

BRUNSWICK TOWN COUNCIL MINUTES
February 5, 2001
Postponed until February 6, 2001 due to inclement weather
MUNICIPAL MEETING FACILITY

7:00 P.M.

Councilor Dotts moved, Councilor Moll seconded, to enter into Executive Session to discuss a personnel matter. The motion carried with seven (7) yeas. Councilor Lowe joined later.

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, Jacqueline Sartoris, Robert Galloupe, Timothy Dotts, Faith Moll, Forrest Lowe and David Gleason.

Councilors Absent: Charles Priest.

Others Present: Donald Gerrish, Town Manager; Melissa Smith, Deputy Town Clerk; Thomas Farrell, Director of Parks and Recreation; Geoffrey Hole, Town Attorney; Commander Robert Anesse, Police Department; Daniel Devereaux, Certified Municipal Shellfish Conservation Warden; Frank McVey, Sewer District; several citizens, members of the press and TV video crew.

Minutes of Previous Meetings: January 16, 2001

Councilor Dotts moved, Councilor Galloupe seconded, to approve the minutes of January 16, 2001. The motion carried with eight (8) yeas.

Correspondence:

1. Manager Gerrish read a letter he received from Mike Wilhelm, Superintendent of Schools, S.A.D. #75 pertaining to the lease agreement with the Old Brunswick High School. *A copy of the letter will be attached to the official minutes.*
2. A letter of resignation from Susie Blair, Solid Waste Advisory Committee was received.
3. A letter of resignation from Cecil Rodgers, Marine Resource Committee was received.

Manager's Report:

1. **Update on Land for Maine's Future Application --** Manager Gerrish announced that the Town will receive funds of \$150,000 to help purchase the Goodwin/Davis Property. This property abuts the Town Commons. Mr. Gerrish thanked the Friends of the Commons and the staff for their work on this application, especially to Peter Didisheim, Open Space Task Force; David Whiteside, Friends of the Commons; Tom Farrell, Director of Parks and Recreation; Theo Holtwijk, Director of Planning and Development; and Phil Carey, Town Planner for a great application.
2. **Financial Update –** Excise tax, which has been flat, exceeded expectations this month by \$18,000. State Revenue Sharing is still flat and it looks like there will be a \$100,000 deficit at the end of the fiscal year. Other revenues and expenditures are in good shape. The salt budget is almost expended. Councilor Moll thanked the Public Works Department for cleaning up the snow so quickly all over Town.
3. **Maine State Music Theater –** Chair McCausland stated that the Council may want to get involved in the overtures of the Maine State Music Theater to leave Brunswick after 43 years and relocate to the campus of the University of Southern Maine in Gorham.

Manager Gerrish and Chair McCausland had a meeting with the Maine State Music Theater and were given the first official word. Councilor Sartoris has also had communications with some to the parties involved. There is a feeling that there should be a meeting with the College, the Theater, the friends of both, and some other entities in town government to talk about this, so that everyone is kept in the loop. Councilor Sartoris volunteered to represent the Council. Chair McCausland believes a meeting would be an excellent idea to foster communications on both sides. There were no objections by the Council. Chair McCausland stated that we all value the Theater and what it has been for the Town of Brunswick for these four decades and would very much like to see the Theater stay.

Adjustments to the Agenda: None

15. **The Town Council will hear public comments on the following requests for Victualer (Food Service Establishment) license application and take any appropriate action.**

NEW:

Sweet Dreams, Inc d/b/a Sweet Dreams Cafe
256 Bath Road

Cathy Headley

The public hearing opened at 7:45 p.m. The public hearing closed at 7:45 p.m.

Councilor Lowe moved, Councilor Moll seconded, to approve the Victualer License as advertised. The motion carried with eight (8) yeas.

16. **The Town Council will hear public comments to amend the Town Ordinance Chapter 15 Traffic and Vehicles, Section 15-74 No Parking Areas to include no parking on the west side of Union Street from McKeen St to Weymouth Street and take any appropriate action.**

Commander Annese stated that traffic has increased on Union Street and the design of the street with the hill and curve poses a visibility issue, especially with the encroachment of snow banks after snowstorms. At the last Council Meeting, Councilor Moll had suggested this be passed on an emergency basis and Commander Annese agreed. *A copy of the proposal will be attached to the official minutes.*

The public hearing opened at 7:46 p.m. The public hearing closed at 7:47 p.m.

Councilor Moll moved, Councilor Dotts seconded, to approve the Traffic and Vehicles Ordinance Section 15-74, relative to No Parking Areas on the west side of Union Street from McKeen Street to Weymouth Street on a regular and emergency basis. The motion carried with eight (8) yeas.

17. **The Town Council will hear public comments concerning amendments to the Marine Activities, Structures and Ways Ordinance and take any appropriate action.**

Attorney Geoffrey Hole reviewed the amendments. *A copy of the changes will be attached to the official minutes.*

The public hearing opened at 7:50 p.m. The public hearing closed at 7:51 p.m.

Councilor Moll moved, Councilor Feldman seconded, to approve the amendments to the Marine Activities, Structures and Ways Ordinance on a regular basis. The motion carried with eight (8) yeas.

18. The Town Council will hear public comments on the request from Maine Natural Gas to utilize the Bike Path Property and take any appropriate action.

Manager Gerrish stated the main area in the proposal is that Maine Natural Gas would pay the Town of Brunswick \$50,000, (\$25,000 at the start of construction and \$5,000 per year for the next five years). Maine Natural Gas would be able to trench through the paved area leading to the outhouse and through the path leading to the bridge. There are already seams in these areas so it will not increase the number of seams. Maine Natural Gas would have a three-foot easement on each side of the trench.

Public hearing opened at 7:55 p.m.

Tim Kelly, President of Maine Natural Gas, gave a brief presentation to the Council concerning the opportunity for Natural Gas in Brunswick and the proposal for it to be brought along the Bike Path to the Naval Air Station, and then to homes and businesses in Brunswick. He was pleased to announce a \$50,000 donation toward the expansion or improvement of the Bike Path. *An attachment from Maine Natural Gas will be attached to the official minutes.*

Thomas Crimmins, 157 Jordan Avenue, resident, commented against this proposal. *Mr. Crimmins comments will be attached to the official minutes.*

John Peters, 134 Middle Bay Road, resident and Executive Vice President of Downeast Energy Corporation, commented against this proposal. *Mr. Peters comments will be attached to the official minutes.*

Sarah Crowley, 80 Hennessey Avenue, resident and District Manager for Dead River Company Retail Fuel Operation in the Industrial Park, commented that she strongly endorsed the comments made by Mr. Peters. She, too, hoped that the issue was still open for negotiations and input.

Jim Burbank, 11 Cumberland Street, resident and Chairman of the Parks and Recreation Commission, commented that the Commission voted unanimously against this proposal. The Commission is opposed to the intrusion on this piece of public land.

Elizabeth Glover, 19 High Street, resident, gave a brief history of the bike path beginning with a bike route along Bath Road. At that time none of us ever envisioned what the bike path would mature into and that it would become such a valuable asset to the community. She suggested it is not appropriate to give away utility rights of way. Ms. Glover suggested appointing the Friends of the Brunswick Bike Path for future projects or considerations on development. She urged not to accept this proposal and to explore other alternatives with the gas company.

George Glover, 19 High Street, Chairman of the Rotary Bike Path Enhancement Committee commented that the Rotary had not taken any position one-way or the other because they did not have enough information. Mr. Glover, resident, does not know about the alternatives and believes that these alternatives should be fully understood by the public before committing to this proposal. He is concerned about issues such as maintenance and eminent domain. It bothers him that the Town will be receiving less than \$50,000 of value since the payments are spread over five years.

Marybeth Burbank, 11 Cumberland Street, resident, gave a brief history of the stewardship of property in the Town of Brunswick. Ms. Burbank does not feel the Bike Path property should be commercial property. Where is the Town of Brunswick's expert? She urged the Council to think very carefully before beginning to play the role of finding the right price to sell Town property. There is no amount of money that will provide the serenity, security, and wholesome freedom that people have, who use the Town of Brunswick's Bicycle Path.

Ted Crooker, 44 Storer Road, resident and contractor, commented that he and his brother built most of the Bike Path. As a contractor, they got the most "Thank you"s from the 1.3 million dollar Bike Path. He

would personally rather see the pipeline on this proposed route than going through Town along the roads because of repairs that may be needed. He said that the part of the pipeline in the flight path can be buried deeper. The Town would be losing tax dollars if this proposal were not accepted. He is in support of the pipeline going through the Bike Path because he does not see any other safer route for it to go.

Robert Wixted, 29 Bouchard Drive, commented that he is truly alarmed at what is going on here. He thinks it is very chancy to give ownership of the property or take control away from the Town for any reason for a measly \$50,000.00. He hoped the Council would spend more time talking about this issue.

David Bunge, 13 Belmont Street, commented that after an hour and a half of conversation with so many people having different opinions he thought that perhaps this issue was going to be decided tonight. He hoped that much more consideration would be given and the questions asked tonight would be answered before a decision would be made.

Chair McCausland stated that this was not a public hearing but a Forum. He also asked Town Manager Gerrish if he would elaborate on the taxation question and the safety issue.

Manager Gerrish stated that any pipeline put in the ground would be taxed. However, as far as safety issues, there are standards to which the pipe has to be put in the ground. In the flight area the pipe will be covered with concrete. Maine Department of Transportation will have to give permission and they have standards to be fulfilled to put pipelines in the ground.

Chair McCausland stated that Maine Natural Gas apparently has the authority to use any public way for this pipeline. Manager Gerrish agreed. Mr. Gerrish also stated that Maine Natural Gas does not have the authority of eminent domain to take any public property that the Town owns.

Gary Farmer, Gas Safety Program Manager for the Maine Public Utilities Commission, commented that, to his recollection the statistics that Mr. Crimmins stated were correct. He clarified that outside forces include earthquakes and things that do not normally happen in Maine. What does happen often is third party damage, which is the largest portion of outside forces. The gas pipeline, regardless of where it goes, can be built safely. The Federal Regulations have been in place for over 30 years and if you look at the statistics over that period, you would find that there is no safer way to transport a hazardous material than a pipeline.

Councilor Moll found all the testimony very compelling. She will not support this proposal.

Councilor Gleason stated that he would support this proposal. There is only one issue, which is safety. There is nothing more important for the children and the townspeople than safety in the community. He has no reason to believe that the Federal and State Regulations that are in effect would not protect us adequately.

Councilor Sartoris has reservations about this issue and will oppose this proposal.

Councilor Galloupe agrees with Councilor Gleason and will vote for this proposal.

Councilor Feldman explained the process that took place when he and Councilor Lowe joined Manager Gerrish for the negotiations with the Maine Natural Gas Company. The Gas Company came to the Council about 2 months ago and said they needed a decision about whether they can come to Brunswick using the Bike Path and they needed to have the decision right a way because they have contracts with the Navy and because they can't go through Pownal. Manager Gerrish stated that the bike path is on a popular route for the gas line. It was explained by the Gas Company that there were no alternatives; this was the only way to come to Brunswick. The Council decided to talk with the Gas Company and negotiate what the agreement would be if they came by way of the Bike Path, then the Council would bring that negotiated proposal to public hearing. Mr. Feldman has not made a decision. He wanted the public to

know that this was not a done deal. Councilor Lowe and he, on behalf of the Council, believed they made the best deal they could with the Gas Company to come down the Bike Path. Now it is up the Council to listen to comments from the public and decide whether to go forward with this proposal or not. Councilor Feldman stressed that the Council did not walk in with a done deal, they walked in with a proposal.

Councilor Lowe agreed with Councilor Feldman's explanation of the process. He had not made up his mind 100% either. After listening closely to the comments tonight, he is not going to be able to support this proposal.

Councilor Feldman stated he was not prepared to vote yes on this proposal until there was a full Council present.

Bill Hitchcock, Engineer Director of Public Works at the Naval Air Station, stated that the Navy was doing extensive construction based on the September 2001 date that the Maine Natural Gas Company had contracted with the Navy. They will be in a bind if there is no gas by September 2001.

Gary Kenny, Manager of Engineering and Operations of Maine Natural Gas, explained the alternate routes again and why they were rejected.

Doug Rice, Wright Pierce, showed on the map many other alternatives and explained why they were ruled out. He stated that the only bridge that is not in the flood plain was the new bridge.

After more questions and answers, it seems that any alternatives that do not include the Bike Path are more costly to Maine Natural Gas. It also seems that this is the third or fourth alternative that the Maine Natural Gas Company has looked at to get service to the Naval Air Station. The Gas Company did not realize until last fall that this is the only way they could get to the Navy Base from the north.

Councilor Moll moved, Councilor Sartoris seconded, to not allow this comprehensive use of the Bike Path and not to enter into any agreement with Maine Natural Gas at this time. This does not end any discussions with the Gas Company, but it does close the pipeline traversing through the Bike Path and the Sale of the Right of Way.

Chair McCausland asked for clarification from Councilor Moll. Does this mean hands off the Bike Path in any form, for example boring under the river?

Councilor Moll amended her motion to include hiring a consultant to advise the Council on any other proposals.

Councilor Moll repeated her motion to reject the \$50,000 and the embedding of the gas line on the Bike Path and also not to sell any right of way or easement to the Bike Path, as it is so proposed. Also, taken into account what has been discussed, that a consultant be hired to analyze any further proposals brought before the Council.

Councilor Galloupe asked for clarification on what the Consultant would do?

Manager Gerrish stated that the Town would hire a professional consultant to discuss the Town's options with the Maine Natural Gas Company.

Councilor Sartoris seconded the amended motion. The motion carried with six (6) yeas. Opposed Councilors Gleason and Galloupe.

- 19. The Town Council will discuss regulating the time for refuse collection and take any appropriate action.**

Councilor Moll requested that the Solid Waste Ordinance, Section 13-30 (a) be amended to place a time

limit that no commercial refuse will be picked up between the hours of 6 p.m. and 7:00 a.m. *A copy of the memos will be attached to the official minutes.*

Councilor Moll moved, Councilor Feldman seconded, to set a public hearing for February 20, 2001 to consider amending the Solid Waste Ordinance, Section 13-30. The motion carried with eight (8) yeas.

- 20. The Town Council will discuss a process for the Council to reinstitute a discussion on the Coastal Protection Zone and take any appropriate action.**

Councilor Sartoris would like to bring back the issue of Coastal Protection. Manager Gerrish suggested that the Council schedule a workshop meeting. The Director of Planning and Development, Theo Holtwijk, would be present to give an overview of the proposal that the Council discussed last year. The Council could discuss the issue among themselves and try to come to a consensus on what to bring back for a public hearing.

Councilor Sartoris moved, Councilor Lowe seconded, to schedule a workshop to discuss the process to bring back the issue of Coastal Protection, which does not include marinas. The motion carried with eight (8) yeas.

- 21. The Town Council will consider the reappointment of Thomas Wakefield as the Primary Plumbing Inspector and Jeff Hutchinson as alternate Plumbing Inspector for a one year term to expire on 12/31/01 and take any appropriate action.**

Councilor Lowe moved, Councilor Dotts seconded, to reappoint Thomas Wakefield as the Primary Plumbing Inspector and reappoint Jeff Hutchinson as the alternate Plumbing Inspector for the term ending 12/31/01. The motion carried with eight (8) yeas.

- 22. The Town Council will consider approving the Municipal Warrant For Prosecuting Unlicensed Dog Owners-Keepers and take any appropriate action.**

Councilor Moll moved, Councilor Feldman seconded, to approve the Municipal Warrant for Prosecuting Unlicensed Dog Owners-Keepers. The motion carried with eight (8) yeas.

- 23. The Town Council will consider the request from Verizon for a pole location on McKeen Street and take any appropriate action.**

Councilor Moll moved, Councilor Feldman seconded, to approve the request from Verizon for a pole location on McKeen Street. The motion carried with eight (8) yeas.

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

- 24. The Town Council will consider the following appointments and take any appropriate action.**

PLANNING BOARD,

2 FULL MEMBERS – Three year terms to expire 02/23/04

SOLID WASTE MANAGEMENT ADVISORY COMMITTEE,

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

Councilor Sartoris nominated Edward Laurie Hawes and William Smith for re-appointment to the Planning Board and Robert B. Jarratt and Leon Laffely for re-appointment to the Solid Waste Management Advisory Committee.

Councilor Sartoris moved, Councilor Feldman seconded, that nominations cease and that the Chair cast one vote each for Edward Laurie Hawes and William Smith for the Planning Board and Robert B. Jarratt and Leon Laffely for the Solid Waste Management Advisory Committee. The motion carried with seven (7) yeas. Opposed Chair McCausland.

The meeting adjourned at 10:20 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.

Melissa L. Smith, Deputy Town Clerk
February 8, 2001

February 20, 2001

Date of approval

Council Chair