

**BRUNSWICK TOWN COUNCIL MINUTES  
JANUARY 18, 2000  
MUNICIPAL MEETING FACILITY**

**7:30 P.M.** Chair McCausland called the meeting to order and asked for the Pledge to the Flag.

**Councilors Present:** Chair McCausland, Eleanor Swanson, Robert Galloupe, Clement Wilson, Faith Moll, Forrest Lowe, and David Gleason.

**Councilors Absent:** Michael Feldman and Timothy Dotts

**Others Present:** Donald Gerrish, Town Manager; Deborah Cabana, Town Clerk; Jerry Hinton, Police Chief; John Foster, Town Engineer; Daniel Devereaux, Marine Warden; Geoffrey Hole, Town Attorney; Alan Houston, Natural Resources Planner; several citizens, members of the press and TV video crew.

**Minutes of Previous Meeting:** Councilor Lowe moved, Councilor Wilson seconded, to accept the minutes of December 20, 1999 and January 3, 2000 as distributed. The motion carried with seven (7) yeas.

**Correspondence:** None

**Manager's Report:**

**Budget Update.** Manager Gerrish stated that we are currently six months through the budget year. The winter budget is in great shape. Expenditures are as anticipated and revenues continue to exceed expectations. State revenue sharing is 18-20% above projections. This money is automatically carried forward for next year's budget to offset taxes. Mr. Gerrish noted that the solid waste user fees for the landfill are below projections. The Navy is taking their solid waste elsewhere so we are not getting that revenue. On the other hand, the life of the landfill is extended. Anticipated revenues for the solid waste user fees were \$240,000. Mr. Gerrish felt we would be lucky to obtain \$100,000 by the end of the budget year.

**Equalization 2000 Update.** Tax Assessor Bob Tripp informed the Council of the time frame for Equalization 2000. The mobile home and condominium component of the project is completed. About 3300 single-family homes have been completed with approximately 400 homes still remaining to be done. He anticipated they would be completed by early spring. About 25% of apartment houses have been completed. He urged owners of apartment houses to please call the Assessing Department to set up an appointment for an inspection. The appraisers have gone to each property and left a "door hanger" if there was no one home. After two attempts have been made, then an estimate will be made on these properties. He urged citizens who have received a "door hanger" from the Assessing Department to please call to make an appointment for an interior inspection. An outside professional contractor will appraise the commercial properties. Mr. Tripp anticipated that the average homeowner would not realize much change in taxes (a plus or minus of 5%). He hoped to complete the project in June and send out notices (new value and estimate of tax rate) to all taxpayers. Hearings will be held in July, values finalized in August, and the tax commitment completed by September 1<sup>st</sup>.

**Audit Report for 1998-1999.** John Eldridge could not be present for this meeting; therefore, the 1998-99 Audit Report will be rescheduled for a future meeting.

**Adjustments to the Agenda:** Manager Gerrish requested to add three items to the agenda. Item #15 – The Town Council will set a public hearing on February 7, 2000 to consider repealing the town-wide winter closure. Item #16 – The Town Council will consider the annual "Games of Chance" request from the American Cancer Society. Item #17 – The Town Council will enter into executive session to discuss property acquisition or disposal and to discuss union negotiations. No decisions will be made in executive session. The Town Council was in agreement to adding items 15, 16, and 17 to the agenda.

5. **The Town Council will hear public comments on the following request for a Full-Time Malt, Spirituous, and Vinous license and take any appropriate action.**

**RENEWAL FOR FULL TIME MALT, SPIRITUOUS, AND VINOUS:**

Shere Punjab, Inc. d/b/a Shere Punjab  
46 Maine Street

Tejinder Jit

The Public Hearing opened at 7:53 p.m. The Public Hearing closed at 7:53 p.m.

**Councilor Moll moved, Councilor Wilson seconded, to approve the Full-Time Malt, Spirituous, and Vinous License for Shere Punjab, as advertised. The motion carried with seven (7) yeas.**

6. **The Town Council will conduct a public hearing to amend the Traffic and Vehicles Ordinance (Section 15-76 and Section 15-46) relative to Cleaveland Street and Upper Federal Street and take any appropriate action.**

The Public Hearing opened at 7:54 p.m.

*James Storer of 50 Cleaveland Street – felt this would eliminate a very dangerous situation*

*Ernest “Bev” Bevilacqua of 76 Federal Street – stated that he and his wife fully supported the proposed amendments. He requested that the designated parking places be painted on Cleaveland Street.*

The Public Hearing closed at 8:00 p.m.

Councilor Moll requested that designated parking spaces and driveway protection be delineated.

**Councilor Moll moved, Councilor Wilson seconded, to approve the Traffic and Vehicles Ordinance (Section 15-76 and Section 15-46) relative to Cleaveland Street and Upper Federal Street as advertised. The motion carried with seven (7) yeas.** *A copy of the approved ordinance will be attached to the official minutes.*

7. **The Town Council will conduct a public hearing to amend the Personnel Ordinance (Section 12-46) relative to compensatory time for the Town Facilities Manager and take any appropriate action.**

The Public Hearing opened at 8:00 p.m. The Public Hearing closed at 8:01 p.m.

**Councilor Lowe moved, Councilor Swanson seconded, to approve the amended Personnel Ordinance relative to compensatory time for the Town Facilities Manager. The motion carried with seven (7) yeas.** *A copy of the approved ordinance will be attached to the official minutes.*

8. **The Town Council will conduct a public hearing to amend the Traffic and Vehicles Ordinance (Section 15-74) relative to No Parking Areas on Park Row and take any appropriate action.**

The Public Hearing opened at 8:01 p.m. The Public Hearing closed at 8:02 p.m.

**Councilor Moll moved, Councilor Lowe seconded, to approve the Traffic and Vehicles Ordinance (Section 12-46) relative to No Parking Areas on Park Row. The motion carried with seven (7) yeas.**

*A copy of the approved ordinance will be attached to the official minutes.*

**9. The Town Council will conduct a public hearing to consider amending the Marine Activities, Structures, and Ways Ordinance (Chapter 11) and take any appropriate action.**

The Public Hearing opened at 8:03 p.m.

Eric Butler, Chair of the Marine Resource Committee, noted that the State of Maine Department of Marine Resources has approved the proposed amendments.

Town Attorney Geoffrey Hole explained the proposed amendments. Attorney Hole noted that state wardens have much broader powers with respect to inspection and search than our local warden. Originally, language was proposed to simulate the state warden's authority. Some of this language has not been tested in the courts; therefore, Attorney Hole requested that the second paragraph of Section 11-138 be stricken at this time.

The Public Hearing closed at 8:17 p.m.

There was discussion regarding Section 11-96 of the proposed amendments. Both Councilors Wilson and Moll expressed concern with the one-year term for the "substitute member."

Chair McCausland had a problem with the Marine Resources Committee closing the flats with very little public notice. Specifically, he was concerned with enforcement of violations without adequate public notice. He also was not satisfied with the proposed language for the substitute member (how that member is obtained or the term limit of a year or less).

Councilor Swanson felt it was the Council's responsibility to deal with the "hot issues." She did not feel the Marine Resource Committee should have to make the decision of closing the flats and dealing with the repercussions.

Councilor Gleason supported the Town Council continuing to make the final decision on closures of flats.

Councilor Lowe agreed that the public notice of closing the flats was an important part of the process and preferred that the Council have the final word. He also referenced page 19 (Section 11-141, sub-section (de)) and preferred to see something less than five years suspension after the second violation within the twelve-month period.

Councilor Moll would like to ask each person who applies for the various boards and committees if they have a felony conviction in the United States.

Councilor Galloupe suggested a clarification of wording regarding the advertising for the substitute member (Section 11-96). He suggested that the wording be changed to two rounds of advertising.

Attorney Hole stated that the criminal record concept could be both broader and vaguer than the Council really wants. He suggested that the Council consider focus on a felony within the last five or ten years or a misdemeanor directly related to the function of the desired position. If this is proposed for one committee, he suggested that it be proposed for all the committees. In reference to Section 11-96 and the advertising, the intent was to have two rounds of advertising. He did not feel it was inconsistent with the desires of the Marine Resource Committee if the substitute member was for a term longer than one year.

Eric Butler agreed with Councilor Moll's recommendation of leaving the substitute member as a three-year term. He was distressed that the Council felt the Committee was not capable of making reasonable decisions. The current policy hastens the ability to open and close the flats. The intent is to cycle the turnover of the flats to encourage clam growth. The Committee was not trying to relieve the Council of their responsibilities.

Chair McCausland stated that he had full faith and confidence in the Marine Resource Committee. He was concerned about the law enforcement angle because he deals with it on a daily basis. When the power to arrest is given, the harvesters need to be informed adequately of closures.

Mr. Butler stated that the harvesters call the Marine Warden's office routinely to see which flats are closed. He felt the wardens were very conscious of their responsibilities and would be surprised if they overstepped their bounds.

Chair McCausland has a great deal of confidence with our wardens and the state's law enforcement. However, there are always some who don't see black and white. When flats are closed with less public notice than what is currently done, a future warden could be overzealous and summons harvesters where it affects not only their pocketbook but also their livelihood.

Councilor Galloupe stated that we are dealing with 50 to 70 people who are very familiar with the procedure. There is no two-week notice when the flats are closed due to red tide. There are currently situations with the harvesters where there are immediate closings.

Councilor Gleason did not want to micro-manage the Marine Resource Committee. He asked how many times over the period of a year, if given the flexibility, that the current policy would hinder the process.

Alan Houston stated that his biggest frustration when he was warden was not being able to react to situations out on the mud, but having to go through the lengthy process. He felt he was always reacting. He thought that improvements would be made if the Committee had the authority to open and close the flats.

Councilor Moll asked if the Council would consider authorizing the Marine Resource Committee, on an annual basis, the authority to close the flats.

Councilor Lowe asked how the public would be notified if the Committee had the power to authorize the closing of the flats. He also asked how other communities notify their public.

Marine Warden Daniel Devereaux stated that the harvesters know they have to check for closures after a heavy rainfall. There is a recorded message updating all the closures and harvesters routinely check in via the phone.

**Councilor Gleason moved, Councilor Wilson seconded, to approve the proposed amendments of the Marine Activities, Structures, and Ways Ordinance, as amended, as follows: (Chapter 11).**

**Councilor Gleason moved, Councilor Galloupe seconded, to amend Section 11-96 (line 23) by striking the proposed wording "members appointed from another category shall be appointed until the next May 1<sup>st</sup>" and (line 10) by striking the words "at least" and adding the word "rounds" after two, which would read "after two rounds of advertising," and further move that the alternate would become a regular member and the advertisement would be for a new alternate. The motion carried with six (6) yeas and one (1) nay – Chair McCausland opposed.**

**Councilor Moll moved, Councilor Gleason seconded, to amend Section 11-161, sub-section (a) to read “The Marine Resource Committee, with the approval of the Commissioner of Marine Resources, and with the direct consent of the Town Council, this consent to be given on an annual basis at their first regular meeting after the organizational meeting, may open and close coastal waters” and further move to amend Section 11-161, sub-section (c), second sentence to read “the Committee’s action “may” be reviewed . . . “ instead of the word “shall” be reviewed . . .**

Councilor Swanson feared a quick closing. She felt it was not a good thing from the enforcement point of view.

The merits of using the word “may” or “shall” was discussed.

Attorney Hole commented that if the Council decided not to give the authority to the Marine Resource Committee, that sub-section (c) of Section 11-161 would not be operative. If approval is given to the Committee, then the Town Manager could report the closure in the Manager’s Report, or any council member could request to have it placed on the agenda as an item for consideration.

Councilor Swanson would like to be informed of arrests made of individuals immediately following a closing (possibly of those who might not have been aware of the closure) when making the annual decision of authorizing the Committee to close the flats.

**This second amendment was voted on and carried with five (5) yeas and two (2) nays – Councilors Swanson and McCausland opposed.**

**Councilor Lowe moved, Councilor Galloupe seconded, to amend Section 11-141, sub-section (e), last sentence, that five (5) years be replaced with one (1) year and further move that Section 11-141, sub-section (e) (ii) be amended to read “The remainder of the license year for the second conviction.” The motion carried with four (4) yeas and three (3) nays – Councilors Moll, Wilson, and Swanson opposed.**

**Councilor Gleason moved, Councilor Lowe seconded, to amend section 11-138 by deleting the second paragraph. The motion carried with seven (7) yeas.**

**The motion to approve the Marine Activities, Structures, and Ways Ordinance (Chapter 11), as amended carried with six (6) yeas and one (1) nay – Chair McCausland opposed.** *A copy of the proposed ordinance amendments will be attached to the minutes of December 20, 1999. A copy of the amended ordinance, as approved, is attached herewith.*

**10. The Town Council will receive a report on proposed traffic changes on Middle Street as follows: Making a portion of Middle Street between Everett and Elm Streets Two Way as opposed to One Way and take any appropriate action.**

This item is to consider making a section of Middle Street Two Way. The section is from Everett to Elm. All of Middle is One Way at this time.

Councilors Moll and Gleason each disclosed that they own property on Middle Street, but it was felt there was no financial gain with this proposal, therefore, no conflict of interest would be involved.

**Councilor Wilson moved, Councilor Moll seconded, to set a public hearing for February 7, 2000 to amend the Traffic and Vehicles Ordinance relative to traffic changes on Elm, Everett, and Middle Streets making Middle Street a Two-Way street between Everett and Elm Streets as opposed to a One-Way Street. The motion carried with seven (7) yeas.**

**11. The Town Council will hear discussion on the Solid Waste Ordinance pertaining to household refuse and pick up and take any appropriate action.**

Manager Gerrish stated that the Council had requested that the issue of trash being placed out early for pick-up and how to better enforce compliance with the Town's rules be discussed. He highlighted material received from Portland concerning their ordinance that has the following:

- 1) All 3 Unit apartments must register with the City, the owner and manager of the facility, and list telephone numbers of the appropriate person to call if there are problems.
- 2) When a violation occurs, the owner or manager is called and given 4 hours to correct the problem.
- 3) If the problem is not taken care of, the owner of the building is fined.

Manager Gerrish thought the ordinance had merit but did not feel this item was ready for scheduling for a public hearing. He wanted to get some feedback from the Council and the public at this meeting.

**Councilor Moll moved, Councilor Wilson seconded, to instruct the Town Manager to prepare an ordinance to incorporate an ordinance similar to the City of Portland's.**

Councilor Wilson would like to see buildings where rooms are rented to also be registered, similar to apartment buildings.

*George Glover, Chairman of the Northwest Brunswick Neighborhood Association* - asked that there be communication between the Council and the Association and that the Association be allowed to have input with this process.

*Rob Rohr of Union Street* – asked if this proposal would create a “garbage cop.” He suggested talking to the landlords with potential issues. He pointed out that sometimes landlords have problems with private collectors picking up the garbage when they are supposed to.

Manager Gerrish stated that the proposal would allow either a police officer or the Code Enforcement Officer to enforce the violations.

**The motion was voted on and carried with six (6) yeas and one (1) nay – Councilor Gleason opposed.**

**12. The Town Council will consider approving a resolution**

- a) **Confirming and ratifying allocation of proceeds of bonds issued for the construction of the Brunswick High School to Construction Period Interest and**
- b) **Authorizing transfer of monies to General Fund and appropriate such monies to the School Department and take any appropriate action.**

This item concerns the final closeout of the budget to construct the High School. An audit of the project was completed by the State in November 1999. The Town issued \$18,878,000 in bonds to finance the project. The State agreed to include \$14,705,000 in its annual debt service subsidy calculation to the Town. According to the State's School Construction rules, the State is entitled to 77.9% of the interest earned on the bond proceeds. The State has calculated this amount to be \$440,443.81. To recover its share, the State intends to reduce Brunswick's education subsidy in the 2000-2001 fiscal year. This resolution is intended to make the School Department whole for the amount withheld by the State by transferring the funds and reserving them for the School Department.

**Councilor Wilson moved, Councilor Lowe seconded, to approve a resolution confirming and ratifying allocation of proceeds of bonds issued for the construction of the Brunswick High School to Construction Period Interest and authorizing transfer of monies to General Fund and appropriate such monies to the School Department. The motion carried with seven (7) yeas.**

13. **The Town Council will hear a presentation of the CIP for 1999-2000 and take any appropriate action.**

Manager Gerrish explained that he wanted to wait until the audit was done before bringing this proposal to the Council for consideration. One change proposed is that Lunt Road (\$320,000), Hillside Road (\$230,000), and the Town's share of Spring Street Bridge (\$155,000) be bonded for a total of \$705,000. The remaining projects for using Unappropriated Fund Balance will fund this year (\$630,500). The bonding of these projects fits into our bonding schedule. These two roads are the last two major reconstruction road projects that need to be accomplished. The Council will need to set a public hearing to approve the CIP and appropriate the funds.

**Councilor Wilson moved, Councilor Gleason seconded, to set a public hearing on February 7, 2000 to consider the Capital Improvement Program for 1999-2000. The motion carried with seven (7) yeas.**

14. **The Town Council will consider approval of authorization for the Town Manager to sign a Memorandum of Agreement regarding cost sharing for the proposed replacement of the Spring Street Overpass Bridge.**

This item is to ask for the Council's approval for the Town Manager to sign a Memorandum of Agreement with the Maine Department of Transportation regarding cost sharing for the proposed replacement of the Spring Street Overpass Bridge.

**Councilor Wilson moved, Councilor Gleason seconded, to approve the Town Manager to sign a Memorandum of Agreement with the Maine Department of Transportation regarding cost sharing for the proposed replacement of the Spring Street Overpass Bridge. The motion carried with seven (7) yeas.**

15. **The Town Council will consider setting a public hearing on February 7, 2000 to consider repealing the town-wide winter closure and take any appropriate action.**

**Councilor Wilson moved, Councilor Moll seconded, to set a public hearing on February 7, 2000 to consider repealing the town-wide winter closure. The motion carried with seven (7) yeas.**

16. The Town Council will consider the annual "Games of Chance" request from the American Cancer Society and take any appropriate action.

Councilor Lowe moved, Councilor Wilson seconded, to approve the games of chance request from the American Cancer Society. The motion carried with seven (7) yeas.

17. The Town Council will consider entering into executive session to discuss the possible purchase of property and to discuss union negotiations.

Councilor Moll moved, Councilor Lowe seconded, to enter into executive session for the purposes of discussing property acquisition or disposal and to discuss union negotiations. The motion carried with seven (7) yeas.

The meeting adjourned at 10:05 p.m.

*PLEASE NOTE: THESE MINUTES ARE NOT VERBATIM. A TAPE RECORDING OF THE MEETING IS AVAILABLE AT THE TOWN CLERK'S OFFICE DURING REGULAR BUSINESS HOURS.*

Deborah S. Cabana  
Town Clerk  
January 26, 2000

February 7, 2000  
Date of approval

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Council Chair