

**BRUNSWICK TOWN COUNCIL**  
**Agenda**  
**November 7, 2016**  
**7:00 P.M.**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

Roll Call of Members

Acknowledgement of Meeting Notice

Pledge of Allegiance

Adjustments to Agenda

**CONSENT AGENDA**

- a) Approval of the Minutes of October 3, 2016
- b) Approval of the minutes of October 17, 2016
- c) Approval of a Quitclaim Release Deed for Noble Street, LLC

Public Comments

Correspondence

**COMMITTEE REPORTS**

- Bicycle & Pedestrian Advisory Committee
- Finance Committee
- Recycling & Sustainability Committee

**MANAGER'S REPORT**

- a) Election reminder
- b) 946 Mere Point Road property update
- c) Frank J. Wood Bridge update
- d) Zoning Ordinance Rewrite Update

**PUBLIC HEARING**

119. The Town Council will hear public comments on proposed amendments to Code of Ordinances, Chapter 11 "Marine Activities, Structures and Ways" including new definitions, changes in license categories and opening and closing of coastal waters, and will take any appropriate action. (Manager)

**HEARING/ACTION**

120. The Town Council will hear public comments on proposed amendments to Code of Ordinances, Chapter 12 "Personnel Ordinance" to provide for an alternate process to hire

current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers, and will take any appropriate action. (Manager)

**HEARING/ACTION**

121. The Town Council will hear public comments on amendments to the General Assistance Maximums, and will take any appropriate action. (Manager)

**HEARING/ACTION**

122. The Town Council will hear public comments on amendments to Code of Ordinances, Chapter 13 "Solid Waste" to, by contract, allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick, and will take any appropriate action. (Manager)

**HEARING/ACTION**

**NEW BUSINESS**

123. The Town Council will consider setting a public hearing for November 21, 2016, to consider increases to the shellfish license fees contained in the Municipal Code of Ordinances, Appendix B - the Master Schedule of Revenues, Charges, Fees. (Manager)

**ACTION**

124. The Town Council will consider modifications to the Finance Committee Policy, as recommended by the Finance Committee. (Finance Committee)

**ACTION**

125. The Town Council will consider appointments to the Town's Boards and Committees, and will take any appropriate action. (Appointments Committee)

**ACTION**

**INDIVIDUALS NEEDING AUXILIARY AIDS FOR EFFECTIVE  
COMMUNICATION SHOULD CONTACT  
THE TOWN MANAGER'S OFFICE AT 725-6659 (TDD 725-5521)**

**Brunswick Town Council  
Agenda  
November 7, 2016  
Council Notes and Suggested Motions**

**CONSENT AGENDA**

- a) Approval of the Minutes of October 3, 2016: A copy of the minutes is included in your packet.
- b) Approval of the Minutes of October 17, 2016: A copy of the minutes is included in your packet.
- c) Approval of a Quitclaim Release Deed for Noble Street, LLC: This item is to approve a quitclaim deed that extinguishes two easements; a stormwater maintenance easement and a pedestrian easement.

*The Council has the option to remove any item from the Consent Agenda to be considered separately.*

*Suggested Motion:*

Motion to approve the Consent Agenda.

**CORRESPONDENCE**

This is the opportunity for Councilors to share any correspondence they may have.

**COMMITTEE REPORTS**

Councilors representing the Council on the above committees that have recently met will provide brief updates. If there are any Committee updates beyond those listed, Councilors may also share them with the Council and public.

**MANAGER'S REPORT:**

*A copy of a memo from Manager Eldridge providing an overview of the Manager's Report is included in your packet.*

- a) Election reminder: Voting for municipal offices and the state general election will take place on Tuesday, November 8<sup>th</sup> at Brunswick Junior High School, 65 Columbia Avenue. The polling hours are 7:00 a.m. to 8:00 p.m.
- b) 946 Mere Point Road property update: Manager Eldridge will give this update on the property and the citizen petition requesting to retain it.
- c) Frank J. Wood Bridge update: Manager Eldridge will update the Council on a recent Section 106 Consulting Parties meeting that occurred in Topsham on October 27, 2016. A memo from Linda Smith and a copy of the presentation is included in your packet.

- d) Zoning Ordinance Re-write: The proposed updated Zoning Ordinance was presented at a Planning Board public hearing November 1, 2016. Another public hearing is scheduled for November 29, 2016. We expect the Council will receive the ordinance in December.

## **PUBLIC HEARING**

119. This item is the required public hearing on proposed amendments to Code of Ordinances, Chapter 11 “Marine Activities, Structures and Ways” including new definitions, changes in license categories and opening and closing of coastal waters. As part of the amendment process the Town requested DMR review the draft ordinance as they have final approval authority. They have suggested additional review of the ordinance prior to Council adoption. Therefore, staff is requesting that this item be tabled indefinitely.

Suggested motion:

Motion to table this item indefinitely.

120. This is the required public hearing on proposed amendments to Code of Ordinances, Chapter 12 “Personnel Ordinance” to provide for an alternate process to hire current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers. The hiring of highly desirable officers who have already completed training at the police academy, will be allowed to move forward more quickly. A thorough hiring process will still be conducted, and the members of the Personnel Board are in support of this change. A copy of a memo from Commander Waltz and the proposed amendments are included in your packet.

Option for the Council if they choose to vote this evening - suggested motion:

Motion to suspend the Council Rules to allow the Council to vote on this item at this meeting.

Suggested motion:

Motion to approve proposed amendments to Code of Ordinances, Chapter 12 “Personnel Ordinance” to provide for an alternate process to hire current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers.

121. This item is the required public hearing to change the current General Assistance maximums, as required by state law. This is the annual adoption of the limits, with changes to GA overall and housing maximums. Copies of a memo and the current and proposed Overall Maximum levels are included in your packet. (Manager)

Option for the Council if they choose to vote this evening - suggested motion:

Motion to suspend the Council Rules to allow the Council to vote on this item at this meeting.

Suggested motion:

Motion to adopt amendments to the General Assistance Maximums as included in the agenda packet and attached to the official minutes.

122. This is the required public hearing on amendments to Code of Ordinances, Chapter 13 “Solid Waste” to, by contract, allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick. Copies of a memo from Manager Eldridge and the proposed ordinance amendments with the highlighted changes are included in your packet.

Option for the Council if they choose to vote this evening - suggested motion:

Motion to suspend the Council Rules to allow the Council to vote on this item at this meeting.

Suggested Motion:

Motion to approve amendments to Code of Ordinances, Chapter 13 “Solid Waste” to, by contract, allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick.

### **NEW BUSINESS**

123. The Town Council will consider setting a public hearing for November 21, 2016, to consider increases to the shellfish license fees contained in the Municipal Code of Ordinances, Appendix B - the Master Schedule of Revenues, Charges, Fees and Fines. Copies of memos from Manager Eldridge and Marine Warden Dan Devereaux, as well as a fee schedule with proposed changes, is included in your packet.

Suggested Motion:

Motion to approve setting a public hearing to approve increases to the shellfish license fees contained in Appendix B of the Master Schedule of Revenue, Charges, Fees and Fines.

124. The Finance Committee is requesting the Council’s approval of several modifications to the Finance Committee Policy. The Finance Committee met on October 20, 2016, and is recommending several amendments which incorporate the comments from the Town Council’s October 3<sup>rd</sup> meeting. An updated memo from Julie Henze, Finance Director, and the Finance Committee Policy, redlined with suggested changes, is included in your packet.

Suggested Motion:

Motion to approve modifications to the Finance Committee Policy as recommended by the Finance Committee.

125. At this time the Appointments Committee will make nominations to fill vacancies on Town Boards and Committees. Copies of the Appointment Committee’s report and applications are included in your packet.

Suggested Motion:

Nominations will be made, with no seconds required, and the Council will then vote on the nominations.

Suggested motion:

Motion to adjourn the meeting.

# CONSENT AGENDA - A BACK UP MATERIALS

**Draft**  
**BRUNSWICK TOWN COUNCIL**  
**Minutes**  
**October 3, 2016**  
**Executive Session – 6:00 P.M.**  
**Regular - 7:00 P.M.**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Councilors Present:** W. David Watson, Stephen S. Walker, Suzan Wilson, John M. Perreault, Daniel E. Harris, Jane F. Millett, Sarah E. Brayman, Kathy Wilson and Alison Harris

**Councilors Absent:** None

**Town Staff Present:** John S. Eldridge, III, Town Manager; Fran Smith, Town Clerk; Derek Scrapchansky, Assistant Town Manager; Julia Henze, Finance Director; Anna Breinich, Director of Planning and Development; Tom Farrell, Director of Parks and Recreation; Jay Astle, Parks and Recreation Facilities Manager; and TV video crew

Chair Brayman called the meeting to order, asked for roll call, and acknowledged the meeting was properly noticed.

**Executive Session: [1 M.R.S.A. §405(6)(D)] Labor Negotiations**

**Chair Brayman moved, Councilor Millett seconded, to go into executive session to discuss labor negotiations per 1 M.R.S.A. §405(6)(D). The motion carried with nine (9) yeas.**

**Meeting resumed**

Chair Brayman led the Pledge of Allegiance.

**Adjustments to Agenda**

There were no adjustments.

**CONSENT AGENDA** *(This item was discussed at 7:04 p.m.)*

- a) **Approval of the Minutes of September 19, 2016**
- b) **Appointment of Fran Smith as Warden and Elin Gould, Sara King, and Joe Zrioka as Deputy Wardens for the November 8, 2016 Election**
- c) **Approval of the Election Warrant for November 8, 2016**
- d) **Approval of an abatement of personal property taxes assessed to Stephanie Veilleux-Welch**

Chair Brayman requested that item CA-a be removed as she had a change to page 2 of the minutes.

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**Chair Brayman moved, Councilor Millett seconded, to approve the Consent Agenda items b, c and d. The motion carried with nine (9) yeas.**

Chair Sarah Brayman requested to change from “Councilor Suzan Wilson” to “Councilor Stephen Walker” on page two where he thanked the Police and Fire Departments.

**Councilor Jane Millett moved, Councilor Stephen Walker seconded, to approve CA-a with the above correction. The motion carried with nine (9) yeas.**

*(A copy of item CA-c and CA-d materials will be attached to the official minutes.)*

**Public Comments** *(This item was discussed at 7:06 p.m.)*

**Richard Fisco**, 2 Lincoln Street, spoke regarding what he feels is the taking of land from Mr. Nudd on 946 Mere Point Road. The Town should give the property back to him after he pays the taxes and foreclosure costs.

**Correspondence** *(This item was discussed at 7:10 p.m.)*

Councilor Jane Millett spoke regarding the youth homeless forum that she and other Councilors recently attended. There will be another forum on October 20<sup>th</sup> at 6:00 p.m. at the Topsham Library.

Councilor John Perreault said the Updegraph family wanted to thank Jay Astle and the Parks staff for the prompt removal of a dead tree. He also mentioned the Brunswick football team is undefeated and has a game on Friday.

Councilor Suzan Wilson reminded the public of the Grownstown School celebration on October 8<sup>th</sup> with a bake sale and other scheduled events.

Councilor Kathy Wilson reported on the browntail moth presentation at the library and how informative it was.

Chair Sarah Brayman spoke regarding the opening of the new Gathering Place located behind Hannaford.

Councilor Stephen Walker spoke regarding the great work done on the trails and dam replacement at the Kate Furbish preserve. He clarified that he works for a land trust and is on the Board of Brunswick/Topsham Land trust, but he is not working with the land trusts on the 946 Mere Point Road property. He provided clarification to a comment from Reverend Fisco regarding land trusts. He commented on an article in the newspaper from another town Councilor on conditions of town owned sites. He read a letter from an educator stating that there are educational opportunities with recent grants received, and how the 946 Mere Point Road property could meet their needs for these educational programs.

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Councilor Suzan Wilson said that under the Council correspondence policy, a letter cannot be read unless it is first provided to the whole Council. It would have been nice for all the Council to have the letter Councilor Stephen Walker just read. She added there are many water sites that could be used for educational purposes.

Councilor John Perreault had a meeting with a teacher leading that department to discuss constructing a building at the high school for this educational project.

### **COMMITTEE REPORTS** *(This item was discussed at 7:28 p.m.)*

- **Master Plan Implementation Committee**
- **Recycling & Sustainability Committee**
- **Rivers & Coastal Waters Commission**

Reports were provided on the above committees.

### **MANAGER'S REPORT**

#### **a) Project Tracking Report** *(This item was discussed at 7:31 p.m.)*

Manager Eldridge provided this report.

Chair Sarah Brayman thanked the Public Works department for the fixed culvert on River Road.

Councilor Alison Harris spoke regarding this item.

#### **b) Reminder of Fire Department Open House** *(This item was discussed at 7:34 p.m.)*

Manager Eldridge provided this reminder.

#### **c) Hazardous Waste Collection Day at Public Works Department** *(This item was discussed at 7:36 p.m.)*

Manager Eldridge provided this reminder.

#### **d) Reminder of absentee ballots availability** *(This item was discussed at 7:38 p.m.)*

Fran Smith, Town Clerk, provided this reminder.

#### **e) Update on landfill** *(This item was discussed at 7:39 p.m.)*

Manager Eldridge provided this update. He responded to questions from Councilor Perreault and Councilor Watson.

Councilor S. Wilson spoke regarding this item.

**PUBLIC HEARING**

106. **The Town Council will hear public comments on the following Automobile Graveyard and Junkyard application, and will take any appropriate action. (Manager) (This item was discussed at 7:54 p.m.)**

**Shawn Letourneau**

**D/B/A: Brunswick Auto Recycling, LLC  
117 Bath Road**

**Shawn Letourneau**

Chair Sarah Brayman opened the public hearing.

Fran Smith, Town Clerk, spoke regarding this item and responded to questions from Councilor Stephen Walker.

Chair Sarah Brayman closed the public hearing.

**Councilor Kathy Wilson moved, Councilor Stephen Walker seconded, to approve the application for Automobile Graveyard and Junkyard licenses for Brunswick Auto Recycling, LLC., located at 117 Bath Road. The motion carried with nine (9) yeas.**

107. **The Town Council will hear public comments on the following Special Amusement License application, and will take any appropriate action (Manager) (This item was discussed at 7:59 p.m.)**

**AKI Japanese Cuisine**

**D/B/A AKI Japanese Cuisine  
94 Maine Street**

**Tina Cigri, Luara Cigri and Valamin Ly**

Chair Sarah Brayman opened the public hearing.

Ms. Smith spoke regarding this item and responded to questions from Councilor Millett.

Chair Sarah Brayman closed the public hearing.

**Councilor Jane Millett moved, Councilor Stephen Walker seconded, to approve a special amusement license application for AKI Japanese Cuisine, located at 94 Maine Street. The motion carried with nine (9) yeas.**

**NEW BUSINESS**

108. **The Town Council will consider a request from the Brunswick Sewer District to create a task force to consider possible Charter and ordinance changes or revisions to foster sewer extensions for growth and development. (Manager) (This item was discussed at 8:03 p.m.)**

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**Leonard Blanchette**, Sewer District, spoke regarding this item. He responded to questions from Councilor John Perreault, Councilor Stephen Walker, Councilor Dan Harris, Manager Eldridge, and Chair Sarah Brayman.

Councilor Jane Millett, Councilor Suzan Wilson, and Councilor John Perreault spoke regarding this item.

**Councilor Kathy Wilson moved, Councilor Jane Millett seconded, to create a task force involving District and Town personnel to consider Charter and ordinance changes in order to extend sewer within the growth zone. The motion carried with nine (9) yeas.**

*(A copy of the letter from the Sewer District will be attached to the official minutes.)*

**109. The Town Council will discuss the Browntail moth infestation and any possible interventions or preparations available to reduce the potential for another outbreak next spring, and will determine if future action is necessary. (Manager) (This item was discussed at 8:29 p.m.)**

Manager Eldridge spoke regarding this item and responded to questions from Councilor Jane Millett.

Chair Sarah Brayman spoke regarding this item.

Councilor Kathy Wilson, Councilor Stephen Walker, Councilor Suzan Wilson, and Councilor David Watson spoke regarding this item.

Derek Scrapchansky, Assistant Town Manager, spoke regarding this item.

Councilor Alison Harris asked a question, to which Councilor Stephen Walker responded.

**Richard Fisco**, 2 Lincoln Street, spoke regarding this item.

**110. The Town Council will consider applying for the designation of Tree City USA and establishing a tree committee, and will take any appropriate action. (Chair Brayman) (This item was discussed at 8:55 p.m.)**

Chair Brayman introduced this item.

Jay Astle, Parks and Recreation Facilities Director, spoke regarding this item. He responded to questions from Councilor Stephen Walker, Councilor John Perreault, and Councilor Jane Millett.

Councilor Jane Millett, Councilor Stephen Walker, and Councilor Suzan Wilson spoke regarding this item.

**Mr. Fisco**, 2 Lincoln Street, spoke regarding this item.

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**Wallace Pinfold**, Village Improvement Association, spoke regarding this item.

Councilor Alison Harris spoke regarding this item.

It was suggested to have this program reviewed by the Recreation Commission and have them report back to the Council next month.

*(A copy of information on this item will be attached to the official minutes.)*

**111. The Town Council will consider modifications to the Finance Committee Policy, as recommended by the Finance Committee. (Finance Committee) (This item was discussed at 9:15 p.m.)**

Julie Henze, Finance Director, introduced this item.

Chair Sarah Brayman asked a question, to which Councilor Alison Harris responded.

Councilor Dan Harris, Councilor Suzan Wilson, Chair Sarah Brayman, and Councilor Kathy Wilson spoke regarding this item.

**Councilor Dan Harris moved, Councilor Stephen Walker seconded, to send the issue back to the Finance Committee for further review and clarification regarding terms. The motion carried with nine (9) yeas.**

**112. The Town Council will consider adopting an Investment Policy recommended by the Finance Committee. (Finance Committee) (This item was discussed at 9:29 p.m.)**

Councilor Stephen Walker introduced this item.

Ms. Henze spoke regarding this item.

Councilor Alison Harris spoke regarding this item.

**Councilor Jane Millett moved, Councilor Stephen Walker seconded, to adopt the Investment Policy recommended by the Finance Committee. The motion carried with nine (9) yeas.**

*(A copy of the adopted policy will be attached to the official minutes.)*

**113. At this time the Appointments Committee will make nominations to fill vacancies on Town Boards and Committees, and will take any appropriate action. (Appointments Committee) (This item was discussed at 9:33 p.m.)**

Councilor Kathy Wilson made the following nominations based on the Appointment Committee's report, but she noted there was a last minute resignation on the Village Review Board and the Committee wanted to nominate the following person for that vacancy:

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**Village Review Board:**

- Laura Lienert – appointment as the citizen at large member for a term to expire on 10/20/17

**The rest of the slate was as follows:**

**Village Review Board:**

Gary Massanek – reappointment as the citizen at large for a three-year term to expire on 10/20/2019

Rebekah Beaulieu – appointment as the Pejepscot Historical Society member for a three year term to expire on 10/20/2019

Claudia Knox – appointment as the District resident member for a three-year term to expire on 10/20/2019

**Water District Board:**

Claude Phillippon –reappointment for a three-year term to expire to 09/13/2019

Councilor Jane Millett said she would like to change the nominations as follows:

**Village Review Board:**

- Laura Lienert – appointment as the District resident member for a three-year term to expire on 10/20/2019
- Claudia Knox – appointment as the citizen at large member for balance of term to expire 10/17/2017

Chair Sarah Brayman asked a question, to which Councilor Kathy Wilson responded.

Councilor Dan Harris and Councilor Stephen Walker spoke regarding this item.

**Michelle Small**, Stanwood Street, spoke regarding this item.

Since there were two nominations for the Village Review Board District member and citizen member, the Council first voted on the remaining slate.

**Village Review Board:**

- Gary Massanek – reappointment as the citizen at large for a three-year term to expire on 10/20/2019
- Rebekah Beaulieu – appointment as the Pejepscot Historical Society member for a three year term to expire on 10/20/2019

**Water District Board:**

- Claude Phillippon –reappointment for a three-year term to expire to 09/13/2019

The three above were appointed with nine (9) yeas.

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The Council next addressed the nomination for the District member and whether the new vacancy should be filled tonight or at a future meeting.

Councilor Kathy Wilson, Councilor Dan Harris, Councilor Jane Millett, Councilor John Perreault, Chair Sarah Brayman, and Councilor Alison Harris spoke regarding the nominations and vacancy.

**Connie Lundquist**, Longfellow Avenue, spoke regarding this nomination.

**Michelle Small**, 34 Stanwood Street, spoke regarding this nomination.

The Council voted on the District member:

- Claudia Knox received votes from Councilor David Watson, Councilor Suzan Wilson, Councilor Kathy Wilson, and Councilor Alison Harris.
- Laura Lienert received votes from Councilor Stephen Walker, Councilor John Perreault, Chair Sarah Brayman, Councilor Dan Harris, and Councilor Jane Millett

Laura Lienert was appointed to the District vacancy.

The Council discussed whether to appoint to the recent vacancy.

**Councilor Alison Harris moved, Councilor Kathy Wilson seconded, to appoint Claudia Knox as the citizen at large on the Village Review Board for the balance of a term to expire on 10/19/17.**

**Michelle Small**, 34 Stanwood Street, spoke regarding this issue. Manager Eldridge responded to Ms. Small's comments.

Councilor Suzan Wilson spoke regarding this item.

Chair Sarah Brayman and Councilor Jane Millett spoke regarding this item.

**Councilor Alison Harris moved, Councilor Kathy Wilson seconded, to appoint Claudia Knox as the citizen at large on the Village Review Board for the balance of a term to expire on 10/19/17. The motion carried with six (6) yeas. Chair Sarah Brayman, Councilor Stephen Walker, and Councilor Jane Millett were opposed.**

**Councilor Dave Watson moved, Councilor Jane Millett seconded, to adjourn the meeting. The motion carried with nine (9) yeas.**

The meeting adjourned at 10:13 p.m.

**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT WWW.BRUNSWICKME.ORG.**

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*Frances M. Smith*  
*Town Clerk*  
*October 16, 2016*

November 7, 2016  
*Date of Approval*

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*Council Chair*

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# CONSENT AGENDA - B BACK UP MATERIALS

**Draft**  
**BRUNSWICK TOWN COUNCIL**  
**Minutes**  
**October 17, 2016**  
**6:00 P.M. -- Executive Session**  
**7:00 P.M. – Regular Meeting**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Councilors Present:** W. David Watson, Stephen S. Walker, Suzan Wilson, John M. Perreault, Daniel E. Harris, Jane F. Millett, Sarah E. Brayman, Kathy Wilson and Alison Harris

**Councilors Absent:** None

**Town Staff Present:** John S. Eldridge, III, Town Manager; Fran Smith, Town Clerk; Derek Scrapchansky, Assistant Town Manager; Mark Waltz, Police Commander; Tom Farrell, Director of Parks and Recreation Department; and TV video crew

Chair Brayman called the meeting to order, asked for roll call, and acknowledged the meeting was properly noticed.

**Executive Session:** [1 M.R.S.A. §405(6)(D) Labor negotiations, 1 M.R.S.A. §405(6)(E) Consultation with legal counsel, and 1 M.R.S.A. §405(6)(C) acquisition/disposition of real property]

**Chair Sarah Brayman moved, Councilor Jane Millett seconded, to go into executive session to discuss labor negotiations per 1 M.R.S.A. §405(6)(D), consultation with legal counsel on rights and duties per [1 M.R.S.A. §405(6)(E), and acquisition/disposition of property per 1 M.R.S.A. §405(6)(C). The motion carried with nine (9) yeas.**

**Meeting resumed:**

Chair Brayman led the Pledge of Allegiance.

**Adjustments to Agenda**

There were no adjustments.

**CONSENT AGENDA** *(This item was discussed at 7:04 p.m.)*

**a) Adoption of “Small Business Saturday” Proclamation**

**Councilor John Perreault moved, Councilor David Watson seconded, to approve the Consent Agenda. The motion carried with nine (9) yeas.**

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

**Public Comments** *(This item was discussed at 7:05 p.m.)*

**Esther Mechler**, Jewel Street, spoke regarding the upcoming browntail moth follow-up meeting on Wednesday, October 19<sup>th</sup> at St Paul's Church from 7:00 p.m. to 9:00 p.m.

**Karen Topp**, Federal Street, spoke regarding the Metro Bus, which will be voted on next month by the Council, and the value of public transportation. Councilor Jane Millett also commented on this.

**Correspondence** *(This item was discussed at 7:11 p.m.)*

Councilor David Watson spoke regarding a "thank-you" card from Girl Scout group #987 for their visit to Town Hall.

Councilor Jane Millett reminded citizens of the youth homeless forum at the Topsham Public Library this Thursday from 6 p.m. to 8 p.m.

Councilor Alison Harris reported NNEPRA held their annual meeting last Thursday and Brunswick was well represented. They had their best quarter ever, and there will be an open house from 2 p.m. to 4 p.m. this upcoming Saturday for the layover facility. They are in the midst of track repair so there is a different train schedule until Thanksgiving.

**COMMITTEE REPORTS** *(This item was discussed at 7:15 p.m.)*

- Teen Center Advisory Committee

Councilor Suzan Wilson spoke regarding this report.

Chair Sarah Brayman appointed Councilor Jane Millett to serve on that Committee after Councilor Suzan Wilson stepped down as the Council representative.

**MANAGER'S REPORT**

**Recognition of Recreation Department**

Councilor David Watson presented Tom Farrell, Parks and Recreation Director, a Maine USA Track and Field Special Presidential Award for the Recreation Department for their work on the creation of an indoor track program.

**a) Financial update:** *This item was discussed at 7:21 p.m.)*

Manager Eldridge provided this report.

**b) Election and absentee ballot reminder** *(This item was discussed at 7:22 p.m.)*

Fran Smith, Town Clerk, provided this report.

c) **Revaluation update** (*This item was discussed at 7:23 p.m.*)

Manager Eldridge provided this report.

**NEW BUSINESS**

**114. The Town Council will discuss options for selling 946 Mere Point Road, and will take any appropriate action. (Manager)** (*This item was discussed at 7:24 p.m.*)

Manager Eldridge introduced this item and explained the options.

**Heather Osterfeld**, 11 Wild Aster Lane, spoke regarding this item.

**Richard Fisco**, 2 Lincoln Street, spoke regarding this item.

Councilor Jane Millett, Chair Sarah Brayman, and Councilor Suzan Wilson spoke regarding this item.

**Chair Sarah Brayman moved, Councilor Kathy Wilson seconded, that the Town Manager is authorized to take all necessary steps and execute any required documents to clear title to 946 Mere Point Road, owned by the Town of Brunswick. The motion carried with nine (9) yeas.**

**115. The Town Council will consider setting a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 11 “Marine Activities, Structures and Ways” including new definitions, changes in license categories and opening and closing of coastal waters, and will take any appropriate action. (Manager)** (*This item was discussed at 7:32 p.m.*)

Manager Eldridge spoke regarding this item.

Councilor Daniel Harris spoke and asked questions, to which Manager Eldridge and Councilor Suzan Wilson responded.

Chair Sarah Brayman asked a question, to which Councilor Suzan Wilson responded.

Councilor David Watson asked questions, to which Manager Eldridge and Councilor Stephen Walker responded.

**Councilor Suzan Wilson moved, Councilor David Watson seconded, to set a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 11 “Marine Activities, Structures and Ways”. The motion carried with nine (9) yeas.**

**116. The Town Council will consider setting a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 12 “Personnel Ordinance” to provide for an alternate process to hire current Maine Criminal Justice**

**Academy Certified Full-Time Law Enforcement Officers, and will take any appropriate action. (Manager)** *(This item was discussed at 7:41 p.m.)*

Mark Waltz, Police Commander, introduced this item, and responded to questions from Councilor David Watson.

Councilor Jane Millett spoke regarding this item.

**Councilor David Watson moved, Councilor John Perreault seconded, to set a public hearing for November 7, 2016, on proposed amendments to Code of Ordinances, Chapter 12 “Personnel Ordinance” to provide for an alternate process to hire current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers. The motion carried with nine (9) yeas.**

**117. The Town Council will consider setting a public hearing for November 7, 2016, on amendments to the General Assistance Maximums, and will take any appropriate action. (Manager)** *(This item was discussed at 7:47 p.m.)*

Manager Eldridge introduced this item.

Councilor Jane Millett asked questions, to which Fran Smith responded.

**Councilor David Watson moved, Councilor Daniel Harris seconded, to set a public hearing for November 7, 2016, on amendments to the General Assistance Maximums. The motion carried with nine (9) yeas.**

**118. The Town Council will consider setting a public hearing for November 7, 2016, on amendments to Code of Ordinance, Chapter 13 “Solid Waste” to, by contract, allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick, and will take any appropriate action. (Manager)** *(This item was discussed at 7:52 p.m.)*

Manager Eldridge introduced this item.

Councilor John Perreault, Chair Sarah Brayman, Councilor Alison Harris, Councilor David Watson, and Councilor Kathy Wilson asked questions, to which Manager Eldridge responded.

Councilor Suzan Wilson and Councilor John Perreault spoke regarding this item.

**Councilor John Perreault moved, Chair Sarah Brayman seconded, to set a public hearing for November 7, 2016, on amendments to Code of Ordinance, Chapter 13 “Solid Waste” to allow the Graham Road landfill to accept solid waste generated beyond the corporate limits of Brunswick by contract only. The motion carried with nine (9) yeas.**

**Councilor David Watson moved, Councilor Jane Millett seconded, to adjourn the meeting. The motion carried with nine (9) yeas.**

The meeting adjourned at 8:02 p.m.

**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT WWW.BRUNSWICKME.ORG.**

*Frances M. Smith*  
*Town Clerk*  
*October 25, 2016*

November 7, 2016  
*Date of Approval*

---

*Council Chair*

# CONSENT AGENDA - C BACK UP MATERIALS



# TOWN OF BRUNSWICK, MAINE

INCORPORATED 1739

DEPARTMENT OF PLANNING AND DEVELOPMENT  
85 UNION STREET, ROOM 216  
BRUNSWICK, ME 04011

ANNA M. BREINICH, FAICP  
DIRECTOR OF PLANNING & DEVELOPMENT

PHONE: 207-725-6660  
FAX: 207-725-6663

November 3, 2016

**To:** Brunswick Town Council  
John Eldridge, CPFO, Town Manager  
**From:** Anna Breinich, FAICP *AMB*  
**Subject:** Request to extinguish existing maintenance and pedestrian easements for Lot 5 (Maine Street Station)

The applicant/developer of Lot 5/Maine Street Station development, Noble Street Apartments LLC, is requesting the extinguishment of two original easements traversing the lot as shown on the attached site plan and further described as follows:

- A five (5) foot wide pedestrian easement located along the west side property line; and
- A 15 foot wide maintenance easement for the servicing of town-owned stormwater management facilities within the adjacent pocket park along the eastern boundary.

Both easements were provided to the Town as part of the Maine Street Station Subdivision and Site Plan, approved by the Planning Board in 2008. This proposed development of Lot 5, known as Noble Street Apartments, was reviewed by Staff Review Committee and Planning Board with both entities in agreement with the applicants request for the extinguishment of (1) the pedestrian easement due to the increased density on site (16 units initially proposed as part Maine Street Station to the current 24 units) and the likelihood that residents and public would traverse the existing and proposed parking lots between Noble Street and Station Avenue; and (2) the maintenance easement for stormwater management facilities as the Public Works Department staff has the capacity to service the pocket park-located facilities onsite negating the need for the additional easement on Lot 5. An additional paver pedestrian accessway is being provided between the two apartment buildings onsite to connect the existing pocket park walkway to the development.

The proposed development was conditionally approved by Planning Board on October 7, 2016 with two of the conditions stating that prior to the issuance of a building permit, deed releases to extinguish the existing pedestrian easement as well as the maintenance easement be executed by the Town Manager upon approval by Town Council. It is respectfully requested that the Town Council take action to extinguish both easements as shown on the attached site plan.

Thank you for your consideration.

cc: Charlie Frizzle



- DEMOLITION NOTES**
- 1) A DEMOLITION PERMIT MUST BE OBTAINED FROM THE TOWN OF BRANSWICK PRIOR TO COMMENCEMENT OF DEMOLITION WORK. THE PERMIT MUST BE OBTAINED FROM THE TOWN OF BRANSWICK PRIOR TO COMMENCEMENT OF DEMOLITION WORK. THE PERMIT MUST BE OBTAINED FROM THE TOWN OF BRANSWICK PRIOR TO COMMENCEMENT OF DEMOLITION WORK.
  - 2) ALL DEMOLITION ACTIVITIES ARE TO BE PERFORMED IN STRICT ACCORDANCE TO ALL FEDERAL, STATE AND LOCAL REGULATIONS. CONTRACTORS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND DEPARTMENTS.
  - 3) PROCEED WITH DEMOLITION IN A SYSTEMATIC MANNER FROM THE TOP OF THE STRUCTURE(S) TO THE GROUND.
  - 4) DEMOLISH CONCRETE IN ALL SECTIONS.
  - 5) BREAK UP CONCRETE SUBS-OH-GRADE UNLESS OTHERWISE DIRECTED BY THE CONSTRUCTION MANAGER.
  - 6) CONNECT ALL DEMOLITION OPERATIONS IN A MANNER THAT WILL PREVENT INJURY, DAMAGE TO ADJACENT PROPERTIES OR NEIGHBORHOODS.
  - 7) NO EXPLOSIVES MAY BE USED WITHOUT PRIOR WRITTEN CONSENT OF THE DEVELOPER AND APPLICABLE GOVERNMENTAL AUTHORITIES.
  - 8) STORE ALL DEMOLITION DEBRIS IN A MANNER THAT DOES NOT OBSTRUCT TRAFFIC OR VIOLATE ANY APPLICABLE REGULATIONS. DEMOLITION DEBRIS SHALL BE STORED IN A MANNER THAT DOES NOT OBSTRUCT TRAFFIC OR VIOLATE ANY APPLICABLE REGULATIONS.
  - 9) DEMOLITION OPERATIONS SHALL BE CONDUCTED IN A MANNER THAT DOES NOT OBSTRUCT TRAFFIC OR VIOLATE ANY APPLICABLE REGULATIONS.
  - 10) ACCOMPLISH AND REPAIR THE DEMOLITION IN SUCH A MANNER AS TO PREVENT THE UNAUTHORIZED ENTRY OF PERSONS AT ANY TIME.
  - 11) REMOVE ALL MATERIALS FROM THE DEMOLITION SITE IN ACCORDANCE WITH THE REQUIREMENTS OF THE TOWN OF BRANSWICK AND THE STATE OF MAINE. ALL MATERIALS SHALL BE REMOVED FROM THE DEMOLITION SITE AND STORED IN A MANNER THAT DOES NOT OBSTRUCT TRAFFIC OR VIOLATE ANY APPLICABLE REGULATIONS.
  - 12) REMOVE FROM THE DEMOLITION SITE ALL DEBRIS, RUBBLE, AND OTHER MATERIALS THAT ARE NOT PERMITTED TO REMAIN ON THE DEMOLITION SITE. ALL MATERIALS SHALL BE REMOVED FROM THE DEMOLITION SITE AND STORED IN A MANNER THAT DOES NOT OBSTRUCT TRAFFIC OR VIOLATE ANY APPLICABLE REGULATIONS.
  - 13) ANY AND ALL WORK WITHIN ROADWAY RIGHT-OF-WAYS TO CONFORM TO TOWN OF BRANSWICK AND MAINE REGULATIONS SHALL BE CLEARLY MARKED IN THE FIELD PRIOR TO THE START OF CONSTRUCTION.
  - 14) ANY FEATURES NOT LABELED "TO BE REMOVED" SHALL BE CONSIDERED EXISTING TO REMAIN.

4. 10-04-18 REVISED PER STAFF COMMENTS  
 3. 08-30-18 SUBMITTED TO TOWN OF BRANSWICK  
 2. 08-30-18 ASKED RESUBMITTING  
 1. 08-03-18 SUBMITTED TO TOWN OF BRANSWICK FOR SKETCH PLAN

**EXISTING CONDITIONS & DEMOLITION PLAN**

PROJECT: NOBLE STREET APARTMENTS  
 16 NOBLE STREET, BRANSWICK, MAINE 04011

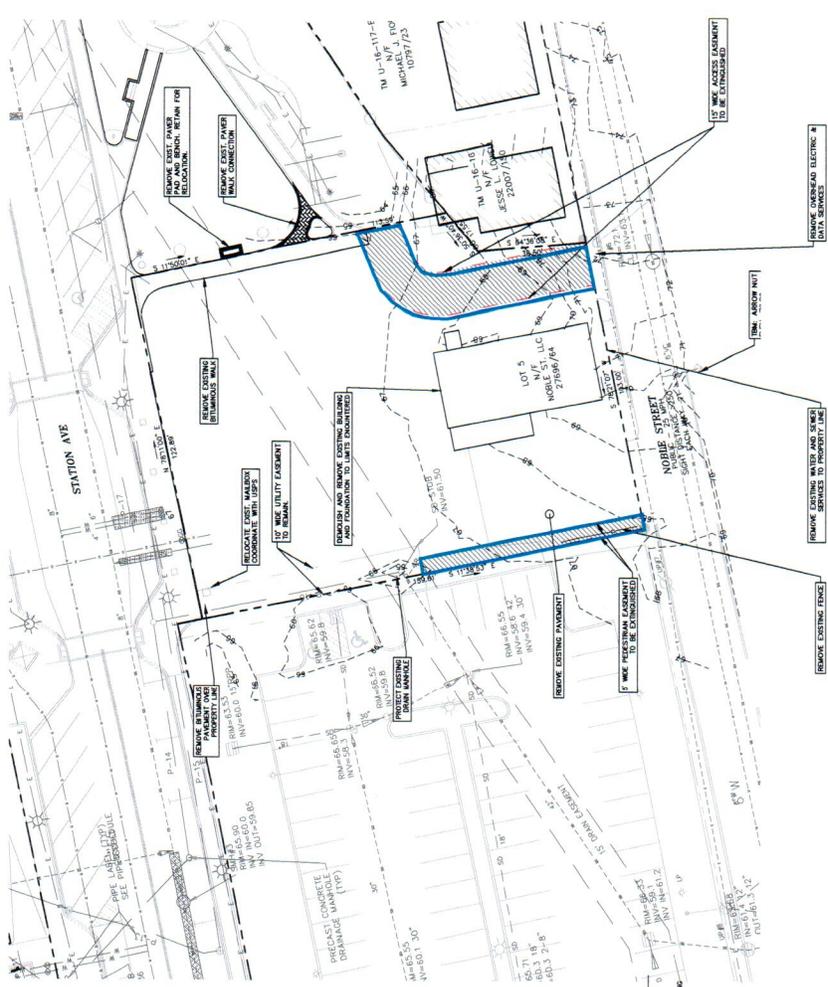
PREPARED FOR: NOBLE STREET LLC  
 40 SOUTH STREET, MARBLEHEAD, MA 01945

**SITELINES, PA**  
 ENGINEERS • PLANNERS • SURVEYORS

8 CUMBERLAND STREET, BRANSWICK, MAINE 04011  
 207.725.2240 • www.sitelines.com

SCALE: 1"=20'  
 SHEET: C2

FIELD W/C: CH  
 DESIGNED BY: JMI  
 CHECKED BY: CTR  
 DATE: 06/03/18  
 FILE: 145-STEP-100416



**GRAPHIC SCALE**

1" = 20'

1 inch = 20 feet

CALL US FOR UTILITY LOCATION  
**1-888-344-7233**

STATE LAW REQUIRES ADVANCE NOTICE OF AT LEAST 3 BUSINESS DAYS BEFORE YOU DIG. GROUPS OF UNDERGROUND UTILITIES.

**PROGRESS POINT**  
 THIS PLAN IS ISSUED FOR INFORMATION ONLY. THIS PLAN IS SUBJECT TO CHANGE AND IS NOT FOR CONSTRUCTION UNLESS SHOWN OTHERWISE. BOTH CONTRACTOR AND OWNER.

- LEGEND**
- IRON MARKER FOUND
  - IRON MARKER FOUND
  - BOUNDARY LINE OF SURVEYED PARCEL
  - BOUNDARY LINE OF ADJUTING PARCEL
  - COMPUTATIONAL TIE LINE (APPROX.)
  - STONE WALL (APPROX.)
  - EDGE OF TRAMPLED WAY
  - UTILITY POLE WITH NUMBER
  - IRON PIPE FOUND
  - SINK HOLE
  - ARBITRARY COMPUTATIONAL POINT NUMBER
  - OF DEEDS & PAGE IN COUNTY REGISTRY
  - OF DEEDS & PAGE IN COUNTY REGISTRY
  - RIGHT OF WAY
  - MORE OR LESS
  - SEWER MANHOLE
  - CATCH BASIN
  - WATER SHUT OFF
  - HYDRANT
  - WATER VALVE
  - ELEVATION TEMPORARY BENCH MARK
  - TEST PIT

**QUITCLAIM RELEASE DEED**

**KNOW ALL MEN BY THESE PRESENTS**, that **THE TOWN OF BRUNSWICK**, a Municipal Corporation organized and existing under the laws of the State of Maine, and situated in the County of Cumberland, State of Maine, in consideration of the re-establishment of certain boundary lines and other good and valuable consideration, does hereby REMISE, RELEASE, BARGAIN, SELL, CONVEY and forever QUITCLAIM unto **NOBLE STREET, LLC**, a limited liability company organized and existing under the laws of the State of Maine and having an established place of business in the Town of Brunswick, with a mailing address of 40 South Street, Suite 305, Marblehead, Massachusetts 01945, its successors and assigns forever, all that property and easements described as follows:

All of the Grantor's right, title and interest in and to a five foot (5') wide pedestrian easement and a fifteen foot (15') wide proposed storm treatment maintenance access easement, which easements were reserved in the deed from this Grantor to this Grantee dated December 11, 2009 and recorded in the Cumberland County Registry of Deeds at Book 27696, Page 64 and which easements are portrayed on a plan recorded in said Registry at Plan Book 209, Page 123.

The purpose of this deed is to forever extinguish the above described easements.

*TO HAVE AND TO HOLD* the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to **NOBLE STREET, LLC**, its successors and assigns, to its own use and behoof forever.

IN WITNESS WHEREOF, JOHN ELDRIDGE DULY AUTHORIZED TOWN MANAGER FOR THE TOWN OF BRUNSWICK has caused this instrument to be signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

SIGNED, SEALED AND DELIVERED  
in the presence of

\_\_\_\_\_

THE TOWN OF BRUNSWICK

By: \_\_\_\_\_  
John Eldridge, Town Manager

STATE of MAINE  
County of \_\_\_\_\_

\_\_\_\_\_, 2016

Then personally appeared before me, **JOHN ELDRIDGE, DULY AUTHORIZED TOWN MANAGER FOR THE TOWN OF BRUNSWICK**, and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

\_\_\_\_\_  
Notary Public/Attorney at Law

# MANAGER'S REPORT - A NO BACK UP MATERIALS

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# MANAGER'S REPORT - B BACK UP MATERIALS

## John Eldridge

---

**From:** Sockna Dice <szndice@gmail.com>  
**Sent:** Monday, October 17, 2016 2:37 PM  
**To:** Fran Smith; John Eldridge; Sarah Brayman  
**Cc:** ssehon@protonmail.com; dszorach@gwi.net; boppy42@comcast.net  
**Subject:** Request for Petition Papers

Dear Ms. Smith, Mr. Eldridge, and Ms. Brayman,

Pursuant to Title 30-A, M.R.S.A., Section 2504, and referencing the procedures detailed in Brunswick's Town Charter, Section 1105, please accept this written request, made by the five Brunswick residents listed below, to begin referendum proceedings by requesting the appropriate petition blanks for the following proposed ordinance:

An ordinance to Provide Public Coastal Access at 946 Mere Point Road, enacted by citizen initiative, requiring the Town of Brunswick to:

1. retain the town-owned parcel at 946 Mere Point Road; and
2. provide public access to the parcel, including but not limited to a public park and access for shellfish harvesting; and
3. assess the feasibility, cost, and fundraising opportunities to provide other uses on the parcel, including public water access.

Please let us know if there is anything else that you need from us at this time in order to begin the referendum process. We plan to collect signatures on Election Day, November 8. Please let us know when we should come pick up the petition blanks.

Thank you,

Soxna F. Dice - 3 Breckan Rd.  
Anthony Yuodsnukis - 276 Bunganuc Rd.  
Scott Sehon - 26 Thompson St.  
Paul Nadell - 4 Blue Heron Rd.  
Deborah Zorach - 300 Maine St.

Fran Smith, Town Clerk  
Town of Brunswick  
85 Union Street  
Brunswick, ME 04011

October 19, 2016

Dear Ms. Smith,

Pursuant to Title 30-A, M.R.S.A., Section 2504, and referencing the procedures detailed in Brunswick's Town Charter, Section 1105, please accept this written request, made by the five Brunswick residents who have signed below, to begin referendum proceedings by requesting the appropriate petition blanks for the following proposed ordinance:

*Title:* An Ordinance to Create a Public Park at 946 Mere Point Road

*Purpose:* The purpose of this ordinance is to retain the town-owned parcel at 946 Mere Point Road for public coastal access, including but not limited to a public park and access for shellfish harvesting.

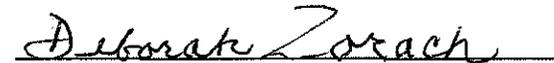
1. Amend Municipal Code Section 14-124 to add 946 Mere Point Road parcel to the list of town-owned parks and facilities.
2. Add new Section 14-124.1.- Mere Point Road Public Park
  - a. The town shall make the parcel at 946 Mere Point Road available to the public as a public park.
  - b. The conservation commission, the recreation commission, and the marine resources committee shall conduct, or shall cause to be conducted, a study of the cost and feasibility of providing other appropriate uses on the parcel, including public water access with recommendations for implementation and funding presented to the town council.

Sincerely,

  
Anthony Yuodsnukis  
276 Bunganuc Rd., Brunswick, ME 04011

  
Paul Nadell  
4 Blue Heron Rd., Brunswick, ME 04011

  
Scott Sehon  
26 Thompson St., Brunswick, ME 04011

  
Deborah Zorach  
300 Maine St., Brunswick, ME 04011  
316 dz

  
Soxna F. Dice  
3 Breckan Rd., Brunswick, ME 04011

RECEIVED AND FILED:  
DATE 10/19/2016 TIME 1:38 PM  
  
TOWN CLERK BRUNSWICK, ME.

Stephen E.F. Langsdorf  
slangsdorf@preti.com  
Direct Dial: 207.791.3291

## **M E M O R A N D U M**

**TO:** Fran Smith, Clerk, Town of Brunswick  
**FROM:** Stephen E.F. Langsdorf, Town Attorney  
**DATE:** October 19, 2016  
**RE:** **Requests for Petition Papers**

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I have reviewed the email which you received from the five individuals requesting petitions pursuant to the Town Charter. I understand and agree that you have asked the petitioners to provide a signed writing to you at your office. When you receive that request please ask the petitioners to provide additional information.

First, please explain why this procedure should be allowed at all when the Charter only allows ordinances, not orders or resolves, to be overruled by a referendum. This purported ordinance specifically seeks to overrule an order of the Council to sell the property. Section 1101. Also, pursuant to Section 1102 the petitions to overrule must have been received within 20 days. Second, please explain how this meets the definition of police power ordinance. The only initiatives allowed are police power ordinances. Section 1105.

Thank you and please let me know if you have questions.

SEFL:ryp

October 20, 2016

Fran Smith  
Brunswick Town Clerk  
85 Union Street  
Brunswick, ME 04011

*Via email*

Dear Ms. Smith,

Thank you for your email and the memo from the Town Attorney dated October 19 regarding our request for petition papers. Because time is of the essence, we appreciate the prompt attention that you and Mr. Langsdorf have given to this matter.

First, since the Town Council did not enact an ordinance, clearly we are not trying to overturn one under any of the sections of the Town Charter that were cited.

Second, we understand that Article XI of the town Charter enumerates provisions that explain the initiative and referendum procedures concerning ordinances (Sections 1102, et seq.). This Article details the process of citizens overturning council ordinance action by referendum (Section 1102) and the process for the citizens to initiate police power ordinances (Section 1105).

However, nothing in Article XI, nor elsewhere in the Charter, expressly prohibits other citizen initiatives unrelated to ordinance, which are broadly permitted under State law. Without the express prohibition of all other citizen initiatives (which incidentally would have had to be approved by the town's citizens), state law clearly establishes that Brunswick citizens have the right to pursue other local initiatives through petition.

M.R.S.A. Title 30-A Section 2504 (Circulation of Petitions for Local Initiative), the State law under which we filed this request, states, in part:

No municipality may enact any charter provision or ordinance prohibiting the circulation of petitions for any local initiative.

As an example of how another Maine town has provided instructions for its citizens to file under Section 2504, see: <http://www.raymondmaine.org/town-office/town-clerk/petition-protocol>.

Third, Brunswick Charter Section 1101 was last amended in 1973. It is worth noting that, in an extensive review of Maine Charters by Maine Municipal Association's Geoff Herman, in 1992, no municipal Charter in Maine was described as limiting the right of citizen initiatives in the extreme way that is apparently being claimed now for Brunswick. In fact, Herman notes,

Slightly less than half of all existing charters limit to some degree the substance of initiated or referred questions. Thirty charters, all with generally the same language, prohibit initiative or referendum petitions that would appropriate money, adjust the budget, levy taxes, force an official's appointment or removal, or adjust salaries. The 45 remaining charters, either expressly or by their silence, do not limit the substance of an initiative or referendum petition. "Municipal Charters: A comparative analysis of 75 Maine charters," *Maine Townsman* (August 1992).

If Brunswick's Charter could reasonably be interpreted to allow only ordinance-related initiatives and referenda, and had it done so with the express approval of Brunswick's voters, we believe this remarkable charter would have been singled out by Herman as the notable outlier it would be. Instead, we believe that Brunswick citizens did not agree to such strict limits on their rights to petition. It is clear that the charter merely details the provisions with regard to ordinances in order to facilitate access to referendum and initiative concerning ordinances, without affecting the broad rights of citizens to initiate change.

We want to clarify that we do not believe that we are required to put our initiative request into ordinance form, and could have left the language as originally set forth in the email submittal to the Town. However, we want to do our best to comply with Town procedures that would not have a substantive impact on our request, as they have been communicated to us by the Town Clerk.

We look forward to your response honoring the request we make as Brunswick citizens, and enabling us to move forward promptly.

Thank you,

Soxna F. Dice

On behalf of myself and:

Anthony Yuodsukis

Deborah Zorach

Paul Nadell

Scott Sehon

## John Eldridge

---

**From:** Fran Smith  
**Sent:** Friday, October 21, 2016 1:23 PM  
**To:** Sockna Dice  
**Cc:** Tony Yuods nukis; Paul T Nadell; dszorach@gwi.net; ssehon@protonmail.com; John Eldridge  
**Subject:** RE: Mere Point Parcel Petition Request - Response to Attorney Memorandum

Ms. Dice,

The Town Attorney has asked me to follow up with you to ask for additional clarification. Are you still requesting petitions under section 1105 of the Charter or are you relying on State law? Thanks

Fran Smith  
Town Clerk  
85 Union Street  
Brunswick, ME 04011  
[smithfm@brunswickme.org](mailto:smithfm@brunswickme.org)  
207-725-6658  
Fax 207-725-6663



**From:** Sockna Dice [<mailto:szndice@gmail.com>]  
**Sent:** Thursday, October 20, 2016 2:40 PM  
**To:** Fran Smith  
**Cc:** Tony Yuods nukis; Paul T Nadell; [dszorach@gwi.net](mailto:dszorach@gwi.net); [ssehon@protonmail.com](mailto:ssehon@protonmail.com)  
**Subject:** Mere Point Parcel Petition Request - Response to Attorney Memorandum

Dear Ms. Smith

Attached please find a response to the October 19th memorandum from Mr. Langsdorf.

Please do not hesitate to contact me if you have any questions.

Thank you,  
Soxna Dice

EMAIL TO CLERK:

To: smithfm@brunswickme.org

From: Soxna Dice

CC: [boppy42@comcast.net](mailto:boppy42@comcast.net), [nadell\\_pault@comcast.net](mailto:nadell_pault@comcast.net), [dszorach@zwi.net](mailto:dszorach@zwi.net), [ssehon@protonmail.com](mailto:ssehon@protonmail.com),  
[jeldridge@brunswickme.org](mailto:jeldridge@brunswickme.org), [rbjarratt@gmail.com](mailto:rbjarratt@gmail.com), [towncouncil@brunswickme.org](mailto:towncouncil@brunswickme.org)

Subj: Petition Request for Mere Point Road Park

Dear Ms. Smith,

On behalf of all of the petitioners requesting a citizen vote concerning 946 Mere Point Road, we ask that you please forward the attached to Town Attorney Langsdorf. Please let us know if there is anything else you need in order to issue the petition blanks so that we can collect signatures on November 8, as we first requested on October 18.

Thank you,  
Soxna F. Dice

ATTACHMENT -- PDF DOC TO LANGSDORF:

Stephen Langsdorf  
Town Attorney  
% Fran Smith  
Town Clerk  
Town of Brunswick  
85 Union Street  
Brunswick Maine 04011

*Via Email*

October 25, 2016

Dear Mr. Langsdorf,

We proposed a fairly simple petition to the Brunswick Town Clerk on October 18, citing Title 30-A Section 2504 of the Maine Revised Statutes, and referencing the Town's procedures under Charter Section 1105. The Clerk replied that we needed to rephrase our request as an ordinance. We did so on October 19. Later that same day, you informed us by memorandum that Brunswick's Charter disallows any citizen initiatives other than those concerning police power ordinances.

On October 20, we replied that, unless something remarkable and unique to Brunswick has been passed by the citizens, we believe that all initiative and referendum opportunities are available to Brunswick citizens, as these rights are established in State statute and, given Maine's history and practice, are clearly highly cherished rights of Maine people. In your reply on October 21, you neither agreed nor disagreed with our assertions, nor offered any information, instead asking that we choose whether or not we are applying for petition papers under Charter Section 1105 or under 30-A Section 2504, both of which you have previously indicated that you believe are unavailable to us.

This exchange has delayed us to the point that we are now very concerned about meeting our goal of having the petitions in hand by November 8. Therefore, in an effort to move things along, we offer the following:

1. If the Town will grant our request for petitions in accordance with the procedures in Charter Article Section 1105, with the result in our pursuing the procedures detailed in Section 1105(c), we ask that the petitions be prepared and provided to us as soon as possible;
2. If the Town will allow our ordinance petition to go forward, but denies that we can access the procedures in Article 1105, instead requiring the procedures detailed in the relevant State statutes, we ask that the petitions be prepared and provided to us as soon as possible. Please note that we have additional petitioners who will sign the request in this case, meeting or exceeding the number required by State statute. We simply need to know whether the Town is denying us access to the Section 1105 procedures, and we will add petitioners;
3. If the Town denies that this can go forward as a petition for a vote on an ordinance, but may move ahead as an initiative governed by State statute, please review our initial request of October 18, with the language we proposed

- therein as our proposal, and prepare and provide the requested petitions as soon as possible, again noting that we have additional petitioners who will sign on to meet or exceed the State statutory petitioner numbers; or
4. If the Town denies that we have a right to any form of petition other than one concerning an ordinance, please inform us when and how the citizens of Brunswick consented to the removal of these State-authorized rights, or if not consented to, why the Town asserts that these rights are unavailable to us.

We are not municipal law experts, we are a group of Town residents trying to access rights we have as Brunswick citizens to petition our Town. State law clearly establishes that for local initiatives, the role of the Town Clerk is to provide information to petitioners about deficiencies in their petition requests, just as it is for the Secretary of State for State petitioners. We are both appreciative, and obviously prepared, to be responsive to any request or suggestion.

We believe that it is reasonable for us to expect clear information regarding the best way for us to access our rights. We also believe that, regardless of where they stand on the issue of public access at Mere Point, Brunswick's elected representatives expect residents to be provided with reasonable clarity on this procedure. We are accordingly copying the Town Council, to ensure that they are aware of our efforts to access Brunswick residents' right to petition. We believe that the denial of these rights to Brunswick residents would itself be noteworthy and important to bring to the attention of Brunswick citizens and our elected officials.

Thank you for your time and prompt attention to this matter.

Sincerely,

Soxna F. Dice

On behalf of the Petitioners to Provide Mere Point Public Access

Cc: Town Manager John Eldridge  
Brunswick Town Council

Stephen E.F. Langsdorf  
slangsdorf@preti.com  
Direct Dial: 207.791.3291

## **M E M O R A N D U M**

**TO:** Fran Smith, Clerk, Town of Brunswick

**FROM:** Stephen E.F. Langsdorf

**DATE:** November 1, 2016

**RE:** **Petition re: Mere Point property**

---

Five individuals have requested petition forms pursuant to the Town Charter, seeking to overturn the Council's order to sell 946 Mere Point Road. While there is nothing in the Charter giving the Clerk authority to deny the issuance of the petition, the Council will have the opportunity and authority to review it, if it is returned, for validity, completeness and legality before voting on whether to put the petitioned article forward to referendum. The petitioners should be made aware that there are serious concerns regarding whether the petition, if returned, will be accepted as legal.

The Town Charter provides in Section 1101 that "All ordinances enacted by the Town Council" are subject to override by citizens' petition. It provides in Section 1105 that "[p]olice power ordinances may be enacted by the following initiative procedure." These are the only situations in which an election can be called by petition, because there is no state law right to petition that applies to Brunswick's council/charter form of government. Municipal home rule exists by virtue of the Maine Constitution, which provides that municipalities have the authority to amend their charters on all matters which are local and municipal in character. Art. XIII, pt. 2, § 2. In turn, 30-A M.R.S. § 2501 provides that a municipal charter controls over the town meeting and election provisions in Titles 30-A and 21-A, including the statutory right of petition. Accordingly, municipalities are free to impose different requirements than those governing statewide petitions." *Albert v. Town of Fairfield*, 597 A.2d 1353 (Me. 1991); See also *Blanchet v. Waldoboro*, Maine Law Court Dec. # Mem. 12-101.

Because the petitioners are seeking to overturn the action taken by the Council to sell the Mere Point property, they must keep in mind that the Council acted to do so by executive order. The order was a function of their executive powers to manage town-owned property. It was not a legislative act (ordinance), which is the only type of action subject to referendum under Section 1101 of the Charter.

Further, Section 1105 of the Charter cannot be used to circumvent the limitations placed on referendum petitions under Section 1101. Since the intent and effect of the petitioned ordinance is to reverse an action taken by the Council, it must have been presented under Section

1101 within 20 days of its passage by the Council. Section 1102(c). The Charter is drafted to allow executive actions taken by the Council to stand without being subject to reversal by petition, although the Council may choose to put to referendum any ordinance, order or resolve. Section 1104. A petitioned ordinance that seeks to overturn Council action is actually seeking a referendum and, pursuant to Section 1101, can only address an ordinance and not an executive order.

The petitioners should be aware that the Council will be advised that it is the Town Attorney's position that where the action sought to be overturned is an order of the Council, the Referendum procedures in the Charter do not apply and the Council should not order that an election be scheduled.

In summary, while it is appropriate to issue the petition, the petitioners should be on notice as to the significant legal questions that have arisen. The Council will resolve those issues if the petitions are returned and meet all other requirements of the Charter.

SEFL:kmc



## MUNICIPALITY OF BRUNSWICK

Petition for the enactment of an ordinance entitled “An Ordinance to Create a Public Park at 946 Mere Point Road”, the full text of the ordinance is below.

*Must be signed by Brunswick Registered Voters*

### FULL TEXT OF ORDINANCE

*Title:* An Ordinance to Create a Public Park at 946 Mere Point Road

*Purpose:* The purpose of this ordinance is to retain the town-owned parcel at 946 Mere Point Road for public coastal access, including but not limited to a public park and access for shellfish harvesting.

1. Amend Municipal Code Section 14-124 to add 946 Mere Point Road parcel to the list of town-owned parks and facilities.
2. Add new Section 14-124.1.- Mere Point Road Public Park
  - a. The town shall make the parcel at 946 Mere Point Road available to the public as a public park.
  - b. The conservation commission, the recreation commission, and the marine resources committee shall conduct, or shall cause to be conducted, a study of the cost and feasibility of providing other appropriate uses on the parcel, including public water access, with recommendations for implementation and funding presented to the town council.

Signature	Printed Name	Street Number and Street
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		

<b>Signature</b>	<b>Printed Name</b>	<b>Street Number and Street</b>
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Signature	Printed Name	Street Number and Street
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Brunswick, Maine

I, the undersigned, \_\_\_\_\_, being duly sworn, depose and state that I personally circulated this petition containing \_\_\_\_\_ signatures on this form; that all the signatures were affixed in my presence; that I believe them to be genuine signatures of the persons whose names they purport to be; and that each signer had an opportunity before signing to read the full text of the proposed ordinance.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public

Date Notary Commission expires: \_\_\_\_\_

**FOR OFFICE USE**

Received and filed at the Office of the Town Clerk of Brunswick, Maine on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Town Clerk

**REGISTRAR'S CERTIFICATION**

I hereby certify that the names of all the petitioners listed as valid appear on the voting list as registered voters of the Town of Brunswick.

**TOTAL VALID:** \_\_\_\_\_ **TOTAL INVALID:** \_\_\_\_\_

\_\_\_\_\_  
(Signature of Registrar/Municipal Clerk)

November 2, 2016

John Eldridge  
Brunswick Town Manager

Fran Smith  
Brunswick Clerk

Sarah Brayman  
Chair, Brunswick Town Council

Brunswick Town Councilors

Re: 946 Mere Point Road Petition Request

Dear Brunswick officials,

First, thank you for issuing petitions concerning our Mere Point citizens initiative yesterday. We want to allow Brunswick citizens to vote to provide public coastal access via a public park on the property at 946 Mere Point Road. The petition is the first step to enable all Brunswick voters to make a choice on this issue. We look forward to collecting the necessary signatures to place this on a future ballot, and deeply appreciate the Town's acting on our request prior to November 8th.

In light of the November 1 memorandum from Town Attorney Stephen E. F. Langsdorf, we are writing today to clarify our position regarding the legal basis for our petition request.

We have consistently articulated to the Town and Attorney Langsdorf that we believe our citizen petition is authorized under State law. We have never claimed, nor do we agree, that our request to petition is necessarily pursuant to or dependent upon the Town Charter (see our memorandum, October 23, 2016). In fact, we requested specific information from the Town concerning Brunswick citizens' right of petition under State law, but have received no response to that particular request. While we understand a reluctance to directly address a complex legal question that has perhaps not previously arisen, we are concerned that this lack of clarity leaves our local policymakers uninformed regarding the broader ramifications of our petition question for Brunswick, beyond the disposition of this particular property.

As we all can see from this year's general election ballot, a broad right for citizens to petition to place initiatives and referenda on the State ballot is extremely important in Maine. This right is part of the First Amendment to the United States Constitution, and is repeated in our State Constitution. An equally broad right to petition at the local level is included in our State statutes. With sincere respect to our present Council, the reason for this is clear: to ensure that voters have recourse to take action when the voters believe that their representatives have failed to act, ignored the will of the people, or acted against their will.

The Town Attorney is absolutely correct in stating that the local right to petition may have different standards imposed by each municipality. This is quite different, however, from

asserting that the municipality may, by executive action, *limit* the people's right to petition so as to confine it to some small universe of activity. We find evidence in law and precedent that *only the people* may vote to limit their right to petition. We have seen nothing that indicates that the people of Brunswick have voted to do so. Wherever you stand on the question of public access on Mere Point, the question of whether the citizens of Brunswick retain the right to petition our Town Council is foundational.

To be clear, it is not simple or easy to successfully petition and place an issue before voters at the local level, whether under the Charter or State law. The requirements are onerous, and ultimately the citizens themselves make the decision. The right to petition at the local level is therefore infrequently used. Nevertheless, an assertion that Brunswick citizens have virtually no right to citizen petition would be an extremely significant and remarkable limit on a generally broad category of Constitutional rights.

As the Town Charter offers specific procedures only with regard to ordinances, and as the Council did not take action via an ordinance, we are, as we have previously stated, not attempting to overturn an ordinance. We believe that State law applies to our petition request, but have said that if the Town wishes to allow us to use the procedures in Charter Section 1101, we will follow those procedures.

To ensure that we comply with both the Charter and State law, we added a sixth person to the group requesting petitions, as we had indicated the previous week that we were prepared to do . We provided that paperwork to the Town Manager and Clerk yesterday, prior to accepting the petitions.

As we work to gather petition signatures, we ask the Council and Town to consider the broader question of Brunswick citizens' Constitutional rights. We believe that a broad right of citizens to petition is foundational to our local democracy.

Thank you for your time.

Sincerely,

Soxna Dice

On behalf of the Mere Point Road Park Petitioners:

Anthony Yuodsnukis

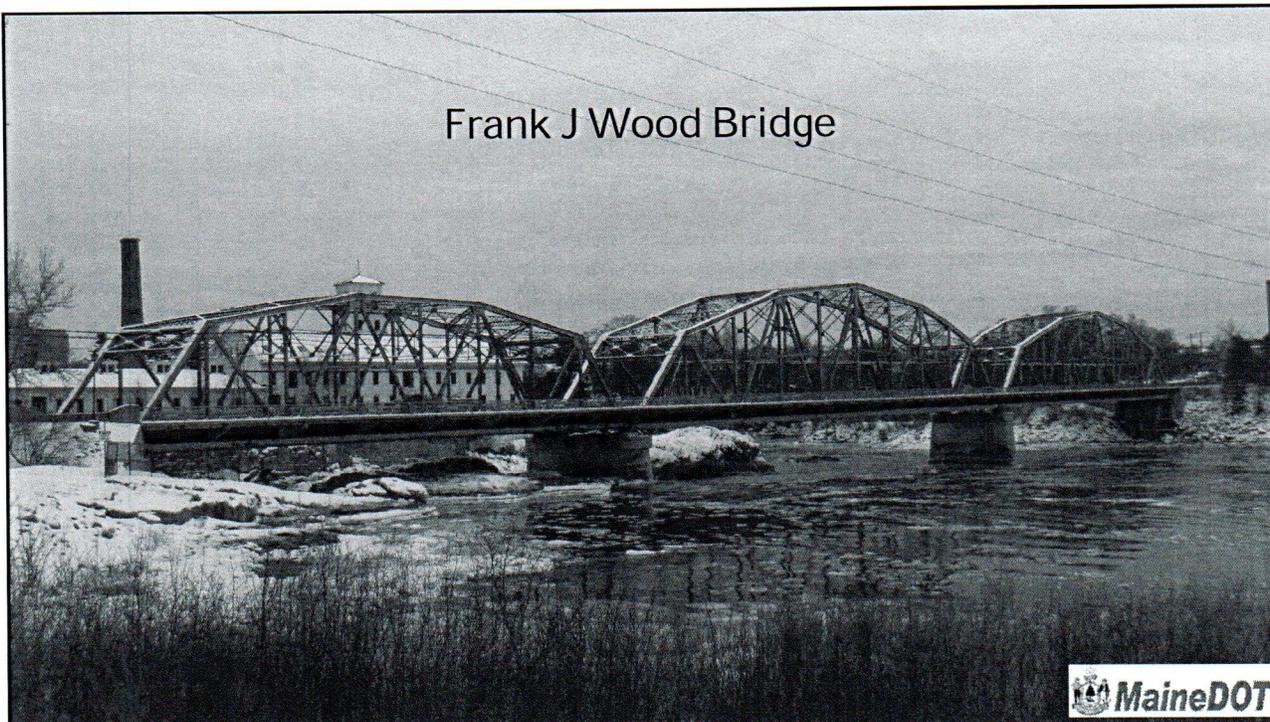
Scott Sehon

Deborah Zorach

Paul Nadell

Robert Jarratt

# MANAGER'S REPORT - C BACK UP MATERIALS



## Agenda

1. National Register Criteria & Aspects of Integrity
2. Overview of eligibility, by resource
  - a. National Register Significance
  - b. Period of Significance
3. Definition & Examples of Adverse/ No Adverse Effects
4. Application of effects to resources, by resource
  - a. Summer Street Historic District (HD)
  - b. Cabot Mill
  - c. Pejepscot Paper Company HD
  - d. Brunswick - Topsham Industrial HD
    - i. By Alternate
5. Questions

## National – Register Criteria

- Criterion A
  - Associated with events that have made a significant contribution to the broad patterns of history
- Criterion B
  - Associated with the lives of persons significant in our past
- Criterion C
  - Embodies a distinctive type, period, method of construction, represents work of a master, possess high artistic values
- Criterion D
  - Yielded or likely to yield information important in prehistory or history



## Aspects of Integrity:

1. Location
  - Place of construction or event
2. Design
  - Combination of elements that create form, plan, space, structure, style
    - Districts: relationship between buildings, roads, streetscape; visual rhythm
3. Setting
  - Physical environment of property
    - Relationship between buildings and other structures with open space
4. Materials
  - Elements combined during a particular period in a particular configuration to form a property
    - Must retain key exterior features, materials
5. Workmanship
  - Physical evidence of crafts of a particular culture or people during any period
    - Illustrates the aesthetic of a period
6. Feeling
  - Expression of the aesthetic or historic sense of a particular period of time
7. Association
  - Direct link between important event or person and a property



## Aspects of Integrity:

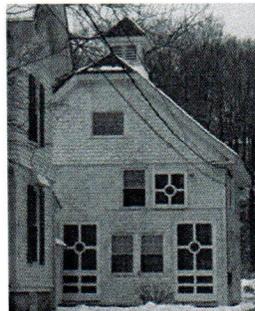
1. Feeling and Association
  1. Because feeling and association depend on individual perceptions, their retention alone is never sufficient to support eligibility
2. Assessing Integrity of 7 Aspects in Properties
  - Define essential physical features
  - Visibility of essential features
  - Compare with similar properties
  - Identify which aspects are particularly vital to each resource



## Overview of Resource Eligibility

### *Summer Street Historic District*

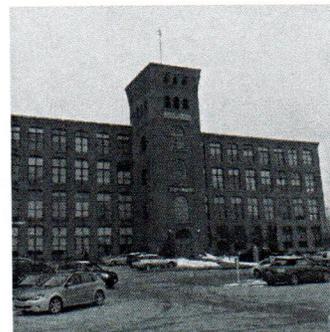
- ❖ Criterion C
- ❖ Area of Significance: Architecture
- ❖ Level of Significance: Local
- ❖ Period of Significance: ca. 1830 - 1880
- ❖ Character Defining Features:
  - Stick and Queen Anne details
    - Stickwork
    - Decorative, pattern shingles
    - Curved braces
    - Gable detailing
  - Set back from road
  - Long, narrow lots



## Overview of Resource Eligibility

### *Cabot Mill*

- ❖ Criteria A & C
- ❖ Area of Significance: Architecture & Industry
- ❖ Level of Significance: Local
- ❖ Period of Significance: ca. 1850 - 1950
- ❖ Character Defining Features:
  - Renaissance Revival Towers
  - Rectangular Massing
  - Brick Construction
  - Windows
    - Full height
    - Arched
    - Multi-paned
    - Granite lintels
  - Adjacent to water power source



 **MaineDOT**

## Overview of Resource Eligibility

### *Pejepscot Paper Company*

- ❖ Criteria A & C
- ❖ Area of Significance: Architecture & Industry
- ❖ Level of Significance: State
- ❖ Period of Significance: 1868 to 1966
- ❖ Character Defining Features:
  - Italianate Details
    - Recessed panels
    - Tall, arched windows
    - Cupola
  - Smokestack
  - Rectangular Massing
  - Brick and cobblestone
    - Foundation
  - Adjacent to water power Source



 **MaineDOT**

## Overview of Resource Eligibility

### *Brunswick – Topsham Industrial HD*

- ❖ Criteria A & C
- ❖ Area of Significance: Industry & Architecture
- ❖ Level of Significance: Local
- ❖ Period of Significance: ca. 1850 - 1966
- ❖ Character Defining Features:
  - Rectangular building massing
  - Brick construction
  - Power generation
    - Dam
    - Canal
  - FJW Bridge
    - Truss
    - Piers



 **MaineDOT**

### No Effect:

The undertaking *will not* alter the characteristics of a historic property that make it eligible for listing in the National Register

Example: the removal of a structure built after the period of significance of the historic district from which it is being removed

36 CFR 800.4(d)(1) & 36 CFR 800.16(i)

### No Adverse Effect:

The under taking *will not* alter, indirectly or directly, any of the characteristics of a historic property in a manner that would diminish integrity of the property's aspects of :

location – design – setting – materials – workmanship – feeling – association

Example: the upgrade of existing historic sidewalks with granite curbing within historic district

36 CFR 800.5(a)(1)

 **MaineDOT**

## Adverse Effect:

The undertaking *will alter*, indirectly or directly, any of the characteristics of a historic property in a manner that would diminish integrity of the property's:

location – design – setting – materials – workmanship – feeling – association

### Examples:

Physical destruction of property (directly)

Change of the character of the property's use or physical features that contribute to its significance (both directly and indirectly)

Introduction of visual or audible elements that diminish the integrity of the property's significant features (indirectly)

36 CFR 800.5(a)(1)



## Application of effects and aspects of integrity

1. Summer Street HD
  - All Alternatives
2. Cabot Mill
  - All Alternatives
3. Pejepscot Paper Company HD
  - All Alternatives
4. Brunswick Topsham Industrial Historic District
  - a. Rehabilitation Alternatives
  - b. Replacement Alternatives



### Summer Street Historic District

No Effect

- Changes to character defining features?
  - Stick and Queen Anne details
    - No Change
  - Set back from road
    - No Change
  - Long, narrow lots
    - No Change
- Diminish one or more aspects of integrity?
  - No change to any aspects
- Bridge constructed beyond the proposed district's period of significance
  - Ca. 1830 - 1880



### Cabot Mill

No Adverse Effect

- Changes to character defining features?
  - Renaissance Revival Towers
    - no change
  - Rectangular Massing
    - no change
  - Brick Construction
    - no change
  - Windows
    - no change
  - Adjacent to water power source
    - no change
- Diminish one or more aspects of integrity?
  - No Change
  - Integrity of design and setting already compromised due to conversion of mill yard to high density parking lot



## Pejepscot Paper Company Historic District

No Adverse Effect

- Changes to character defining features?
  - Italianate details
    - no change
  - Smokestack
    - no change
  - Rectangular Massing
    - no change
  - Brick and cobblestone
    - no change
  - Adjacent to waterpower source
    - no change
  
- Diminish one or more aspects of integrity?
  - No Change
  - Integrity of design, setting, materials, feeling, and association currently diminished due to loss of structures since listing in 1973



## Brunswick - Topsham Industrial HD

No Adverse Effect

Alternates 3 and 4

#3 – Rehabilitation with Westerly sidewalk, #4 – Rehabilitation with Easterly/Westerly Sidewalk

- Changes to character defining features?
  - Rectangular building massing
    - no change
  - Brick construction
    - no change
  - Power generation
    - no change
  - FJW Bridge
    - no – bridge retains integrity of design and materials
  
- Diminish one or more aspects of integrity?
  - No



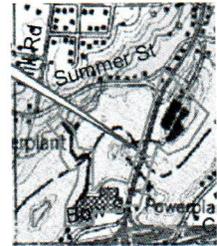
## Brunswick - Topsham Industrial HD

## Adverse Effect

Alternates 1, 2, and 5

#1 – existing alignment, #2 – curved upstream alignment, #5 – parallel tangent down stream alignment

- Changes to character defining features?
  - Rectangular building massing
    - no change
  - Brick construction
    - no change
  - Power generation
    - no change
  - FJW Bridge
    - Yes – complete removal
  
- Diminish one or more aspects of integrity?
  - Yes – setting, design, materials, feeling, and association



 **MaineDOT**

**MANAGER'S REPORT - D  
NO BACK UP MATERIALS**

ITEM 119

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

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## MEMORANDUM

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TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: November 3, 2016

SUBJECT: Marine Activities, Structures and Ways  
Municipal Code of Ordinances Chapter 11

---

At your previous meeting, staff recommended a public hearing to consider several changes to Chapter 11 of the Municipal Code or Ordinances. That chapter regulates marine activities, structures and ways. Subsequent to your meeting we received communications from the Maine Department of Marine Resources (DMR) indicating that the department wanted to conduct a “top to bottom” review of the ordinance. Therefore, staff is recommending that this item be tabled indefinitely. Staff intends to bring the amendment back once the DMR review is completed and comments are received.

Staff had recommended to the Brunswick Marine Resources Committee (BMRC) that it consider fee increases for shellfish licenses. BMRC requested more information on the proposed increase, which the committee received and considered at its November 2nd meeting. Based on the discussion from that meeting, we are requesting that the fees be increased. Attached is a memo from Marine Resources Warden Dan Devereaux that summarizes BMRC’s discussion. Also attached are the fee increases proposed as amendments to the Master Schedule of Revenues, Charges, Fees and Fines (Master Schedule). Revisions to the Master Schedule require a public hearing, and we are recommending that the Town Council set a public hearing to consider the proposed increases.

Attachments



# Town of Brunswick, Maine

INCORPORATED 1739  
MARINE RESOURCES & HARBOR MANAGEMENT  
85 PLEASANT STREET  
BRUNSWICK, MAINE 04011  
TELEPHONE 207-725-5521 FAX 207-725-6663  
Email – ddevereaux@brunswickpd.org



Daniel R. Devereaux  
Marine Resource Officer  
Harbormaster

## MEMO

TO: Fran Smith, Town Clerk  
FROM: D. Devereaux MRO/HM  
DATE: 10/12/2016  
RE: Chapter 11 Article III proposed changes

Fran,

Thank you for your consideration of the proposed changes to the attached ordinance *Chapter 11 Marine Activities Structures and Ways*. I will go line by line and explain the Marine Resource Committee's reasoning behind the suggested edits.

The Rivers and Coastal Waters Commission are currently in the middle of working on updates to their portion of *Chapter 11 Article 1 Harbor, coastal, tidal and navigable fresh waters*. The suggested edits will be sent to the Town Clerks Office at a later date.

This memo strictly addresses the Brunswick Marine Resources Committee's immediate concerns of *Chapter 11 Article III Shellfishing*.

Proposed Changes:

**Article III Sec 11-71 Definitions:** Because aquaculture has never been mentioned in the ordinance, and the Brunswick Marine Resources Committee has recently engaged in the promotion and education of local shellfish propagation. The BMRC has proposed a definition of aquaculture in the local chapter.

Bull Raking definition. Bull raking has become a predominate method to harvest shellfish that are submerged under the water at high tide or within the subtidal areas. The BMRC felt the need to define this newer type of harvesting method and provide a local control over it. The remaining changes to this section of the ordinance are routine technical changes to spelling and grammar.

**Article III Sec 11-96 Established, members, etc:** Since 2009 the BMRC has designated seats to all the committee members. For instance the BMRC seats include certain qualifications a member must have to occupy that seat; these qualifications currently apply to the alternates as well. Because it is getting increasingly difficult to find shellfishermen to volunteer to occupy those seats' designated for commercial shellfishermen, the BMRC has proposed that we release the designators of the alternate members category. This will still hold designated seat for shellfishermen but open up the alternate seats to anyone (resident) having interest and experience in Marine Resources.

**Article III Sec 11 - 132 Categories:** This is the section that discusses the 7 types of licenses the Town currently issues. License Category (3) & (4) Resident and non-resident recreational had to be changed to accommodate a recent state law changes in the recreational shellfish harvest amounts being switched to allow for only 1 peck of shellfish in any given 24 hour period. Resident and non-resident student shellfish license time frames have been changed to allow students to harvest shellfish from June 15<sup>th</sup> - September 1<sup>st</sup> and on all weekends and holidays. The Bushel license category was also changed to indicate that harvest amounts apply on a per tide basis, unlike the state recreational laws, which is 1 24 hour period. Bushel licenses are considered commercial licenses and are not held to the same recreational standards. The BMRC also would like to work out the parameters of providing day recreational licenses at some point in the near future.

**Article III Sec 11 - 133 Qualifications of licensee.** (1) Resident Commercial (2) Non-resident Commercial: The BMRC feels that if an local commercial shellfish harvester's state shellfishing license is under suspension for any reason during the Town licensing period those harvesters should not be provided a local Brunswick commercial shellfishing licenses.

**Article III Sec 11 - 133 Sub Sec. B Conservation Time:** The BMRC has found it increasingly difficult to provide opportunity to obtain the 20 conservation credits to commercial shellfishermen. Conservation time went from 10 point requirement to a 20 point requirement in 2012/13/14, shortly after the Green Crab predation problems that impacted Brunswick's annual harvest for the last 3 years. This predation event has subsided. Local shellfishermen over the last three years have conducted many predator control techniques with netting/fencing/trapping. Currently there is no need to have the extra hours from the harvesters as natural and wild stocks are returning to many of the heavily devastated growing areas around Brunswick. The BMRC proposes to return to the traditional 10 points accrual system. Other Changes in this section are of routine technical.

**Article III Sec 11 - 136 Fees:** All fees were removed from the chapter and placed in the Town's fee schedule. The committee did have concerns with increasing any fees and has asked staff to look into other town's shellfish license and provide a comparison. The comparison indicates that Brunswick is on the higher end of most coastal towns. With this being said it was also brought to the committee's attention what other local business licensing fees are, such as the vendors on the Brunswick Mall.

**Article III Sec 11 - 140 (b) (4) Limitation on number of licenses:** In 2015 the town implemented a late fee for any shellfishermen missing the letter of intent deadline. The BMRC proposes that this same late fee and accompanying 5 day late window to the actual license purchase date as well. It also makes changes that bump forward the license

lottery dates if there is need for a lottery on any particular license year. Sub section (e) also removes the public notification to a trade or newspaper reporting the date when recreational licenses go on sale. It allows the Town to use a more streamlined and less costly notification process by using the Town's web pages.

**Article III Sec 11 - 161 Opening and closing of coastal waters:** Due to recent notification changes made in the Maine Department of Marine Resources Chapter 7 Municipal Shellfish Programs the BMRC proposes that the current notice of public hearing needs to be stricken and replaced with notification of the actual opening and closing 5 days in advance in a local newspaper. This eliminates the need to advertise a public hearing each and every time the committee makes a proposal for an opening or closure of local growing areas. Each opening or closure will be discussed in an open forum as an agenda item during the committee's meeting the month before any proposed opening or closure date. BMRC is required to take action on each proposal and then make notice of their outcome in a newspaper at least 5 days in advance of the action. Each closure must be reviewed by the Maine Department of Marine Resources and the committee must be giving prior authorization to close or open an area. In each case the BMRC must make a finding of fact on whether or not the actions are necessary for the best interest of the public and shellfish resource.

**Article III Sec. 11 - 162 Shellfish size and Tolerance of harvest:** These are routine technical changes to bring the ordinance in line with recent law changes made by the Department of Marine Resources.

**Article III Sec. 11 - 165 Sunday Shellfish Harvesting:** The BMRC has provided more harvesting opportunity on Sunday by changing the restriction from May 1<sup>st</sup> to June 1<sup>st</sup> through October 15<sup>th</sup> to October 1<sup>st</sup>.

**Article III Sec 11 - 166 Automatic Closures and Openings:** This section is currently obsolete because of changes in

notification of openings and closures at the Maine Department of Marine Resources. Each closure and opening must be reviewed by the department, automatic closures and openings are no longer allowed. The section was replaced with harvesting methods to address the concerns of bull raking at high tide within the Town's jurisdictional boundaries. It also indicates that any area being bull raked must first be designated as a bull raking area by the BMRC.

**Article III Sec 11 - 168 Intertidal Shellfish Aquaculture**

**(NEW)**: This section just reiterates the current state shellfish aquaculture requirements that anyone wishing to farm shellfish in the intertidal zone on an individual basis must first obtain the BMRC and other permitting agencies approval.

If you have any questions or concerns please feel free to contact me.

Regards,

Daniel R. Devereaux MOR/HM

Cc Mark Latti Chair

## Chapter 11 - MARINE ACTIVITIES, STRUCTURES AND WAYS<sup>[1]</sup>

Footnotes:

--- (1) ---

**Cross reference**— Conservation commission, § 2-76 et seq.; buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 7; housing, Ch. 8; solid waste, Ch. 13; streets, sidewalks and other public places, Ch. 14; discharge of sewerage into surface waters prohibited, § 16-26; zoning and subdivision of land, App. A; marine construction, App. A, § 407.

**State Law reference**— Waters and navigation, 38 M.R.S.A. § 1 et seq.

## ARTICLE I. - HARBOR, COASTAL, TIDAL AND NAVIGABLE FRESH WATERS<sup>[2]</sup>

Footnotes:

--- (2) ---

**Editor's note**—Ord. of 2-23-2015(1) amended Art. I in its entirety to read as herein set out. Former Art. I, §§ 11-1—11-13, pertained to similar subject matter and derived from Ord. of 4-4-05, Ord. of 4-7-08(1), Ord. of 6-20-11(1).

### Sec. 11-0. - General.

- (a) *Purpose.* To establish the boundaries of channels in harbors and to regulate other activities in the harbors, coastal, tidal, and navigable waters within the Town of Brunswick, Maine in order to ensure safety to persons and property, to promote availability, preservation, and use of a valuable public resource, and to create a fair and efficient framework for administration of the resource.
- (b) *Authority.* This article is adopted pursuant to the authority granted by 38 M.R.S.A §§ 1-13, 30-A M.R.S.A § 3001, and the Constitution of Maine, Article VIII, Part 2.
- (c) *Severability.* If any section, subsection, sentence, clause or other portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Ord. of 2-23-15(1))

### Sec. 11-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as set forth in this section, except where the context clearly indicates a different meaning:

*Anchorage* means all navigable waters defined within the municipal boundaries of the Town of Brunswick.

*Association* means an organization of residential property owners, whether in the form of a homeowner association, subdivision association, condominium association, road association, unit owner

association, planned unit development, residential real estate management association, or similar ownership arrangement or structure, where the organization assists with maintaining and improving Association property or property that is commonly held by its members.

*Boat yard* means a place adjacent to coastal waters, where, as a business or gainful occupation, watercraft are hauled, stored, repaired and/or constructed.

*Channels* means those paths designated by this chapter for navigation in or access to the harbor, coastal, tidal and navigable fresh waters of Brunswick.

*Commercial mooring* means a mooring used with profit as a primary aim. Commercial moorings require Army Corps of Engineers approval.

*Commercial use* means a use with profit as a primary aim.

*Haul off mooring* means a mooring or tether system for a dinghy or watercraft which allows the dinghy or watercraft to be hauled to and from a mooring block or anchor to the shore by a system of lines secured at the shore.

*Houseboat* means a raft, hull, barge or vessel, designed primarily to be used as a commercial establishment or living quarters, rather than for navigation.

*Marina* means an all-tide waterfront facility, whose activities may include sales, storage, and maintenance of watercraft, and which provides slips or moorings for permanent, rental or transient berthing, and sells fuel, and supplies for watercraft and provides vehicle parking.

*Mooring* is a means of securing a single watercraft to a particular location, other than a pier or dock; an underwater device, either helix, granite block, or mushroom, which tethers watercraft. A temporary mooring is one which is constructed to be hauled out of the water seasonally. A permanent mooring is one which is constructed to winter over in the water. A flats mooring is one which is located on the mud flats at low tide.

*Multi-use mooring* is a registered, non-commercial mooring that hosts more than one watercraft over the course of a season for personal use only. Personal use includes, but is not limited to, use by a visiting family member. Multi-use moorings cannot be rented or leased and owners of multi-use moorings must inform the harbor master regarding what watercraft will use the mooring each season. No more than one (1) watercraft may be moored at a time.

*Nonresident.* All persons not residents of the Town of Brunswick are classified as nonresidents.

*Private mooring* means any mooring that is not a commercial mooring or rental mooring.

*Rental mooring.* Rental moorings are considered commercial moorings and require Army Corps of Engineers approval.

*Resident* means a person who occupies a dwelling for more than six (6) months in a calendar year within the Town of Brunswick, a Brunswick real estate tax payer, or a registered voter in the Town of Brunswick.

*Town wharfs* means any floats or structures located at town-owned or operated boat launches.

*Watercraft* means any type of vessel, boat, barge, float, or craft used on the water.

*Yacht club* means a private association, corporation or other legal entity organized to promote recreational boating.

(Ord. of 2-23-15(1))

Sec. 11-2. - Channels.

(a) *Establishment of channels.* Two (2) channels are established, described as follows:

- (1) Commencing at the Old Bath Road bridge as it crosses the New Meadows River, thence following the high water mark of the New Meadows River southerly to the southerly tip of Howard Point, thence easterly to the town line between Brunswick and West Bath, thence following the town line northerly to the Bath Road bridge, thence westerly along the Bath Road bridge to the point of beginning.
  - (2) Commencing at the mean high water line on the Mere Point Boat Launch ramp surface and extending approximately three hundred fifty (350) feet to the southeast between buoys marking the fifty-foot wide approach lane to the ramp.
- (b) *Passage of vessels.* A person shall not use any watercraft or any other device or structure within the described channels so as to interfere with or impede the passage of vessels in the channel in any manner.
- (c) *Mooring.* A person shall not place, anchor, or moor any watercraft within the described channels without the permission of the harbor master.

(Ord. of 2-23-15(1))

Sec. 11-3. - Harbor master.

- (a) *Appointment.* The town shall appoint a harbor master every three (3) years (or upon vacancy) on May 1 for a period of three (3) years. Pursuant to 38 M.R.S.A. § 1-A, a person appointed or reappointed as harbor master must complete a basic harbor master training course offered by a statewide harbor masters association within one (1) year after being appointed or reappointed, unless that person has previously completed such a course.
- (b) *Duties.* The harbor master shall have the following responsibilities and duties:
- (1) To the extent of jurisdiction, enforce any and all federal, state and local laws, ordinances, codes, rules or regulations relating to the management and control of the Town of Brunswick's harbor, coastal, tidal and navigable fresh waters, shores, coastline, boat launch facilities, and wharfs;
  - (2) Provide information or seek input as appropriate from any source, including the rivers and coastal waters commission, the marine resources committee, marine wardens, town manager, town council, or town attorney;
  - (3) Approve and control the placement of all moorings within the harbor, coastal, tidal, and navigable fresh waters of the Town of Brunswick pursuant to the provisions of this article;
  - (4) Maintain accurate records of all registered moorings; and
  - (5) Serve as staff to the rivers and coastal waters commission (the "commission"), regularly attend commission meetings, inform the commission of his/her activities and provide such information as may be requested by the commission for the execution of its duties. The harbor master shall also report to the town council regarding his/her activities and the activities of the commission.
- (c) *Authority to carry a weapon and make arrests.* Pursuant to 38 M.R.S.A. § 1, a harbor master may not make arrests or carry a firearm unless the harbor master has successfully completed the training requirements prescribed in 25 M.R.S.A. § 2804-I. A harbor master who has completed this training shall be assigned to a division under the police department.

(Ord. of 2-23-15(1))

Sec. 11-4. - Moorings.

- (a) *Mooring assignments.* Mooring privileges in the Town of Brunswick shall be assigned pursuant to 38 M.R.S.A. §§ 3 and 11. Consequently, mooring assignments are available to individuals who are the

owners or masters of a watercraft and who own shore rights to a parcel of land, which is defined as a lot that satisfies applicable minimal buildable lot size requirements and includes at least one hundred (100) feet of shoreline frontage. Notwithstanding the foregoing, mooring assignments are also available to individuals who, prior to January 1, 1987, owned shore rights of at least one hundred (100) feet of frontage regardless of the size of the lot. Only one (1) mooring may be assigned to any shorefront parcel of land under this privilege.

- (b) *Grandfathered moorings.* Notwithstanding subsection (a) of this section, mooring privileges in lawful existence on the effective date of the ordinance from which this article was derived shall be preserved. Nothing in this subsection shall be construed as a limitation on the authority of the harbor master with respect to use and location of the moorings.
- (c) *Transferability of mooring assignments.* Pursuant to 38 M.R.S.A. §§ 3 and 3-A, mooring assignments may not be transferred unless the mooring is used for commercial fishing purposes. Transfer of a mooring assignment used for commercial fishing purposes is permitted only at the request or death of the mooring owner, only to a member of the mooring owner's family, and only if the mooring assignment will continue to be used for commercial fishing purposes. A member of the mooring owner's family means a parent, child, or sibling, by birth or adoption, including a relation of the half blood, or the mooring owner's spouse.
- (d) *Registration.* Owners of parcels that qualify under subsection (a) of this section who desire a mooring assignment and owners of grandfathered mooring assignments must submit a mooring registration form to the harbor master each year.

In the year 2015, the harbor master shall no later than two (2) weeks after enactment of this article by the town council send via U.S. mail or email a notice to all registered mooring owners informing them of the June 1 deadline for submission of the annual mooring registration form. Each year thereafter, the harbor master shall no later than January 31 send via U.S. mail or email a notice to all registered mooring owners informing them of the May 1 deadline for submission of the annual registration form. Notice of the registration deadline shall also be posted in the town hall and on the Town of Brunswick's website no later than January 31.

Mooring registration forms may be downloaded from the Town of Brunswick's website or obtained from the town clerk or the harbor master.

Registration forms shall require the following information:

- (1) Description of the watercraft to be moored, including state and/or federal registration numbers, make and model, color, length, propulsion, draft, and weight;
  - (2) The applicant's name (or names, in the event the mooring is to be held jointly by adult members of the same household), residence address or local business address, mailing address (designated by the applicant as the address where the applicant will accept notices under this article), home or cell phone number, and email address;
  - (3) Type and weight of mooring;
  - (4) Type and size of bottom and top chains;
  - (5) A name, address, and telephone number of an emergency contact, whom the mooring owner authorizes to make decisions surrounding the mooring in his or her absence;
  - (6) GPS location (or proposed location) of the mooring;
  - (7) The signature of the applicant, or the applicant's designee, and the date of the application; and
  - (8) Dates of installation and of the most recent inspection.
- (e) *Fees.* The annual mooring registration fees shall be charged in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.
  - (f) *Mooring inspection required.* Every two (2) years, each registered mooring shall be inspected by the mooring owner at the mooring owner's expense and must be determined by the mooring owner to be

in a safe condition. The date of inspection must be recorded on the mooring registration form. The mooring owner is responsible for the adequacy and performance of all mooring gear, tackle, and maintenance thereof. The harbor master has the authority to inspect at any time any mooring and to require any necessary maintenance or replacement of parts or the whole mooring, tackle and/or gear, for which the mooring owner shall be responsible for all costs incurred.

The Town of Brunswick assumes no liability whatsoever for the actual performance or adequacy of any mooring system employed by a mooring owner.

(g) *Placement standards.* The harbor master shall approve the location of all moorings in the harbor, coastal, and tidal waters of Brunswick. All moorings shall meet the following standards:

- (1) Moorings shall be adequate for the size, weight, and windage of the watercraft.
- (2) Moorings shall be located in areas that do not interfere with navigation.
- (3) Moorings shall not encroach into the channels of Brunswick.
- (4) Moorings shall be located in areas that do not cause unreasonable adverse impacts on natural resources. Conditions that may result in an unreasonable adverse impact on natural resources include, but are not limited to:
  - a. The presence of eel grass or other submerged vegetation;
  - b. The presence of a significant shellfish habitat, or important recreational or commercial fishing ground;
  - c. The proposed location is within mapped significant shorebird feeding or roosting habitat (based on Maine Department of Inland Fisheries and Wildlife and Maine Department of Environmental Protection Maps);
  - d. The proposed location is within mapped tidal waterfowl and wadingbird habitat (based on Maine Department of Inland Fisheries and Wildlife and Maine Department of Environmental Protection Maps);
  - e. The proposed location is within habitat for listed rare, threatened, or endangered species, and regular use of a mooring in that location would unreasonably adversely impact the species; or
  - f. The proposed location would cause unreasonable adverse impacts to a saltmarsh.

Nothing in this subsection shall be construed to limit the authority of the harbor master to consider other factors and make determinations on unreasonable adverse impacts to natural resources on a case-by-case basis. Where practicable, the harbor master shall work with the mooring owner to evaluate and select placement and tackle alternatives in order to mitigate unreasonable adverse impacts on natural resources.

- (5) The harbor master's authority under this section shall not be inconsistent with Army Corps of Engineers and Maine Department of Environmental Protection approvals governing existing commercial moorings in mooring fields.
- (6) Where practicable, the harbor master shall, if so requested, locate the mooring within reasonable proximity of the mooring owner's property.

All moorings that meet the above standards but are not placed in the location approved by the harbor master shall be moved by the owner at his or her own expense in accordance with the instructions of the harbor master. In the event of a mooring owner's failure to comply with the relocation and/or removal instructions of the harbor master, the harbor master shall move or remove the improperly located mooring and the cost shall be borne by the owner of the mooring. Before removing a mooring, the harbor master shall notify the owner, if ownership can be determined, by mail at the owner's last known address, or by email. The notice shall inform the owner of the desired action and of the fact that the mooring will be removed at the expense of the owner if the owner does not comply. If the matter is not settled to the

harbor master's satisfaction within two (2) weeks after notice was given, the harbor master may then move or remove the mooring.

- (h) *Identifying numbers.* Identifying numbers shall be issued to mooring owners, and mooring balls and buoys must be clearly marked with the issued number. Numbers shall be a minimum of four (4) inches and visible at all times. Replacement mooring balls and buoys shall maintain the originally assigned number. An annual mooring registration sticker, issued by the harbor master upon completion and approval of the mooring registration, shall be affixed to the top of the mooring buoy for which it was assigned.
- (i) *Ownership of moorings.* All mooring assignments (with the exception of marina moorings) shall be used exclusively for the use of the mooring owner and solely for the watercraft (or in the case of a multi-use mooring, multiple watercraft) listed in the application.
- (j) *Termination.* All persons who had been assigned a mooring and whose mooring assignment is to be terminated by the harbor master for reasons of noncompliance with this article or any other reason shall receive written notification from the harbor master. This notice shall state the fact of the termination and the reason for termination, and list the appeal procedures designated in section 11-14 of this chapter.
- (k) *Associations.* Associations may establish and manage moorings plans on behalf of association members, subject to input and approval by the harbor master. Mooring areas controlled by associations shall be subject to the following requirements:
  - (1) The association manages moorings in designated areas;
  - (2) The association provides oversight of member mooring use, including inspections; and
  - (3) The association is registered with the harbor master and provides member/mooring holder rosters and mooring location plans.

Nothing in this subsection shall be construed as a limitation on the ability of the harbor master to carry out his responsibilities and duties as set forth in this chapter.

(Ord. of 2-23-15(1); Ord. of 11-16-2015(2))

#### Sec. 11-5. - Operation of watercraft.

No watercraft shall be operated within two hundred (200) feet of shore and within established mooring fields or moorings placed in a designated area in accordance with section 11-4(k) of this chapter at a speed in excess of five (5) knots or that causes a wash, wake or waves that disturbs or damages any wharf, float or anchored or moored dock, or watercraft or that endangers any person or property.

(Ord. of 2-23-15(1))

#### Sec. 11-6. - Town launch facilities.

- (a) Use of town launch facilities consistent with the provisions of this article shall be permitted.
  - (1) Commercial uses of town launch facilities require a special activity permit from the town clerk.
- (b) The following activities are prohibited at town launch facilities:
  - (1) Storage of bait or catch for unreasonable periods of time, as determined by the harbor master.
  - (2) Processing of seafood products. For the purposes of this section, "processing" does not include washing clams by repeated submersion of bushel bags in the water.
  - (3) Anchoring or mooring.

- (4) Tying up to wharfs for more than thirty (30) minutes.
- (5) Swimming or fishing except in designated areas.
- (6) Power loading or unloading, watercraft washing, watercraft painting, and bilge draining.

(Ord. of 2-23-15(1))

Sec. 11-7. - Disruptive conduct.

No person shall disrupt safe and lawful activities, or in any way threaten the public safety, in or around town launch facilities, wharfs, and harbors, coastal, tidal and navigable waters of the Town of Brunswick.

(Ord. of 2-23-15(1))

Sec. 11-8. - Menaces to navigation.

The harbor master is authorized to take whatever action is necessary and appropriate to remove any menace to navigation within the harbor, coastal, tidal and navigable fresh waters of the Town of Brunswick. This shall include, but is not limited to, contracting for removal of the menace by the authorities of the State of Maine, federal government, or a private contractor at the expense of either the Town of Brunswick, some other governmental entity, or the private entity or individual responsible for the creation of the menace.

(Ord. of 2-23-15(1))

Sec. 11-9. - Dumping of sewage prohibited.

No person may discharge, spill or permit to be discharged sewage, garbage, or other pollutants from any watercraft into the harbor, coastal, tidal and navigable fresh waters of the Town of Brunswick or onto the ice or banks thereof in such a manner that the same may fall or be washed into such waters or in such a manner that the drainage may flow into such waters.

(Ord. of 2-23-15(1))

Sec. 11-10. - Failure to obey order of the harbor master.

As provided by 38 M.R.S.A. § 13, a person is guilty of failure to obey an order of the harbor master if the person intentionally, knowingly or recklessly fails to obey any lawful order of the harbor master authorized pursuant to 38 M.R.S.A. § 1 et seq. Failure to obey an order of the harbor master is a class E crime.

(Ord. of 2-23-15(1))

Sec. 11-11. - Forfeiture.

Any watercraft, skiff, float, dock, fishing gear, or wharf left tied to a town wharf without proper identification, or left sunk or awash, for a period exceeding forty-eight (48) hours shall be deemed abandoned for the purposes of this section. Any abandoned property shall be impounded by the harbor master and disposed of according to the procedure outlined in M.R.S.A. Title 25, Chapter 401. The town

shall not be liable for any damage to abandoned property that is impounded in accordance with this section.

(Ord. of 2-23-15(1))

Sec. 11-12. - Enforcement.

This chapter shall be enforced pursuant to the provisions of 38 M.R.S.A § 1 et seq. and 30-A M.R.S.A. § 4452. Any person found in violation of this article shall, after notice and hearing, lose his or her mooring privileges and all rights to use the town launch facilities and wharfs. In addition, the town shall have available all other remedies provided by law.

(Ord. of 2-23-15(1))

Sec. 11-13. - Boat storage.

No boat, vessel, raft, barge, or other watercraft shall be stored overnight in or on any navigable waters within the town without being licensed or permitted to do so. A person found in violation will be subjected to the cost of removing the vessel, boat, raft, barge, or watercraft and be fined in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.

(Ord. of 2-23-15(1); Ord. of 11-16-2015(2); Ord. of 11-16-15(3))

Sec. 11-14. - Appeals.

- (a) Any person directly aggrieved by a decision, order, rule, or action by the harbor master may appeal said decision, order, rule or action to the rivers and coastal waters commission.
- (b) Such appeal shall be made in writing within thirty (30) calendar days of the decision, order, rule, or act from which the appeal is taken. It must state with specificity the decision, order, rule, or act from which the appeal is taken and the reason for the appeal. The commission at its next regular meeting, or pursuant to a specially called meeting, shall consider the appeal. The decision on appeal by the commission shall be written and state the reasons and basis for the decision.
- (c) Any decision, order, rule, or act by the harbor master concerning the location of moorings, as a result of which location there is an immediate danger to life or property, shall not be stayed pending the appeal.
- (d) Any party directly aggrieved by the decision of the commission may appeal within thirty (30) days to the superior court in accordance with the Maine Rules of Civil Procedure.

(Ord. of 2-23-15(1))

Sec. 11-15. - Rivers and coastal waters commission.

- (a) *Purpose.* The rivers and coastal waters commission works toward harbor improvement and management, consistent with the objectives and priorities of the town's harbor management plan (HMP). The commission will bring recommendations for policy, oversight and/or action(s) to the town council, as appropriate. The town council will have ultimate authority over adopting the commission's recommendations.

- (b) *Administrative matters.* The commission will meet bimonthly, quarterly, or other frequency as determined by the commissioners and staff. The commission will elect its slate of officers, at an interval deemed most appropriate to its membership.
- (c) *Appeals.* The rivers and coastal waters commission also sits as a board of appeals to hear appeals from any person aggrieved by any order, rule, or action by the harbor master as set forth in section 11-14 of this chapter.
- (d) *Staffing and membership.* The primary staff to the commission shall be the harbor master. The commission will be composed of seven (7) voting members; two (2) ex-officio non-voting members; two (2) alternates; and one (1) non-voting primary staff member, as described in the town council charge adopted April 28, 2014, as amended from time to time.

(Ord. of 2-23-15(1))

Secs. 11-16—11-25. - Reserved.

ARTICLE II. - RESERVED<sup>[3]</sup>

Footnotes:

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**Editor's note**—An ordinance of April 4, 2005, repealed art. II, divs. 1 and 2, §§ 11-26, 11-51—11-53, in its entirety. Formerly, said article pertained to harbor, as enacted by an ordinance adopted April 1, 1974; as amended. The user is directed to art. I of this chapter for similar provisions enacted by the ordinance of April 4, 2005.

Secs. 11-26—11-70. - Reserved.

ARTICLE III. - SHELLFISHING<sup>[4]</sup>

Footnotes:

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**Cross reference**— Conservation Commission, § 2-76 et seq.; parks and recreation areas, § 14-96 et seq.

**State Law reference**— Municipal Shellfish Conservation Programs, 12 M.R.S.A. § 6671 et seq.

DIVISION 1. - GENERALLY

Sec. 11-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Aquaculture** means the cultivation of shellfish under controlled conditions.

**Bull Rake** a long handled rake with basket attached. Bull rakes are designed to harvest shellfish that are beneath the surface of the water

*Bushel* means a measurement consisting of four (4) pecks or thirty-two (32) quarts of shellfish.

*Certified municipal shellfish conservation warden* means the law enforcement officer appointed by the town council to enforce this chapter.

*Coastal waters* means all waters of the town within the rise and fall of the tide and within the marine limits of the jurisdiction of the town.

*Commercial shellfish harvester* means a person who harvests shellfish with profit as a primary aim.

*Immediate family* means spouse and children.

*Lot* means the total number of softshell clams in bulk pile. Where softshell clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

*Notification* means, unless otherwise stated herein and for the purposes of hearing notices under this article, mailing by certified mail to the last known address.

*Possession* means to have in one's custody or control, either personally or by another who is under one's control anywhere within the municipal boundaries.

*Resident* means a person who has physically resided at a fixed, permanent, and principal home in the town for at least three (3) months next prior to the time his claim of residence is made.

*Shellfish* means softshell clams (*Mya arenaria*), quahogs (*Mercenaria mercenaria*), razor clams (Ensis **directus** ~~directus~~), American oysters (***Crassostrea virginica*** ~~*Crassostrea virginica*~~), and European oysters (*Ostrea edulis*).

*Take* means to remove or attempt to remove a shellfish from its natural habitat.

(Ord. of 3-6-89, § 104; Ord. of 2-5-90, § 104; Ord. of 2-18-92, Ord. of 4-5-93, Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 4-7-14)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 11-72. - Authority.

This article is enacted in accordance with 12 M.R.S.A. § 6671.

(Ord. of 3-6-89, § 101; Ord. of 2-5-90, § 101; Ord. of 2-18-92; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-73. - Purpose.

The purpose of this chapter is as follows:

- (1) To regulate the harvesting of shellfish in the town.
- (2) To provide management programs in the town for the sustainability of shellfish in a manner consistent with the production of a reasonable yield to sustain commercial shellfish harvesters.

(Ord. of 3-6-89, § 102; Ord. of 2-5-90, § 102; Ord. of 2-18-92; Ord. of 1-16-96; Ord. of 3-16-99; Ord. of 2-6-01(1); Ord. of 12-7-09)

Sec. 11-74. - Conservation, management of resources.

It is hereby determined as follows:

- (1) The coastal waters of the town are a very valuable shellfish resource which is important to the local economy.
- (2) These marine resources are not an inexhaustible resource, and, therefore, they must be prudently managed in order to remain viable.
- (3) As part of the management process, it is deemed vitally necessary to undertake efforts to enhance the propagation of shellfish and to restrict the taking of shellfish by limiting shellfish licenses; restrict the size and quantity of shellfish which may be harvested; and, take other measures as outlined in this chapter.

(Ord. of 3-6-89, § 103; Ord. of 2-5-90, § 103; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 12-7-09; Ord. of 12-1-14(1))

Sec. 11-75. - Enforcement.

The chapter shall be enforced by the certified municipal shellfish conservation warden, or by any municipal shellfish conservation warden appointed by the town, who within one (1) year of appointment must be certified by the commissioner of marine resources.

(Ord. of 3-6-89, § 501; Ord. of 2-5-90, § 501; Ord. of 2-18-92; Ord. of 4-5-93, Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-76. - Penalty.

A person who violates this chapter shall be punished as provided in 12 M.R.S.A. § 6671.

A person who takes or possesses shellfish in violation of a municipal ordinance commits a violation with significant fines and license suspensions.

(Ord. of 3-6-89, § 502; Ord. of 2-5-90, § 502; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 12-7-09)

Sec. 11-77. - Amendment.

A certified copy of an amendment to this article shall be filed with the commissioner of marine resources within twenty (20) days of its adoption to preserve its validity.

(Ord. of 3-6-89, § 504; Ord. of 2-5-90, § 504; Ord. of 2-18-92, Ord. of 4-5-93; Emergency Ord. of 8-5-96; Ord. of 8-19-96; Ord. of 3-16-99; Ord. of 11-3-03; Ord. of 12-7-09)

Secs. 11-78—11-95. - Reserved.

DIVISION 2. - MARINE RESOURCE COMMITTEE<sup>[5]</sup>

Footnotes:

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**Cross reference**— Boards, committees, commissions, § 2-51 et seq.

Sec. 11-96. - Established, members, etc.

There is hereby established a marine resource committee consisting of seven (7) members and two (2) alternates to be appointed by the town council. The members must include three (3) town licensed resident commercial shellfish harvesters, three (3) residents of the community who do not possess a town or state shellfish license and one (1) town licensed resident recreational shellfish harvester. ~~One (1) alternate must be a town licensed resident commercial shellfish harvester and one (1) alternate must be a member of the community who does not possess a town or state shellfish license.~~ **The Two (2) alternate members can be from any category and** ~~In the absence of a member either alternate may fill the a vacancy to constitute a quorum, however that alternate may only vote in the category in which he/she has been appointed.~~ Members and alternates shall be appointed for three-year terms. The town council shall appoint a person to fill a vacancy for the unexpired term. The committee shall choose a chairman, vice-chairman and secretary. The chairman shall preside at all meetings of the committee. The vice-chairman shall preside in the chairman's absence. Minutes of each meeting shall be filed with the town clerk. Any committee member who has three (3) or more unexcused absences from committee meetings in a year may be removed and replaced with a new member by the town council

(Ord. of 3-6-89, § 201; Ord. of 2-5-90, § 201; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 9-5-95; Ord. of 1-16-96; Emergency Ord. of 8-5-96; Ord. of 8-19-96, Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09; Ord. of 12-1-14(1))

Sec. 11-97. - Powers and duties.

The marine resource committee shall have the following powers and duties:

- (1) To administer and coordinate the shellfish sustainability program.
- (2) To recommend to the town council how the money appropriated for shellfish sustainability programs should be spent.
- (3) To survey the coastal waters to obtain and maintain current information on shellfish resources, including:
  - a. The determination of size frequency.
  - b. The determination of growth rate.
  - c. The estimation of the available standing crop.
  - d. The estimation of potential yield.
  - e. The identification of sources of harmful pollution.
  - f. The identification of other resource problems, such as green crab predation and mussel competition.
- (4) To determine the current level of use of the shellfish resources.

- (5) To cooperate with the Department of Marine Resources and others in carrying on experimental programs.
- (6) To prepare and promulgate a shellfish sustainability plan in cooperation with the Department of Marine Resources based on the results of the shellfish survey, recommending area rotation, seeding, transplanting, predator control, and the opening and closing of the coastal waters.
- (7) To collect harvest data documenting local values of shellfish resources.
- (8) To make an annual written report to the town and the Department of Marine Resources detailing funds available, expenditures made, shellfish population data, results of all conservation and experimental programs, enforcement activities, and sources of pollution, predation, competition and other resource problems.
- (9) To establish annually in conjunction with the Department of Marine Resources the number of commercial shellfish harvesting licenses to be issued.

(Ord. of 3-6-89, § 202; Ord. of 2-5-90, § 202; Ord. of 2-18-92, Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 12-7-09)

Secs. 11-98—11-110. - Reserved.

#### DIVISION 3. - SHELLFISH REGIONAL ADVISORY COMMISSION<sup>[6]</sup>

Footnotes:

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**Editor's note**—Former Div. 3, §§ 11-111—11-114, relative to the shellfish advisory commission, was deleted by an ordinance adopted Aug. 15, 1994, due to no remaining reciprocal agreements. The provisions of former Div. 3, derived from §§ 401—404 of an ordinance of March 6, 1989; §§ 401—404 of an ordinance of Feb. 5, 1990; an ordinance of Feb. 18, 1992; an ordinance of April 5, 1993; and an ordinance of Feb. 22, 1994.

Secs. 11-111—11-130. - Reserved.

#### DIVISION 4. - LICENSE<sup>[7]</sup>

Footnotes:

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**Cross reference**— Licenses and business regulations, ch. 10.

Sec. 11-131. - License required.

A person shall not take or possess shellfish from coastal waters of the town without first obtaining a license from the town clerk or the town clerk's designee.

(Ord. of 3-6-89, § 301; Ord. of 2-5-90, § 301; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93, Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-132. - Categories.

(a) There are seven (7) types of licenses as follows:

- (1) *Resident commercial shellfish license.* This license entitles the licensee to harvest any amount of shellfish from the coastal waters of the town where and when it is otherwise lawful to do so.
- (2) *Nonresident commercial shellfish license.* This license entitles the licensee to take or possess any amount of shellfish from the coastal waters of the town where and when it is otherwise lawful to do so.
- (3) *Resident recreational shellfish license.* This license is available to residents and nonresident owners of real estate within the town as well as immediate family members of nonresident real estate owners within the town and entitles the licensee to take or possess no more than one (1) peck of shellfish **per tide in any one (1) twenty-four-hour period** from the coastal waters of the town, not for sale, but for the use of the harvester and the harvester's immediate family, where and when it is otherwise lawful to do so.
- (4) *Nonresident recreational shellfish license.* This license entitles the licensee to take or possess no more than (1) peck of shellfish **per tide in any one (1) twenty-four-hour period** from the coastal waters of the town, not for sale, but for the use of the harvester and the harvester's immediate family, where and when it is otherwise lawful to do so.
- (5) *Resident student shellfish license.* This license allows the licensee to harvest one (1) bushel of shellfish **per tide from June 15 (inclusive) to September 1 (inclusive) from the coastal waters of the town to where and when it is otherwise lawful to do so. From June 15<sup>th</sup> to September 1<sup>st</sup> and throughout the remainder of the license year during weekends and holidays until June 14<sup>th</sup>.**
- (6) *Nonresident student shellfish license.* This license allows the licensee to harvest one (1) bushel of shellfish **per tide from June 15 (inclusive) to September 1 (inclusive) from the coastal waters of the town where and when it is otherwise lawful to do so. From June 15<sup>th</sup> to September 1<sup>st</sup> and throughout the license year during weekends and holidays until June 14<sup>th</sup>.**
- (7) *Bushel license.* This license allows the licensee to harvest one (1) bushel of soft shell clams and one (1) bushel of quahogs **per tide** ~~in any one (1) twenty-four-hour period that begins at midnight throughout the year.~~

(b) The town shall provide ten (10) percent of the resident commercial, recreational and student licenses to nonresidents.

(c) Any license issued under this division is subject to the partial or total closing of coastal waters under section 11-161 of this chapter.

(Ord. of 3-6-89, § 304; Ord. of 2-5-90, § 304; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 1-16-96; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09; Ord. of 4-1-13)

Sec. 11-133. - Qualification of licensee.

(a) *Residency and other qualifications.*

- (1) An applicant for a resident commercial shellfish license shall be a resident of the town whose municipal and state shellfish license is not currently under suspension ~~for a second closed area conviction pursuant to this chapter and whose state shellfish license is not currently under suspension.~~
  - (2) An applicant for a nonresident commercial shellfish license is any person who is not a resident of the town whose municipal and state shellfish license is not currently under suspension ~~for a closed area conviction pursuant to this chapter, and whose state shellfish license is not currently under suspension.~~
  - (3) An applicant for a resident recreational shellfish license must be either a resident of the town or nonresident owner of real estate within the town or immediate family member of nonresident owner of real estate within the town and whose municipal and state shellfish license is not currently under suspension.
  - (4) An applicant for a nonresident recreational shellfish license is any person who is not a resident of the town and whose municipal and state shellfish license is not currently under suspension.
  - (5) The place of residence of an applicant as stated on any other license is not determinative of the applicant's true place of residence. Where necessary, the town clerk shall require the applicant to produce evidence of his residence before issuing the license.
  - (6) An applicant for a resident student shellfish license shall be a resident of the town who has attained his or her thirteenth birthday but has not yet attained his or her twenty-first birthday as of March 1 of the year of application and whose shellfish is not under suspension pursuant to this chapter. The applicant shall be enrolled full-time in a primary or secondary school or educational program.
  - (7) An applicant for a nonresident student shellfish license shall be a nonresident of the town who has attained his or her thirteenth birthday but has not yet attained his or her twenty-first birthday as of March 1 of the year of application and whose shellfish license is not under suspension pursuant to this chapter. The applicant shall be enrolled full-time in a primary or secondary school or educational program.
  - (8) A qualified applicant for a bushel license shall be an individual who has reached the age of sixty (60) and has previously held a commercial license for the last eight (8) out of ten (10) years, or held a bushel license in the prior year. An applicant who applies for and receives a bushel license will lose all credit for having held a commercial license in prior years for purposes of any future application for a commercial license. A recipient of a bushel license will be guaranteed a bushel license in future years if all other requirements of this chapter are met.
- (b) *Conservation time.* A licensed commercial shellfish harvester must obtain a total of ten (10) ~~twenty (20)~~ conservation credit points between May 1 and February 15 in order to remain eligible to obtain a license for the next licensing year. Bushel license holders are exempt from any conservation time requirements. Student shellfish license holders and commercial license holders over the age of sixty-two (62) as of the date of the application deadline set forth in section 11-134 are exempt from any conservation credit requirements.
- (1) *Conservation credit activities.* Participation in any of the following activities results in the granting of conservation credit as specified:  
 Participation in any one (1) of the following activities shall deem a harvester eligible to receive two (2) conservation credit points per event attended:
    - a. Documented attendance at a Brunswick Marine Resource Committee meeting or Brunswick Marine Resource Committee public hearing.
    - b. Documented attendance at a regional or state shellfish management committee meeting.
    - c. Documented attendance at a shellfish conference (i.e., fisherman's forum).

Participation in any one (1) of the following activities shall deem a harvester eligible to receive five (5) conservation credit points per event attended:

- a. Participation in a Brunswick Marine Resource Committee sponsored shellfish reseeded project.
- b. Participation in a Brunswick Marine Resource Committee sponsored experimental shellfish enhancement project.
- c. Participation in Town of Brunswick annual shellfish surveys.
- d. Participation in Town of Brunswick **shellfish growing area** water quality monitoring event.
- e. Participation in an organized **coastal or environmental shellfish growing area restoration** event **cleanup along** within the Town of Brunswick.
- f. Participation in non-point pollution identification or remediation project within the Town of Brunswick.
- g. Participation in a Town of Brunswick shellfish predation control project or habitat restoration effort.

A currently licensed harvester who does not complete the required conservation time credit will not receive a license for the next license year.

The accumulation of conservation credit must be completed by February 15 of the current license year.

- (2) *Documentation of conservation credit.* Participation in any of the conservation credit activities specified in this section must be documented. Documentation shall be in the form of a signature on an event sign in sheet, name appearing as an attendee in official meeting minutes, receipt of conference registration, or records maintained by the Brunswick Marine Warden **or designee**, in order for conservation credit points to be awarded.

All records and conservation credit logs will be maintained by the marine warden and will be held in the shellfish warden's office.

- (3) *Determination of conservation credit completion.* By the second Monday in March, the marine warden shall compile documented conservation time of each individual harvester and forward a list of those harvesters determined to have satisfied the conservation credit requirement to the town clerk.

Harvesters included on the list submitted by the **shellfish marine** warden shall be eligible for a commercial license for the upcoming license year if a notice of intent has been filed by the deadline.

- (4) *Approved absence from conservation credit requirement.* Harvesters who have not completed a full ~~twenty (20)~~ **ten (10)** points of conservation credit in a given license year are only eligible for a license if their absence from participation in conservation credit activities are approved by the marine resource committee.

Approved absences may include an extended and documented illness, or an extended illness of an immediate family member that is under the immediate care of the harvester.

Requests for a determination of approved absence must be made in writing to the shellfish warden and must be submitted to the marine resource committee no later than February 10. The request shall include evidence to support an approval of absence determination. The marine resource committee will rule on the absence at its March meeting.

If the absence is approved, the harvester will be required to make up the remaining conservation credit points during the next license year.

(Ord. of 3-6-89, § 307; Ord. of 2-5-90, § 307; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 1-16-96; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 11-2-05(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 4-7-14; Ord. of 12-1-14(1))

Sec. 11-134. - Application.

- (a) The application for a license required under this chapter shall be in the form of an affidavit. It shall contain the applicant's name, physical location of residence, mailing address, period of residence, date and place of birth, height, weight, eye and hair color, and such other necessary information as the town clerk may require. The resident address shall be the physical location of the residence. The mailing address shall be such that the applicant utilizes to receive mail from the U.S. Postal Service. It must be signed by the applicant and acknowledged by the town clerk. The town clerk shall note on the application the date the license was issued. The town clerk shall file the application with the records.
- (b) An application for a student shellfish license shall also be in the form of an affidavit, which shall include:
  - (1) Proof that the applicant has attained his or her thirteenth birthday but has not yet attained his or her twenty-first birthday as of March 1 of the license year.
  - (2) Proof of residency.
  - (3) Proof of enrollment in a school or state approved educational program.
  - (4) A letter of recommendation from the superintendent or equivalent official in the school or educational program.

An application for a student shellfish license shall include a statement in bold print: **THE RECEIPT OF A STUDENT SHELLFISH LICENSE OR LICENSES PROVIDES NO CREDIT IN THE COMMERCIAL LICENSE SELECTION PROCESS.**

(Ord. of 3-6-89, § 308; Ord. of 2-5-90, § 308; Ord. of 2-18-92; Ord. of 2-22-94; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 2-6-01(1); Ord. of 11-3-03; Ord. of 12-7-09)

Sec. 11-135. - Misrepresentation; change of residence.

- (a) It shall be a violation of this article for any person to falsify or give false information in connection with a shellfish license application. In addition to any criminal penalties which may result from a violation of this chapter, the shellfish license granted to any person who gives false information on a shellfish license application shall be void after notice and hearing.
- (b) A person holding a resident commercial shellfish license or a resident student shellfish license shall physically reside at a fixed, permanent, and principal home in the town during the license period, or shall surrender the license. If a person does not do so, the license shall be void after notice and hearing.
- (c) A person holding a resident recreational shellfish license shall physically reside at a fixed, permanent, and principal home in the town or be a nonresident owner of real estate within the town or immediate family member of nonresident real estate owner within the town during the license period, or shall surrender the license. If a person does not do so, the license shall be void after notice and hearing.

(d) A person applying for, or holding a shellfish license under this chapter, shall notify the town clerk within ten (10) business days of an address change, regardless of whether the address change is also a change of residency.

(Ord. of 3-6-89, § 310; Ord. of 2-5-90, § 310; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 1-16-96; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 2-6-01(1); Ord. of 4-7-08(1); Ord. of 12-7-09)

#### Sec. 11-136. - Fees.

The applicant for a license under this chapter shall pay a fee in accordance with the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to this Municipal Code of Ordinances.

PROPOSED BY STAFF= 500.00 resident commercial 750 nonresident commercial Student License 100.00 nonresident 150.00 resident recreation 50.00 nonresident recreation 75.00 Day licenses 15.00

(Ord. of 3-6-89, § 305; Ord. of 2-5-90, § 305; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 2-6-01(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 11-16-2015(3))

#### Sec. 11-137. - Exhibition of license.

When any person is engaged in any activity which is licensed under this chapter, that person shall, on request of a certified municipal shellfish conservation warden, exhibit his license.

(Ord. of 3-6-89, § 301 (1), (2); Ord. of 2-5-90, § 301(1), (2); Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 12-7-09)

#### Sec. 11-138. - Consent to inspection for shellfish.

A certified municipal shellfish conservation warden, within the warden's jurisdiction, has all the search powers of a marine patrol officer under Title 12, Section 6025(4). Those powers currently include the power to search without a warrant, upon probable cause, any watercraft or container containing marine organisms possessed or taken in violation of law.

(Ord. of 3-6-89, § 301 (3); Ord. of 2-5-90, § 301 (3); Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 12-7-09)

#### Sec. 11-139. - Stopping for inspection.

It shall be unlawful for the operator of a motor vehicle, boat, vessel, or conveyance of any kind, or any person:

- (1) *Stopping.* To fail or refuse to stop immediately upon request or signal of any certified municipal shellfish conservation warden in uniform.
- (2) *Remaining stopped.* After he has so stopped, to fail to remain stopped until the certified municipal shellfish conservation warden in uniform reaches his immediate vicinity and makes known to that operator the reason for the request or signal.
- (3) *Standing by.* To fail or refuse to stand by immediately for inspection on request of any certified municipal shellfish conservation warden in uniform.

- (4) *Throwing or dumping items.* Who has been requested or signaled to stop by a certified municipal shellfish conservation warden in uniform to throw or dump into any coastal waters any shellfish, or any pail, bag, barrel or other container of any type or the contents thereof before the certified municipal shellfish conservation warden in uniform has inspected the same.

(Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 12-7-09)

**Editor's note**— Former § 11-139, relative to a prohibition on night shellfish harvesting, was amended in its entirety by an ordinance adopted Feb. 18, 1992. The provisions of former § 11-139 derived from § 301(4) of an ordinance adopted March 6, 1989 and § 301(4) of an ordinance adopted Feb. 5, 1990.

Sec. 11-140. - Limitation on number of licenses.

- (a) The shellfish resources are limited. A commercial, recreational, bushel or student shellfish harvester can be expected to harvest a certain volume of shellfish per year; therefore, the number of shellfish harvesters must be controlled to preserve the shellfish resource. The number of available shellfish licenses of each type will vary from year to year according to the findings and estimates of the marine resource committee and the state marine resource regional biologist based on data concerning resource capabilities and management requirements consistent with proper resource utilization as determined by shellfish population surveys conducted pursuant to section 11-97. Prior to the first Friday in March, the marine resource committee will set the number of recreational licenses. Commencing with the first Monday of April, the town clerk shall issue resident recreational licenses until the allotted numbers have been issued. Commencing with the first Monday in April, the town clerk shall maintain a chronological list of nonresidents seeking recreational shellfish licenses. When the number of resident recreational shellfish licenses reaches a number where a nonresident recreational shellfish license may be issued, the town clerk shall by telephone and U.S. mail attempt notification of the applicant with the highest priority on the list. That person shall purchase the license within seven (7) business days from the date notification is attempted. If the purchase is not made in that time period, that person loses their priority and the town clerk shall attempt notification of the next person on the list using the same process.
- (b) The following procedure will be followed to control commercial and bushel license availability:
  - (1) Prior to January 15 of each year, the town clerk will make available a notice of intent. The notice shall also be published in a trade or industry publication or in a newspaper or combination of newspapers with general circulation which the municipal officers consider effective in reaching persons affected no later than by January 15 and shall be posted in the municipal offices no later than January 15 until the end of business on the second Friday of March.

Any person who does not complete and return to the town clerk by 4:30 p.m. on the second Friday of March a fully completed notice of intent on the form prepared by the town clerk along with two (2) proofs of residency, shall not be eligible to be an applicant for a resident or nonresident commercial license in the next coming license period, provided, however, that any person having missed the filing deadline of the second Friday of March may pay a nonrefundable late fee of six hundred dollars (\$600.00) by the third Friday of March and the late fee shall be accompanied by the notice of intent form and two (2) proofs of residency. The late fee shall be in addition to those fees required under section 11-136. Any person who does not file a notice of intent for two (2) successive license periods, shall not be considered as previously having held a Brunswick resident or nonresident commercial shellfish license.

Any person who does not complete and return to the town clerk by 4:30 p.m. on the second Friday of March a fully completed notice of intent on the form prepared by the town clerk along with two (2) proofs of residency, shall not be eligible to be an applicant for a bushel license in the next coming license period and shall not be considered as previously having held a bushel

license, provided, any person having missed the filing deadline of the second Friday of March may pay a nonrefundable late fee of four hundred dollars (\$400.00) by the third Friday in March and the late fee shall be accompanied by the notice of intent form and two (2) proofs of residency. The late fee shall be in addition to those fees required under section 11-136.

The notice of intent must be delivered in person, and must be received by the town clerk by 4:30 p.m. on the second Friday of March, or, in the case of payment of a late fee, must be delivered in person and received by the town clerk by the third Friday of March. In the event the Brunswick municipal offices are closed during any portion of the normal office hours on either of these dates, the deadline for submitting a notice of intent shall be extended to the close of business on the next normal business day the municipal offices are open.

An applicant on active military duty, whether because of enlistment or activation by a proper authority, may preserve, but not advance, that applicant's status in the commercial license selection process by returning a notice of intent to the town clerk by the second Friday of March. The active duty applicant need not deliver the notice of intent in person. The active duty applicant must include proof from a military authority that the applicant is on active duty and that the applicant is a resident of Brunswick, Maine, as defined in this chapter. The applicant is not required to participate further in the commercial license selection process, and the applicant shall not be reduced in the commercial license classes in any year the applicant complies with this paragraph.

- (2) Prior to the first Friday in March, the marine resource committee will establish the number of commercial shellfish licenses and bushel licenses to be made available.

The Brunswick Marine Resource Committee shall use the following protocols in order to determine the number of resident commercial shellfish licenses and bushel licenses:

- a. Shellfish population surveys, conducted in accordance with the Maine Department of Marine Resources Municipal Shellfish Management Program. A complete shellfish inventory including all growing areas within the Town of Brunswick jurisdiction shall be completed every two (2) years, or upon the recommendation of the marine resources officer or the marine resources committee.
  - b. Standing crop analysis, as determined by the shellfish population surveys.
  - c. License availability, based on the standing crop analysis.
  - d. Historical harvest data, as determined by the Maine Department of Marine Resources Municipal Shellfish Management Program.
  - e. Harvester and public input.
  - f. The committee must take into account all of the above factors in determining the number of resident commercial shellfish licenses to be made available. However, the final number of licenses made available shall not vary more than fifteen (15) percent from the number determined solely by the standing crop analysis under criterion (c) above.
- (3) The marine resources committee will notify the town clerk in writing prior to the second Friday of March of the number of shellfish licenses, by type and class, to be made available for issue.

If the town is notified by the Maine Department of Marine Resources of an impending closure or opening of harvestable acreage after the second Friday in March, the committee shall recalculate the number of commercial shellfish licenses made available, and notify the town clerk in writing prior to the first Monday in April.

The town clerk will prepare a list of the persons eligible for licenses in classes A through K in subsection (4) and those persons eligible for any bushel licenses. The public notification of license availability shall include a statement that the list is posted at the town office. No shellfish licenses may be reserved and licenses cannot be transferred or resold by applicants. Applicants

for a shellfish license who meet the requirements of this article must obtain the shellfish license in person unless the applicant has filed with the town clerk a notarized statement designating a certain other person to obtain the license on the applicant's behalf or unless medically unable to do so. A person medically unable to obtain the shellfish license may send another person who shall present to the town clerk written authorization and a written statement from a physician regarding the applicant's condition.

- (4) The town clerk shall issue resident commercial and nonresident commercial licenses according to the selection process described below. Resident applications and nonresident applications shall be segregated in each class. The classes shall be followed in descending order. A number equivalent to ten (10) percent of the total number of resident commercial licenses, regardless of class, shall be issued to nonresident commercial applicants. The classes are:

## RESIDENT

- a. Applicants who have held resident commercial licenses for ten (10) of the last ten (10) years.
- b. Applicants who have held resident commercial licenses for nine (9) of the last ten (10) years.
- c. Applicants who have held resident commercial licenses for eight (8) of the last ten (10) years.
- d. Applicants who have held resident commercial licenses for seven (7) of the last ten (10) years.
- e. Applicants who have held resident commercial licenses for six (6) of the last ten (10) years.
- f. Applicants who have held resident commercial licenses for five (5) of the last ten (10) years.
- g. Applicants who have held resident commercial licenses for four (4) of the last ten (10) years.
- h. Applicants who have held resident commercial licenses for three (3) of the last ten (10) years.
- i. Applicants who have held resident commercial licenses for two (2) of the last ten (10) years.
- j. Applicants who have held resident commercial licenses for one (1) of the last ten (10) years.
- k. Applicants who have held resident commercial licenses for zero (0) of the last ten (10) years.

## NONRESIDENT

- a. Applicants who have held nonresident commercial licenses for ten (10) of the last ten (10) years.
- b. Applicants who have held nonresident commercial licenses for nine (9) of the last ten (10) years.
- c. Applicants who have held nonresident commercial licenses for eight (8) of the last ten (10) years.
- d. Applicants who have held nonresident commercial licenses for seven (7) of the last ten (10) years.

- e. Applicants who have held nonresident commercial licenses for six (6) of the last ten (10) years.
- f. Applicants who have held nonresident commercial licenses for five (5) of the last ten (10) years.
- g. Applicants who have held nonresident commercial licenses for four (4) of the last ten (10) years.
- h. Applicants who have held nonresident commercial licenses for three (3) of the last ten (10) years.
- i. Applicants who have held nonresident commercial licenses for two (2) of the last ten (10) years.
- j. Applicants who have held nonresident commercial licenses for one (1) of the last ten (10) years.
- k. Applicants who have held nonresident commercial licenses for zero (0) of the last ten (10) years.

On the first Wednesday of April, the town clerk shall issue licenses to the classes in which licenses are available for each applicant. The licenses shall be purchased by the end of business on the tenth business day after issuance. **In the case a licensee fails to pick up their designated license within the above time frame. The licensee will have an additional five (5) business days to purchase the license at double the amount of the license fee.**

After the issuance of licenses to the classes in this subsection (4) in which licenses are available for each applicant, the remaining classes shall be issued licenses by lottery. The lottery shall apply to the classes alphabetically. If there is at least one (1) applicant in excess of the number of available licenses in a class, the town clerk shall also hold a lottery for the next class. The lottery shall be held on the fourth Tuesday of April. As applicant names are drawn by lottery, a list will be compiled showing order of eligibility. Licenses will be available for purchase after the lottery during regular town office business hours until the end of the first business day following the lottery. If, at the end of the first business day following the lottery, one (1) or more licenses remain in a class, the next eligible applicant(s) in that class will have two (2) days to purchase the license(s).

If licenses remain after the issuance of licenses to each applicant in the classes in this subsection (4) during the first ninety (90) days of the issuance process, the town clerk shall issue licenses to residents or nonresidents according to the following process:

The town clerk shall prepare public notification of license availability which shall be published in a newspaper of general circulation in the area by the second Friday of May and posted at the town office. The notification shall inform prospective applicants to file a lottery participation notice to seek a resident or nonresident commercial shellfish license. The lottery participation notice shall be on the form prepared by the town clerk, and available at the town clerk's office.

Any person who does not complete and return the lottery participation notice to the town clerk by 4:30 p.m. on the Friday following publication shall not be eligible to be an applicant.

The town clerk shall prepare a list of the persons eligible to compete for a license in this category. The list shall be posted at the town office. Resident applications and nonresident applications shall be segregated.

On the **second** Monday immediately following the return deadline, the town clerk shall hold a lottery to select the applicant or applicants who shall receive licenses. Licenses shall be purchased by the end of business on Tuesday, the next day. If the licenses are not purchased by that time, they shall be offered to the next succeeding person or persons in the lottery who shall have two (2) business days after notification to purchase the license.

If licenses remain after the first ninety (90) days of the issuance process, they shall be equally available to residents and nonresidents.

If a license becomes available because it is suspended to or past the end of the license year, void or surrendered during the license year, it shall be offered to the next succeeding person, if any, identified in the initial lottery process according to the category of the license suspended, void or surrendered, resident or nonresident. That person shall have seven (7) business days after attempted telephone and U.S. mail notification to purchase the license. If no person remains from the initial lottery process, or if there was no initial lottery process, the license shall not be reissued.

Nothing in this subsection shall be interpreted to restore or expand any other rights or waive any qualification provisions under this article. For the following license year, a person who held licenses in some or all of the proceeding ten (10) years and who qualified for a license during the period of issuance but did not receive a license, shall be in the class determined by this lottery license and previous licenses. A person who receives a license in this lottery and who has held no licenses for the preceding ten (10) years shall be in a class J for the following license year.

If the Brunswick municipal offices are closed during any portion of the normal office hours on the first day set above for issuing licenses to a class, any remaining licenses for that class must be issued and purchased prior to closing of the municipal offices on the next normal business day the municipal offices are open. If the Brunswick municipal offices are closed during any portion of the normal office hours on the second day set above for issuing licenses to a class, any remaining licenses for that class must be issued and purchased prior to noon on the next normal business day the municipal offices are open.

For the purposes of the above selection process, a license does not remain for a class in the descending order if a person in the class above is issued a license but does not purchase the license within the required time, and others in the class above did not obtain a license because the number of persons in the class above exceed the number of available licenses. Rather, the license shall be issued to the persons in the class above who did not obtain a license, by lottery if necessary.

For the purpose of the above selection process, a person who was a Brunswick resident and subsequently established residency in another place outside the Town of Brunswick and obtained a resident commercial shellfish license in that place, shall not be considered as previously having a Brunswick resident commercial shellfish license.

For the purposes of the above selection process, a person who is issued a license but does not purchase the license within the required time for two (2) successive license years shall not be considered as previously having a Brunswick commercial shellfish license.

(5) The town clerk or the town clerk's designee shall begin to issue resident and nonresident recreational shellfish licenses on the first Monday in April.

(c) Reserved.

(d) The following procedure will be followed to control student shellfish license availability:

(1) Prior to the first Friday in March, the marine resource committee will establish the number of student shellfish licenses to be made available. Not less than ten (10) percent of the student shellfish licenses shall be made available to nonresidents, except that if the number established is five (5) or fewer, none is required to be made available to nonresidents, and if the number is more than five (5) but fewer than ten (10), at least one (1) is required.

The marine resources committee will notify the town clerk in writing prior to the second Friday of March of the number of student licenses to be made available for issue.

(2) Notice of intent application for student licenses will be available on the first Friday in April at the Town Clerk's Office, 28 Federal Street, Brunswick. The town clerk shall publish a notice of

availability of student notice of intent applications for shellfish harvesting in a newspaper of general circulation no later than the first Friday of April. Student harvesters must deliver a completed notice of intent to the town clerk's department, in person, no later than 4:30 p.m. on the first Friday of May. If there are more applicants than there are licenses available, the selection process shall be by lottery. On the second Friday in May, the town clerk shall hold a lottery if needed to select the applicant or applicants who shall receive licenses. Licenses shall be purchased by the end of business on the third Friday of May. If the licenses are not purchased by that time, they shall be offered to the next succeeding person or persons in the lottery who shall have seven (7) business days after the town clerk by telephone and U.S. mail notifies the person or persons to purchase the license.

If student shellfish licenses remain after the first ninety (90) days of the issuance process, they shall be equally available to residents and nonresidents.

- (3) Student shellfish license holders will need to appear in person at the time they purchase their licenses to have their pictures taken for their licenses. The town clerk's office will mail out licenses to student license holders by June 10.
- (4) Before taking shellfish on June 15, the student shellfish licensees shall provide the certified municipal shellfish conservation warden, or his or her designee, proof that the information in the application remains correct.
- (e) Notice of the dates, places, times and the procedures for the recreational license sales shall be posted on the Towns Web Page, ~~published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than ten (10) days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the commissioner of marine resources.~~

(Ord. of 3-6-89, § 309; Ord. of 2-5-90, § 309; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Ord. of 1-16-96; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Emergency Ord. of 3-16-98; Ord. of 3-16-98, Ord. of 3-16-99; Emergency/Regular Ord. of 7-6-99; Ord. of 1-18-00(1); Ord. of 6-5-00(1); Ord. of 2-6-01(1); Ord. of 12-2-02; Ord. of 11-3-03; Ord. of 2-22-05; Ord. of 10-24-05; Ord. of 11-2-05(2); Ord. of 11-15-06(1); Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 4-1-13; Ord. of 12-1-14(1))

#### Sec. 11-141. - Suspension.

- (a) *Violation of article.* The town marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article if a person is convicted in court of violating any section of this article.
- (b) Suspension based on conviction in a town closed conservation area. The marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article when the license holder has been convicted in court of harvesting shellfish from a town closed conservation area. The suspension shall be one hundred eighty (180) days for a first conviction; and the remainder of the shellfish year for a second conviction. In addition, a person with a second conviction shall not qualify as an applicant for five (5) years from the date of the second conviction.
- (c) Suspension based upon violation of recreational license or bushel license requirement. The marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article when they find the harvester has violated the requirements of this article for recreational, student or bushel licenses. The suspension shall be twelve (12) months for the first finding. The suspension shall be for the balance of the license year for the second finding and, in addition, a harvester with a second finding shall not qualify as an applicant for a recreational, student or bushel license for five (5) years from the date of the second finding.

- (d) The marine resource committee shall, after notice and hearing, suspend any and all licenses issued under this article, if the license holder refuses to allow inspection or seizure under section 11-138. This suspension may not exceed two (2) years.
- (e) *Length of suspension where otherwise not specified.* The suspension of a license may not exceed the following:
  - (1) Ninety (90) days for the first conviction.
  - (2) The remainder of the license year for the second conviction.  
In addition, a harvester with a second conviction in a twelve-month period arising out of separate events shall not qualify as an applicant for a license for one (1) year.
- (f) *Applicable standards.* Any conviction for violations occurring more than five (5) years before the most recent date of violation resulting in a conviction shall not be counted in determining lengths of suspension.

(Ord. of 3-6-89, § 311; Ord. of 2-5-90, § 311; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 8-15-94; Emergency Ord. of 1-13-97; Emergency Ord. of 2-3-97; Ord. of 2-3-97; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09; Ord. of 4-1-13)

Sec. 11-142. - Aiding and abetting.

A harvester holding a commercial license or bushel license who aids or abets the harvest of shellfish in violation of this article shall be subject to the same penalties as the person he has assisted.

(Ord. of 3-6-89, § 312; Ord. of 2-5-90, § 312; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 12-7-09; Ord. of 4-1-13)

Sec. 11-143. - Suspension based on state shellfish license being suspended.

The marine resource committee shall, after notice and hearing, suspend any and all licenses issued by this article when the license holder's State of Maine Department of Marine Resources Shellfish License is suspended. The suspension shall remain in effect until the license holder's State of Maine Department of Marine Resources Shellfish License is reinstated.

(Ord. of 3-6-89, § 313; Ord. of 2-5-90, § 313; Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-144. - Hearing.

If the certified municipal shellfish conservation warden presents to the marine resource committee evidence that any licensee has been convicted of violating this article or the licensee's State of Maine Department of Marine Resources Shellfish License has been suspended, the marine resource committee shall give the licensee seven (7) day's notice of the suspension of the license, stating the reason for the suspension. The licensee has the right to meet with the marine resource committee during that seven-day period to review the evidence of convictions or suspension in the marine resource committee's possession and to present any evidence showing the licensee does not have the convictions or the suspension.

(Ord. of 3-4-91; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-145. - Expiration.

Resident commercial shellfish and nonresident commercial licenses and bushel licenses issued under authority of this article shall expire on the fourth Friday of April in the following calendar year. Resident student shellfish and nonresident student shellfish licenses issued under the authority of this article shall expire September 1. Resident recreational and nonresident recreational licenses issued under authority of this article shall expire on the day before the first Monday of April.

(Ord. of 3-6-89, § 306; Ord. of 2-5-90, § 306; Ord. of 2-18-92; Ord. of 8-15-94; Ord. of 3-16-99; Ord. of 12-2-02; Ord. of 11-3-03; Ord. of 12-7-09; Ord. of 4-1-13)

Secs. 11-146—11-160. - Reserved.

DIVISION 5. - REGULATIONS

Sec. 11-161. - Opening and closing of coastal waters.

- (a) The marine resource committee, with the approval of the commissioner of marine resources, and the direct consent of the town council, and this consent to be given by the town council on an annual basis at their first regular meeting after the organization meeting, may open and close coastal waters. ~~Any opening or closing of coastal waters must be noticed at least 5 days in advance in a newspaper of common circulation to the area. Except for emergency closures, or openings, the marine resource committee shall call a public hearing and shall send a copy of the notice to the Department of Marine Resources. At the hearing, the staff shall present evidence obtained from its survey and other sources, and members of the public may present evidence in support or refutation of the evidence presented by the staff. In the event of an emergency closure, or openings, the marine resource committee shall hold a public hearing as soon as practical, considering the need for adequate public notice and participation.~~
- ~~The chair may determine that an opening or closing shall be placed on the agenda and shall direct staff to give notice of the hearing. Notice shall be posted at the town office, and published in a newspaper of general circulation no less than seven (7) days before the date of the hearing.~~
- (b) ~~After the hearing is closed,~~ the marine resource committee shall make findings of fact on the relevant evidence presented ~~by town and/or department of marine resource staff and the public.~~ They shall then make a conclusion based on those findings of fact as to whether opening of coastal waters as requested is warranted by the recovery of the resource; or the freedom from predation, competition or other resource problem. If so, the marine resource committee with the concurrence of the department of marine resources shall order the coastal waters opening and shall set such time limitations and other harvesting conditions as are consistent with good conservation practices. If the request is to close the coastal waters, the marine resource committee shall make a conclusion based on their findings of fact as to whether closing the coastal waters is warranted by depletion of the shellfish, destruction of existing seed; or predation, competition or other resource problem. If so, the marine resource committee shall order the coastal waters closed until further request for opening by the staff. ~~Any~~ ~~All~~ proposals for opening or closing of coastal waters shall be approved by the commissioner of marine resources prior to enactment.
- (c) When the marine resource committee opens or closes the coastal waters, the committee's action may be reviewed at a regularly or specially scheduled town council meeting. The town council may uphold, reverse or amend the opening or closing decision of the marine resource committee.

(Ord. of 3-6-89, § 203; Ord. of 2-5-90, § 203; Ord. of 2-18-92; Ord. of 4-5-93; Ord. of 2-22-94; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 2-6-01(1); Ord. of 12-7-09)

Sec. 11-162. - Shellfish size and tolerance of harvest.

A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of more than ten (10) percent of any lot; quahogs which are less than one (1) inch in width to the amount of five (5) percent of any lot; razor clams which are less than four (4) inches or oysters which are less than three (3) inches in length.

(Ord. of 3-6-89, § 302; Ord. of 2-5-90, § 302; Ord. of 2-18-92; Ord. of 3-16-99; Ord. of 1-18-00(1); Ord. of 4-7-08(1); Ord. of 12-7-09)

Sec. 11-163. - Method of determining tolerance.

The tolerance of ten (10) percent must be determined by a numerical count of not less than one (1) nor more than four (4) pecks taken at random from various parts of the lot. If the entire lot contains less than one (1) peck, the tolerance must be determined by numerical count of the entire lot.

(Ord. of 3-6-89, § 303; Ord. of 2-5-90, § 303; Ord. of 2-18-92; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-164. - Night shellfish harvesting prohibited.

It is unlawful to harvest, take or possess shellfish from one (1) hour after sunset until one (1) hour before sunrise. The time table prepared by the Nautical Almanac Office of the U.S. Navy for Augusta, Maine will be the official time.

(Ord. of 1-16-96; Ord. of 3-16-99; Ord. of 12-7-09)

Sec. 11-165. - Sunday shellfish harvesting prohibited.

It is unlawful for any commercial harvester to harvest or take shellfish from the coastal waters of the town on Sundays between ~~May 1st and October 15<sup>th</sup>~~ June 1<sup>st</sup> and October 1<sup>st</sup>.

(Ord. of 4-7-08(1); Ord. of 12-7-09; Ord. of 2-6-12)

Sec. 11-166. Harvesting Methods ~~Automatic closures and openings.~~

It shall be unlawful for a person to harvest shellfish using a bull rake from the coastal waters of Brunswick in areas that have not been designated for by the Brunswick Marine Resources Committee as a bull rake harvest area. Upon notification by the Maine Department of Marine Resources that a shellfish growing area within the town's jurisdiction is placed in a prohibited or restricted status, an automatic conservation closure shall go into effect immediately and shall stay in effect until two weeks after legal notification by the Maine Department of Marine Resources that the shellfish growing area has returned to approved standards and is open for public harvest or until the Brunswick Marine Resources Committee holds a public hearing to open the area, whichever is sooner. The exception to this rule is that the Brunswick Marine Resources Committee can designate an area that is in a restricted status for deputation harvest only. This section does not apply to seasonal openings and closings.

~~(Ord. of 12-7-09)~~

Sec. 11-167. - Leaving unguarded ice holes.

- (a) Any person who removes ice or causes its removal from any stream, pond, lake, or coastal waters, within the jurisdictional boundaries of the Town of Brunswick, thereby leaving an opening that exceeds one and one-half (1½) feet in width or exceeds four and one-half (4½) feet in length, shall place a fence around the entire perimeter of the opening made by such removal as described below:
  - (1) Wooden stakes or poles, no more than one and one-half (1½) inches in width and at least three and one-half (3½) feet in height above the surface of the ice shall be properly spaced around the perimeter of the opening.
  - (2) Safety tape, no less than two (2) inches in width, shall be displayed in such a manner that it will enclose the entire perimeter of the opening in the ice. Safety tape shall have the name of the person responsible for creating the ice hole, along with that person's phone number and address, clearly printed in one-inch block letters.
  - (3) The safety tape shall be suspended not less than three and one-half (3½) feet above the surface of the ice.
  - (4) It shall be the responsibility of the person who removes the ice and erects the fence to retrieve the fence and tape when the opening has safely frozen over or before the melting of the ice at the end of the winter season.
- (b) Any person who removes ice or causes its removal from any stream, pond, lake, or coastal waters within the jurisdictional boundaries of the Town of Brunswick, thereby leaving an opening that is less than one and one-half (1½) feet in width and less than four and one-half (4½) feet in length, shall place a visual warning device of pine or evergreen boughs or any natural biodegradable debris such as tree limbs or brush around the entire perimeter of the opening made by such removal; provided, however, that an opening that is less than twelve (12) inches in diameter is exempt from the requirements of this section.

(Ord. of 3-1-10(1))

**Sec 11-168. Intertidal Shellfish Aquaculture**

**A person shall not engage in intertidal shellfish aquaculture without first obtaining the written approval of the Brunswick Marine Resource Committee and other pertinent permitting agencies.**

ITEM 120

BACK UP MATERIALS

## Memorandum

**To: TM Eldridge**

**From: Cmdr. Waltz**

**Re: Proposed Change to Personnel Ordinance for Full-Time Academy Certified Officers**

**Date: October 7, 2016**

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As you are aware, our hiring process for police officers is governed by Article XVIII of the Town's Personnel Ordinance. The processes currently in place result in a hiring process which takes a minimum of 2-3 months from the decision to advertise to the hiring of an officer. Once a list is established, it may have to "sit around" for a time as we wait for slots in the Maine Criminal Justice Academy for training.

Candidates who have already been to the full-time police academy (either in Maine or another state) are often some of the most desirable candidates because they can patrol "on their own" with as little as two months of field training after hiring. This also makes them highly sought after. In order to increase our chances of hiring these officers, we'd like to provide the Chief with an option which can be used to both "fast track" their evaluation and hire them even if there is a current list of candidates whose hiring awaits slots in the criminal justice academy. Just this past week we lost out to Augusta on an academy-certified candidate we had been courting because they were able to move quicker.

Our proposed changes for Town Council consideration are in yellow highlighting on the attached copy of Article XVIII. You'll note that we still intend to do a thorough hiring process and will not be skipping any steps. The role of the personnel board will change slightly, however, because they will not have multiple candidates to interview. They will simply interview the candidate to be considered and inform us if they support hiring or not.

We propose this as an alternate process at the option of the Chief because if we have a regular process ongoing to establish a hiring list we may decide to process the candidate with everyone else. However, if we have a particularly desirable currently certified candidate and feel that our ability to hire him/her is time sensitive, the Chief can elect the alternate process.

I have discussed our proposed changes with Chair Locke and the members of the personnel board who conducted oral boards for patrol officer candidates this week and they are in support of our proposed change.

## ARTICLE XVIII. - POLICE AND FIRE DEPARTMENTS

### Sec. 12-181. - Applications.

Applications for employment for positions in the police and fire departments must be filed on forms prescribed by the town and meet the specified requirements as advertised. Such forms may require whatever information is deemed necessary, and applications must be signed by the person applying unless the applicant is physically unable to do so.

The fire department accepts applications only when an eligibility list needs to be established. The police department accepts applications on an on-going basis and will hold applications for a one-year period. The department will notify applicants at such time as a position opening is available or an eligibility list needs to be established. At that time, updated information may be required from the applicant.

(Ord. of 6-5-95, § 18(A))

### Sec. 12-182. - Qualifications of applicants.

An applicant for appointment to the fire department or police department must have the following qualifications:

- (1) *Citizenship.* Applicant must be a U.S. citizen (police only).
- (2) *Age.* Applicant must be at least eighteen (18) years of age.
- (3) *Height and weight.* Applicant's weight, height and body frame must be proportional.
- (4) *Physical condition.* Applicant must be physically, mentally and emotionally fit to carry out the essential functions of the position.
- (5) *Education.* Applicant shall have high school education or equivalent.
- (6) *Character.* Applicant shall be of good moral character.
- (7) *Substance abuse.* Applicant shall not be a substance abuser which would tend to substantially impair physical, mental or emotional fitness.
- (8) *Criminal record.* Applicant shall not have been convicted of a felony.
- (9) *Operator's license.* Applicant shall have a valid motor vehicle operator's license.

(Ord. of 6-5-95, § 18(B))

### Sec. 12-183. - Examinations.

Examination may include any or all of the following:

- (1) *Written examination:* The personnel director shall arrange for written examinations to be given to all eligible applicants.
- (2) *Oral examination:* The personnel board shall provide for an oral examination in such form as to test the abilities and aptitudes of candidates for the duties to be performed.
- (3) *Physical agility:* Testing shall be conducted by staff of the department for which an eligibility list is being established.
- (4) *Pre-employment physical examination:* After a conditional offer is made to an applicant, a physical examination shall be conducted by the town's health care provider. Such testing shall

include an assessment of the applicant's ability to perform the essential functions of the position.

- (5) *Psychological testing:* After a conditional offer is made to an applicant, psychological testing shall be conducted.
- (6) *Drug testing:* After a conditional offer is made, drug testing shall be conducted in accordance with a policy approved by the Department of Labor.
- (7) *Polygraph testing:* Polygraph testing shall be conducted either pre or post offer of employment for police candidates only.
- (8) And any other tests which may be required by the department.

(Ord. of 6-5-95, § 18(C))

Sec. 12-184. - Eligibility list.

After written, oral and agility testing has been conducted, the personnel director shall compile the scores for each applicant and rank the applicants in order of their combined scores on the examinations.

The appointing authority shall review test results and determine the minimum acceptable standards for each individual test as well as the combined score. Applicants whose scores fall below these minimum standards shall not be considered for employment.

- (1) *Expiration.* An eligibility list expires one (1) year after the examination on which it was based.
- (2) *Layoff and reinstatement.* An applicant appointed from an eligibility list who is laid off because of lack of work or insufficient appropriation must be placed at the top of the eligibility list and must be offered reinstatement before any new appointments are made from the list.
- (3) *Public record.* The list of the names of the applicants in their order of standing on the examination is a public record.

(Ord. of 6-5-95, § 18(D))

Sec. 12-185. - Appointment process.

- (a) [Appointments generally.] The personnel director shall provide the appointing authority the names of the three (3) persons ranked highest on the eligibility list who have indicated a willingness to accept appointment. When more than one (1) vacancy is to be filled, the number of names submitted must equal the number of vacancies plus two (2). If there are less than the required number of eligible applicants, the appointing authority may accept the eligible applicant(s) or it may request the personnel director to readvertise the position, which the personnel director shall do.

All offers of employment shall be conditioned upon satisfactory performance on the required physical, psychological, polygraph (unless done pre-offer), drug test and any other tests required by the department which may be done only after a conditional offer of employment has been made.

- (1) *Probation period.* All appointed and promoted employees in the police and fire departments are subject to a probation period. The probation period shall be one (1) year from the date of hire or promotion except in the case of newly appointed police officers whose probation period shall be the longer of one (1) year from the date of hire or one (1) year after graduation from the Maine Criminal Justice Academy or the date the Board of Trustees of the Academy waives the basic training requirement.

During the probation period, the appointing authority may reject an employee who does not meet expectations. Written notification of such rejection shall be stated in writing to the employee and to the personnel board reporting the name of the person rejected, and the date of

rejection and the reason for the rejection. Any rejected employee is permanently separated from the probation position and may be separated from the position previously held. The appointing authority is encouraged to restore a rejected promoted employee to the employee's former position whenever possible. A rejected promoted employee who has completed the probation period for the position he/she had previously held shall have the right to file a written reply with the appointing authority and the personnel board within fifteen (15) days from the date of the rejection. If such employee files a reply and requests a hearing within the prescribed period, the procedures and rights regarding hearings before and finding of the personnel board, as set forth in the personnel policy [, shall apply].

- (2) *Appointment.* If the appointee successfully completes the probation period, he/she becomes a regular employee, as defined in the Personnel Policy.
- (3) *Special police officers.* The chief of police may appoint special police officers without examination. Their term of office expires on the first day of April following their appointment. Special police officers shall be considered on-call employees.
- (4) *Call firefighters.* The fire chief may appoint call firefighters without examination to serve at the chief's pleasure.

(b) Alternate Process for Current Maine Criminal Justice Academy Certified Full-Time Law Enforcement Officers (or equivalent certification from another state). If the Chief of Police deems it necessary to fill an immediate vacancy, the Chief of Police may at any time process the application of a candidate who is currently certified as a full-time law enforcement officer by the Maine Criminal Justice Academy or who possesses an equivalent certification from another state. The applicant shall be tested as outlined in this Article. Despite the fact that there are no other applicants to rank the candidate against, the personnel board will still convene to interview the applicant, and will determine whether or not it supports hiring the candidate. If the personnel board supports hiring the applicant, the Chief of Police may consider the candidate for an immediate offer of employment. If at the conclusion of the testing process the Chief of Police chooses to appoint the candidate, the appointment shall supersede any outstanding eligibility list.

~~(b)~~ (c) *Special appointments permitted.* Upon certification to the council by the town manager or the town manager's designee that, despite making reasonable efforts to obtain a qualified applicant for a particular position, the town manager or the town manager's designee has been unable to do so, the council may permit the appointing authority to fill the vacancy by a special appointment. The appointing authority shall utilize so much of the process outlined in article XVIII in filling positions with qualified personnel as it deems in the best interest of the Town of Brunswick.

(Ord. of 6-5-95, § 18(E); Ord. of 3-7-07)

Sec. 12-186. - Promotions.

- (a) All promotions within the fire department and within the police department must be made by the chief of the department from a promotion eligibility list which shall be based on efficiency, seniority, and fitness-for-service ratings in addition to oral interview and written examination scores. At the request of the appropriate chief, the personnel director shall submit the names of the three (3) persons ranked highest on the promotion eligibility list. If there are less than three (3) names on the promotion eligibility list, all names must be submitted to the chief.
- (b) All applicants for promotion must have served a minimum of two (2) years in the department.
- (c) The ranking of a participant on a promotion eligibility list shall be made available to the participant in the examination upon request.

(Ord. of 6-5-95, § 18(F))

Sec. 12-187. - Physical and mental examinations.

Annually, in accordance with respective contract provisions, each member of the respective department shall submit to a thorough physical examination; and at any other time, the chief of the respective department or the board may require a member of the department to submit to a physical or mental examination. The examination is performed at the expense of the town by a physician approved by the personnel director. If the results of the examination show that the member involved does not have the physical or mental ability to perform the essential function of the position, with or without an accommodation, this shall be considered cause for disciplinary action, up to and including termination. The employee involved may submit evidence relevant to the employee's physical or mental condition for the consideration of the chief before discharge becomes final.

(Ord. of 6-5-95, § 18(G))

ITEM 121

BACK UP MATERIALS

Date: September 30, 2016  
To: John Eldridge, Finance Director  
From: Judy Hardy-Goddard, GA Administrator  
Re: Adoption of GA Maximums  
Appendix A

### The Adoption Process

The municipal officers (i.e., selectpersons/council) adopt the local General Assistance Ordinance and yearly Appendices, even in town meeting communities. The law requires that the municipal officers adopt the ordinance and/or Appendices after notice and hearing. Seven days posted notice is recommended, unless local law (or practice) provides otherwise.

At the hearing, the municipal officers should:

- 1) Allow all interested members of the public an opportunity to comment on the proposed ordinance;
- 2) End public discussion, close the hearing; and
- 3) Move and vote to adopt the ordinance either in its posted form or as amended in light of public discussion.

### **Filing of GA Ordinance and/or Appendices**

Please remember that General Assistance law requires each municipality to send DHHS a copy of its ordinance once adopted. In addition, any changes or amendments, such as new Appendices, must also be submitted to DHHS. DHHS will accept the enclosed "adoption sheet" as proof that a municipality has adopted the current GA maximums. This signed form may be scanned and emailed to [generalassistance.DHHS@maine.gov](mailto:generalassistance.DHHS@maine.gov); faxed to Robin Reed at 287-3455; or sent by US mail to: DHHS/General Assistance, 19 Union Street, 11 State House Station, Augusta, ME 04333.

Appendix A- Overall Maximums

**Persons in Household**

2015/2016	1	2	3	4	5
Cumberland County	638	773	1025	1466	1747

New Maximums

**Persons in Household**

2016/2017	1	2	3	4	5
Cumberland County	750	796	1058	1542	1759

Appendix B-Food Maximums

There was no change in the Food Maximums

**Persons in Household**

	1	2	3	4	5
Cumberland County	194	357	511	649	771

Appendix C - Housing

Appendix C is a listing of the maximum levels of assistance for housing (both heated and unheated). These maximum levels were developed by MMA using 2009-2010 HUD Fair Market Rent values that include utility costs. Because the FMR numbers include utility and heating costs, the applicable average utility and heating allowances, as developed by the Maine State Housing Authority (MSHA), are subtracted from the FMR to obtain a pure "housing" cost.

# Bedrooms	2015/2016		# Bedrooms	2016/2017	
	UnHeated	Heated		Unheated	Heated
1	574	703	1	817	941
2	783	943	2	1079	1233
3	1175	1371	3	1410	1598
4	1399	1637	4	1730	1959

Appendix D – Utilities

There was no change in the Utilities

**1) Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses **excluding** electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.70	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

**NOTE:** For each additional person add \$7.50 per month.

**2) Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses **excluding** heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.08	\$86.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
6	\$41.00	\$176.00

**NOTE:** For each additional person add \$10.00 per month.

Appendix E

There was no change in fuel

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

Appendix F

There was no change in Personal and Household Supplies

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

**NOTE:** For each additional person add \$1.25 per week or \$5.00 per month.

# GENERAL ASSISTANCE ORDINANCE APPENDICES A-D 2016-2017

The Municipality of \_\_\_\_\_ adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2016—September 30, 2017. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the \_\_\_\_\_ (day) of \_\_\_\_\_ (month) \_\_\_\_\_ (year)  
by the municipal officers:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

ITEM 122

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

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## MEMORANDUM

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TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: October 13, 2016

SUBJECT: Solid Waste Ordinance  
Graham Road Landfill

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As you know we are in conversations with the Maine Department of Environmental Protection (MDEP) about an accelerated closure of the Graham Road Landfill. Part of this discussion involves amending Brunswick's MDEP solid waste license to allow the town to accept, at Graham Road, solid waste generated beyond the boundaries of Brunswick. Even if MDEP were to amend the solid waste license, Brunswick would need to amend its solid waste ordinance. The current ordinance limits disposal at Graham Road to solid waste originating within the corporate limits of the Town.

Attached is a proposed amendment to the Town's Solid Waste ordinance that would allow the Town Council to authorize the Town Manager to enter contracts with Solid Waste Collectors to accept solid waste originating beyond the corporate limits of the Town, provided such waste is permitted in accordance with the licenses issued by the Maine Department of Environmental Protection.

We recommend that the town Council authorize a public hearing on the amendment.

Attachment

(Ord. of 3-1-93)

Sec. 13-58. - Revocation of permits.

- (a) After notice and hearing, the public works director may suspend or revoke the permit of any permit holder for violation of any provision or provisions of Chapter 13 including the failure to pay, upon demand, any disposal fee for which credit had been extended. Suspension or revocation of the permit may be in addition to any penalty or relief the municipality may seek under Article VIII of Chapter 13.
- (b) In determining the length of suspension or revocation of a permit, the public works director shall consider the nature and severity of the Chapter 13 violation(s). If the suspension or revocation is for nonpayment of fees, the suspension shall remain in force until the fees are paid in full.
- (c) A notice stating the alleged violation(s) of Chapter 13 shall be mailed to the licensee via certified mail return receipt at least thirty (30) days prior to the hearing date.
- (d) The public works director shall conduct the hearing in accordance with guidelines approved by the town attorney and shall cause a record to be made of the hearing.
- (e) Unless the permit holder agrees in writing to an extension, the public works director shall render a decision within thirty (30) days of the hearing.

(Ord. of 3-1-93)

Sec. 13-59. - Appeals of permit suspension or revocation.

- (a) Decisions of the public works director may be appealed to the town manager within thirty (30) days of the public works director's decision.
- (b) The town manager shall conduct an appeals hearing within thirty (30) days of its receipt of a request for an appeal.
- (c) The appeal hearing shall be conducted in accordance with guidelines approved by the town attorney. The town manager shall cause a record to be made of the appeal hearing.
- (d) Unless the appellant agrees to an extension in writing, the town manager shall render a decision on the appeal within thirty (30) days of the appeal hearing.

(Ord. of 3-1-93)

Secs. 13-60—13-68. - Reserved.

#### ARTICLE VI. - MUNICIPAL DISPOSAL AREAS AND FEES

Sec. 13-69. - Brunswick solid waste ~~facilities~~only.

- (a) ~~Except as provided in subsection (c) below,~~ Only solid waste originating within the corporate limits of the Town of Brunswick may be disposed of at any municipal disposal facility operated by the Town of Brunswick. Upon demand, those delivering solid waste must identify:
  - (1) The composition of the material to be disposed.
  - (2) Where in town the material comes from.

- (3) The name and telephone number of a person to confirm the information provided in (1) and (2) above.
  - (4) The expected quantity of the waste to be delivered.
- (b) The failure to provide the above information shall prevent access to the municipal disposal facilities. Delivering waste not originating within the corporate limits of the Town of Brunswick or providing false information to gain access to a municipal disposal facility shall be a violation of this chapter.
- (c) The Town Council may authorize the Town Manager to enter contracts with Solid Waste Collectors to accept solid waste originating beyond the corporate limits of the Town, provided such waste is permitted in accordance with the licenses issued by the Maine Department of Environmental Protection.

(Ord. of 3-1-93)

Sec. 13-70. - Unacceptable waste.

The following shall be unacceptable at any municipal waste disposal facility:

- Atomic Waste
- Bio-Medical Waste
- Tree stumps
- Hazardous Waste
- Special Waste without approval of MDEP
- Liquid or Flowing wastes

(Ord. of 3-1-93)

Sec. 13-71. - Disposal of solid waste.

- (a) All users of the municipal disposal facilities shall place waste in the area designated by the facility attendants or be in violation of this chapter.
- (b) There is to be no sorting or removal (dump picking) of materials or items from the municipal disposal facilities without the permission of the public works director or the solid waste program director.

(Ord. of 3-1-93)

Sec. 13-72. - Graham Road Landfill.

The Graham Road Landfill is a Maine Department of Environmental Protection approved Secure Landfill located on Graham Road in Brunswick, Maine.

- (1) Acceptable materials at the Graham Road Landfill.
  - a. The following waste classifications are acceptable for disposal at the Graham Road Landfill:  
Brown goods;

ITEM 123

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE TOWN MANAGER

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## MEMORANDUM

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TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: November 3, 2016

SUBJECT: Marine Activities, Structures and Ways  
Municipal Code of Ordinances Chapter 11

---

At your previous meeting, staff recommended a public hearing to consider several changes to Chapter 11 of the Municipal Code or Ordinances. That chapter regulates marine activities, structures and ways. Subsequent to your meeting we received communications from the Maine Department of Marine Resources (DMR) indicating that the department wanted to conduct a “top to bottom” review of the ordinance. Therefore, staff is recommending that this item be tabled indefinitely. Staff intends to bring the amendment back once the DMR review is completed and comments are received.

Staff had recommended to the Brunswick Marine Resources Committee (BMRC) that it consider fee increases for shellfish licenses. BMRC requested more information on the proposed increase, which the committee received and considered at its November 2nd meeting. Based on the discussion from that meeting, we are requesting that the fees be increased. Attached is a memo from Marine Resources Warden Dan Devereaux that summarizes BMRC’s discussion. Also attached are the fee increases proposed as amendments to the Master Schedule of Revenues, Charges, Fees and Fines (Master Schedule). Revisions to the Master Schedule require a public hearing, and we are recommending that the Town Council set a public hearing to consider the proposed increases.

Attachments



# Town of Brunswick, Maine

INCORPORATED 1739  
MARINE RESOURCES & HARBOR MANAGEMENT  
85 PLEASANT STREET  
BRUNSWICK, MAINE 04011  
TELEPHONE 207-725-5521 FAX 207-725-6663  
Email – ddevereaux@brunswickpd.org



Daniel R. Devereaux  
Marine Resource Officer  
Harbormaster

## MEMO

TO: John Eldridge, Town Manager  
CC: Julie Henzie, Finance Director  
FROM: D. Devereaux MRO/HM  
DATE: 11/3/2016  
RE: Marine Resource License Fee Increases

Mr. Manager,

The Brunswick Marine Resources Committee has deliberated over shellfish license fee increases for the last two monthly meeting. It was determined at last night's BMRC meeting, after reviewing the marine resource budget and comparing the shellfish fees, budgets, and services of other coastal municipalities that a local increase in shellfish license fees is appropriate. (See below recommendation)

*Committee members recommended that 25% (\$50.00) of the amounts of the increase in license fees are dedicated to a shellfish fund to help offset the cost of local shellfish propagation.*

Resident Commercial \$300 to \$500  
Non Resident Commercial \$450 to \$750

Resident Recreational \$25 to \$50  
Non Resident Recreational \$50 to \$75

Resident Student Commercial \$75 to \$100  
Non Resident Student Commercial \$125 to \$150

Bushel Commercial License \$175 to \$225

Master Schedule of Revenues, Charges, Fees and Fines

<b>Chapter 11—Marine Activities, Structures and Ways</b>			
Sec. 11-4	11/16/2015	Resident mooring	\$50.00
		Non-resident mooring	\$100.00
		Mooring in a commercial field	\$50.00
		Moorings in a public mooring field	\$50.00
		Helix mooring (replacement of regular)	Free for 5 years
		Late registration (after deadline)	Double fee
Sec. 11-13	2/23/2015	Violation of boat storage article	\$150.00
Sec. 11-136	4/1/2013	Residential commercial shellfish license	<del>\$300</del> <u>500</u> .00
		Nonresident commercial shellfish license	<del>\$450</del> <u>700</u> .00
		Resident recreational shellfish license/over age 62	<del>\$25</del> <u>50</u> .00/free
		Nonresident recreational shellfish license/over age 62	<del>\$50</del> <u>75</u> .00/free
		Resident student shellfish license	<del>\$75</del> <u>100</u> .00
		Nonresident student shellfish license	<del>\$125</del> <u>150</u> .00
		Bushel license	<del>\$175</del> <u>225</u> .00

**TOWN OF BRUNSWICK, MAINE**

**MARINE RESOURCES AND HARBOR MASTER**

PERSONNEL SERVICES	Budget	Marine		Harbor	
		Pct.	Cost	Pct.	Cost
Marine Officer-Harbor Master	57,932	75.0%	43,449	25.0%	14,483
Deputy MRO-HM	38,617	62.5%	24,136	37.5%	14,481
Town Clerks Office	4,160	25.0%	1,040	75.0%	3,120
Other	611	25.0%	153	75.0%	458
Fringe Benefits	50,891	60.0%	30,535	40.0%	20,356
Workers Compensation	2,187	60.0%	1,312	40.0%	875
	<b>154,398</b>		<b>100,624</b>		<b>53,774</b>
<b>CONTRACTUAL SERVICES</b>					
Insurance Watercraft	3,000	50.0%	1,500	50.0%	1,500
Insurance Vehicle	2,000	75.0%	1,500	25.0%	500
Pro Servs - Other	2,000	50.0%	1,000	50.0%	1,000
R & M Vehicles	9,300	80.0%	7,440	20.0%	1,860
R & M Equipment	1,600	50.0%	800	50.0%	800
Postage	100	75.0%	75	25.0%	25
Telephone	600	75.0%	450	25.0%	150
Advertising	1,500	75.0%	1,125	25.0%	375
Travel	450	70.0%	315	30.0%	135
Training	3,590	50.0%	1,795	50.0%	1,795
Membership & Dues	1,950	0.0%	-	100.0%	1,950
	<b>26,090</b>		<b>16,000</b>		<b>10,090</b>
<b>MATERIALS AND SUPPLIES</b>					
General Supplies	2,200	75.0%	1,650	25.0%	550
Office Supplies	500	75.0%	375	25.0%	125
Publications	1,125	75.0%	844	25.0%	281
Gasoline	6,000	75.0%	4,500	25.0%	1,500
Tires & Tubes	2,200	75.0%	1,650	25.0%	550
Wearing Apparel	1,350	75.0%	1,013	25.0%	338
Minor Equip & Hand Tools	4,005	75.0%	3,004	25.0%	1,001
	<b>17,380</b>		<b>13,035</b>		<b>4,345</b>
<b>PROGRAMS</b>					
Rivers and Coastal Waters	5,000	0.0%	-	100.0%	5,000
Warf and Debris Removal	1,000	50.0%	500	50.0%	500
	<b>6,000</b>		<b>500</b>		<b>5,500</b>
<b>CAPITAL OUTLAY</b>					
Replacement of Boat	1,750	50.0%	875	50.0%	875
Replacement Outboard Engine	1,900	67.0%	1,273	33.0%	627
Replacement Vehicle	5,000	75.0%	3,750	25.0%	1,250
	<b>8,650</b>		<b>5,898</b>		<b>2,752</b>
<b>TOTALS</b>	<b>212,518</b>		<b>136,057</b>		<b>76,461</b>
		<b>Licenses</b>		<b>Moorings</b>	
<b>Licenses/Moorings</b>			<b>50</b>		<b>308</b>
<b>Cost Recovery</b>	100%		2,721		248
	75%		2,041		186
	65%		1,769		161
	50%		1,361		124
	35%		952		87
	25%		680		62
	20%		544		50

<u>MUNICIPALITY</u>	<u>Res. Com</u>	<u>Non-Res</u>	<u>Res. Rec</u>	<u>Non-Res</u>	<u>Day</u>	<u>#Com. Lic.</u>
Arrowsic	100\$ RC	200\$ NRC	10\$ RR	20\$ NRR	5\$ DAY RR LIC	2 CL
Bar Harbor	114\$ RC	114\$ NRC	23\$ RR	45\$ NRR	5/10\$ DAY LIC.	4 CL
Beal's	50\$ RC	100\$ NRC	25\$ RR	50\$ NRR	10\$ JUNIOR LIC	NO LIMIT
Biddeford	200\$ RC	400\$ NRC	30\$ RR	60\$ NRR	10\$ DAY LIC.	9 CL
Boothbay Regional	175\$ RC	350\$ NRC	5\$ RR	5\$ RR	NO DAY LIC	NO LIMIT
Bremen	200\$ RC	300\$ NRC	12.50\$ RJC	25 \$ NRJC	NO DAY LIC.	45 CL
<b>Brunswick</b>	<b>300\$ RC</b>	<b>450\$ NRC</b>	<b>25\$ RR</b>	<b>50\$ NRR</b>	<b>NO DAY LIC.</b>	<b>51 CL</b>
Chebeague Island	75\$ RC	50\$ SRC	25\$ RR	50\$ NRR	15\$ DAY LIC.	8 CL
Cumberland	110\$ RR	210\$ NRC	10\$ RR	10\$ NRR	NO DAY LIC.	2 CL
Frenchman's Bay Regional	580\$ RR	780\$ NRC	20\$ RR	20\$ NRR	NO DAY LIC.	NO LIMIT
Freeport	230\$ RR	430\$ NRC	16\$ RR	27\$ NRR	NO DAY LIC.	48 CL
Harpwell	200\$ RR	400\$ NRC	20\$ RR	40\$ NRR	NO DAY LIC.	55 CL
Phippsburg	200\$ RR	400\$ NRC	20\$ RR	25\$ NRR	NO DAY LIC.	35 CL
Scarborough	200\$ RR	400\$ NRC	25\$ RR	50\$ NRR	NO DAY LIC.	33 CL
West Bath	250\$ RR	375\$ NRC	20\$ RR	30\$ NRR	NO DAY LIC	23 CL
<b>AVERAGES</b>	<b>175\$ RR</b>	<b>303\$ NRC</b>	<b>19\$ RR</b>	<b>33\$ NRC</b>	<b>N/A</b>	<b>25</b>

ITEM 124

BACK UP MATERIALS

# Town of Brunswick, Maine

OFFICE OF THE FINANCE DIRECTOR

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## MEMORANDUM

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**TO:** John Eldridge  
Town Manager

**FROM:** Julia Henze  
Finance Director

**DATE:** October 28, 2016

**SUBJECT:** Finance Committee Policy

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At its October 20<sup>th</sup> meeting, the Finance Committee reviewed the Finance Committee Policy, and is recommending several amendments which incorporate the comments from the Town Council's October 3<sup>rd</sup> meeting.

Attached is a redlined draft with several modifications. These include:

1. A brief statement of the purpose of the Finance Committee
2. A recommendation that, for continuity, Councilors serve at least one term, preferably two
3. A restriction that Councilors shall serve no more than two consecutive one-year terms, with the possibility that a partial year may be added to the two terms
4. A statement of preference that the meetings be televised
5. An item added to the list of Finance Committee tasks: review of the Master Schedule of Revenues, Charges, Fees and Fines

As the Town Council established the Finance Committee and adopted the Policy, the Committee is asking that the Council approve the changes.

**Town of Brunswick, Maine  
Finance Committee**

*Purpose.* The Finance Committee is established as a sub-committee of the Town Council, intended to provide Councilors with an opportunity for in-depth review and analysis of the Town's financial matters, resulting in feedback for staff and recommendations to the Town Council. The purpose of this policy is to establish the composition and responsibilities of the Town's Finance Committee.

*Members.*

- The Finance Committee shall be a standing committee of the Town Council.
- The Committee shall be comprised of three members of the Town Council appointed by the Council Chair.
- Members shall be appointed annually after the adoption of the annual budget and prior to July 1<sup>st</sup>.
- Members shall each serve terms of one year, concurrent with the July 1st to June 30th fiscal year.
- -For continuity purposes, it is recommended that Councilors serve at least one year on the Committee, preferably two.
- To enable as many Councilors as possible to serve on the Committee, Councilors shall serve no longer than two consecutive years. If appointed mid-year, the partial year may be added to the two terms. Councilors may be re-appointed to the Committee after a one year absence.
- At its first meeting, the Committee shall select its chair and vice chair.
- Should, in the opinion of the Council Chair, circumstances require the extension of the sitting Committee's term beyond the end of the fiscal year, the Chair shall announce his/her determination to the Town Council and the terms shall be temporarily extended. The succeeding Committee shall serve the remainder of the term until June 30, unless subsequently extended.

*Meetings.* The Committee shall meet at least once per month. The meeting dates shall be established at the Committee's first meeting. The Committee chair shall call additional meetings as the chair deems necessary, as voted by a majority of the Committee's members, or as directed by the Town Council. The Committee shall give public notice of its meetings in accordance with Maine's Freedom of Access Act (FOAA) and rules established by the Town Council, and when possible the meetings should be held in the Council Chambers and be televised. A majority of the members appointed to the Committee shall constitute a quorum. A majority of concurring votes shall be necessary to constitute an action on any matter.

*Responsibilities.* The Finance Committee shall perform the following tasks and functions:

1. Encourage and participate in long-range financial planning.
2. Review the annual budget as recommended by the Town Manager and provide commentary to the Town Council.
3. Review monthly budget to actual statements as prepared by the Finance Department.
4. Review ordinances, official statements and other documents connected with the issuance of debt.

O:\Finance\Finance Committee\Policy\Finance Committee Policy - amended 102016 b.docx  
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4.5. Review and suggest updates to the Master Schedule of Revenues, Charges, Fees and Fines, Appendix B to the Municipal Code of Ordinances.

5.6. Review the Town's risk management activities and insurance coverage.

6.7. Review, as requested by the Town Manager, bid specifications and requests for proposals for the purchase of goods or services.

7.8. In consultation with the Town's administration, assist or prepare policies and/or procedures relating to the financial affairs of the Town.

8.9. The Finance Committee shall assume the duties of the Capital Improvement Plan Committee.

9.10. \_\_\_\_\_ The Finance Committee shall assume the duties of the Audit Committee.

10.11. \_\_\_\_\_ Review and report on the Town's investments.

11.12. \_\_\_\_\_ Receive and review the reports and recommendations of the Town's Trust Fund Advisory Committee.

12.13. \_\_\_\_\_ Perform such other tasks and functions as may be delegated to it by the Town Council from time to time.

The Finance Committee may adopt rules of procedure, consistent with this policy, to enable it to perform its functions.

*Conflict of Interest.* Members of the Finance Committee shall adhere to the conflict of interest policy which was established by the Town Council in its Rules and Procedures.

*Administration.* The Finance Director shall be responsible to provide for the administration of the affairs of the Finance Committee, including preparing agendas and minutes, posting public hearings, handling correspondence, and maintaining all official records.

Proposed to Town Council: July 21, 2014

Adopted by Town Council: August 4, 2014

Amended by Town Council: February 16, 2016

Amendments proposed by Finance Committee: October 20, 2016

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ITEM 125

BACK UP MATERIALS

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**MEMORANDUM**

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**TO:** Town Council  
**FROM:** Appointments Committee  
**SUBJECT:** Report for November 7th Appointments  
**DATE:** 10/28/2016

---

The Appointments Committee is making the following unanimous recommendations:

**Recycling and Sustainability Committee:**

Jennifer Hicks – appointment for balance of a three-year term to expire on 01/01/2019  
Deborah Atwood – appointment for balance of a three-year term to expire on 01/01/2017

**Zoning Board of Appeals:**

Jessica Braun –reappointment as a full member for a three-year term to expire to 11/20/2019  
Nicholas Livesay –reappointment as a full member for a three-year term to expire to 11/20/2019

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only
9/27/16 Date App. Received
Date App. Entered
Appointed

Full Name: Deborah Ruth Atwood Date 9-25-16

Street Address: 15 Dunlap St #1 Home Phone # 504-1918

Cell/mobile Phone #: 504-1918 E-mail Address: debsway1@comcast.net live in Council Dist. #: \_\_\_\_\_

I wish to be considered for appointment to the:

Recycling & Sustainability Committee

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS:

TERM BEGINS: \_\_\_\_\_

and/or

ASSOC/ALT MEMBERSHIP STATUS: \_\_\_\_\_

TERM EXPIRES: \_\_\_\_\_

Do you or any relative currently serve on any Town Board/Commission/Committee? no If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

# of Years \_\_\_\_\_

Date term exp. \_\_\_\_\_

Relationship \_\_\_\_\_

Your occupation:

Nonprofit Manager

Employer: ME Assoc of Nonprofits

Work Telephone #: 781-1885

List any civic organizations to which you belong:

Cumberland County Master Gardeners, MOFGA, Resilience Hub

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Town Council, 2009-2011 RTS Committee 2010-2011

Have you previously served on a Town board/commission/committee? Y If so, please list the board/commission/committee and years of service:

2009-2011 Town Council, RTS Committee & various other committees

Brunswick Downtown Assoc, Chamber

Deborah Atwood

SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT - PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Recycling & Sustainability Comm Htee

Term Length: 1 term

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

NO

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

Yes - Town Council 2009-2011 ; R+S Committee 2010-2011

3. Why would you like to be on the Board/Commission/Committee?

I care deeply about Brunswick and ensuring sustainable policy decisions and programs is an important step.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

NO

6. Do you have anything you would like to add?

I'm eager to get back to work in service to the community.

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

Rec'd 10/24/16  
Entered 11

**Julie Erdman**

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**From:** Jessica Braun <jessicaabraun@gmail.com>  
**Sent:** Monday, October 24, 2016 12:50 PM  
**To:** Julie Erdman  
**Subject:** Fwd: New submission from Board Application  
**Attachments:** Braun Resume Fall 2016.pdf

Hi Julie,

I am having a hard time with pdf you supplied me. It was no cooperating and not sufficient room to include my information.

Below is my google form application I previously submitted with the appropriate changes made. I have attached my current resume.

Jessica

**Full Name**

Jessica Braun

**Street Address**

16 Coombs Road

**Home phone #**

207-577-5710

**Cell/mobile phone**

207-577-5710

**email address**

jessica.a.braun@gmail.com

**Committee/Board you are applying for**

ZBA

**Type of Memberships**

Full membership

**Do you or any relative currently serve on any Town Board/Committee/Commission**

- ZBA

**What Board/Commission/Committee, the number of years of service, and the relationship to this applicant**

ZBA - 1 year, self

**Your occupation (include employer and work phone #)**

non-profit administrator

**List any civic organizations to which you belong**

None

**Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission**

Juris Doctor, Admitted to the Maine Bar October 2009 - inactive  
Certificate in Non-Profit Management, Northeastern University, May 2015  
Peer Reviewer, Maine Commission for Community Service, May 2015

**Have you previously served on a Town board/commission/committee? If so, please list the board/commission/committee and years of service:**

Personnel Committee

**1. Do you have any questions about what the Board/Commission/Committee does or on its charge?**

No

**2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?**

Juris Doctor, Admitted to the Maine Bar October 2009 - inactive  
Certificate in Non-Profit Management, Northeastern University, May 2015  
Peer Reviewer, Maine Commission for Community Service, May 2015

**3. Why would you like to be on the Board/Commission/Committee?**

I look forward to continuing my contribution to the town of Brunswick

**4. Are you aware of the time involved and would you be able to attend most of the meetings?**

Yes. I have a flexible schedule and would be able to make the commitment needed.

**5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?**

No.

**If you wish to upload your resume, you can do so here**

- Attached

# Jessica A. Braun

16 Coombs Road Brunswick, ME 04011  
(207) 577 – 5710 [jessica,a.braun@gmail.com](mailto:jessica,a.braun@gmail.com)

## EDUCATION

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**Certificate in Nonprofit Management**, Northeastern University May 2015

- Balanced course load focusing on governance, fundraising through development, grant writing and leadership skills impacting a modern not for profit organization with both theoretical and practical applications

**Juris Doctor**, University of Maine School of Law, Portland, Maine May 2009

- Juvenile Justice Clinic, Fall 2008
- Prisoners Assistance Clinic, Academic Year 2008 – 2009
- Summer Program, Nairobi International Law Institute, Nairobi, Kenya, 2007

**Bachelor of Arts, Environmental Studies**, Mount Holyoke College, South Hadley, Massachusetts May 2006

- Junior Year Abroad, School for Field Studies Center for Wildlife Management Studies, Kimana, Kenya

## WORK EXPERIENCE

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**Acting Executive Director**, ArtVan, Bath, Maine June 2016 – August 2016

- Lead overall fundraising efforts including events, annual appeals, developing the donor base
- Act as primary grant writer and grant budget creator
- Work closely with the Board to develop goals, predict outcomes, and share progress as well as assist in strategic planning, Annual Meeting or Board Development upon request.
- Manage all organizational financials, policies and technology including a \$250,000 budget
- Manage Human Resources

**Curtis Memorial Library**, Brunswick, Maine June 2014 – June 2016

**Making it Work in Maine: You Can Do It! We Can Help.**

Sponsored by a grant from FINRA (Financial Industry Regulatory Association) and the ALA (American Library Association)

**Financial Literacy Grant Manager** (July 2015 – June 2016)

Leading community financial literacy programs helping low to moderate income individuals and families develop strategies and skills in order to increase financial health.

- Develop and manage library marketing materials to ensure that target audiences are aware of program opportunities
- Coordinate with community partner sites to determine their needs, ways in which grant programming can assist and develop specific programs aimed at partner clients
- Ensure effective delivery of practical, easy-to-implement education tools, online as well as classroom
- Deliver post-program assessment to ensure continuous improvement and effectiveness of the program
- Manage a \$92,000 budget
- Complete extensive grant evaluations and reporting

**Volunteer Coordinator** (June 2014 – June 2016)

- Coordinate volunteer activity in the library including recruitment, training, scheduling and recognition.
- Collaborate with library constituencies to identify and create volunteer opportunities in line with the overall goals and policies of the library
- Developed comprehensive Volunteer Handbook
- Maintain dynamic website content

**Administrative Assistant** Bates College, Lewiston, Maine

Jan 2013 – May 2014

- Completed a daily publication of current and upcoming events and distributed 110 paper copies and created an electronic version, distributed via a list serve.
- Conducted systematic updates of office processes, including van reservations and event sign ups, to take advantage of electronic resources.

**Campus Events Scheduling Coordinator**, Bates College, Lewiston, Maine Dec 2011 – Dec 2012

- Performed all tasks related to scheduling of events in over 100 spaces on campus using the R25 system. Compiled and disseminated weekly space usage reports
- Collaborated with Facilities Services, Dining and other campus department to ensure successful execution of events

**Attorney**, Conley & Wirick, P.A., Bath, Maine Oct 2010 – March 2011

- Carried a full caseload of family and criminal cases; completed research tasks as required by superiors.
- Represented clients in various judicial proceedings.

**ADDITIONAL INFORMATION**

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**BAR MEMBERSHIP**

State of Maine (Inactive)

**APPOINTMENTS**

**Zoning Board of Appeals**, Brunswick Town Council

July 2016 - Present

**Personnel Board**, Brunswick Town Council

June 2015 – July 2016

- Alternate

**Board of Directors**, Huber Family Services

June 2010 – Present

- Chair of Nominating and Evaluation Committee

**VOLUNTEER EXPERIENCE**

**Peer Reviewer, Maine Commission for Community Service**, Augusta, Maine

May 2015

- Review AmeriCorp State grant proposals in order to analyze the quality of each application and rate them based on published criteria

**Alumna Admission Representative, Mount Holyoke College**, South Hadley, Massachusetts

Oct 2013 – Present

- Served as Central Maine admission representative on behalf of Mount Holyoke
- Built relationship with interested students, alumnae, Admission volunteers and Admission staff
- Conducted interviews and attend high school college fairs on behalf of Mount Holyoke
- Managed regional Admission Volunteers

**President of the Mount Holyoke Club of Maine, Alumnae Association of Mount Holyoke College**

July 2014 – Present

**Handler / Dog Volunteer Team, Therapy Dog, Inc.**

Dec. 2013 - Present

**Town of Brunswick**  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only	
01/21/16	Date App.
	Received
	Date App:
	Entered
	Appointed

Full Name: Jennifer Hicks Date 10/10/16

Street Address: 26 Magean St. Home Phone # 406-4967

Cell/mobile Phone #: 844-0348 E-mail Address: jhicks72@yahoo.com I live in Council Dist. #: \_\_\_\_\_

I wish to be considered for appointment to the:  
**Recycling and Sustainability Committee**

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:  
FULL MEMBERSHIP STATUS: \_\_\_\_\_ TERM BEGINS: Now  
and/or  
ASSOC/ALT MEMBERSHIP STATUS: \_\_\_\_\_ TERM EXPIRES: 1/1/17

Do you or any relative currently serve on any Town Board/Commission/Committee? No If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

# of Years \_\_\_\_\_ Date term exp. \_\_\_\_\_ Relationship \_\_\_\_\_

Your occupation:

Employer: Pemaquid Watershed Association Work Telephone #: 563-2196

List any civic organizations to which you belong:

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Served on Recreation Committee for Town of Chestertown, MD, have worked for environmental organizations for 20 years, served on non profit board of directors

Have you previously served on a Town board/commission/committee? \_\_\_\_\_ If so, please list the board/commission/committee and years of service:

  
SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

**PLEASE NOTE: This completion of this application allows a person to be considered for a Town**

APPLICANT - PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Recycling and Sustainability

Term Length: Balance of 3 years

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

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2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

I am the Executive Director of Pemaquid Watershed Association, served on the Recreation Committee for Town of Chestertown, MD, worked for or consulted with environmental groups for 20 years, have a Masters in Environmental Studies

3. Why would you like to be on the Board/Commission/Committee?

Being on this committee will provide an opportunity to connect with like-minded members in the community and be involved in town improvement. I am a new resident and have knowledge and experience to offer and I am interested in learning about the town and how it approaches community recycling and sustainability.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes - I can attend most meetings and willing to contribute toward this effort.

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No

6. Do you have anything you would like to add?

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PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only	
01/16	Date App.
	Received
	Date App.
	Entered
	Appointed

Full Name: Nick Livesay Date 10/3/16

Street Address: 212 Middle Bay Rd. Home Phone # \_\_\_\_\_

Cell/mobile Phone #: 841-3444 E-mail Address: nichlivesay@gmail.com I live in Council Dist. #: 2

I wish to be considered for appointment to the:

Zoning Board of Appeals  
(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:  
FULL MEMBERSHIP STATUS:  TERM BEGINS: 11/21/16  
and/or  
ASSOC/ALT MEMBERSHIP STATUS:  TERM EXPIRES: 11/20/19

Do you or any relative currently serve on any Town Board/Commission/Committee? yes If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

<u>Nick Livesay</u>	<u>4</u>	<u>11/20/16</u>	<u>self</u>
<u>Chris Livesay</u>	<u>2</u>	<u>?</u>	<u>Father</u>

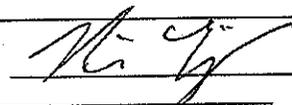
Your occupation:  
Director, Land Use Planning Commission

Employer: State of Maine Work Telephone #: 287-2622

List any civic organizations to which you belong:  
\_\_\_\_\_  
\_\_\_\_\_

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:  
For over a decade, a large portion of my professional career, both as a land use attorney and at the LUPC, has involved working on planning and zoning matters. I am familiar with zoning boards and the issues they face.

Have you previously served on a Town board/commission/committee? yes If so, please list the board/commission/committee and years of service:  
I have served on the ZBA since 2012.

  
SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

APPLICANT - PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Zoning Board of Appeals

Term Length: 3 years

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

No

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

Yes. Currently, I work for the Land Use Planning Commission. We are responsible for planning and zoning, and much of the permitting, in the unorganized and deorganized areas of Maine - roughly half the state. The LUPE effectively serves as the planning board and zoning board for the areas in Maine without municipal government.

3. Why would you like to be on the Board/Commission/Committee?

I have enjoyed my experience to date and believe serving on the ZBA allows me to contribute to the Town while drawing on my professional experience.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No

6. Do you have anything you would like to add?

I appreciate your consideration.

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

212 Middle Bay Road  
Brunswick, ME 04011

October 3, 2016

***Via E-mail Only***

Appointments Subcommittee  
c/o Fran Smith, Clerk  
Town of Brunswick  
85 Union Street  
Brunswick, ME 04011

Dear Appointments Subcommittee Members:

I am writing to express my interest in continuing to serve as a member of the Zoning Board of Appeals.

Since 2012 I have served as either an associate or full member of the ZBA. I have enjoyed this experience. Both through my current involvement with the ZBA and my professional experience, previously as a land use attorney and presently as Director of the Maine Land Use Planning Commission, I am familiar with the role a zoning board plays in administering a town's ordinances and am comfortable reviewing variance requests and special exception applications, as well as hearing appeals of planning board decisions. I also understand a zoning board's legal obligations when carrying out its charge.

Apart from my professional background, I care about our Town and believe serving on the ZBA is one way I can contribute to the community.

Thank your for your consideration.

Sincerely,

/s/ Nicholas D. Livesay

# Nicholas D. Livesay

212 Middle Bay Road  
Brunswick, ME 04011

(207) 841-3444  
nicklivesay@gmail.com

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## EXPERIENCE

### **Land Use Planning Commission**

*Director*

**Augusta, ME**

August 2012-present

- Oversee planning, zoning, and permitting in the unorganized and deorganized portions of Maine, a 10.4 million acre area covering approximately half the State.
- Provide recommendations to citizen board on policy matters and rulemakings.
- Manage 20 person staff working across six offices.
- Represent Commission before legislature.

### **Pierce Atwood LLP**

*Attorney*

**Portland, ME**

September 2004-August 2012

- Member of Environmental and Land Use Practice Group.

### *Land Use and Permitting*

- Represented corporations and individuals before federal, state, and municipal permitting bodies.
- Evaluated regulatory requirements and options for achieving project goals.
- Counseled clients seeking ordinance amendments.
- Teamed with consultants and technical experts to create applications that satisfy approval criteria.
- Negotiated with regulatory officials to resolve permitting issues.
- Prepared witnesses for and participated in administrative hearings.
- Represented permit holders and applicants in appeals to administrative boards and State courts.

### *Conservation*

- Drafted conservation easements to help clients achieve environmental and business goals.
- Advised clients on compliance with federal and State species protection statutes.
- Provided counsel to members of the forest products industry serving on State Implementing Committee of the Sustainable Forest Initiative in Maine.

### *Environmental Due Diligence*

- Evaluated compliance of existing commercial facilities and residential properties with environmental laws and regulations and land use ordinances.
- Identified sources and scope of potential environmental liability for buyers and sellers in corporate transactions.
- Assisted with development of risk minimization strategies.

### **Department of Environmental Protection**

*Environmental Specialist II*

**Tallahassee, FL**

May 2000-April 2001

- Staffed Energy 2020 Commission; assessed alternatives for restructuring the State's electricity industry; evaluated environmental impacts of opening Florida's electricity markets to wholesale competition; addressed Commission at public meeting.
- Analyzed law governing water allocation; explored possibility of establishing water markets and using economic incentives to more efficiently distribute Florida's water supplies.

**Industrial Economics, Inc.**  
*Research Analyst*

**Cambridge, MA**  
August 1998-April 2000

- Worked in natural resource damage assessment and policy analysis practice areas.
- Supported U.S. Environmental Protection Agency; assessed prospective costs and benefits of U.S. Clean Air Act Amendments; developed regulatory impact analysis training materials for Eastern European officials; designed computer model to help Polish community leaders compare alternative air pollution control policies.
- Assisted U.S. Department of Justice attorneys; critiqued reports prepared by expert witnesses; helped prepare witnesses for deposition.

### **EDUCATION**

**Boston University School of Law**  
J.D., May 2004

**Boston, MA**

- Member of Public Interest Law Journal.

**Bowdoin College**  
A.B., *magna cum laude*, May 1998

**Brunswick, ME**

- Coordinate major in government and environmental studies; minor in economics.
- High Honors in environmental studies: conducted year-long research project on problem of ground-level ozone transport in the Northeast and potential policy solutions.
- Varsity soccer, every year.

**University of Sussex**  
Semester abroad, January-May 1997

**Brighton, England**

- Studied global environmental policy and legal philosophies.

### **INTERESTS**

Skiing, Hiking, Biking, Fishing, Boating, and Woodworking