

BRUNSWICK TOWN COUNCIL MEETING MINUTES MONDAY, SEPTEMBER 30, 1996

**Municipal Meeting Room,
Old Brunswick High School 7:30 P.M.**

Chair McCausland called the meeting to order and asked for the Pledge to the Flag.

Councilors Present: Chair Stephen McCausland, Michael Feldman, Eleanor Swanson, Robert Galloupe, Clement Wilson, Faith Moll, Ervin Snyder, and David Gleason.

Others Present: Donald Gerrish, Town Manager; Deborah Cabana, Town Clerk; Geoff Hole, Town Attorney; Alan Houston, Natural Resources Planner; Philip Harriman, State Senator; Casco Cable TV; and various members of the public.

Minutes of Previous Meeting:

Councilor Wilson moved, Councilor Feldman seconded to approve the Town Council minutes of September 16, 1996 as presented. The motion carried with eight (8) yeas.

Correspondence: Manager Gerrish reported that he had received a letter of resignation from Diane Kew and Christopher Baldwin, who each served on the Solid Waste Advisory Committee. A letter of appreciation will be sent to both and the positions will be advertised for.

Manager's Report: Manager Gerrish reported that First Lady Hillary Clinton came to Brunswick today and gave a speech at the High School. He thought that it was a nice visit and a well coordinated effort.

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

172. The Town Council will hear public comments on the following request for a new Special Amusement license for:

New: Richard's Restaurant, Inc. d/b/a Richard's Restaurant 115 Maine Street Richard A. Gnauck

The Public Hearing opened at 7:35 p.m. The Public Hearing closed at 7:35 p.m.

This is a request for a new Special Amusement License for Richard's Restaurant. The entertainment will be piano, sing-alongs and light music.

Councilor Moll moved, Councilor Gleason seconded to approve the Special Amusement License for Richard's Restaurant. The motion carried with eight (8) yeas.

173. The Town Council will hear public comments on the proposed winter closing of Sawyer Road from December 1st through March 31st each year, for the five year period 1996-2001.

The Public Hearing opened at 7:36 p.m. The Public Hearing closed at 7:36 p.m.

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This is the request to close Sawyer Road for the period December 1st through March 31st each year for the five year period 1996-2001. State Law permits a municipality to close a road, or a portion thereof, for up to 10 years. The closure can be rescinded by a motion of the Council.

Councilor Snyder moved, Councilor Feldman seconded to approve the closure of Sawyer Road from December

1st through March 31st each year for the five year period 1996-2001. The motion carried with eight (8) yeas.

164. The Town Council will hold a hearing to consider the condition on the permit for Jewett's Auto Parts and the possible revocation of the permit. (Manager)

Attorney Geoff Hole summarized that several attempts have been made with Mr. Jewett to remove debris from a right of way, as conditioned by his junkyard license approval of December, 1995. He stated that Jim Favreau of Bath Iron Works offered to physically assist Mr. Jewett in removing these items. However, this offer was not accepted.

Alan Houston gave a time outline from early December, 1995 through April 1, 1996 leading to this consideration of the Council. He distributed a packet of photographs taken over previous years. Mr. Houston felt that the photos clearly demonstrate that the right of way to lots #4, #5, and #6 has existed since 1953. The photos will be attached to the official minutes.

A number of attempts have been made with Mr. Jewett to take care of the materials in the right of way. Mr. Jewett was notified of tonight's meeting by regular and certified return-receipt mail, as well as personally being served notice by Alan Houston. However, Mr Jewett did not attend this meeting.

Attorney Hole stated that the right of way is owned by Mr. Jewett, however, the owners of lot #6 and #5 have an easement over the right of way which allows access to their property.

Councilor Gleason asked if Mr. Jewett had been actively operating his junkyard without a permit.

Alan Houston stated that material and junk has been added during this year, 1996.

Councilor Gleason asked if the Town had received any reason from Mr. Jewett why the articles have not or could not be removed.

Alan Houston stated that Mr. Jewett would have to answer for himself. However, it appears that there is ample room to relocate these materials onto Mr. Jewett's property (lot #3).

Manager Gerrish informed the Council that the Race Track Road is a public road. The Town plows and maintains this road.

There was some discussion about the possibility of the junkyard being a hazardous site. Alan Houston expressed that same concern in the late 1980's. At that time, studies conducted showed no significant amount of hazardous materials.

Councilor Gleason asked what the Council's options were and what would be the impact of those options. Attorney Hole reiterated that Mr. Jewett does not have a permit to operate his junkyard. However, he felt that due process required that the Town have a hearing. Attorney Hole suggested three possibilities for the Council to consider:

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1. To strike the conditions from the permit. But he suggested that the Council had good reasons for initially placing these conditions on the permit, and hoped the Council would not exercise this option.
2. To suspend the permit. If Mr. Jewett decides to remove the items from the right of way, then the Town would be in the position to give him the permit for the balance of this year.
3. To revoke the permit. If this is the Council's decision, then Mr. Jewett would be required to re-apply for this year. Although, as Mr. Houston pointed out, the permit expires on December 31st of this year. If the Council revoked the permit, Attorney Hole suggested waiting the 30 day appeal period. Another effort would be made

with Mr. Jewett to remove the items. If Mr. Jewett does not remove the items at that time, Attorney Hole would seek authority from the Council for enforcement action to ask the Court to order Mr. Jewett to apply for and obtain a new permit from the Town with the conditions that the Town felt were appropriate or to move materials from the property so that it would no longer meet the definition of a junkyard.

Chair McCausland noted that Mr. Jewett was not present at the meeting but asked if there was anyone in the public to speak on Mr. Jewett's behalf. There was no one.

Attorney George Glover - legal counsel for Sharon Havener and Gary Gaudette (the owners of lot #6) who purchased the property last March from Linda Dolloff. Mr. Glover distributed copies of an affidavit of Linda Dolloff who lived at lot #6 since 1958. Ms. Dolloff stated that the aforementioned right of way had and has been used since 1958. She further stated that she remembered her father having many legal problems with Mr. Jewett. A copy of the affidavit will be attached to the official minutes. Mr. Glover also distributed copies of a letter from Thibeault Energy stating that it was impossible to deliver oil to Sharon Havener on the Harding Road as the road is partially blocked by the school bus that was sitting there. Mr. Glover asked how Mr. Jewett has been able to operate his junkyard since last December, 1995, without a permit. He felt that a man should not get away with flaunting the Town's ordinances and urged the Town Council to proceed along the lines to revoke Mr. Jewett's license and force him to remove the items blocking the right of way in front of the Havener/Gaudette house.

Jim Favreau, Director of Facilities for Bath Iron Works - was interested in this issue being resolved. Mr. Favreau had tried to talk with Mr. Jewett about cleaning the area, however, Mr. Jewett's response was that the Town could not take away what he did not have. Mr. Favreau felt that the Council needs to look at revoking the license as well as enforcement of the current conditions.

Councilor Moll felt that the town could not participate into a collusive relation with one individual to evade the law.

Councilor Snyder moved, Councilor Wilson seconded that finding 1) that owner has applied for a junk yard permit to cover lots 3 & 4, and finding that the owner, after reasonable notice has persisted in storing junk items outside of the junk yard boundaries, it is moved that the Council revoke the conditional permit of the junk yard order issued on December 18, 1995. The motion carried with eight (8) yeas.

174. The Town Council will consider adopting a Resolution for an Emergency Appropriation of \$30,000 from Unappropriated Available General Fund Revenues for the Widening and Reconstruction of Charles Court. (Manager)

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These two items pertain to the Council's decision at their September 3, 1996 Council meeting to use additional money from increased valuation to fund these two projects.

Councilor Wilson moved, Councilor Gleason seconded to adopt the Resolution for an Emergency Appropriation of \$30,000 from Unappropriated Available General Fund Revenues for the Widening and Reconstruction of Charles Court. The motion carried with eight (8) yeas.

175. The Town Council will consider adopting a Resolution for an Emergency Appropriation of \$19,200 from Unappropriated Available General Fund Revenues for the Removal and Replacement of the Floor Tiles in the Coffin School Gymnasium. (Manager)

This Resolution authorizes the transfer of the necessary funds to the appropriate accounts.

Councilor Gleason moved, Councilor Snyder seconded to adopt the Resolution for an Emergency Appropriation of \$19,200 from Unappropriated Available General Fund Revenues for the Removal and Replacement of the Floor Tiles in the Coffin School Gymnasium. The motion carried with eight (8) yeas.

176. The Town Council will consider the recommendation of the Police Department to authorize a stop sign at the intersection of Bowker Street at Pine Street. (Manager)

It is being recommended by the Police Department that a stop sign be placed at the intersection of Bowker Street and Pine Street. The Traffic Safety Committee has discussed this issue and also supports the installation of a stop sign.

Councilor Wilson moved, Councilor Feldman seconded to approve a stop sign at the intersection of Bowker Street and Pine Street. The motion carried with eight (8) yeas.

177. The Town Council will consider the request of Bowdoin College to place two Street. (Manager)

Bowdoin College is in the process of re-wiring the campus for their computer system. They are requesting permission to install two poles in order to accommodate the re-wiring. They will be in the Town right-of-way but will be owned by Bowdoin College.

Councilor Feldman moved, Councilor Wilson seconded to approve the request from Bowdoin College to install two poles on Grove Street. The motion carried with eight (8) yeas.

178. The Town Council will consider the requests of Central Maine Power and New England Telephone to place 8 poles on the Lisbon Falls Road and 4 poles on the Bull Rock Road (Adams Road). (Manager)

We have received requests from Central Maine Power and New England Telephone to place 8 poles on the Lisbon Falls Road, and 4 poles on the Bull Rock Road (Adams Road). Manager Gerrish recommended approval of both applications, however, suggested that the Bull Rock Road application be approved based upon the Town Attorney's review and endorsement.

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Councilor Gleason moved, Councilor Snyder seconded to approve the request of Central Maine Power and New England Telephone to install 8 poles on the Lisbon Falls Road, and also 4 poles on Bull Rock Road (Adams Road), conditioned upon the Town Attorney's review and approval. The motion carried with eight (8) yeas.

179. The Town Council will vote for 1996-97 Slate of Officers and voting delegates for the MMA Executive Committee and Advisory Committee. (Manager)

This is the 1996-97 election of the MMA Executive Committee and Advisory Committee. A copy of the slate of officers will be attached to the official minutes.

Councilor Gleason moved, Councilor Feldman seconded to approve the Slate of MMA Officers and to appoint Councilor Wilson as the voting delegate and Manager Gerrish as the alternate voting delegate for the Town of Brunswick to the Maine Municipal Association's Annual Business Meeting. The motion carried with eight (8) yeas.

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

VILLAGE REVIEW BOARD 1-Architect Member, 3 year term to expire 10/20/98

Councilor Moll moved, Councilor Feldman seconded to appoint Carol T. Liscovitz as the architect member of the Village Review Board for the balance of a three (3) year term to expire 10/20/98. The motion carried with eight (8) yeas.

1-Full Member, professional in the field of history, 3 year term to expire 10/20/99

Councilor Moll moved, Councilor Wilson seconded to appoint Deborah Zorach as the historian member of the

Village Review Board for a three (3) year term to expire 10/20/99. The motion carried with eight (8) yeas.

1-Full Member, Resident of the community, 3 year term to expire 10/20/99

Councilor Snyder moved, Councilor Feldman seconded to appoint Betsey Alden as the citizen member of the Village Review Board for a three (3) year term to expire 10/20/99. The motion carried with six (6) - and two nays - Councilors Swanson and Moll..

1-Associate Member, 1 year term to expire 10/20/97

Councilor Wilson moved, Councilor Feldman seconded to appoint Jane Crichton as an associate member of the Village Review Board for a one (1) year term to expire 10/20/97. The motion carried with eight (8) yeas.

WATER DISTRICT TRUSTEE 1-Full Member, 3 year term to expire 9/13/99

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Councilor Galloupe moved, Councilor Feldman seconded to appoint Maurice L. LaCharite to the Water District Trustee, for a three (3) year term to expire 9/13/99. The motion carried with eight (8) yeas.

181. The Town Council will vote to enter Executive Session to discuss a personnel matter.

Councilor Snyder moved, Councilor Gleason seconded to enter Executive Session to discuss a personnel matter. The motion carried with eight (8) yeas.

The Town Council and Town Manager returned from Executive Session at 9:45 p.m. Councilor Snyder moved, Councilor Galloupe seconded to adjourn the meeting. The motion carried with eight yeas.

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 October 17, 1996

Date of approval

Chair

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