

-- APPROVED --
BRUNSWICK TOWN COUNCIL MINUTES
November 4, 2002
Municipal Meeting Facility

7:30 p.m. Chair Priest called the meeting to order and asked for the Pledge of Allegiance to the Flag.

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

Others Present: Donald H. Gerrish, Town Manager; Mary T. Cronk, Exec. Admin. Asst.; Jerry Hinton, Chief of Police; Timothy Young, Police Dept. Commander; Patricia Harrington, Asst. Town Manager; Stephen Walker, Natural Resource Planner; several citizens, members of the press, and the TV video crew.

Minutes of Previous Meeting: October 21, 2002

Hearing no objection from the Council, Chair Priest declared the Minutes of October 21, 2002, accepted as written.

Correspondence:

Chair Priest proudly announced that the Brunswick Girls' Soccer Team is the Eastern Class A champion, as written up in the Times Record. On this coming Saturday the team will be in the final play off against Greely. Chair Priest extended the good wishes of the Council to the team, with the hope that we will soon be adding the Soccer Team to the "State Champion" signs that are placed in Town.

Chair Priest also pointed out that the "**Portland**" magazine has named Councilor Stephen McCausland as one of the 10 most intriguing people in the State.

Manager's Report:

1) **Report on Veteran's Day Observance**

Mr. Robert Coffin was present to update the Council on plans for the Town's Veteran's Day Observance. The ceremony will take place on November 11 at 11:00 a.m. on the north end of the Mall, near the monument. There will be a wreath laying ceremony with a color guard from Brunswick Naval Air Station. Mr. Coffin encouraged members of the community to come out and show their appreciation to the Veterans.

2) **Financial Update**

Mr. Gerrish provided a quick update on the Town's finances. The Town is four months into the fiscal year (33%). Revenues have been good. For the first three months of the year excise tax revenues exceeded the previous year's first three months; in the month of October excise tax revenues were slightly behind last year's. However, for the first four months excise tax revenues are \$40,000 ahead of projections. Staff will watch this carefully as time progresses. State Revenue Sharing is just slightly ahead of projections, but this may change as the State wrestles with its budget difficulties. All other revenues are in good shape. On the expenditure side, the Budget is just where it was expected to be.

3) **Police Department Grant Request**

Police Chief Jerry Hinton updated the Council on a Federal Grant of \$11,660 that Brunswick is eligible for. The Police Department would like to use this money to fit out an old ambulance from the

Fire Department as a Mobile Command Unit. The Police Department previously had a mobile command unit, but it was put out of commission due to non-repairable problems. The Fire Department replaced an ambulance a few months ago, and now this vehicle has become available to the Police Department.

Commander Tim Young briefed the Council on how the ambulance could be fitted out as a mobile command unit. A portable communications base station will be purchased which can be used either in the communication center or in the mobile command unit. This would give full radio capabilities within the command unit. The cost of the portable base station is \$8,800. The mobile command post would also be used as a crime scene processing station for major crime scenes. The detective division would be able to store materials and equipment used at a crime scene right in the vehicle for easy transport when needed. Last of all, the mobile command unit could be used as transportation for the special response team.

The balance of the funds from the grant would be used to repaint the vehicle, and put on the correct lights needed by the police department. Combined with the purchase of the portable base station, this would expend the full amount of the grant that is available - \$11,660.00. Commander Young did tell the Council that it should not cost more than \$200 to \$300 per year to maintain the vehicle because it will not be driven on a daily basis.

Councilor McCausland moved, Councilor Watson seconded, that the \$11,660.00 grant be accepted and that the police department be authorized to expend the funds on the mobile command station. The motion carried with nine (9) yeas.

Police Chief Jerry Hinton shared with the Council that one of the persons who attended the Police Citizens Academy donated \$500.00 to the department for the purchase of three pairs of "Fatal Vision" goggles. These goggles are used for training in school programs and alcohol awareness courses. The goggles simulate actual intoxication levels. Officer Aaron Bailey demonstrated the goggles with his brave volunteer - Councilor Nancy Randolph. Officer Bailey explained that the goggles are a great asset to the Police Department in demonstrating the severe impairment that can result from alcohol intoxication.

- 4) Mr. Gerrish reviewed a letter received from the Brunswick Intown Group which asks for Council support in their efforts for continued development of public recreation along the Androscoggin River corridor. Mr. Gerrish asked the Council for support to continue working with the Brunswick Intown Group on this issue. The Group, as well as Town Staff, feels that this could become a good economic development opportunity as well as a recreational attraction along the Androscoggin River and the Mill Street corridor.

Councilor Randolph stated that she had spoken with members of the Brunswick Intown Group and that they had expressed their desire to have a workshop with the Council to discuss this in more detail. Chair Priest requested that the Town Manager look at the calendar and determine when this might best be scheduled. Mr. Gerrish will work with members of the Brunswick Intown Group to set a date that will be convenient for both groups.

- 5) Mr. Gerrish requested Council approval for a sign to be placed on Crimmins Field, on Baribeau Drive. The Town ordinance requires any sign on public property to have Council approval.

Chair Priest moved, Councilor Watson seconded, to approve the placement of the sign at Crimmins Field. The motion carried with nine (9) yeas.

Councilor Crimmins thanked the Town for the recognition that has been given to his parents.

Adjustments to the Agenda: Councilor Randolph requested that Item #206 be added to the Agenda, regarding late night/early morning noise in the downtown area.

PUBLIC HEARINGS

198. **The Town Council will hear public comments on the following request(s) for Alcoholic Beverage Licenses and will take any appropriate action (Manager).**

Full Time Malt and Vinous:

**Brunswick House of Pizza d/b/a The Kitchen
4 Pleasant Street**

Chair Priest opened the floor for public comments. There being none, the floor was closed. Town Manager Gerrish stated that staff recommended approval of this license.

Councilor Sartoris moved, Councilor Rice seconded, to approve the application for a Full Time Malt and Vinous License. The motion carried with nine (9) yeas.

A copy of the Public Hearing Notice will be attached to the official minutes.

199. **The Town Council will hear public comments on the following requests for Victualer Licenses and will take any appropriate action (Manager).**

**Martha Hunt d/b/a Martha Hunt Fudge
Cook's Corner**

**Brunswick House of Pizza d/b/a The Kitchen
4 Pleasant Street**

Chair Priest opened the floor for public comments on the application from Martha Hunt Fudge. Martha Hunt addressed the Council regarding her plans at the Cook's Corner location. She will be serving fudge, specialty drinks, and eventually soup and bread. She will be operating Thursday through Sunday from 11:00 to Mall closing hours. Ms. Hunt brought samples of her fudge which was enjoyed by the Council and all others present. Mr. Priest closed the hearing. Town Manager Gerrish stated that staff recommended approval of this license.

Councilor Lowe moved, Councilor Randolph seconded, to approve the Victualer's Licenses for Martha Hunt Fudge and The Kitchen. The motion carried with nine (9) yeas.

A copy of the Public Hearing Notice will be attached to the official minutes.

200. **The Town Council will hear public comments on a Bond Ordinance authorizing the Refunding of the Town's 1993 and 1994 High School General Obligation Bonds and the Issuance by the Town of its Refunding Bonds in an amount not to exceed \$11,200,000.**

Finance Director John Eldridge addressed the Council regarding the proposed Bond Ordinance. There is currently approximately \$10.2 million outstanding on the bonds, with a final maturity date of 2013. In order to refinance those, an authorization from the Council, in the form of an ordinance is necessary. This process is not similar to refinancing a mortgage: there are several steps which must be taken. The Town must wait until 2004 before it can call the Bonds that are outstanding between 2004 and 2013. The Town would have to borrow now and set the money aside for two years until the Bonds can be called in. Before the Town proceeds the 2001/2002 Audit must be completed and the Town will have to go and look for a new bond rating. One item of concern will be the capital improvement program. Potentially, the Town may be able to save between \$300,000 and \$400,000 over the life of the bonds. Most of the savings will accrue to the state; the Town will see a small portion. Although there is much to be done, Mr. Eldridge would like to have the Bond Ordinance in place to take advantage of any possible savings.

In response to a question put forth by Councilor Sartoris, Mr. Eldridge explained that there is no cost to the Town involved with this process.

Chair Priest opened the floor to public comments. There being none, Chair Priest declared the hearing closed.

Moved by Councilor Lowe, seconded by Councilor Sartoris to adopt the proposed Bond Ordinance authorizing the refunding of the Town's 1993 and 1994 High School General Obligation bonds and the issuance by the Town of its Refunding Bonds in an amount not to exceed \$11,200,000. The motion carried with nine (9) yeas.

A copy of the Public Hearing Notice and approved Bond Ordinance will be attached to the official minutes.

Mr. Gerrish explained that by refunding bonds there is potential for great savings State-wide. Superintendent Jim Ashe and John Eldridge will be working with representatives from the State as this issue is looked at in more detail. Councilor Sartoris requested that the Council be kept informed of this effort to create state-wide savings.

201. The Town Council will consider the request to reconsider conditions placed on a deed to Melville Robbins and will take any appropriate action.

Councilor Watson introduced the item and stated his belief that if a constituent feels mistreated he should "have his day", thus Councilor Watson sponsored this request. Town Manager Gerrish gave a brief overview of the history surrounding this particular piece of property. The property was tax-acquired in 1997. After several meetings, the Council decided to place the parcel out to bid. Mr. Gerrish referred to the informational packet that was provided with the Agenda, and stated that the Council had voted to deed the property back to Mr. Melville Robbins if the full amount of the taxes were paid by a date certain. In deeding the property back to Mr. Robbins, the Council placed restrictions on the property – specifically that the property could only be divided into two separate lots for single family homes. In 1997 this was a 33 acre parcel on the Harding Road. The zoning at that time, and currently, would allow development with a minimum of two acres per house lot. The property was deeded back to Mr. Robbins in 1997 with the restrictions.

In 1998, Mr. Robbins asked if the Council would change the restrictions to allow him to sell a portion of the property to an abutter, in order to square off the abutter's property. It was understood that there would be no houses built on the property that was transferred. The Council agreed to allow the transfer at that time. Since 1998, Mr. Robbins has sold off a five acre house lot, so he has done the most he can do with the property based on the restrictions placed by the Council. The remaining parcel is now a 25 acre site.

Mr. Gerrish also told the Council that at the time of the transfer back to Mr. Robbins there was a citizen's group prepared to bid on and purchase the property.

Mr. Gerrish stated that there was some concern at the time over whether the Council had the right to place restrictions on the property. The Town Attorney was at the meeting when the restrictions were placed, and it was his opinion that the Council could do this, as the property was owned by the Town at the time of the Council action.

Councilor Sartoris wanted to know if the Town had given the original owner additional time to purchase the property. When the property was placed out to bid the neighbors in the area requested some additional time. The Council did allow five additional days for Mr. Robbins to come in and pay the amount owed for taxes.

Chair Priest invited Attorney James Day, representing Melville Robbins, to the podium to speak. Mr. Day stated the he felt the action taken was unfair, because Mr. Robbins owned land that was zoned for two acre minimum house lots, as well as for other special permit uses; the zoned uses were taken away from him by the Council. By limiting the use of the land to two (2) house lots, a substantial amount of the property's value was lost. Mr. Day felt that when property was returned to the owner after the full amount of back taxes was paid, it should have been returned in its original configuration. Because this was not done, Mr. Robbins has been treated differently from

other owners in the area, which Mr. Day feels is “spot zoning”. Mr. Day felt this was an issue that should have been dealt with through the Planning Department and the Comprehensive Plan.

Mr. Day is requesting that the Council clear all covenants from the property so that Mr. Robbins will have the opportunity to realize the full benefit and value of his property.

Councilor McCausland asked if Mr. Robbins plans to develop the property. Mr. Day stated that Mr. Robbins did not have any plans to develop the property, but that he wanted to market the property with different options available. He has tried to market the property with a real estate broker, but the 27 acre parcel would have to be sold as one lot. The real estate broker has stated that due to the lay of the land it would not be possible to place a large number of homes on the land. There is a possibility of putting four houses there if the restrictions were lifted. There is also the possibility of someone seeking a special permit, which is not allowable under the present restrictions. A special use permit would need to go before the Planning Board before any action could be taken.

Suzanne Johnson from Harding Road spoke to the Council. She was involved with the group that originally wished to bid on the property when it became available. Residents of the area were and are concerned about preserving open space in that area. Ms. Johnson gave an overview of the activities that were taken by the residents at the time. Ms. Johnson stressed that Mr. Robbins was aware of the restrictions when he purchased the property back from the town. She urged the Council to keep the restrictions on the property as a way of maintaining open space in that particular area of the Town.

John Parker from Bull Rock Road reiterated that when the land was for sale, Mr. Robbins was able to purchase it for the amount of back taxes, which was a considerable amount less than full market value. Mr. Robbins was aware of the restrictions when he made the decision to purchase the property back. Mr. Parker expressed his hope that the Council would give serious thought to the future use of the property and the significance of how development would alter the character of the neighborhood.

Joan Goodwin, a property owner on the Harding Road, stated that several years ago she was approached by Mr. Robbins about buying the property in question. Mr. Robbins was asked about development on the property at that time and his response was that there was only one house lot that could accept a septic design. Ms. Goodwin is confused over how there can now be discussion about building four to six houses. Ms. Goodwin urged the Council not to make any changes at least until a soils engineer could evaluate the property in question.

With no further public comments, the hearing was closed.

Councilor Galloupe stated that he was on the Council during the time the property had become tax acquired. He stated that the acquisition process had been completed and the Town legally owned the property. In reality, Mr. Robbins did not redeem the property for taxes; he purchased it from the Town for an amount equal to the back taxes owed.

Councilor McCausland stated that there was also a couple from California at the time who wanted to purchase the property, as well as the group of residents who were interested. Mr. Robbins agreed to the conditions that were set and purchased the property in full knowledge of the restrictions.

Councilor Watson asked Mr. Gerrish if Mr. Robbins had actually purchased the property or if he had redeemed it for back taxes. Mr. Gerrish reviewed the motion, which stated that Mr. Robbins had a redemption date of five days, with the condition that the property be restricted to two house lots. Failure to redeem the property would result in the property being put out for bid. The motion passed with a 7 – 2 vote. The wording of the motion said redemption.

Councilor Randolph stated that she had read all the material and based on the letter from the Town's Attorney it was clear that the Town had legal ownership of the land. Even if the wording of the motion said redemption, it was in effect, a sale.

Councilor Lowe voiced his agreement that it was a sale and that everyone present understood it to be a sale of town owned property.

Councilor Sartoris stated that she felt the Council had done a fairly significant favor for Mr. Robbins by allowing him to purchase the property back for taxes, as opposed to paying full market value for it, especially when there were two other buyers waiting in the wings.

Councilor Rice wanted to know if there was any change in assessed value for the property when there are restrictions placed on the property. Mr. Gerrish explained that the standard procedure during the assessment of a large property is to assess one house lot at the rate for lots and to assess the remainder of the property at a raw land rate. The higher assessment level would come if there was an approved sub-division.

Chair Priest stated that there was no sentiment on the Council to change the restrictions.

202. The Town Council will consider setting a date for public comments on the Parks, Recreation and Open Space Plan and will take any appropriate action.

Councilor Lowe proposes that the Council set a time frame for public comments on the plan, and then consider adoption of the plan as a blueprint for Parks, Recreation and Open Space planning for the future. Councilor Lowe proposes November 18 as the date for public comments.

Councilor Lowe moved, Councilor Sartoris seconded, to set November 18 as the date for public comments on the Parks, Recreation and Open Space Plan. The motion carried with nine (9) yeas.

Councilor Lowe announced that the Open Space Task Force committee will have its last meeting that same evening, November 18, at 6:00 p.m. at the Municipal Meeting Facility to meet with anyone in the community who may want to ask questions or have more information before the public comments meeting.

Councilor Randolph asked if there was a way for people to ask questions before that time, or if there was a way they could write letters before the November 18 date. Councilor Lowe stated that they would love to hear from folks prior to the meeting – contacts can be made through phone calls to the Planning Department at the Town office, letters, and also through a link on the Town's website. Additionally, anyone is welcome to telephone Councilor Lowe or any other member of the Task Force. Names and phone numbers are on the web site, or they can be obtained from the Planning Department.

203. The Town Council will receive proposed amendments to the Marine Resources Ordinance and will take any appropriate action.

Steve Walker, Natural Resource Planner, gave a brief overview of the three changes that are proposed. (1) The Military Exemption item freezes the status of individuals who are on active duty. When their duty is complete they are placed back at the same status they enjoyed prior to the duty. (2) The time allowed for Class A and Class B licensees to pick up their license has been expanded from 2 days to 10 business days, after they have been informed that they qualified for a license. (3) Student licenses will be allocated in a different manner, which will allow the Marine Resource Committee to determine how many student licenses will be offered from year to year, depending on stocks. Currently, the Ordinance allows 10 student licenses per year.

Councilor Galloupe stated that on commercial licenses there is a Federal law which ensures that

military personnel are entitled to reinstatement at the end of their duty. Councilor Crimmins would like to see a requirement that when they are released from military service they must present their DD214 Form, showing proof of active service, and that the reinstatement is contingent on having an honorable discharge.

Moved by Councilor Crimmins that the military exemption applies only when a DD214 Form has been filed and when the discharge is honorable. Councilor Watson wanted to be sure that this did remove anyone with a medical discharge from reinstatement. When he was assured of that, Councilor Watson seconded the motion.

Councilor Randolph stated she had a problem with this, as the Military's "Don't ask, Don't tell" policy could have someone with a general discharge as opposed to an honorable discharge if they were gay or lesbian. Councilor Galoupe stated that the reinstatement should follow the federal guidelines. Councilor Sartoris has some concerns that Council does not have enough information to make a decision on this. Both Councilor Sartoris and Councilor Crimmins suggested that this should be reviewed by the Town's attorney prior to voting on the amendment.

Mr. Gerrish voiced concern that this Ordinance amendment should be completed before the start of the New Year, so if the article was postponed it would have to go to Public Hearing on November 18 and then would need to be passed on both a Regular and Emergency Basis.

Moved by Councilor Watson, seconded by Councilor Crimmins, that the item be tabled until such time as the Town Attorney reviews the military exemption portion of the proposed amendment. The motion carried with nine (9) yeas.

- 204. The Town Council will receive proposed recommendations from the Planning Board for amendments to the Zoning Ordinance concerning streams and will take any appropriate action.**

Steve Walker, Natural Resource Planner, advised the Council that the Planning Board had reviewed the proposed amendments to the stream portion of the Ordinance and also held a public hearing on these issues. At the completion of the Public Hearing there was a unanimous vote to send the ordinance amendments back to the Town Council. There were no material changes and only one word change to better clarify the intent of the Ordinance.

Councilor Rice wanted to make sure that the amendments were consistent with state regulations, not more or less restrictive. Mr. Walker stated that it was in line with all state regulations and in response to another question from Councilor Rice stated that the amendments had nothing to do with septic set backs – these are covered under the state plumbing code.

Moved by Councilor Watson, seconded by Councilor Randolph to set this for Public Hearing on November 18. The motion carried with nine (9) yeas.

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

Councilor Sartoris stated that the Appointments Subcommittee met and set forth the following nominations:

David Curtis Knight – Full Member, Davis Fund Committee
Chair Priest declared nominations to be closed. Vote: 9 – 0.

Dorothy Burgess – Full Member, Recycling Committee
Chair Priest declared nominations to be closed. Vote: 9 – 0.

Brooks Stoddard – Professional in History Member
Village Review Board

Councilor Randolph asked if the Appointments Subcommittee looked at attendance for this particular nomination. Councilor Sartoris responded that the committee did not specifically look at this issue; however she stated that Mr. Stoddard had been on the very first Village Review Board and that he has served on the Maine Historic Preservation Commission and has been the Chair of the Blaine House Commission. He is extremely qualified and will bring quite a bit to the Village Review Board. Councilor Randolph stated she was not questioning his qualifications, but felt that when someone does not attend meetings it is a problem. Councilor Sartoris stated that since there was no other nominee for this position, and since Mr. Stoddard had held the position in good standing for several years, she would recommend that he be nominated and that the Chair close nominations and proceed to a vote.

Chair Priest declared nominations to be closed.

Vote: 8 – 1 (Randolph).

206. The Town Council will consider Councilor Randolph's concerns about late night/early morning noise in the downtown area and will take any appropriate action.

Councilor Randolph stated that she is concerned about the loud noise from bars, motorcycles, and audio systems in cars in the downtown area. She has had five complaints in the last six weeks about this issue, and feels it is time to meet with a focus group in the downtown to define the problems and what can be done about them. Councilor Sartoris asked if Councilor Randolph was considering a noise ordinance; Councilor Randolph stated that this would be the job of the focus group and that she did not have answers at this time.

Councilor Rice stated that he understood there were State laws which covered loud audio systems. Councilor Crimmins asked if the Chief of Police would speak on this issue.

Chief of Police Jerry Hinton stated that there is a town ordinance that covers civil disobedience for noise both in the morning and at night. There is also a State law covering disturbing the peace in both public and private spaces, which could be utilized in the downtown area. There is a new law governing excessively loud stereos in cars. Chief Hinton stated that in this year's budget he had requested a hand-held device to measure noise from motorcycles. It was cut from the budget, but he will be requesting it again next year. The Town does not have a decibel ordinance, and the Chief feels that the Town is not at the point of needing that yet. The Police Department has counseled several people and sent them home, they have given warnings and tickets, and there is a case pending in the courts for a noise violation written from the Town's current ordinance. Chief Hinton feels that the Town has sufficient enforcement capabilities at this time to deal with the noise issues.

Councilor Randolph stated that she was not looking for laws and ordinances at this time; she wants the Council to work with residents and business leaders in the area.

The meeting adjourned at 9:15 p.m.

PLEASE NOTE: THESE MINUTES ARE NOT VERBATIM. A TAPE RECORDING OF MINUTES IS AVAILABLE AT THE TOWN CLERK'S OFFICE DURING REGULAR BUSINESS HOURS.

*Mary Tilas Cronk
Executive Administrative Assistant
November 4, 2002*

November 18, 2002

Date of Approval

Charles R. Priest
Council Chair