

TOWN COUNCIL MINUTES

MAY 19, 2008

The regularly scheduled meeting of the Hampden Town Council was held on Monday, May 19, 2008. The meeting was held at the municipal building council chambers and was called to order by Mayor Briggs at 7:03 p.m.

Attendance: Councilors: Mayor Rick Briggs, Thomas Brann, Matthew Arnett, Andrew Colford, Andre Cushing, Shannon Cox and Edward Murphy

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Public Safety Director Joe Rogers, GIS/IT Specialist Gretchen Heldmann

A. CONSENT AGENDA

There were no Treasurer's Warrants for approval of the Finance Committee. Councilor Cushing requested that Item A.2.a. be set aside. Motion by Councilor Brann, seconded by Councilor Cushing to accept the balance of the Consent Agenda – unanimous vote in favor.

A.2.a. SECRETARY'S REPORT – APRIL 22, 2008

Councilor Cushing pointed out that there is an error in a motion to excuse Councilor Colford – the motion was seconded by Councilor Cushing, not Councilor Colford. The minutes will be amended to reflect the correction. Motion by Councilor Cushing, seconded by Councilor Brann to accept Item A.2.a. – unanimous vote in favor.

B. PUBLIC COMMENTS

Jim Feverston of the Tree Board reported that he, Mayor Briggs and Town Planner Bob Osborne represented the Town of Hampden at the Hall of Flags at the State House in Augusta and received formal Tree City USA status. He presented a plaque and Tree City USA flag to the Council. The Town also received a crab apple tree which will be planted outside the municipal building in addition to 100 spruce seedlings to be distributed throughout the community.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. APPLICATION FOR RENEWAL OF A VICTUALER'S LICENSE RECEIVED FROM WARREN CARUSO, d/b/a DANA'S GRILL AT DOCKSIDE, 100 MARINA ROAD

Mayor Briggs explained the procedure for the public hearing and then opened the hearing.

Proponents – None; Opponents – None; General Questions or Comments – None. The hearing was closed.

Motion by Councilor Brann, seconded by Councilor Arnett to approve the application – unanimous vote in favor.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

- a. WESTERN AVENUE – DOT SPEED ZONE REVIEW RESULTS

Public Safety Director Joe Rogers reported that the Department of Transportation has completed its engineering speed zone analysis of Western Avenue from the Newburgh line to Route 202. Based on the analysis, the area that prompted the study (from Town Farm Road into town) remained the same, but a portion of the 35 mph zone was increased to 40 mph.

Manager Lessard also informed the Council that Public Works Director Chip Swan and the State DOT are meeting with the property owners at the corner of Canaan Road and Western Avenue and the existing shrubs will be coming down and different plantings will be going in. She said the Town will be providing assistance in removing the shrubs.

- b. SCHOOL/TOWN – MEMORANDUM OF UNDERSTANDING Re: ROUTE 9 ACCESS

Manager Lessard reported that the agreement is now in the hands of the School. She spoke with Superintendent Richard Lyons last week and he indicated that he and Assistant Superintendent Emil Genest have had a chance to discuss its contents with the Department of Education who were very pleased with the agreement. It will be reviewed by the School Board on Wednesday, after which it will come back to the Town for ratification.

- c. POLICE & FIRE CONTRACTS – FINANCE COMMITTEE RECOMMENDATION

Finance Committee Chair Brann reported that the Finance Committee discussed the proposed contract and is unanimously recommending approval of the contract.



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
EASTERN REGION OFFICE
219 HOGAN ROAD
P.O. BOX 1208
BANGOR, MAINE
04402-1208

David A. Cole
COMMISSIONER

May 8, 2008

C-3-A

Susan Lessard, Town Manager
Town of Hampden
106 Western Avenue
Hampden, Maine 04444

RE: Western Avenue – Speed Zone Review

Dear Chief Wycoff:

Based on engineering speed zone analyses, the following determinations were made and have been accepted into the Commission Record.

The following speed limits are official:

State Route 9/ 202, Western Avenue:

45 MPH Starting at a point 0.54 miles northeast of the junction of Route 9/ Route 202/ Lindsey Road in Newburgh and extending northeasterly to a point 0.23 miles west of the junction of Route 9/ Route 202/ Mayo Road, a total distance of 6.68 miles.

40 MPH Starting at a point 0.23 miles west of the junction of Route 9/ Route 202/ Mayo Road and extending easterly to a point 0.34 miles west of the junction of Route 9/ Route 202, a total distance of 0.67 miles.

35 MPH Starting at a point 0.34 miles west of the junction of Route 9/ Route 202 and extending easterly to the junction of Route 9 and Route 202 in Hampden, a total distance of 0.34 miles.

Note: The intersection sign for the Town Farm Road will be located to the west of the road. A sign to the east would be excessive signing as the road is clearly seen when traveling west.

During this review the sight distance for the Town Farm Road was checked. Looking to the west from the Town Farm Road, sight distance meets a 50 MPH speed limit criteria. The grass on the inslope and in the ditch could be mowed at the towns discretion to further improve the visibility of the Farm Road. The grass mowing would be done by the town, if Hampden would so choose.

The Residents on Town Farm Road have recognized the importance of enforcement of the posted speed limit. I would also encourage the enforcement of the 45 MPH speed limit through this section of Western Avenue as speed limits are most effective when enforced by State and local Law Enforcement.

Western Avenue, Route 9/ 202, is a State Road and the signage will be adjusted by the Department of Transportation as soon as the work can be scheduled.

Please call me at 941-4505 if you have any questions concerning this letter or the findings that I have expressed.

Sincerely:

A handwritten signature in cursive script that reads "Andrew Allen".

Andrew Allen, Assistant Engineer
Eastern Region Traffic Department

Motion by Councilor Brann, seconded by Councilor Colford to direct the Town Manager to sign the Police and Fire Contract as submitted.

Councilor Arnett had some questions about several language changes in the agreement so Councilor Cushing moved to table the vote until after the Council's break. Councilor Murphy seconded the motion – Councilors Colford and Arnett opposed; all others in favor – motion carried.

Following the break, vote on the original motion was unanimously in favor.

4. NEW BUSINESS

a. COMMERCIAL SERVICE DISTRICT – USE & DIMENSIONAL REQUIREMENTS – REFERRAL TO ORDINANCE COMMITTEE

Motion by Councilor Brann, seconded by Councilor Cox to refer this item to the Ordinance Committee – unanimous vote in favor. Councilor Brann moved to refer this to the Planning Board simultaneously; Councilor Colford seconded the motion and vote was unanimously in favor.

b. LEGISLATIVE POLICY COMMITTEE NOMINATIONS - MMA

Manager Lessard explained that the Maine Municipal Association is seeking nominees to serve on the Legislative Policy Committee. There were no nominations made by the Council at this time.

c. MMA EXECUTIVE COMMITTEE – REQUEST FOR CANDIDATES

This was a request for candidates to serve on the Maine Municipal Executive Committee. The Council had no nominations at this time.

5. BUDGET

a. GIS/IT

Manager Lessard noted that this budget includes laptop computers for the Town Council, and because this position will now be full-time, it includes health insurance but there needs to be a line-item for Retirement in the amount of \$3,696.00 which would increase the proposed total to \$118,632.00. No changes were made to the revised total budget.

b. COMMUNICATIONS

No change was made to the proposed total amount of \$35,614.00.

c. TOWN COUNCIL

No change was made to the proposed total amount of \$36,525.00. There was also discussion about the need for establishing some guidelines for



C-4-a

TO: Mayor Briggs and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Uses and Dimensional Requirements in the Commercial Service District.
DATE: May 7, 2008

As you are aware the City of Bangor has given developer status to Hodgdon Yachts for their proposed project next to Hamlin Marine. Looking ahead to a future development proposal there are two zoning issues that must be addressed in order for this project to be approved by the Planning Board. The Commercial Service District standards limit the overall size of industrial uses (manufacturer of boats) to a size inadequate for the developer/manufacturer. The Commercial Service District also limits the height of buildings to 35 feet where as much as 90 feet will be proposed.

My recommendation would be to address both issues creating a use category of water dependent uses and to size buildings to what are realistic for such uses. This could reasonably accommodate both the present circumstance and future ones as they present themselves.

5/19/08 - Referred to Ordinance Committee
- Referred to Planning Board

**TOWN OF HAMPDEN
Draft**

The Town of Hampden Hereby Ordains
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

3.3. Commercial Service District

3.3.1. Purpose - This district is intended for the location of heavy commercial uses, wholesale uses, office buildings, automotive type of uses such as sales and service, convenience stores and commercial service type of uses. In general this area is devoted to service or wholesale uses.

3.3.2. Permitted Uses (Subject to Site Plan Review) - Any retail or service business, hotel and motels, business or professional offices, take-out restaurant, small restaurant, sit-down restaurant, automobile service, place of assembly, outdoor recreation and accessory uses or structures. Essential service and buildings for essential service, single family dwellings in existence on the date of this amendment. (Amended 12-6-04)

3.3.3. Conditional Uses (Subject to Site Plan Review) - Fast-food restaurant, outdoor dining restaurant, tavern, bar, dance hall, commercial school, drive-thru business, wholesale distribution, truck terminal, light industrial operations (but not including excavation, gravel pit and quarry activities) which do not exceed 10,000 square feet, such as warehousing assembly or fabrication. Water dependent uses adjacent to the Penobscot River. Any establishment which provides in excess of 5,000 square feet of outdoor display or storage of goods or equipment. Stockpiles (subject to *Article 4.9*) not accessory to excavation, gravel pit and quarry activities. (Amended 4-7-03, 12-6-04, 12-17-07)

3.3.4. Lot Dimensions

Minimum Lot Area	-	20,000 sq. ft.
Minimum Road Frontage	-	100 feet
Minimum Setbacks:		
Street Yard	-	40 feet
Other Yards	-	30 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

3.3.5. Special District Regulations

1. Where a commercial or industrial use abuts any residential use or residential district, the other yard setback shall be double where it abuts the residential property.
2. Notwithstanding the above height regulations structures not intended to be occupied may be constructed up to 50 feet in height when treated as a conditional use. Water dependent uses may also exceed the maximum building height standard and may be constructed up to 90 feet in height when treated as a conditional use.

3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding. (*Amended 8-17-92, 10-4-93*)
4. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 feet and no part of the vehicle queue shall be located within 100 feet of a residential structure. (*Amended 12-6-04*)
5. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. (*Amended 12-6-04*)
6. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. *Title 28-A*. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. *Title 28-A: LIQUORS §1051. Licenses generally* which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. (*Amended 12-6-04*)

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**ARTICLE 7
DEFINITIONS**

7.1. Construction Language - In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

7.2. Definitions - In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Water Dependent Use: Referring to uses or portions of a use that cannot exist in other locations and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

prioritizing requests for funding from outside organizations. This will be referred to the Finance Committee.

D. COMMITTEE REPORTS

Councilor Colford reported that the Appointments Committee met earlier with two applicants for Town Committees and will be making a recommendation at the next regular Council meeting.

Councilor Arnett reported that the Communications Committee will be meeting on Wednesday and will consider continued involvement in the Penobscot Cable Consortium and will work on the July newsletter.

Councilor Brann reported that the Comprehensive Planning Committee will not be meeting tomorrow.

Councilor Cushing reported that the Committee on Committees will be meeting Thursday at noon.

Councilor Cox reported that the Community Services Committee will meet tomorrow at 7:00 pm and will discuss Friends of Dorothea Dix Park.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

F. COUNCILOR'S COMMENTS

Councilor Murphy noted that there seems to be an increase in the number of daytime committee meetings and urged the Council to review the established committee schedule and adhere to that schedule.

Councilor Cox commented that she was happy to participate in the forum on underage drinking last week and said it was a terrific start for the community. She felt it was a great shared effort among the School Administration team and the Town.

Councilor Cushing recalled the Council's challenge to Bangor, Brewer and Veazie regarding participation in the Hike for the Homeless and reported that he delivered the purple t-shirts to the Bangor City Council who was very generous in wearing them. He looks forward to delivering shirts to Brewer and Veazie as well. He also commented that there are several stop signs throughout Town that have deteriorated and hoped that they could be fit in the maintenance schedule for replacement. Councilor Cushing also informed the Council that he would like to investigate the possibility of working with the Hampden Business Association or some other group in providing signage for the various civic groups in Hampden.

MANAGER'S REPORT
May 19, 2008

Flag Project - The American Flags were put up last week. We have identified several that are getting caught either on the lines or in branches and those will be corrected. We have had many people who come into the office comment on how much they like them.

Public Safety Awards Banquet - A reminder that the award dinner is Tuesday, May 20th at the Community Room at 6 p.m.

Program Regarding Underage Drinking - The program to discuss underage drinking was held on Thursday the 15th at the Reed's Brook School. Although attendance could have been better - it was a very good program. Thanks to Councilors Cushing, Cox, Brann and Mayor Briggs for attending - and to Corporal Chris Bailey of the Police Department for organizing the event. We will be following up with implementation of some of the strategies discussed at the meeting and will be holding another meeting in the Fall to continue this important work.

Patterson Street Sewer - The case regarding the Patterson Street sewer accident has been adjudicated. We were granted summary judgment in the case in 2007 and it was appealed. That appeal was upheld by the Law Court in a decision rendered on May 15, 2008. A copy of the judgment is attached to this report. The Town and its insurance company tried very hard to do the right thing in this case but there was little in response to that. In 2004 when the accident occurred, the insurance company paid more than \$40,000 to the property owner as the estimate received to repair the damages. What they have done with those funds is not clear, but it appears that nothing has been done to the home.

School Disposition Information - Councilor Arnett had asked that our Town Attorney research what the legal options were for the closing/disposition of school property. Attached to this report is a memo from Tom Russell that outlines those options. The Building Committee of SAD #22 is forming a subcommittee for the purpose of looking at re-use options for the site.

Transfer Station Changes - We have had a lot of positive feedback from the changes at the transfer station in regard to checking stickers at the gate. There have been some who prefer the 'old days' but for the most part the reaction is supportive. We did have a letter from a resident who is unhappy that we no longer allow 'picking' from the construction and demolition and wood and metal piles. This has been a problem for a number of reasons, including people hanging around and bothering people as they were trying to unload vehicles but primarily because of our insurance liability for injuries. I have attached a copy of that letter to this report. Items with a useful life can be left in the Swap

Shop for people to take; however, 'picking' the piles represents a large insurance liability if someone is injured. I spoke with our insurance carrier this past week about this issue and they indicated that we should not have been allowing people to 'pick' the metal and wood and demo piles before this from an insurance liability standpoint. Although I can empathize with those who wish to creatively repair or reconstruct by pulling things from the waste areas, it really is a bad idea. We can encourage people to be more liberal with what is left at the Swap Shop, but we have to be careful with that because we end up throwing away items that are left at the shop that are broken or unusable.

Eastern Maine Community College - The College is hosting a discussion on workforce development in the region on Friday, May 23rd from 11:30 a.m. to 1 p.m. at Rangely Hall. We have been invited to attend and participate in this discussion.

Tree City USA - Mayor Briggs, Town Planner Bob Osborne, and Tree Board member Jim Feverston attended the ceremony at the capital on Monday, May 19th for recognition of the Town receiving its 'Tree City USA' designation along with the other communities in the State who qualified.

Letter Regarding Hampden Highlights Article - I have attached a copy of an email that I received from a taxpayer who was upset with an article in the Hampden Highlights newsletter. She did me the courtesy of calling the office as well, and I explained that the Council and the School seemed to be working pretty well together over the current Memorandum of Understanding regarding the new school and that there had been discussion of a meeting with the school board and the Town Council as well. Her concern was that the tone of the article.

Councilor Brann said he was disappointed in the attendance at the underage drinking forum and hoped that there would be additional meetings before fall. He feels the community needs to be more proactive and not wait until fall for the next meeting.

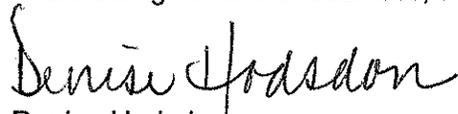
Councilor Arnett complimented those who worked on the effort to get Hampden established as a Tree City USA and he encouraged folks to get involved in Friends of Dorothea Dix Park.

Councilor Colford noted that the Hampden Business Association's annual dinner was very well attended and congratulated them on doing a great job.

Mayor Briggs wished everyone a Happy Arbor Day.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:38 p.m.



Denise Hodsdon
Town Clerk