

**BRUNSWICK TOWN COUNCIL MEETING
MINUTES
DECEMBER 02, 1996
Municipal Meeting Facility
Old Brunswick High School**

7:00 P.M.

Councilor Wilson moved, Councilor Gleason seconded that the Town Council enter into Executive Session to discuss a personnel matter. The motion carried with nine (9) yeas - Councilors Feldman, Swanson, Galloupe, Laffely, Wilson, Moll, Snyder, Gleason, and McCausland.

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, Leon Laffely, Clement Wilson, Faith Moll, Ervin Snyder and David Gleason.

Others Present: Donald Gerrish, Town Manager; Deborah Cabana, Town Clerk; Andrew Singelakis, Director of Planning and Development; Alan Houston, Natural Resources Planner; Thomas Farrell, Director of Parks and Recreation; James MacLeod, Chair of the Marine Resource Committee; Casco Cable TV; and various members of the public.

Minutes of Previous Meetings:

Chair McCausland noted that the first sentence of the minutes need to be corrected to read that "Vice Chair Moll" called the meeting to order. **Councilor Snyder moved, Councilor Wilson seconded to approve the Town Council minutes of November 18, 1996 as corrected. The motion carried with eight (8) yeas - Chair McCausland abstained.**

Correspondence: Manager Gerrish reported that he had received a letter of resignation from Andrew Morin, who served on the Housing Authority. A letter of appreciation will be sent to Mr. Morin and the position will be advertised for.

Manager's Report: 1) Budget Update: Manager Gerrish stated that the Town is five months through the fiscal year. He was pleased with the status of the current budget because both expenditures and revenues were as anticipated. He commented that state revenues are ahead of projections and believed that this is reflected in the town's state revenue shares.

Adjustments to Agenda: There were no adjustments to the agenda.

209. The Town Council will hear public comments on the following request for a Victualer license for:

New:

Brunswick Diner, Inc.
d/b/a Brunswick Diner
101 ½ Pleasant Street

Andre Prest

The Public Hearing opened at 7:40 p.m. The Public Hearing closed at 7:40 p.m.

Councilor Wilson moved, Councilor Gleason seconded to approve the Victualer license for Brunswick Diner. The motion carried with nine (9) yeas.

210. The Town Council will hear public comments on the proposed enactment of a Conservation Closure from December 3 to April 30 of each year (inclusive) as advertised.

The Public Hearing opened at 7:41 p.m.

James MacLeod, chair of the Marine Resource Committee - explained that the Marine Resource Committee held a special meeting Monday night to discuss this issue further. Approximately 35 harvesters attended the meeting and after a lengthy discussion, the Committee is not recommending the closure. At that point, Mr. MacLeod asked to "remove his hat as Chair of the Committee" and address the Council as a citizen/shellfish harvester. Mr. MacLeod urged the Council to pass the closure because he felt that it was still the best management plan for the Town of Brunswick. The resources (the clam population survey) would not support 85 "grand-fathered" diggers. The licensing process is a multi-tiered lottery which helps Brunswick and its harvesters by safeguarding the grand-fathered licenses; protects the winter clams; works well into the conservation plan of rotation; and preserves the growing times for the clams in the month of April.

John Lemont, member of the Brunswick Marine Resource Committee - did not feel that the harvesters should be punished and urged the Council to table this item until the Marine Resource Committee has the opportunity to consider this again. The closure did not need to be acted upon until February 1, 1997 (the date the number of licenses is determined and given to the Town Clerk).

Ralph Swanson, member of the Brunswick Marine Resource Committee - felt the committee had failed to ensure that the harvesters who want the licenses can get them. He suggested that there are a number of things that other communities are doing to alleviate this problem. He felt the best solution was a work program where harvesters help move seed. Mr. Swanson stated that he had left the Marine Resource special meeting (aforementioned) early. He further stated that had he remained at that meeting, he would not have voted as the other committee members did by not recommending the closure.

Councilor Laffely felt that if "grand-fathered" shellfish harvesters do not pick up their license on a given year, that these individuals should lose their "grand-fathered" status.

Natural Resources Planner Alan Houston estimated that less than twenty people harvest clams in the dead of the winter. Approximately 18 percent of standard crop is harvested from the suggested area (Woodward Cove) selected to be open during the proposed closure. Mr. Houston stated that the Marine Resource Committee has the best interest of the harvesters in mind. Their goal of the proposed closure was to ensure that all 85 grand-fathered harvesters would be able to dig in 1997. The number of licenses have dropped over the past few years. However, he felt the clam production in the Town of Brunswick is starting to rise.

Dana Wallace of 1035 Mere Point Road - stated that the growth rates of clams are restricted to a limited period of time and anytime a person gets onto the flats and turns them over, damage is done. He felt that the suggested area to be open during the proposed closure could handle the few diggers who harvest during the winter.

Wendall Casler, shellfish harvester and former member of the Shellfish Advisory Commission and Marine Resource Committee member - felt that other options should be explored and

suggested that the Council table this item.

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Dana Ginnett, shellfish harvester - suggested there was a better way to ensure that the commercial diggers would obtain licenses.

Arthur Corbett of 22 Peary Drive - was concerned as a resident. He has the greatest respect for these hard workers who are trying to defend their jobs. Mr. Corbett recommended that this item be tabled. He also suggested that the Marine Resource Committee further review this item, keeping in mind that the Committee is dealing with people's minds and their livelihood.

Randy Bishop - stated that the clams are plentiful. It was his opinion that the 15 to 20 diggers who might dig in the winter time cannot hurt the supply. He was opposed to the closure.

John Lemont - stated the reason he voted that the Council not approve this closure, was so the Committee could examine other alternatives. He suggested increasing the license fee to discourage those who might buy the license just for the sake of buying it. If the system is not changed somehow, he thought the license numbers would increase each year to include all the "grand-fathered" harvesters.

Rex Purinton of 73 Harpswell St. - spoke against the proposed closure. He did not feel that closing the flats was the best management of the shellfish industry. He suggested that the town try to determine the number of grand-fathered harvesters who were interested in obtaining a commercial shellfish license for this coming year. He estimated that number would be less than the proposed 85 grand-fathered harvesters. Mr. Purinton stated that he would rather see a 45 day closure (same as last year) than the partial closure which is proposed this year.

The Public Hearing closed at 8:45 p.m.

Councilor Swanson felt that the proposed management was one rational alternative. However, she was certain that the lottery was not the way to go. The Town has spent the last twenty years building the town aquaculture. Other alternatives could be explored, but people who care about the resources are needed as harvesters.

Councilor Galloupe stated that clamming must be looked at as an industry. He felt an amendment to the ordinance should be considered if licenses of grand-fathered harvesters might be cut. Possibly they should be cut on a seniority basis.

Councilor Snyder requested information from the Marine Resource Committee as to whether 85 is still a viable number for licenses and the rationale for obtaining the number of licenses. He further requested information regarding the affect of worm digging on the clam population. Councilor Snyder also wanted to know what the Marine Resource Committee thinks about a schedule of closed and open spaces for three years. He did not want to have this same discussion each year. If there is a viability in closing an area, can that area be rotated?

Councilor Feldman wanted information about the legal constraints by the State Statutes.

Councilor Moll did not think the town had much control over the wormers, that they were regulated by the State. She suggested streamlining the process while protecting the longevity of grand-fathered harvesters.

Councilor Wilson concurred that some benefit should be given to harvesters who have been digging regularly.

Councilor Gleason moved, Councilor Feldman seconded to table this item until January 6, 1997. The motion carried with nine (9) yeas.

211. The Town Council will consider a Resolution pertaining to accepting Conservation Easements. (Snyder)

Councilor Snyder requested that this item be placed on the agenda for consideration. A copy of his proposed Resolution will be attached to the official minutes. He explained that he did not believe that the process of accepting easements, as they have been done in the past, is a wise process. He believes that in the long term, conservation easements will prove not to be beneficial to the community. Basically, his proposal will give the Council members an opportunity to consider the particular circumstances of a conservation easement no matter the acreage before the process has proceeded to such a point that the developer or the owner has made plans and the Council can have no significant impact on the process. **Councilor Snyder moved, Councilor Wilson seconded the resolution as distributed.**

Councilor Gleason felt the resolution was an "overkill" and would rather see specific guidelines applicable to every subdivision. It was his opinion that the resolution adds another step to an already lengthy process.

Councilor Feldman commented that the proposed resolution was very arbitrary.

Councilor Moll stated that the proposed resolution discourages conservation easements being held by the town without any encouragement to them being held by other entities. It was her opinion that easements were development and pro-environment which provide incentives for protection for open space and land.

Councilor Swanson thought that the "tone" of the proposal discourages easements. She remarked how fortunate the Town is that we do not pay large amounts of money for the two land use lawyers who currently serve on the Conservation Commission. All it costs the town is "six chairs and an empty room." Councilor Swanson felt the current procedure is working and asked that it not be discouraged.

Andrew Singelakis, Director of Planning and Development, shared some of the same concerns as Councilor Snyder. He circulated recommendations for discussion (to be attached to the official minutes).

Councilor Laffely asked if the property was tax exempt.

Manager Gerrish clarified that the value of the open space is placed with the taxable property. Therefore, the increased value is placed onto the taxable property. Thereby, the town does not lose out on any taxes.

Thomas Farrell, Director of Parks and Recreation, explained that the current ordinance gives the developer an option to set aside land for recreation or conservation purposes. Based on past experiences, the Recreation Commission, because of the Comprehensive Plan, has been inclined not to accept the open space for recreation purposes. Developers understand the incentives available. However, even if the Recreation Commission determines that the acreage can be used for active recreation, the ordinance gives the opportunity to the developer to make an request to the Conservation Commission.

Councilor Galloupe felt that guidelines should be developed so that the easement request would come to the Council earlier in the process. He also agreed with Councilor Gleason that there needs to be some consistency to what will be accepted.

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Council Snyder stated that this is not about recreation land or impact fees. This is about those fees that are waived for giving open space which is otherwise required.

The motion was voted on and failed with two (2) yeas (Councilors Laffely and Snyder) and seven (7) nays.

Councilor Moll moved, Councilor Swanson seconded that the Council reaffirm the protocols of September 21, 1992 including the Conservation Commission's outline of the criteria to be used in their deliberations for recommendations and that the Council instruct the Director or Planning and Development to refine the items enumerated on page 2 of our workshop materials with particular emphasis on impact fee ordinance language in light of the 1992 protocols.

Chair McCausland felt it was not necessary to reaffirm Council action that was taken in 1992. It was his opinion that it has worked well. It is not broken, therefore, there is no need to fix it.

Councilor Wilson agreed with Chair McCausland, however, he was concerned for a balance when the town, through the Conservation Commission or Recreation Commission, can take control through an easement. He was against unnecessary spending of tax dollars and ~~necessary~~* increased bureaucracy.

Andrew Singelakis recognized that this is ~~nothing that~~* should not be taken lightly. Although, he felt that the Conservation Commission has been doing a good job of monitoring easements.

Councilor Feldman requested that, upon review, the Town Council become involved earlier in the process so they are not in an unfair position.

The motion was voted on and failed with three (3) yeas (Councilors Swanson, Galloupe, and Moll) and six (6) nays.

212. The Town Council will discuss advertising for the Environmentalist/Marine Resources Board Member/Conservation Member vacancy on the Zoning Ordinance Development Task Force. (Swanson/Galloupe)

Councilors Swanson and Galloupe requested that this item be placed on the agenda for consideration. Several months ago when this vacancy occurred on the Zoning Ordinance Development Task Force, it was decided that because the process was close to completion, this position would not be advertised and filled. However, because the Task Force work will continue for several more months, Councilors Swanson and Galloupe felt the committee has felt the void of not having this position available and requested that the Council advertise for the environment position.

Councilor Galloupe moved, Councilor Feldman seconded a request that the rules be suspended so that the Council may advertise and appoint an individual at their first regular meeting in January.

Councilor Snyder felt that when the work is done by the current Zoning Ordinance Development Task Force, there will be a significant withdrawal of the current members from that committee. He did not feel a newly appointed member could come up to speed to be effective and suggested that the Council wait and make this appointment later.

* As corrected and approved by Town Council on December 16, 1996.

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Councilor Moll had felt the lack of a member with this expertise and wanted to proceed and advertise for the position as moved.

Councilor Gleason would not support this recommendation if the Committee anticipates bringing the Zoning Ordinance to Council within the next 30 to 45 days.

Chair McCausland understood that there are probably a number of members who will not want to continue onto the next phase of the Zoning Ordinance review.

Councilor Swanson felt the Council was remiss for not taking care of this vacancy immediately because the committee could clearly have used an individual with the environmental expertise for the last few months.

The motion was voted on and carried with nine (9) yeas.

213. The Town Council will consider appointments to the following boards/committees:

Zoning Board of Appeals

1 Full Member, Three year term to expire 12/18/99

Councilor Moll nominated John Poutree as the full member.

Councilor Laffely nominated Francis Bisson as the full member.

Councilor Wilson nominated Kendall Robert Ames as the full member.

Councilor Moll moved, Councilor Feldman seconded that nominations cease. The motion carried with nine (9) yeas.

Votes for each applicant were taken in the order that they were nominated.

John Poutree was re-appointed to serve on the Zoning Board of Appeals as a full member for a three (3) year term to expire 12/18/99 with five (5) votes - Councilors Moll, Feldman, Swanson, Galloupe, and McCausland.

2 Assoc. Members, Three year terms to expire 12/18/99

Councilor Moll nominated both Kendall Robert Ames and John Bott.

Councilor Wilson nominated Frances Bisson.

Councilor Gleason nominated Jane Neboshynsky.

Councilor Wilson moved, Councilor Moll seconded that nominations cease. The motion carried with nine (9) yeas.

Votes for each applicant were taken in the order that they were nominated.

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Kendall Robert Ames was appointed to the Zoning Board of Appeals as an alternate member for a three (3) year term to expire 12/18/99 with seven (7) votes - Councilors Feldman, Swanson, Galloupe, Gleason, Snyder, Moll, and Wilson.

John Bott was appointed to the Zoning Board of Appeals as an alternative member for a three (3) year term to expire 12/18/99 with six (6) votes - Councilors Gleason, Snyder, Moll, Galloupe, Swanson, and Feldman.

Councilor Moll moved, Councilor Feldman seconded to adjourn the meeting. The motion carried with nine (9) yeas. The meeting adjourned at 9:50 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
December 10, 1996

Date of approval

Chair