business park built, he wants the history of the work to be part of this document, which showed there was a process that was laid out and followed. It is important as a record.

Councilor Tucker said he is supporting the motion; the business park issue is what held up passing the Comprehensive Plan. He feels this would remove the business park option and expansion of growth zone. He wants this part of the record.

Councilor Webb said the study is not back so he does not have the final answers. In light of what he is hearing, he would like to delay the vote so he has some answers.

Councilor Watson said that question is already on record, when Councilor Daughtry asked it to be removed and Council voted to keep it in the Comprehensive Plan.

Councilor Webb said if support motion, it limits ability to move growth zone.

LISTEN:

VOTE ON MOTION

Councilor Daughtry moved, Councilor Tucker seconded, to delete beginning Chapter 5 Policy Area 8 under on page 51 all paragraph except first sentence which has a reference, to delete the key objection 1, 2, 3 which is the process that we have followed, and delete Chapter 7, under D Rural Areas page 79 and 80, which talks about business park on Old Portland Road, and all development standards on page 80. The motion failed with three (3) yeas. Councilor Watson, Chair King, Councilor Favreau, Councilor Knight, Councilor Augur, and Councilor Webb were opposed.

Councilor Watson moved, Councilor Tucker seconded, to accept changes as outlined in the June 24 memo subject matter "Compilation of Substantive Comprehensive Plan Update 2008 Revisions," except for reference to Table A. The motion carried with nine (9) yeas.

Councilor Watson moved, Councilor Tucker seconded, to set a public hearing for September 15, 2008, on the Comprehensive Plan Update. The motion carried with nine (9) yeas.

CONSENT AGENDA:

- a) Approve Minutes of July 7, 2008
- b) Approve Minutes of May 5, 2008
- c) Releasing tax acquired property (Map U08 Lot 063)

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d) Approve Utility Location Permits from Maine Natural Gas

Councilor Augur removed Consent Agenda Item A to be considered separately.

Councilor Augur moved, Councilor Watson seconded, to approve the remaining Consent Agenda, including approving the four utility location permits with the conditions as outlined in a memo from John Foster, and with a correction to spelling on the May 5 minutes. The motion carried with nine (9) yeas.

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

Councilor Augur moved, Councilor Watson seconded, to approve the minutes of July 7, as amended on pages 8, 9, and 6. The motion carried with nine (9) yeas.

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

The meeting adjourned at 9:45p.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
December 1, 2008*

December 15, 2008

Date of Approval

Council Chair