

Approved
BRUNSWICK TOWN COUNCIL MINUTES
July 21, 2003
7:30 p.m.
Municipal Meeting Facility

7:00 p.m. Executive Session: Union Negotiations

Councilor Rice moved, Councilor King seconded, to go into executive session to discuss union negotiations. The motion carried with eight (8) yeas. Councilor McCausland arrived after the vote.

Councilors Present: Chair Charles R. Priest, W. David Watson, Jacqueline A. Sartoris, Robert A. Galloupe, Douglas A. Rice, Nancy E. Randolph, Forrest Lowe, Joanne T. King, and Stephen H. McCausland.

Councilors Absent: None

Others Present: Donald H. Gerrish, Town Manager; Fran Smith, Town Clerk; Jerry Hinton, Police Chief; Steve Walker, Natural Resource Planner; Thomas Farrell, Parks and Recreation Director; Phil Carey, Town Planner; several citizens, members of the press, and TV video crew.

Minutes of Previous Meetings: July 7, 2003

Hearing no objection from the Council, Chair Priest declared the minutes of July 7, 2003 accepted as written.

Manager's Report:

1) Government Finance Officers Association Recognition of Brunswick

Manager Gerrish said the Government Finance Officers Association has recognized John Eldridge and Brunswick's Financial Report for the fiscal year ending June 30, 2002, with a Certificate of Achievement for Excellence in Financial Reporting. This is the fourth year in a row the town has received this certificate.

2) Update on McKeen Street Work

Manager Gerrish gave this update on the work being done on the curbing and sidewalk on McKeen Street from Maine to Spring Street. Sidewalks will be done first; then the granite curbing will be installed. No additional work will be done to the road itself. The Council still needs to discuss what to do with the McKeen and Maine Street intersection.

3) Selling K-9 Car to Topsham

Manager Gerrish and Chief Hinton discussed this item about the K-9 Car. The Brunswick K-9 officer has retired and is now working in Topsham so the town is

Town Council Minutes

July 21, 2003

Page 2

interested in selling the K-9 car to them. If needed, Topsham will allow the dog to assist Brunswick.

Chief Hinton discussed this further.

(A copy of Chief Hinton's memo will be attached to the official minutes.)

Councilor McCausland moved, Councilor Watson seconded, to authorize the selling of the K-9 vehicle for twelve thousand dollars (\$12,000) to the Town of Topsham. The motion carried with nine (9) yeas.

Correspondence:

Councilor McCausland gave an update on the Public Safety Building Committee. They met Thursday and staff has met with the consultant. He is very optimistic the numbers will be ready by September for a November referendum question.

Councilor Randolph said the Brunswick Downtown Association held an urgent meeting to discuss the public safety building and they will be requesting a meeting with the Council to discuss their concerns with its proposed location.

Adjustments to Agenda: None

121. The Town Council will hear public comments on the following requests for Victualer Licenses, and will take any appropriate action.

NEW:

**Good and Plenty
4 Pleasant Street**

Constantine Zoulamis

**Shorty's
41 Church Road**

**Theresa J. Elwell
Louise Wenger**

RENEWAL

**Capitol Franchise Association, Inc. d/b/a Subway
172 Bath Road**

Gary Hilliard

Chair Priest opened the public hearing; hearing no comments, he closed the public hearing.

Councilor Sartoris moved, Councilor Watson seconded, to approve requests for Victualer Licenses from Good and Plenty, Shorty's, and Subway (172 Bath Road). The motion carried with nine (9) yeas.

(A copy of the public hearing notice will be attached to the official minutes.)

Town Council Minutes

July 21, 2003

Page 3

- 122. The Town Council will hear public comments on the following request for renewal of an alcoholic beverage license and will take any appropriate action.**

**Full-time Spirituous, Vinous, and Malt
Bowl New England, Inc. d/b/a Yankee Lanes
276 Bath Road**

David Jacobs

Chair Priest opened the public hearing; hearing no comments, he closed the public hearing.

Councilor Randolph moved, Councilor Sartoris seconded, to approve a request for an alcoholic beverage license for Bowl New England, Inc. d/b/a Yankee Lanes. The motion carried with nine (9) yeas.

(A copy of the public hearing notice will be attached to the official minutes.)

- 94. The Town Council will consider authorizing the Police Department to have State-wide Police Powers and will take any appropriate action.**

Manager Gerrish said MMA does not expect any change in the insurance premium if the town decides to opt in.

Chief Hinton discussed this item.

(A copy of Chief Hinton's letter will be attached to the official minutes.)

Councilor Lowe asked what rights other departments' have in Brunswick if they have opted in. He was concerned if they had arrest powers in Brunswick.

Chief Hinton said others could arrest in Brunswick if their community opted in.

Councilor McCausland said he has no problem with a Brunswick officer, when there is a serious crime (felony), arresting outside of town, but the law is broader than that, with the ability to arrest people on misdemeanors. If the case goes to court, it may tie up a Brunswick officer in courts in other locations. Sometimes one officer's discretion is not another's. He asked the Chief is he could assure Brunswick officers will not be tied up in other courts.

Chief Hinton said if they opt in, it would be used as a last resort, but if used, the officer could effectively make an arrest if unable to get local police. These powers are no more than a citizen can do under a citizen's arrest; this law protects the police officer and reduces the town's liability. He could not assure officers would not be tied up in other courts.

Town Council Minutes

July 21, 2003

Page 4

Councilor King said she assumed that off duty officers are not going to be getting people on traffic violations. She feels the town should opt in since the police are trained professionals who are not looking for trouble. This could also help save lives.

Councilor Sartoris said her reading of the law would allow an officer to act in case of a life threatening situation. She does not believe they will be any more covered if Brunswick opts in.

Chief Hinton said he did not believe that was the case unless the officer acts as a citizen.

Councilor King responded they could act, but the officer and town are more protected.

Councilor Watson said, as a retired officer, he has been out of the jurisdiction and he did not have the authority to act when the crime was occurring. The town and officer would be liable if the town did not opt in.

Councilor Galloupe asked who pays for the time if an officer makes an arrest in Augusta and has to go to court.

Chief Hinton answered that their employer pays. He went on to discuss mutual aid agreements. In those towns with which Brunswick has these agreements, Brunswick officers can aid if their assistance is requested. Brunswick could not do that in a town without an agreement.

Manager Gerrish said, responding to Councilor Rice's question, his understanding would be the town could opt out if it opts in, and may opt in for a set time.

Councilor Rice moved, Councilor King seconded, to opt-in for a one year period and to have the Chief select the officers who will be included.

Councilor Randolph said she did not like this law and will not support it.

Councilor Lowe said he was concerned about other officers from other towns acting in Brunswick. This may be changed, but until this is clearer, he is not going to support the motion.

Councilor Sartoris said she has nothing but respect for Brunswick officers, but she is not happy about other officers acting in Brunswick. There are also not enough guidelines. The bill's sponsor said that a life threatening situation is covered already by law. She wants more information on this.

Councilor Watson asked if there would be rules to protect the town, and, if the officer did not act, but was a witness, would the town have to pay his/her time.

Chief Hinton said there are rules in place and the town would pay court time even if the officer was a witness.

Town Council Minutes

July 21, 2003

Page 5

Chief Hinton said, responding to Councilor King's question, state law will require training for opting in.

Councilor McCausland moved, Councilor Lowe seconded, to table the motion until there was clarification on some issues.

The following were issues that needed to be researched: Police rights under this new law versus current law; town policy; can Brunswick select authorities to opt-in for (for example, felony versus misdemeanor); if Brunswick chooses not to opt in, can other towns' officers not be allowed these policing authorities here.

Chair Priest said he will vote against both the tabling and original motion. The problem is with the law as currently written, not with what Brunswick does with it.

Councilor McCausland moved, Councilor Lowe seconded, to table the motion until there was clarification on some issues. The motion carried with five (5) yeas. Councilors Sartoris, Priest, Randolph and King were opposed.

123. The Town Council will receive a report from the Planning Board concerning impervious surface regulations in the CP1 Zone and will take any appropriate action.

Phil Carey, Town Planner, said the Planning Board has held three meetings regarding these amendments. After the public hearing on July 15, 2003, the Planning Board deliberated on the draft amendments. In the end, there was not a majority of Board members who agreed on any specific recommendation. Therefore, they voted four (4) to one (1) in favor of a motion "to inform the Council that, after thoughtful and thorough deliberation, the Planning Board is unable to make a recommendation on this issue."

(A copy of memos on this issue will be attached to the official minutes.)

Manager Gerrish said it is at the Council's discretion as to what they wish to do with this issue. The Planning Board has indicated that they could not come up with a recommendation for the Council. There are a number of options including doing nothing, leaving the ordinance as it is; or, if going forward with the amendments, the Council will need to make a decision as to what language to move forward with. Responding to Chair Priest's question on the town charter, the Town Attorney felt that the Planning Board did make a recommendation that they could not come up with one, therefore, he felt comfortable that the Council could then act and make a proposal if they wish.

Councilor Randolph said she would suggest a workshop with the Planning Board before making any recommendation, since the Board did not make a recommendation to the Council; that way, she could understand the reason they could not come up with one.

Town Council Minutes

July 21, 2003

Page 6

Councilor Sartoris said she would be comfortable to move forward with some kind of recommendation, but she has a number of questions for staff. She said her understanding was that in November 2001, the impervious surface was increased from five percent (5%) to ten thousand eight hundred ninety square feet (10,890 sq. ft.) or thirty five percent (35%), which ever is less, for any given lot in the Coastal Protection 1 (CP1) Zone. The maximum impervious surface that is permissible is the ten thousand eight hundred ninety square feet (10,890 sq. ft.).

Steve Walker, Natural Resource Planner, confirmed this.

Councilor Sartoris said prior to November 2001 the impervious surface would have been limited on a half acre lot to one thousand (1,000) square feet and after the vote in November 2001, it increased seven (7) fold to seven thousand (7,000) square feet. The voters in November 2001 had approved a fairly substantial increase in the impervious surface allowable in CP1 for private property owners.

Mr. Walker confirmed this.

Councilor Sartoris asked whether it is possible to treat an impervious surface to achieve the same water quality standards as ten thousand eight hundred ninety square feet (10,890 sq. ft.) of impervious surface, which is the current requirement under CP1. She asked what removals are called for under Brunswick's ordinance and could the equivalent of ten thousand eight hundred ninety square feet (10,890 sq. ft.) of run off be achieved.

Mr. Walker said he is not a stormwater engineer, but he will try to answer the question. Current CP1 regulation is broken into two parts – stormwater quantity and stormwater quality. Stormwater quantity is supposed to account for peak flow during two, ten, and twenty five year storm periods and detain it on site, unless the town engineer waives meeting this if it does not affect downstream flooding, etc. As to stormwater quality, the standard currently reads the first flush has to remove eighty percent (80%) of the total suspended solids. The Mere Point Boat Launch site, as proposed by the state, is achieving ninety percent (90%) total suspended solids removal on much of the site. Seven thousand square feet (7,000 sq. ft.) of the total, sixty nine thousand square feet (69,000 sq. ft.), of the impervious portion of the site is the boat ramp, and it is difficult to prevent storm water run off since it is below the high tide line. Seven thousand (7,000) square feet is untreated and in his opinion that is reasonable. The remaining square footage meets the ninety percent (90%) threshold, which is above the required eighty percent (80%). The total removal capacity with the initial storm water management plan is eighty one (81%) percent which meets the ordinance. Whether or not one could achieve the same percent if the site is thought of as ten thousand square feet (10,000 sq. ft.) instead of the sixty nine thousand (69,000), it would be difficult to give a definite answer with the necessary calculations to be done. He thought perhaps the town could ask the client to do that. The main thing is stormwater quantity rather than quality. It would be possible, with the size of the site and only looking at suspended solids, for it to be done.

Town Council Minutes

July 21, 2003

Page 7

Councilor Rice said his understanding of the state law is, if one is next to a significant river or tidal influence, one can get a waiver on the quantity issue.

Mr. Walker confirmed this and said the town has one built in with the town engineer being able to grant this waiver in CP1. It is allowed under the town's current zoning.

Councilor Sartoris asked if there are control mechanisms out there that would help control the run off of petroleum products into the marine waters.

Mr. Walker answered there are technologies. He gave examples, but he is not an expert on what would be the best fit.

Councilor Sartoris would like to get additional information from IF&W's consultant on the control technology to address concerns with run off. This would help address the environmental issues that have been raised about run off. The voters approved somewhat of a decrease in the environmental standards in CP1, but they voted to support the extension into CP2 which was clearly a vote to control run off. There have been concerns about management of the site and the advisory committee was put in place to look at this. She would like to have a committee once the site is up and running so management issues can continue to be reviewed.

Councilor Rice made a motion and asked for guidance as to when the public hearing should be held.

Manager Gerrish said it would be practical if the Council had the Public Hearing in August, allowing for the most public input, since some of those who may wish to speak will still be in the area.

Councilor Rice moved, Councilor Randolph seconded, to set August 4, 2003, for a public hearing on the proposed ordinance changes regarding impervious surface regulations in the CP1 Zone based on the draft language of June 13, 2003.

Councilor King asked what the process would be for a Councilor to make a motion to not have to deal with zoning changes by going the route of a smaller boat launch.

Manager Gerrish said that what the Council is discussing is the changing of the impervious surface criteria. After the public hearing, the Council can make a decision as to what to do. They can table it, reduce the percent, or adopt it. This will impact what happens to the boat launch. If they decide to make no change in the zoning ordinance, the launch as proposed will be unable to be built.

Chair Priest said the Council has already voted to have the boat launch. What was sent to the Planning Board was the recommended ordinance which would enable the proposed launch to be built and be in conformity with town ordinance. The amount of impervious surface has some effect on the size of the boat launch.

Town Council Minutes

July 21, 2003

Page 8

Councilor Randolph said the Council needs to be talking about the boat launch and sit down with all the stakeholders.

Chair Priest said prior to supporting the boat launch, the Council held a public hearing and took comments into consideration before to making their decision, and the Advisory Committee had been meeting to get public input. This issue of a boat launch first came up in 1968, then in 1995 and now in 2003.

Mr. Carey said, responding to Councilor Lowe's question on the proposed changes allowing the boat launch to move forward, the proposed language will remove a zoning ordinance obstacle to a facility of this scope. The Planning Board cannot entertain approval of any kind of project that does not meet the dimensional standards such as these. The Planning Board will still have many other things to review prior to approval, such as traffic and visual impact.

Councilor Lowe asked if this would be a special permit application since it would be a municipal boat launch.

Mr. Carey answered, after reading an earlier memo, there was a question about that. There were two (2) land use classifications under the current ordinance in which the launch could be considered. One is a municipal facility and the other is a marine activity. Marine activity has specific language about a range, marine activities, and mentions boat launches. Back in February, he and the Codes Officer determined that in fact a public boat launch facility would fall under the municipal facilities land use classification. Given that ambiguity in the ordinance, the Planning Board felt it would be appropriate to classify this one way or the other. The proposed language in his June 13 memo would make it a permitted use without question.

Councilor Sartoris spoke in support of the August 4 date for the public hearing, since it is a seasonal community and the majority of interested persons will be around.

Councilor Watson requested an aerial photo of what the site could look like with a boat launch.

Councilor Rice moved, Councilor Randolph seconded, to set August 4, 2003, for a public hearing on the proposed ordinance changes regarding impervious surface regulations in the CP1 Zone based on the draft language of June 13, 2003. The motion carried with nine (9) yeas.

124. The Town Council will receive a report concerning changes in parking on School Street and Federal Street and will take any appropriate action.

Chief Hinton said changing the parking on School Street from two (2) hour to three (3) hour parking can be handled without much disruption to their enforcement procedures. The Police Department does not support the Federal Street change to all day parking.

Town Council Minutes

July 21, 2003

Page 9

(A copy of Chief Hinton's letter will be attached to the official minutes.)

Councilor Randolph said she did hear from her residential constituents that they did not want all day parking. She requested that Federal Street go to three (3) hour parking.

Chief Hinton said the three (3) hour parking would be difficult for traffic officers to enforce.

Councilor Randolph moved, Councilor Watson seconded, to set August 4, 2003, for a public hearing for three (3) hour parking on School Street. The motion carried with nine (9) yeas.

Councilor Randolph said she would do additional research on Federal Street to see what would be supported by the residents.

125. The Town Council will consider approving a contract with Teamsters Union Local 340/Public Works Union and will take any appropriate action.

Manager Gerrish said the new contract is a two (2) year agreement. The employees will receive a two percent (2%) wage increase for 2003/04 and for 2004/05. There are slight increases in longevity. The cost is forty four thousand dollars (\$44,000) for each year.

Councilor Watson moved, Councilor Sartoris seconded, to approve the two year union contract between the Town of Brunswick and the Teamsters Union Local 340/Public Works Union. The motion carried with nine (9) yeas.

(A copy of the approved contract will be attached to the official minutes.)

126. The Town Council will consider approving a contract with Brunswick Emergency Communications Officers' Association and will take any appropriate action.

Manager Gerrish said the new contract is a two (2) year agreement. The employees will receive a two percent (2%) wage increase for 2003/04 and for 2004/05. The longevity pay has increased also. The cost is eighteen thousand dollars (\$18,000) for the next two years.

Councilor Galloupe moved, Councilor Watson seconded, to approve the two (2) year union contract between the Town of Brunswick and the Brunswick Emergency Communications Officers' Association. The motion carried with nine (9) yeas.

(A copy of the approved contract will be attached to the official minutes.)

127. The Town Council will consider the ballot for Maine Municipal Association Executive Committee and Officers and will take any appropriate action.

Town Council Minutes

July 21, 2003

Page 10

Manager Gerrish said this item is to vote for Maine Municipal Association's Executive Committee and Officers. There is one contested position for vice president. The Council will need to make a selection for that position and any other changes they wish to the ballot.

Councilor Sartoris moved, Councilor Watson seconded, to approve the MMA ballot as written, with William Bridgeo as the vice president selection. The motion carried with nine (9) yeas.

(A copy of the ballot will be attached to the official minutes.)

128. The Town Council will consider the requests for Sellers of Prepared Food on Public Ways and will take any appropriate action.

Councilor Randolph moved, Councilor Sartoris seconded, to approve requests for Sellers of Prepared Food on Public Way Event licenses for the Brunswick Downtown Association and C&D Novelty Ice Cream. The motion carried with nine (9) yeas.

Manager Gerrish discussed the Maine Street Celebrates events starting on August 8, through August 9, and the Regatta which is on August 10.

129. The Town Council will consider appointments to the Town's Boards and Committees and will take any appropriate action.

Councilor Sartoris nominated Loraine Kohorn to the Conservation Commission, asked that nominations cease, and that the Chair cast one vote for Ms. Kohorn. The Council voted nine (9) yeas in favor of the nomination.

Councilor Sartoris nominated Arlene Morris, Orville Ranger, and Millie Stewart to the Davis Fund Committee; Dennis Knox (term to expire July 1, 2004), O. Jeanne Mayo (term to expire July 1, 2006), and Constance Lewis as Topsham/Harpswell resident (term to expire July 1, 2005) to the Fifty-Five Plus Center Board of Trustees; and Mark Phillips to the Personnel Board as an alternate; asked that nominations cease, and that the Chair cast one vote for the listed nominees. The Council voted nine (9) yeas in favor of the nominations.

130. (ADDED) The Town Council will consider setting a public hearing on the Tedford Shelter/CDBG Grant and will take any appropriate action.

Councilor Randolph moved, Councilor Sartoris seconded, to set a public hearing for August 4, 2003, on the Tedford Shelter/CDBG Grant. The motion carried with nine (9) yeas.

Councilor Sartoris moved, Councilor King seconded, to adjourn the meeting. The motion carried with nine (9) yeas.

Town Council Minutes

July 21, 2003

Page 11

The meeting adjourned at 9:32 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.**

Frances M. Smith

Town Clerk

July 25, 2003

August 4, 2003

Date of Approval

Council Chair