

BRUNSWICK TOWN COUNCIL MINUTES
June 5, 2000
MUNICIPAL MEETING FACILITY

Councilor Lowe moved, Councilor Wilson seconded, to enter into executive session to discuss the possible acquisition of property. The motion carried with eight (8) yeas.

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

Councilors Present: Chair McCausland, Michael Feldman, Eleanor Swanson, Robert Galloupe, Timothy Dotts, Clement Wilson, Faith Moll, and Forrest Lowe (*David Gleason arrived at 8:47 p.m.).

Councilors Absent: None

Others Present: Donald Gerrish, Town Manager; Deborah Cabana, Town Clerk; Theo Holtwijk, Director of Planning and Development, Geoffrey Hole, Town Attorney; Jerry Hinton, Police Chief; several citizens, members of the press and TV video crew.

Minutes of Previous Meeting: Councilor Lowe requested his comments on page 8 of May 15, 2000 minutes be amended. Those minutes will reflect the changes. **Councilor Wilson moved, Councilor Lowe seconded to accept the minutes from the May 15, 2000 and May 25, 2000 meetings, as amended. The motion carried with eight (8) yeas.**

Correspondence: Letter of Resignation from R. Forrest Dillon, Conservation Commission. Manager Gerrish explained that a resignation was received from R. Forrest Dillon who served on the Conservation Commission. A letter of appreciation will be sent to Mr. Dillon and the position will be advertised.

Councilor Moll received correspondence from the Reverend Imes regarding the “Walk with the One You Love Day” on June 18th, 2000. This will promote greater awareness and safety for everyone in our Town, whatever their sexual orientation, gender identity or other differences. All Brunswick citizens were encouraged to participate in the walk. Councilor Moll noted the Resolution signed by the Council on July 6, 1998 concerning non-discrimination.

Manager’s Report: Manager Gerrish informed the public that the annual auction of town goods will be this Saturday at 9:00 a.m.

Mr. Gerrish notified the public that the Town Office will be closing at 2:30 p.m. on Friday, June 16th for a dedication service that will be held on the Bike Path. Cookbooks were sold and a park bench was purchased in memory of Bonnie Gardner, who passed away a year ago.

Adjustments to the Agenda: Mr. Gerrish requested that the Council waive the rules and add Item #110 – The Town Council will consider accepting donations toward the Community Complex at the High School. There was no objection to adding this item to the agenda.

Items 93, 94, and 95 were considered together.

93. The Town Council will hear public comments on the following requests for Victualer License and take any appropriate action.

NEW

Ulyssys Co., Inc. d/b/a Benzoni's Brick Oven Pizzeria and Back Street Bistro

11 Town Hall Place

J.D. Bouras

Constance Moore d/b/a Connie's Cakes

7 Antietam Street

Constance P. Moore

Gene Pender d/b/a Gene's Hot Dogs

Enman Field, 1024 River Road

Gene A. Pender

Lucille Spencer d/b/a Uncle Ron's Something Different

Mall

Lucille W. Spencer

RENEWALS

8 Renewals as attached

94. The Town Council will hear public comments on the following requests for Alcoholic Beverage Licenses and take any appropriate action.

NEW

Ulyssys Co., Inc. d/b/a Benzoni's Brick Oven Pizzeria and Back Street Bistro

11 Town Hall Place

J.D. Bouras

Stick to Your Ribs, Inc. d/b/a Stick to Your Ribs BBQ

18 Bath Road

Mark Lukochko

Papa Gino's, Inc. d/b/a Papa Gino's

147 Bath Road

Christine McCarthy

RENEWAL

Bo-Ed, Inc. d/b/a Atrium, Sagtuck, Inc. d/b/a Winner's Sports Grill, and Cuisine House

21 Gurnet Road

Mr. Robert Rosenthal, Mr. Gary Sagris, and Mr. Teng-Chao Tao

Star Fish Enterprises, LLC d/b/a Star Fish Grill

100 Pleasant Street

Mrs. Alyson Cummings and Mr. Thomas Cary

95. The Town Council will hear public comments on the following requests for Special Amusement Licenses and take any appropriate action. (Manager)

NEW:

Ulyssys Co., Inc. d/b/a Benzoni's Brick Oven Pizzeria and Back Street Bistro

11 Town Hall Place

J.D. Bouras

RENEWAL:

Bo-Ed, Inc. d/b/a Atrium, Sagtuck, Inc. d/b/a Winner's Sports Grill, and Cuisine House

21 Gurnet Road

Mr. Robert Rosenthal, Mr. Gary Sagris, and Mr. Teng-Chao Tao

The Public Hearing opened at 7:46 p.m. The Public Hearing closed at 7:46 p.m.

Councilor Wilson moved, Councilor Dotts seconded, to approve the Victualer License applications, the Alcoholic Beverage License applications, and the Special Amusement License applications as advertised. The motion carried with eight (8) yeas.

96. The Town Council will consider granting the following request from Lucille Spencer d/b/a Uncle Ron's Something Different for Sellers of Prepared Food on Public Ways on the Brunswick Mall and take any appropriate action.

Councilor Feldman moved, Councilor Wilson seconded, to approve the Sellers of Prepared Food on Public Ways on the Brunswick Mall for Lucille Spencer d/b/a Uncle Ron's Something Different. The motion carried with eight (8) yeas.

97. 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.

Chief Hinton explained that this item is to consider an amendment to the Traffic and Vehicles Ordinance (Section 15-74) relative to No Parking Areas on Park Row on a regular and emergency basis. The No Parking Area is at the location of the delivery driveway to the Searles Science Building.

The Public Hearing opened at 7:50 p.m. The Public Hearing closed at 7:50 p.m.

Councilor Wilson moved, Councilor Feldman seconded, to approve the proposed amendments to the Traffic and Vehicles Ordinance (Section 15-74) relative to No Parking Areas on Park Row, as advertised, on a regular and emergency basis. The motion carried with eight (8) yeas. *A copy of the proposed amendments will be attached to the official minutes.*

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

Attorney Hole summarized the proposed amendments to the Marine Activities, Structure and Ways Ordinance (Chapter 11) as follows:

1. For every 10 resident recreational licenses we sell, we shall sell 1 non-resident and we will have unlimited recreational license sales. Currently the ordinance allows for the sale of 140 resident recreational licenses and 14 non-residents.
2. Allow revoked and/or surrendered commercial licenses to be issued to the next person in line on the lottery list anytime during the license year. Currently the ordinance only allows for issuance of licenses during a specific time period.

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

Councilor Moll did not agree with reissuing a revoked or surrendered commercial license.

Councilor Galloupe stated that the number of commercial licenses is predetermined. If a harvester loses their license, and would not be able to harvest, then he felt another person should be given an opportunity.

Chair Butler stated that the Committee had mixed views on this amendment.

Councilor Feldman stated if harvesting jobs could be given without endangering the resources, then he could support this amendment.

Councilor Feldman moved, Councilor Galloupe seconded, to approve the proposed amendments to the Marine Activities, Structures, and Ways Ordinance (Chapter 11) as advertised, on a regular and emergency basis.

Councilor Moll moved, Councilor Swanson seconded, to delete the re-issuance of revoked licenses proposed in Section 11-140, subsection 4. The motion failed with two (2) yeas (Councilors Moll and Swanson) and six (6) nays (Councilors Lowe, Wilson, Dotts, Galloupe, Feldman, and McCausland).

The motion carried with eight (8) yeas. *A copy of the proposed amendments will be attached to the official minutes.*

99. The Town Council will discuss the use of public monies to pick up solid waste, deliver water to hydrants, and pay for delivery of electricity to streetlights in Planned Unit Developments and Condominiums and take any appropriate action.

Manager Gerrish summarized the request for the Town to collect solid waste, pay for water charges at hydrants, and electricity costs for streetlights at condominiums in Brunswick. He explained that the Town had made a decision to pick up solid waste in mobile home parks in the mid seventies. Therefore, he recommended approval of this service to start September 1, 2000 when new contracts become effective. He also recommended that the service be provided not only to the private developments represented by Attorney Michael Feldman, but other similar developments in Brunswick. The estimated cost to provide this service is \$15,000, which has been budgeted. It was recommended that the costs for electricity to streetlights and water to the hydrants not be paid for, as the town does not provide these services to other private property developments. *Please see the attached memo from Michael Claus regarding condominium and private residential road solid waste pickup.*

Councilor Moll moved, Councilor Wilson seconded that the town provide solid waste pickup for the twelve proposed developments, service to start September 2000, and further that the electrical costs for street lights, and water, not be provided at the town's expense.

Attorney Feldman suggested that the public health and safety was the reason for the expenditure and not precedence. He felt that public safety is paramount and that this is a matter of principal and equity. He asked what are the benefits and detriments that flow from a decision to live on a private road in a condominium. The town must approve the private roads of developments. The number of hydrants to be located on these roads is mandated by the town. This is not the same as a person locating a house off the road with their own private road. He did not feel that his clients, who have chosen to live at the end of a public road, should be denied police protection, fire protection, nor water to put out a fire. If there had been a recording at the Registry of Deeds, stating that the hydrants, streetlights, and trash pickup were paid for by the owners, then his clients would have been put on notice. However, there has been no such recording. Attorney Feldman concluded by asking that the Council address the trash pickup and focus on the water hydrants.

Paul Putnam is president of planned unit development Coastal Estates II. He stated that 29 out of 50 families from his development are retired and are volunteers in the town. They are an asset to the Town

community and not a liability. They have no children and require no school services. They are not asking for welfare, but for equity. He submitted a petition and asked the Council to rethink their position. *A copy of the petition will be attached to the official minutes.*

Manager Gerrish received a letter from Charlotte Magnuson, President of the Coastal Estates Homeowners Association I, stating that they did not support the Town providing these proposed services. *A copy of the letter will be attached to the official minutes.*

Attorney Hole stated that a town cannot spend public monies to maintain private roads. If the Council made a legislative determination for public safety reasons, he did not feel the Court would second-guess the Council's decision. The question is if there is enough public benefit for the town to pay for water to fire hydrants.

Chair McCausland pointed out that wherever the citizens live in Brunswick, the Brunswick fire trucks will respond, whether there is a fire hydrant or not. However, he felt the Town had been remiss for not taking care of the trash pickup and felt strongly that it would be approved.

Motion was voted on and carried with eight (8) yeas.

100. The Town Council will discuss Marinas as permitted use in the Coastal Protection Zone and take any appropriate action.

* Councilor Gleason arrived at the Council meeting at 8:47 p.m.

Councilor Moll stated that she felt the issue of marinas as a permitted use should be deliberated separately from environmental zoning issues. The Special Permit process was relied upon in controversial uses and it became a "catch-all" category that may not be precise enough or efficient for implementation in some cases such as marinas. She felt marinas should be considered as a permitted use with conditions. This permitted use with conditions would give the town decision-making capacities in the establishment and regulation of standards. It would achieve a measure of reassurance for citizens and release marina owners from the burden of non-conformity and the problems it might bring when owners hope to finance or sell. She asked the Council to request an opinion on permitted use with conditions, as a category, and especially, how it would apply to marinas. She further requested that Chris Vaniotis craft this opinion. Conditions that apply equally to all marinas and specifically address all the environmental issues (fouling paint, gasoline, engine repair, hydrocarbons, sanding, nuisances-noise, odor, light, parking, etc.) would be a positive step in solving the issues of marinas and their place in the life of Brunswick.

Councilor Moll moved, Councilor Swanson seconded, that the town proceed with the aforementioned action.

There was considerable discussion as to the merits of this action. It was noted that marinas must already comply with standards of various state and federal agencies. There was also conversation regarding the protocol of the Planning Board's role and the Council's role in this type of rule making. Chair McCausland clarified that the motion is basically requesting that staff investigate the facts and report back to the Council.

Manager Gerrish stated that every effort would be made to bring this back as soon as possible.

The motion was voted on and carried with seven (7) yeas and two (2) nays – Councilors Wilson and Dotts opposed.

101. The Town Council will receive and discuss correspondence from the Planning Board concerning the maximum footprint standard in the Cook's Corner Zone in Cook's Corner and take any appropriate action.

Theo Holtwijk reviewed the Planning Board's options for changes to the current maximum footprint limit standard of 50,000 sq. ft., in the Cooks Corner area. The Planning Board has not made any final decisions and was hoping to get some feedback from the Council as to the direction in which they should proceed. *A copy of The Planning Board's correspondence to the Council will be attached to the official minutes.*

Chair McCausland noted that item #101 and #102 are interrelated.

Councilor Feldman suggested that both issues be discussed at once.

102. The Town Council will discuss a moratorium on large retail structures and take any appropriate action.

Councilor Moll suggested a moratorium on large retail structures that are under single ownership and follow a national trademark structure design. (Category killer big box stores of 50,000 sq. ft. to 350,000 sq. ft. in size without windows and with huge parking lots.) A major large business owner and large taxpayer had approached her to consider a hold on permitting large retail structures. This moratorium would give the town breathing space and time to discuss the relative merits of this kind of structure in the town through a public forum or public hearing where citizens could come forward with their views on this topic and whether or not Brunswick needed to allow this use in any area other than a small area where Wal*Mart and Ames are now. She supported a moratorium to ease fears and a council sponsored public hearing or forum to obtain citizen input on the "big box" phenomenon. This subject was never considered in previous zoning deliberations.

Councilor Moll moved, Councilor Dotts seconded, that the Council hold a public hearing to address the issues and the impact of the big box retailing phenomenon and to discuss the institution of a six month moratorium on applications for these structures and that during this time (6 months) we decide through debate, research, and consultation what permanent action should be taken at the end of the moratorium and further move that the Town Attorney prepare the necessary documents to act upon.

Councilor Gleason was not opposed to big boxes. He saw no difference between one big building of 200,000 sq. ft. and four different retail buildings of 50,000 sq. ft. each. He would not be supporting this motion.

Councilor Feldman has constituents who are moving their stores from one part of Cooks Corner to another to be closer to Wal*Mart. He wanted to encourage the two existing big boxes (Ames and Wal*Mart) to stay and to allow growth with conditions.

Councilor Swanson agreed that the Town needs a couple of big boxes in right place. She did not want the big boxes to go elsewhere and would vote against a moratorium.

Councilor Wilson stated that Brunswick has zoning based on the Comprehensive Plan. We also have a good Planning Department and Planning Board. He felt that a moratorium was simply saying something without having a real reason except that we want to stop the world and get off.

Councilor Lowe would not be in favor of a moratorium at this point.

June 5, 2000

Page 7

Councilor Galloupe stated that the general area where the existing big boxes are located is not residential. He felt a more definitive definition than large retail structure was needed.

Councilor Feldman did not want his encouragement to locate big boxes in some areas to be mistaken as his feelings for the whole town. It was obvious when the Council discussed the Fox Run proposal that there were very strong feelings in the town about having a big box in another location. He felt there was a need for some discussion at some level for the next time someone shows up with a proposal for a large project that is encouraged in the Comprehensive Plan.

Chair McCausland stated that there are two areas in town where big boxes could be constructed via special permits.

Councilor Moll supported a discussion from citizens about whether the Council should place a moratorium as suggested earlier.

The motion was voted on and failed with three (3) yeas – Councilors Moll, Dotts and Feldman in favor, and six (6) nays – Councilors Gleason, Lowe, Wilson, Swanson, Galloupe, and McCausland opposed.

Discussion returned to agenda item #101.

There was some discussion regarding the maximum allowable footprint but it was the consensus of the Council that the Planning Board was moving in the right direction. Director of Planning and Development Theo Holtwijk anticipated that the Planning Board would return with recommendations by the end of summer or early fall.

Dick Morrell – was confused why there was no invitation for the public to speak regarding this issue.

Chair McCausland answered that there would be opportunity for discussion at future Planning Board and Council meetings.

103. The Town Council will consider adopting the 2000-2001 Budget Resolutions and take any appropriate action.

If this budget is approved, the tax increase will be 2.5%.

Councilor Feldman moved, Councilor Dotts seconded, to adopt the Town 2000-2001 Budget Resolution. The motion carried with nine (9) yeas. Councilor Wilson moved, Councilor Lowe seconded, to adopt the School 2000-2001 Budget Resolution. The motion carried with nine (9) yeas.

A copy of the Resolutions will be attached to the official minutes.

104. The Town Council will receive a recommendation from the Davis Fund Committee for funding allocations for 2000, and take any appropriate action.

Millie Stewart, Chair of Davis Fund Committee, made the recommendations to the Council. *A copy of the recommendations will be attached to the official minutes.*

Councilor Wilson moved, Councilor Feldman seconded, to approve the recommendations of the Davis Fund Committee for funding allocations for 2000. The motion carried with nine (9) yeas.

Town Council Minutes

105. The Town Council will consider setting a public hearing for Zoning Ordinance “Housekeeping” Amendments and take any appropriate action.

Councilor Moll moved, Councilor Lowe seconded, to set a public hearing on June 19, 2000 for Zoning Ordinance “Housekeeping” Amendments. The motion carried with nine (9) yeas.

106. The Town Council will consider signing a Deed regarding Town owned property on Maine Street to the Brunswick Sewer District and take any appropriate action.

Councilor Dotts moved, Councilor Feldman seconded, to authorize the Town Manager to sign the Quit Claim Deed regarding Town owned property on Maine Street to Brunswick Sewer District. The motion carried with nine (9) yeas.

107. The Town Council will consider a resolution pertaining to the Town’s 2000 General Obligations Bond (Series A) and take any appropriate action.

This item is to consider a resolution pertaining to the Town’s 2000 General Obligations Bond (Series A) for the Library, Downtown Master Plan, Landfill, and numerous CIP projects. *A copy will be attached to the official minutes.*

Councilor Galloupe moved, Councilor Feldman seconded, to approve the resolution pertaining to the Town’s 2000 General Obligations Bond (Series A). The motion carried with nine (9) yeas.

108. The Town Council will consider the approval of the 6-month Beano license renewals and take any appropriate action.

Councilor Lowe moved, Councilor Dotts seconded, to approve the six-month Beano and Games of Chance license renewals for 55 Plus Center, Knights of Columbus, Evergreen Senior Citizens, and the Elks. The motion carried with nine (9) yeas.

109. The Town Council will consider making appointments to the following boards and committees:

CODES APPEAL BOARD, 1 Associate Member – Two-year term to expire 07/01/02

Applicants

John G. Richardson, 19 Juniper Road

CONSERVATION COMMISSION, 1 Full Member – Three-year term to expire 05/01/03

Applicants

Walter G. Rosen, 5 High Street

DAVIS FUND COMMITTEE, 3 Full Members – Three-year terms to expire 06/30/03

Applicants

Orville T. Ranger, 20 Federal Street

Arlene Morris, 295 Bunganuc Landing

Town Council Minutes

June 5, 2000

Page 9

FIFTY-FIVE PLUS CENTER BOARD OF TRUSTEES, 2 Full Members – Three-year terms to expire 07/01/03 *Applicants*

Henry P. Beltramini, 17 Meredith Drive

Edward K. Ward, 5 Briar Ledge Lane

HOUSING AUTHORITY, 1 Full Member – Five-year term to expire 06/03/05

Applicants

Paul H. Clark, III, 9 Magean Street

MARINE RESOURCES COMMITTEE, 1 Commercial Shellfish Harvester – Three-year term to expire 05/01/03. *Applicants*

Timothy M. Johnson, 99 Woodside Road

RECREATION COMMISSION, 2 Full Members – Three-year terms to expire 07/01/03

Applicants

Ellen E. McPherson, 13 Thompson Street

James A. Burbank, II, 11 Cumberland Street

TRUST INVESTMENT COMMITTEE, 1 Full Member – Three-year term to expire 05/10/03

Applicants

Thomas Hastings, 25 Beech Drive

Councilor Wilson moved, Councilor Dotts seconded, to nominate the above named individuals to the respective committees and that nominations cease and the Chair cast one vote to appoint these applicants. The motion carried with nine (9) yeas.

110 The Town Council will consider accepting donations toward the Community Complex at the High School and take any appropriate action. *A copy will be attached to the official minutes.*

Councilor Feldman moved, Councilor Wilson seconded, to accept the donations toward the Community Complex at the High School. The motion carried with nine (9) yeas.

The meeting adjourned at 10:10 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

June 29, 2000

July 17, 2000

Date of approval

Council Chair