



## **Town Council Minutes**

**September 20, 2004**

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Councilor McCausland noted the passing of Ray Labbe, saying that Mr. Labbe, as well as his family, contributed greatly to the Town of Brunswick in a variety of ways over the years.

Manager Gerrish said he was pleased to announce that Fran Smith, Town Clerk, was given an award at the state conference on elections for her outstanding contributions to the elections process. The Lorraine M. Fleury award was presented by the office of the Secretary of State.

Fran Smith thanked her staff for their teamwork and support. She thanked the many election workers who take time to train and work at the polls. In addition, she thanked Manager Gerrish for being a great boss.

### **Manager's Report:**

#### **a) Hazardous Household Waste Collection Day**

John Foster, Director of Public Works, said the annual fall household hazardous waste collection day is October 9, 2004, from 9 am to 1 pm at the Public Works Department, Industry Road. He said citizens must pre-register and pamphlets are available outlining the types of hazardous materials that will be accepted and the procedures necessary to dispose of the waste. There were two hundred ten (210) participants last year, and this year Bath and Topsham will join in Brunswick's hazardous household waste collection day.

#### **b) GFOA Award: Finance Department**

This item was not discussed at this meeting.

#### **c) Bike Friendly Community Award**

**John Balicki**, co-chair of the Brunswick Pedestrian Advisory Committee, said he wanted to update the Council on a couple of bicycling and pedestrian related events, which signal why the Town of Brunswick was given the award. He gave the Council a draft of the bicycle and pedestrian improvement plan. There is a public meeting to review the plan on Thursday, October 28, 2004, at 7pm. Coming up is the Fall Ride for Families, Sunday October 17, 2004, at 9am at the High School parking lot. No registration is needed.

**Jeff Miller**, Executive Director of the Bicycle Coalition of Maine, said the League of American Bicyclists is the nation's premiere cycling organization. Brunswick was selected as one of thirty eight (38) communities nationwide to be given the Bike Friendly Community Award. The town should be proud because since the 1970's the town has had a bike plan. The Androscoggin trail is the most recognized bicycle facility and the bike committee is the most recognized in the state. The Police Department is active in bicycle training; thirty (30) of thirty seven (37) officers have participated in bike training. Fifty three percent (53%) of arterial lanes have bike access. In the future the committee would like to expand bike lanes, offer safe routes to school, as well as better bike racks,

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and extend the Androscoggin bike trail. He thanked the committee, Phil Carey, John Foster and the Council and congratulated Brunswick as the first community in the state of Maine to receive this award. He presented the Town of Brunswick with a bike rack.

*(A copy of the press release will be attached to the official minutes.)*

### **d) American Planning Association Award**

Mr. Holtwijk, Director of Planning and Development, said Planning and Development received an award for its rural smart growth plan and a proposed approach to wild life habitat. Because Brunswick won in the State of Maine, it will now compete with New Hampshire and Vermont for the New England award.

### **Access to Transportation Project Report**

Mr. Holtwijk said the Transportation Project with Kathy Frank is looking at transportation needs for the elderly or those with physical disabilities. A meeting is scheduled for early October to discuss collaborative efforts with a variety of services to finalize the plan. The Department of Transportation will give forty thousand (\$40,000) dollars to assist in the efforts. A draft is being prepared and when complete will be offered to the Council. Mr. Holtwik said he would like the Community to remember the citizens without the means to get around town and he has asked the Council for five thousand (\$5,000) dollars to help with these efforts and said Bowdoin College has agreed to donate five thousand (\$5,000) dollars.

### **e) Cook's Corner Substation Update**

Councilor Rice said they made trips to look at other fire stations and see what was done for firefighters in other communities. This helped the committee to recognize the need for things such as fourteen (14) foot doors and space needs. Deputy Chief Labbe is putting together a proposal for space requirements in the new sub-station. It is moving forward, with interest from contractors and designers.

Councilor Sartoris asked for a schedule of moving forward and expressed her concern with the November 2<sup>nd</sup> vote on the Palesky proposal. She is concerned that people working on this will be wasting time if Question One passes.

Manager Gerrish said no actual work is being done until after the election. Contractors were asked to give proposals only. If the Palesky initiative passes, it will affect the substation.

### **f) Firefighters Safety Grant Approval**

Deputy Chief Labbe said the fire department has received a grant from the Department of Homeland Security of approximately one hundred fifty eight thousand dollars (\$158,000) with the local match of seventeen thousand dollars (\$17,000). It will allow for research on breathing apparatus to select the best for the community and the safest gear for the

firefighters. It will allow replacement of all breathing gear and an upgrade of the call firefighters gear so they will be up to the same standards as the full time firefighters.

Manager Gerrish asked the Council to accept the grant and noted there is a match of seventeen thousand dollars (\$17,000) that would come out of this year's budget.

**Councilor Watson moved, Councilor Sartoris seconded, to accept the Firefighters Safety Grant and to allow expenditure of the Firefighters safety grant in the amount of one hundred fifty eight thousand dollars (\$158,000) with an additional town match of seventeen thousand dollars (\$17,000). The motion carried with (9) yeas.**

**Adjustments to Agenda:**

Manager Gerrish said Item one hundred fifty six (156) Sellers of Prepared Food on a Public Way was withdrawn by the applicants and the license fee will be reimbursed.

- 155. The Town Council will hear public comments on the following requests for Food Services Licenses and will take any appropriate action.**

**Gail Riendeau d/b/a Burrito Express  
162 Pleasant Street**

**Gail V. Riendeau**

**Paul Harrison & Julie Beane d/b/a Little Dog Coffee Shop  
87 Maine Street**

**Paul Harrison & Julie Beane**

Chair Lowe opened the public hearing.

Paul Harrison said he and his wife Julie Beane would be opening the Little Dog Coffee Shop on the corner of Maine and Bank Streets. They withdrew their application for the Seller of Prepared Food on a Public Way, because the season is coming to an end.

Chair Lowe closed the public hearing.

**Councilor Sartoris moved, Councilor Priest Seconded to approve the requests for Food Service Licenses for Burrito Express and Little Dog Coffee Shop. The motion carried with nine (9) yeas.**

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

- 156. The Town Council will hear public comments on the following request for a Sellers of Prepared Foods on a Public Way license and will take any appropriate action.**

**Paul Harrison & Julie Beane d/b/a Little Dog Coffee Shop  
87 Maine Street**

**Paul Harrison & Julie Beane**

The application was withdrawn by the applicant.

**157. The Town Council will receive public comments on proposed amendments to the Weapons Ordinance and will take any appropriate action.**

Chair Lowe opened the public hearing.

**Jean Murray**, Bridge Road, said she is the one they are complaining about. She explained that they have complied with the Police Department and it is a safe area to shoot. She is assured that the noise is not too loud for the daycare or equestrian stable because they tested with a decibel meter. She is very upset with previous meetings where the topic was discussed without her knowledge.

**Lisa Hopkins** introduced her three children and explained why she thought there should be an ordinance amendment; it is a safety concern having guns so near while horse riding.

**John Trafton**, 38 Bridge Road, owner of Sable Oak Equestrian Center, said that on numerous occasions gunfire has caused horses to startle and break through the paddock fence.

**Peter Footer**, 261 Old Bath Road, agreed with Mrs. Murray that she has been railroaded. He cited one Council member as being negligent because he did not show Mrs. Murray's side of the issue. He feels new residents should not have the right to stop someone from using their property the way they see fit. Just because they bought the property does not give them the right to dictate what other property owners do.

**Sherry Johnson Trafton**, owner of Sable Oak Equestrian Center, said any sound can cause a horse to bolt and put the rider in harms way. Horses are trained not to react, but there is nothing you can do when one is caught off guard and is startled. The property was different back when Mrs Murray first owned the land and there was more ground cover, and rocks, to muffle the noise. Should the amendment not pass they will be forced to close their business.

**Linda Rall**, 77 Union Street, said they have been shooting on that property for years. The shooting range is safe with a U-shaped area and big tires stopping any ricocheting. A decibel meter did not register when a 22 or 40 caliber gun was shot. Inexperienced riders should be in the enclosed riding ring. Most of the target shooting is done after 5 pm when there are no children present at the neighboring businesses. She has been cooperative with the police and has made modifications where necessary.

Chair Lowe clarified that the ordinance is talking about regulating shooting ranges, not ending the shooting ranges. He would like public comment on the permitting and other issues directly within the ordinance.

**Michael Malice**, 214 Bunganuc Road, said he has a target practice range on his property and he wants to point out places needing clarification. His range is three hundred to four

hundred (300-400) yards away from his neighbor. He wants to know what distinguishes a sport shooting range from a personal range. When does it jump to the higher classification? He recommends the permit for a target practice range be valid for a period of four (4) years instead of on a yearly basis. This would cut down on the administrative burden to the town, requiring an inspection only once every four (4) years. He would like to see that the permit process is free and will remain so. Concerning the section in the ordinance on use of firearms and use of firearms near a dwelling, it should be consistent making the distances measured in yards or feet and not alternating between them. The ordinance should address shooting shotguns up in the air, allowing for it, but with some rules. He recommends within one thousand (1,000) feet of an occupied dwelling be changed to within three hundred (300) feet of an occupied dwelling or neighbor's property line. He does support the proposed amendment.

**Commander Desjardins** said the difference between a sport shooting range and target practice is the cut off of eight (8) hours of shooting in a two-day (2) period. If exceeding this in one (1) week they would need to reclassify as a sport shooting range. The one (1) year permitting is a good time frame because the permits are free and this would allow the police department to track the permits. The issue of yards and feet conversions could be fixed.

Councilor Priest asked if the one thousand (1,000) foot measurement was from the property line or dwelling.

Commander Desjardins said the required distance of one thousand (1,000) feet was to be measured from the shooting range to the property line.

Councilor Priest said the amendment wording needed to be clarified to clearly state how the distance is to be measured.

Councilor Sartoris said she has questions for Commander Desjardins but would like to hear public comment first.

**Robin Sherbrosky**, Falmouth, said she has a horse at Sable Oak. The gunfire is definitely a safety issue because it spooks the horses. There is no way to prepare for unexpected gunfire. She supports the comprehensive plan.

**Therese Gendron**, Yarmouth, said she takes lessons from Mrs. Trafton at Sable Oaks and the horses are trained to be desensitized to noise, however it is impossible to prepare a horse for gunfire. The indoor arena is a little safer, but it is not a noise buffer and it is frightening to the horses and riders. She would like the report to be more comprehensive to allow everyone to enjoy his or her property.

**Sara Stobby**, Arrowsic, said she has two (2) horses at Mrs. Trafton's and she helps with the children. She is concerned with the safety of the kids, horses, and herself. She supports the amendment and thinks it will help to serve the needs of the community.

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**Barbara Cherry**, Woolwich, said she understands both sides of this issue because she takes lessons at Sable Oaks and she was also in the rifle club in high school. Sable Oaks is a great place for children because it teaches responsibility, but it needs to be safe, as well. She feels there should be a change to the gun ordinance, and the changes suggested by John Trafton should be considered.

**Jean Murray** said the ordinance will infringe on her rights and even though she has not been shooting frequently, she feels justified to do so.

**Peter Footer**, Old Bath Road, said the classification of a target practice range versus a sport shooting range is too restrictive. The requirements of one thousand (1,000) feet from the property line and having to notify all neighbors via certified letter are unrealistic guidelines.

**Linda Rall**, 77 Union Street, agrees with Mr. Footer that the time limits for a target practice range are too restrictive. One afternoon of shooting with friends will be well over the eight (8) hours weekly limit of target practice.

**John Trafton**, 38 Bridge Road, said the neighbors would only have to be notified if it was a sport shooting range. Someone with a target practice site would not need to send notification.

Councilor McCausland asked Commander Desjardins if the new ordinance would prohibit firing of guns on Bridge Road.

Commander Desjardins said the land owner of the property in question has been very accommodating and has added the recommended back stops and anything else she was asked to do to make it a safe location. This is not a singular issue and has been dealt with in several areas of the community. It does not limit the ability to shoot safely.

Councilor McCausland asked how the amendment would help in this dispute.

Commander Desjardins responded that the issue would be resolved with the backstops being put up.

Councilor Priest said he is concerned with the definition of target practice and would also like clarification of distance. This is a noise problem, but this amendment is not going to help with noise at all.

Commander Desjardins said the crux of this amendment is to deal with safety and update the 1940 ordinance. This amendment was never intended as a noise ordinance.

Councilor King said it was more of a noise issue with the parties involved and perhaps a schedule could be worked out. The ordinance does not address the issues at hand and also is a problem with ambiguous definitions between target and sports shooting. She is worried that if the police have a list of shooting areas they may be complacent when there

is a 911 call of gunfire and police assume it is one of the ranges. She said there needs to be more time spent on the amendment.

Councilor Sartoris agreed that the problem is with noise and questioned whether proposed modifications would help with the safety issue.

Commander Desjardins said he has not deemed the homemade backstop to be safe.

Councilor Sartoris said that without the new ordinance in place you cannot require the landowner to make modifications and in this case they have improved the property. She supports a necessary safety ordinance and said the noise issue is a different problem that needs to be addressed and bears being looked at more comprehensively. This ordinance is not for noise and she would like to see it passed.

Manager Gerrish said this ordinance was brought forward to look at the idea that the Police Department will have knowledge of shooting ranges and guidelines to ensure the safety of a site. The purpose of this ordinance is for safety.

Councilor Priest agreed with Councilor Sartoris and thought they were close to coming to an agreement on a worthy ordinance but it needs a little more work on the definition of a sports range. It should allow people to have a little more leeway on time frames for shooting and not change the classification to a sports range. He suggested it be held over until that change is made.

**Councilor Priest moved to table the issue until the next meeting.**

Commander Desjardins thought he would need to go back to the committee to reword the ordinance. He also said the definitions of the ranges are the same, but the frequency of shooting is different.

Councilor Watson said he had to respond to a dangerous situation and when it occurred they found the ordinance was very outdated and this ordinance is a public safety issue. It was not directed at any one person and its purpose is for the safety of everyone in town and surrounding towns because bullets travel. He publicly apologized to Mrs. Murray for not inviting her to workshops on this issue. He was led to believe it was other people shooting on Mrs. Murray's property with high powered rifles. It is important for the town and the growth of the town to adopt this ordinance.

Councilor Galloupe said Councilor Priest made a motion to table, but it should be clarified as to when to table it to.

Councilor Priest asked for a definition of target practice and sports shooting range and to deal with the issue of the property line measurement. These are the two (2) major concerns.

Councilor Galloupe thought the shotgun issue should be clarified.

Councilor Sartoris asked Commander Desjardins how this ordinance would limit shooting after dark. Also, how can a citizen determine when it is necessary to call the police to report gunshots?

Councilor McCausland thinks this should be tabled for longer than a two-week (2) period and asked that all questions be answered instead of dragging it out from meeting to meeting.

Councilor Priest agreed with Councilor McCausland.

**Restated Motion: Councilor McCausland moved, Councilor Galloupe seconded, to table the amendments to the Weapons Ordinance relative to target practice and sporting shooting ranges on an emergency and regular basis, until a future time when more information and clarifications are made. The motion carried with nine (9) yeas.**

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

**158. The Town Council will consider a request from “Friends of Cox Pinnacle” regarding a conservation easement and will take any appropriate action.**

Lisa Martin, representing the Friends of Cox Pinnacle, said she is requesting the Town of Brunswick donate a conservation easement on the Cox Pinnacle property to the Brunswick Topsham Land Trust. She said this would be necessary to keep the land from being developed, and to ensure the purpose for which hundreds of contributors made donations will be maintained for future generations.

Councilor Priest asked if the board of the Brunswick Topsham Land Trust agreed to accept this if it is offered.

Lisa Martin said the vote of the Brunswick Topsham Land Trust was to accept this donation of a conservation easement.

Councilor Rice said one of his concerns is whether it should go to the Conservation Commission for review of what it would mean if there was a donation. He also said he wanted to understand it better before the Council moves ahead with it.

Manager Gerrish said this was being discussed on a concept basis and if the Council feels this is something they want to pursue they will work with the Land Trust and staff, and come back to the Council for the Conservation easement. There is one piece of property in town that has a conservation easement that is held by the Land Trust and that is the 250<sup>th</sup> Anniversary Park. If the Council likes the concept, more work needs to be done with the Friends of Cox Pinnacle.

Councilor McCausland asked Manager Gerrish what the reason is that the town would give up the property, instead of maintaining control.

Manager Gerrish asked Lisa Martin to answer the question.

Lisa Martin said the reason to go this route would be to have an objective third party watchdog on this who would hold the easement and be the legal guardian of it. The committee is concerned about a change of use on the property and wants to uphold the original plans for the property.

Councilor McCausland said the town should control the property and they have a long history of doing so. He does not understand the need to turn over the property.

Councilor Priest said the town has turned over property before but also feels this needs to be looked at before turning it over because the town would lose all control. Easements survive on tax exemptions and if that changes, the Conservation Commission would have problems supporting itself.

Councilor Sartoris said she agrees with Councilor Priest but feels donations were made for this property with the understanding it was for conservation. In this case it should result in a conservation easement. She would like to have a review by the Conservation Commission and a draft policy because at times a third party is needed. The town does not always control the land at a local level. It is appropriate in this case to consider the conservation easement request.

**Councilor Sartoris moved, Councilor Watson seconded, to send this to the Conservation Commission for review of the request from the Friends of Cox Pinnacle regarding a conservation easement to have them develop a proposal for this property and to draft a policy on conservation easements for the town.**

Chair Lowe said he would prefer this be looked at as a whole and not just Cox Pinnacle. The Conservation Commission should look at it in totality. He asked Councilor Sartoris to accept the motion on those terms.

Councilor Sartoris agreed as long as there was a reasonable time frame.

Councilor Rice said he wanted Lisa Martin and her group involved in this process.

Manager Gerrish said he wanted to be certain of what the Council was asking for. He said the town acquires property in a number of ways. The town may purchase property with taxpayers' money or may put up half and ask for donations from others for half.

Tom Farrell, Director of Parks and Recreation, said the town should involve the Recreation Commission because there are many properties to be considered, not just for conservation purposes.

Councilor Sartoris said this is sounding like a long plan which was not her intent. She feels the Conservation Commission should not look at all town owned property. This should not involve all recreational property and feels this is getting too broad.

Manager Gerrish clarified that it is not too broad to involve the Recreation Commission because Cox Pinnacle is a recreational area with many trails allowing people to go there and use it for recreational purposes.

Councilor Galloupe said there are all kinds of conservation easements but somewhere there needs to be a policy to be consistent on how conservation easements are done.

Councilor Priest said he would recommend the Chair of the Conservation Commission come and present his concerns and opinion. If there is a need to expand it later and open it up to more discussion, the Council could do so later.

**Councilor Sartoris withdrew her motion.**

Manager Gerrish said there should be a conversation with the Director of Parks and Recreation and the Chairman of the Conservation Commission. They should come back with a presentation to give the Council a better understanding. He asked that it be tabled until a later date of approximately one (1) month.

Councilor Sartoris reiterated that conservation property should not be grouped with recreation property.

Manager Gerrish said he understands what Councilor Sartoris said but he wants to clarify what the conservation easement means and include all of the departments necessary.

Chair Lowe thanked Lisa Martin for coming and assured the Council would continue working on it.

Councilor Rice left the meeting at 9:50 PM.

**159. The Town Council will consider an amendment to the Council Rules of Order to have Council meetings start at 7:00 p.m., and will take any appropriate action.**

**Chair Lowe moved to amend the Council Rules of Order to designate 7:00 pm as the start time for Council meetings.**

Councilor Priest said this would discourage people who work out of town from serving on the Council because they could not get back to Brunswick by 6:30 pm for the Executive session.

Councilor McCausland said the change of business at the Council meetings with the half hour of public comment, though it is helpful for the public, adds to the length of the meetings. He wants to see the meetings start earlier in hopes of getting out earlier.

**Councilor King seconded. The motion carried with six (6) yeas. Councilors Priest and Galloupe were opposed.**

Chair Lowe said that Council Rules of Order and Procedure, privileges of the floor, says that while the Council is in session citizens should not interact with Councilors and he requested that this be enforced.

**160. The Town Council will discuss the Town Manager's performance evaluation and will take any appropriate action.**

Chair Lowe said Manager Gerrish was doing a great job and reviewed the terms of his performance evaluation. The Council recommended he get a salary increase of two (2) percent, to one hundred thousand, one hundred ninety six (\$100,196) dollars, as well as ten (10) percent to his deferred comp plan and an increase in his vehicle allowance to three hundred and fifty (\$350) dollars a month.

**Councilor Priest moved, Councilor Sartoris seconded. to accept the Town Managers performance evaluation, and to give him a two percent salary increase, ten percent to his deferred comp plan, and a vehicle allowance of three hundred fifty dollars (\$350) per month. The motion carried with eight (8) yeas.**

**161. The Town Council will discuss the process for appointing a citizen representative to the Maine Street Station Committee and will take any appropriate action.**

Chair Lowe said Councilor Desmarais is the Councilor appointed to the committee and there is a vacant citizen position. He asked for names of those interested in the position and he would appoint someone.

Manager Gerrish said the owner of The Little Dog Coffee Shop is willing to serve on the committee if Chair Lowe would like to appoint him. Normally there is a process to select a member, however, in order to expedite the process in this case and make the committee well rounded, he asked the Council to appoint a citizen.

Councilor Sartoris said she has no problem with forgoing the normal process if the Councilors have time to submit names of citizens for the position. It is an important and long term committee that requires the right citizen. She noted that there was a Maine Street Train Committee that has been on hold waiting for the train to come and she is concerned that the policy is changing and decisions about the site might be changed by the new Maine Street Station Committee. Given the importance of this committee she would like two (2) Councilors and two (2) citizens, instead of just one (1) of each.

Councilor King said the Maine Street Station site is a priority to develop because it is the biggest asset downtown. The group is being assembled to discuss possibilities and she feels the smaller size committee would be better.

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Manager Gerrish said there are two (2) issues. This is an oversight committee that is part of the grant from the EPA to take a look at Brownfield issues. No decision on whether the train is coming has been made. He recommended the Maine Street Train Committee come back and talk to the Council.

Councilor Priest said he remembered the Maine Street Train Committee being appointed and they should be involved in this process. He would like the Train Committee to serve on the Maine Street Station Committee. He feels it is a prime location for a train station and it would be an asset to Brunswick.

Manager Gerrish said they would take a look at the make-up of the committee and see if combining them would be possible.

Councilor Priest said his understanding was that this committee was going to take a look at whether there were insurmountable environmental problems, if so, determine whether there would be a further study and more money.

Chair Lowe said they should come back and cover this at a later date for further clarification.

Councilor Desmarais said she wanted clarification in combining the two (2) committees.

Chair Lowe said with Manager Gerrish's permission they should move ahead and appoint a citizen to the committee.

Councilor Priest said Mr. Harrison would be great but he feels Mr. Harrison should go through the interview process to let the rest of the Council know what he is like, so they can have some confidence when they appoint him.

Councilor McCausland asked if it was possible for the committee to start meeting even though the citizen slot is vacant. This could get the ball rolling while allowing time to interview interested citizens for the position.

Chair Lowe agreed, but felt the process would take over two (2) months and he would like to see it expedited.

**Chair Lowe moved, Councilor Desmarais seconded, to table the appointment of a citizen to the Maine Street Station Committee. The motion carried with eight (8) yeas.**

**162. The Town Council will consider appointments to various Boards and Committees and will take any appropriate action.**

Councilor Sartoris said this issue was supposed to be on the October 4, 2004 agenda.

**Chair Lowe moved, Councilor Desmarais seconded, to table the appointments until the October 4, 2004 meeting. The motion carried with eight (8) yeas.**

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The meeting adjourned at 10:30 pm.

**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  
December 15, 2004**

**December 15, 2004**

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*Date of Approval*

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*Council Chair*