

BRUNSWICK TOWN COUNCIL MINUTES

March 2, 1998 7:30 P.M.

**MUNICIPAL MEETING ROOM
OLD BRUNSWICK HIGH SCHOOL
6:30 P.M.**

Councilor Wilson moved, Councilor Feldman seconded, that the Town Council enter Executive Session to discuss possible litigation. The motion carried with eight (8) yeas - Councilor Gleason joined the Council while in executive session.

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, Ervin Snyder, and David Gleason.

Others Present: Donald Gerrish, Town Manager; Deborah Cabana, Town Clerk; Geoff Hole, Town Attorney; Alan Houston, Natural Resources Planner; Phil Carey, Town Planner; several citizens, members of the press and Casco Cable TV.

Minutes of Previous Meetings:

Councilor Wilson moved, Councilor Dotts seconded, to approve the Council minutes of February 17, 1998 as distributed. The motion carried with nine (9) yeas.

Correspondence: None

Manager's Report: Manager Gerrish reported that we are currently 67% through the fiscal year. Even though the Public Works budget is over expended due to the ice storm, it was anticipated that FEMA would cover that overage. Expenditures in other departments were in good shape. He also advised that state revenue sharing is estimated to exceed anticipated budget by over \$100,000.

Adjustments to the Agenda: Councilor Snyder moved, Councilor Feldman seconded, based on the Council's executive session, that the Town Council add item #39 which states that "The Town Council will consider the proposed settlement of the town line litigation with the Town of Harpswell and take any appropriate action" and further, that this item be considered out of order, immediately following item #29. The motion carried with nine (9) yeas.

29. The Town Council will hear public comments on the following requests for Sellers of Prepared Food on Public Ways licenses on the Brunswick Mall for:

**Brunswick Farmer's Market
Mall**

Eric R. Welzel, President

**Danny's on the Mall
Mall**

Sean L. McDonald

**Down East Hot Dog
Mall**

Stephen S. Sprague

**Kim Enterprises (Cola Cafe)
Mall**

Kimberly Groat

**Wrappers
Mall**

David William Ater

The Public Hearing opened at 7:37 p.m. The Public Hearing closed at 7:37 p.m.

Councilor Moll requested that the Health Officer inspect the ventilation of Cola Cafe, because last year the ventilation created very smoky conditions.

Councilor Dotts moved, Councilor Feldman seconded, to approve the Sellers of Prepared Food on Public Ways for the Brunswick Farmer's Market, Danny's on the Mall, Down East Hot Dog, Kim Enterprises, and Wrappers. The motion carried with nine (9) yeas.

39. The Town Council will consider the proposed settlement of the town line litigation with the Town of Harpswell and take any appropriate action.

Councilor Gleason announced that the Town Council of Brunswick and the Board of Selectman of Harpswell have agreed upon a settlement of the boundary dispute between the two towns. At simultaneous meetings held on Monday evening, the two bodies voted to support an agreement which had been developed through direct negotiations between their representatives. Both bodies said that they believe that the negotiated solution is preferable to the uncertain results of a litigated approach. In October, 1997, Harpswell filed an action in Superior Court which initiated a litigated proceeding to set the boundary. In the framework of that case, the towns had agreed to attempt a mediated solution. However, outside of that proceeding, direct negotiations were able to produce the settlement, at less cost and more rapidly than otherwise could have been the case. The settlement provides that the boundary line between the two towns will follow a surveyed line reflecting the USGS map line with an adjustment in the area of Crow Island. That island and the waters and tidal flats to the south and east of it will belong to Harpswell, while the waters and tidal flats to the north and west of it will belong to Brunswick. This settlement resolves a dispute arising from the acts of the Massachusetts legislature in establishing the two towns. Brunswick was established in 1738 and Harpswell in 1758. The two towns believe that resolution of this matter will benefit Shellfish Harvesters on both sides of the line by clearly defining lawful areas to dig. The Brunswick Town Council has the authority to agree on behalf of the Town and plans to hold a public meeting on March 16th or, alternatively, pursuit of the litigation. The Harpswell Town Meeting must approve the settlement. The Selectman adopted supplementary warrant articles for the Annual Town Meeting which will be held on March 14th at the Harpswell Islands School. The warrant articles authorize settlement provided Brunswick acts favorably on March 16th or, alternatively, pursuit of the litigation. After approval by the towns, additional survey work will be required to complete the line before it is ready for adoption. The towns expect to work cooperatively to place the necessary boundary markers. After final establishment of the boundary, the Towns have agreed to begin discussions to explore the possibility of cooperating to maintain water quality, which is essential to Marine Resources. A copy of a map outlining this proposal will be attached to the official minutes.

Councilor Gleason moved, Councilor Wilson seconded, that the Town Council support the proposed settlement of the Town Line litigation with the Town of Harpswell and set Monday, March 16th at 7:30 p.m. as a public meeting to discuss the proposal and take final action. The motion carried with nine (9) yeas.

- 30. The Town Council will consider setting a Public Hearing regarding Amendment of the Shellfish Ordinance section 11-140 as it pertains to the issuance of Commercial Shellfish Licenses on an emergency and regular basis.**

Attorney Hole explained that this item concerns setting a Public Hearing in order to amend the Shellfish Ordinance section 11-140. It appears that there may be Commercial Shellfish licenses remaining once the current policy procedure is followed. The way that the current ordinance reads, licenses will be available on a first come, first serve basis. In order to avoid a problem, it is felt that this amendment is necessary and should be adopted on an Emergency basis. This new process will set a time to register for the license and then a lottery will be held.

Councilor Wilson moved, Councilor Dotts seconded, to schedule a public hearing on March 16, 1998 for the purposes of amending the Shellfish Ordinance, section 11-140, on an emergency and regular basis. The motion carried with nine (9) yeas.

- 31. The Town Council will consider setting a Public Hearing regarding amendment of the Closure of the Town Flats for the purpose of Resource Conservation as passed by the Council on April 7, 1997 to allow for a greater area of harvesting.**

Alan Houston, Natural Resources Planner, reported that this item concerns setting four public hearings. The first consideration proposed was amending the Town Wide Closure of the Town Flats. Specific changes are to increase the area included in the exception (Maquoit Bay), effective March 17, 1998. He further explained that because the Department of Marine Resources has agreed to open up Maquoit Bay, this has triggered the proposed replacements for two previous closures of February 5, 1990 (Bunganuc Creek Closed Area V and Northeastern Maquoit Bay Closed Area X). In addition, he requested that the Council consider approving a rainfall conservation closure for Maquoit Bay. He anticipated that he would be returning to the Council in the near future requesting that other closed areas be amended because of the improvement of water quality in the Brunswick area.

Councilor Snyder moved, Councilor Gleason seconded, to schedule four public hearings to amend closure ordinances regarding the town flats, as proposed by the Marine Resource Committee. The motion carried with nine (9) yeas.

- 32. The Town Council will receive a report from the Planning Board proposing amending the Zoning Ordinance and take any appropriate action.**

Phil Carey, Town Planner, explained that the current Zoning Ordinance is extraordinarily restrictive with regard to Flight Path Zone provisions. The proposal would create two distinct Flight Path Zones. A Public Hearing needs to be set for March 16, 1998.

Councilor Feldman moved, Councilor Wilson seconded, to schedule a public hearing on March 16, 1998 for the purposes of amending the Zoning Ordinance section 215 with regard to Flight Path Zone provisions. The motion carried with nine (9) yeas.

- 33. The Town Council will consider approving a License to Operate Beano/Bingo or Games of Chance as requested by Sue Cote as Chair of the 1998 St. John's Bazaar for the dates of June 19, 20, & 21, 1998. (Manager)**

Councilor Wilson moved, Councilor Dotts seconded, to approve the request of St. John the Baptist Parish for licenses for games of chance for the annual St. John's Bazaar. The motion carried with nine (9) yeas.

- 34. The Town Council will consider Disposition Action for tax acquired property and take appropriate action. (Manager)**

This item deals with two properties the Town has acquired through nonpayment of taxes. They are both mobile homes. Our policy authorizes the Council to dispose of tax acquired property without going through established procedures, if the Town Manager recommends it. Manager Gerrish recommended that the Council authorize him to dispose of both properties without going through established procedures.

Councilor Feldman moved, Councilor Swanson, seconded that the Brunswick Town Council hereby orders that the Town Manager immediately dispose of the following tax-acquired properties by first offering the properties for sale to the party from which they were acquired and second on any terms the Town Manager in his sole discretion deems to be in the best interest of the Town of Brunswick, Maine. The Town Manager is authorized to execute quit claim deeds for the sale of these properties and to execute any other documents necessary to dispose of these properties. The motion carried with nine (9) yeas.

- 35. The Town Council will consider authorizing the acceptance of forfeited Assets and take any appropriate action. (Manager)**

Manager Gerrish advised that this item is a housekeeping item of accepting \$1,931.80 in forfeited assets. This represents Brunswick's share of money seized during the investigation of drug trafficking activities of an individual who is facing criminal drug trafficking charges.

Councilor Moll moved, Councilor Snyder seconded, accept forfeited Assets from the State of Maine in the amount of \$1,983.80. The motion carried with nine (9) yeas.

- 36. The Town Council will consider the Proposed Policy for Removal of Officials Appointed to Boards, Commissions and Committees and take any appropriate action. (Manager)**

This item is discussion of the Proposed Policy for Removal of Officials Appointed to Boards, Commissions and Committees. Copies of the proposed policy were sent to Chairs of all Boards and Committees and they were asked to respond by February 25th or be present at the Council Meeting. Attorney Hole explained the proposed policy and recommended that it be discussed by the Council and that they consider adopting the policy at their next meeting, March 16, 1998.

Councilor Moll moved, Councilor Feldman seconded, to consider adopting the proposed Policy for Removal of Officials Appointed to Boards, Commissions, and Committees at their next regularly scheduled meeting on March 16, 1998. The motion carried with nine (9) yeas.

- 37. The Town Council will consider adopting the 1998 Town Council Goals and Objectives. (Manager)**

Manager Gerrish reviewed the five categories of the Council Goals and Objectives.

Councilor Galloupe suggested that item #4 not be limited to Brunswick, Topsham and Bath, but also include language "other surrounding communities." The Council was in agreement to this suggestion.

Councilor Feldman pointed out that although the first three items were on last year's goals and objectives, that Brunswick had made great progress in these goals. They are big issues which take a lot of time.

Councilor Gleason believed that it is not always the fault of the driver when a pedestrian is hit and suggested that "traffic safety" be included with pedestrian safety (Item #3).

Councilor Moll pointed out that while a driver may have remorse over hitting a pedestrian, the driver is probably not dead. She suggested the term "safe traffic" so that pedestrians will not be killed. She further requested that "livability in the downtown neighborhoods" be added to the list of goals and objectives. She would like to reclaim the areas where vehicles are parking and creating unsafe conditions.

Councilor Snyder asked if item #1 could include the adoption of the Impact Fees.

Manager Gerrish felt that Councilor Moll's concerns about curbing could be included in item #1, under the Capital Improvement Program.

Councilor Feldman moved, Councilor Wilson seconded, to adopt the 1998 Town Council Goals and Objectives, as amended. The motion carried with nine (9) yeas. A revised copy of the 1998 Town Council Goals and Objectives will be attached to the official minutes.

38. The Town Council will consider making appointments to the following Boards and/or Committees:

Conservation Commission

2 FULL MEMBERS - Balance of three year terms to expire 05/01/00

1 FULL MEMBER - Balance of three year term to expire 05/01/99

Councilor Moll moved, Councilor seconded, to appoint Geraldine A. Curtis to the Conservation Commission for the balance of a term to expire 05/01/00. Ms. Curtis was appointed with nine (9) yeas.

Personnel Board

2 FULL MEMBERS - Three year terms to expire 01/12/01

Councilor Moll nominated Cynthia Osgood.

Councilor Dotts nominated Todd Cabelka.

Councilor Moll nominated Kathleen Gilliam.

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

Cynthia Osgood was appointed to the Personnel Board with eight (8) votes - Councilors Feldman, Swanson, Galloupe, McCausland, Wilson, Moll, Snyder, and Gleason.

Upon the first vote - Todd Cabelka received five votes - Councilors Feldman, Swanson, Dotts, Wilson, and Gleason. Kathleen Gilliam also received five votes - Councilors Galloupe, Dotts, Snyder, Moll, and McCausland.

A re-vote was taken and Kathleen Gilliam was re-appointed to the Personnel Board with five (5) votes - Councilors Gleason, Snyder, Moll, Galloupe, and McCausland.

Planning Board

2 FULL MEMBERS - Three year terms to expire 02/23/01

2 ASSOCIATE MEMBER - Three year terms to expire 02/23/01

Councilor Wilson moved, Councilor Snyder seconded, to appoint Roger Deveau to the Planning Board as a full member for a three year term to expire 02/23/01. Mr. Deveau was appointed with nine (9) yeas.

Councilor Snyder moved, Councilor Wilson seconded, to appoint Edward Laine to the Planning Board as a full member for a three year term to expire 02/23/01. Mr. Laine was appointed with nine (9) yeas.

Councilor Moll moved, Councilor Wilson seconded, to appoint Edward Hawes to the Planning Board as an associate member for a three year term to expire 02/23/01. Mr. Hawes was appointed with nine (9) yeas.

Councilor Moll moved, Councilor Feldman seconded, to appoint Rita Worthing to the Planning Board as an associate member for a three year term to expire 02/23/01. Ms. Worthing was appointed with five (5) yeas and four (4) nays - Councilors Gleason, Snyder, Wilson, and McCausland opposed.

Sewer District Trustee

2 FULL MEMBERS- Three year terms to expire 04/01/01

Councilor Moll moved, Councilor Gleason seconded, to re-appoint Robert Mehlhorn and William Hackett to the Sewer District as full members for three year terms to expire 04/01/01. Mr. Mehlhorn and Mr. Hackett were re-appointed with nine (9) yeas.

Solid Waste Management Advisory Committee

1 FULL MEMBER - Balance of three year terms to expire 01/01/00

1 FULL MEMBER - Balance of three year terms to expire 01/01/99

3 FULL MEMBERS- Three year terms to expire 01/01/01

Councilor Moll moved, Councilor Feldman seconded, to appoint Susan B. Blair and Leon Laffely as full members of the Solid Waste Management Advisory Committee for three year terms to expire 01/01/01. Ms. Blair and Mr. Laffely were appointed with nine (9) yeas.

Traffic and Safety Committee

7 CITIZEN MEMBERS - Two year terms to expire 04/01/00

Councilor Wilson moved, Councilor Snyder seconded, to appoint Edwin Springer to the Traffic and Safety Committee as a citizen member for a two year term to expire 04/01/00. Mr. Springer was appointed with nine (9) yeas.

Welfare Appeals Board

1 ASSOCIATE MEMBER -Two year term to expire 01/28/00

1 FULL MEMBER - Two year term to expire 01/28/00

Councilor Moll moved, Councilor Wilson seconded, to appoint Laurie Dell to the Welfare Appeals Board as a full member for a two year term to expire 01/28/00. Ms. Dell was appointed with nine (9) yeas.

Councilor Wilson moved, Councilor Dotts seconded, to adjourned the meeting. There was no objection from the Council. The meeting adjourned at 9:05 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
May 19, 2011

Date of approval

Council Chair