

TOWN COUNCIL MINUTES

July 6, 2009

The regularly scheduled meeting of the Hampden Town Council was held on Monday, July 6, 2009. The meeting was held at the municipal building council chambers and was called to order by Mayor Arnett at 7:00 p.m.

Attendance: Councilors: Mayor Matthew Arnett, Shannon Cox, Thomas Brann, Andre Cushing, William Shakespeare, Jean Lawlis, and Janet Hughes

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Public Works Director Galen Swan and Town Planner Bob Osborne

Tree Board Chair Jim Feverston

A. CONSENT AGENDA

Treasurer's Warrants were reviewed and signed by the Finance Committee at its meeting earlier in the evening. Motion by Councilor Cushing, seconded by Councilor Cox to accept the balance of the Consent Agenda – unanimous vote in favor.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. POST-CONSTRUCTION STORMWATER MANAGEMENT ORDINANCE – AMENDED LANGUAGE

Town Planner Bob Osborne explained that at the last Council meeting, the proposed ordinance was referred back to the Planning & Development Committee to discuss several issues of concern raised by Councilor Hughes. This is an amended version which amends the definition of "Disturbed Area" to be consistent with State definitions; requires an engineer to sign off on inspections until such time the DEP designs and implements a satisfactory program of inspection training and qualification; and amends the applicable area to include only the defined urban area and not the rural areas of the community. The Committee also voted to send the issue of fee determination to the Finance Committee. Bob reported that the Planning & Development Committee has returned an "ought-to-pass" recommendation.

Mayor Arnett 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 Cushing, seconded by Councilor Brann to adopt the Post-Construction Stormwater Management Ordinance as amended – unanimous vote in favor.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

a. PROJECT CANOPY – REQUEST BY TREE BOARD CHAIR

Tree Board Chair Jim Feverston expressed a personal thank you to the Council for its support and participation in this project. He noted that there were approximately 30 volunteers who gathered at the Western Avenue recreation area on June 27th and planted about 45 trees and shrubs. He recognized the efforts of the following volunteers and groups: the grant-writing team led by Shelby Wright; Volunteer Coordinator Jane Jarvi, Nancy Chaiyabhat, Hampden Garden Club, Hampden Kiwanis, Girl Scouts, Boy Scouts and numerous family members and Councilors. He also thanked the following community business partners: John Austin and Portland Air Freight, Mike Smith and Greenway Equipment, New England Organics, Edwards Shop & Save, and Hampden Recreation Director Kurt Mathies and GIS/IT Specialist Gretchen Heldmann. He thanked fellow Tree Board members Phil Stack, Chris Packard, Lance Case and Shelby Wright. Jim hoped that everyone would view the trees as a great addition to the community and noted that this type of community involvement is what makes Hampden one of the premier areas to live in Maine.

Councilor Cushing and Mayor Arnett thanked Jim and the entire Tree Board for coordinating a tremendous project, which is a huge asset to the Town.

b. COMMUNITY ROOM USE POLICY – FINANCE & SERVICES COMMITTEE RECOMMENDATIONS

Both the Finance Committee and Services Committee have reviewed the proposed policy and are recommending its adoption. Motion by Councilor Cox, seconded by Councilor Cushing to accept the Community Room Use Policy as written – unanimous vote in favor.

C-1-a



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Post-Construction Stormwater Management Ordinance
DATE: June 22, 2009

As you will recall on June 15, 2009 the Council returned this item to the Town Council Planning and Development Committee to work through some issues. That committee met on June 17, 2009 and discussed the questions raised primarily in Councilor Hughes memorandum. Staff provided written response prior to the meeting. Attached is an excerpt of the draft minutes from that meeting:

3. Old Business

a. Post Construction Storm Water Ordinance

CEO Ben Johnson presented a written response to the six issues of concern raised by Council Hughes at the June 15th Council Meeting. The following actions were taken by the Committee:

Definition of Disturbed Area: Committee voted to amend the definition of disturbed area to be consistent with State definitions.

Definition of Qualified Inspector: Committee voted to require an engineer to sign off on inspections until such time the DEP designs and implements a satisfactory program of inspection training and qualification.

Administrative/Engineering Fees: Committee voted to send the issue of fee determination to the Finance Committee. If it should be necessary to impose a fee prior to Finance Committee recommendation and subsequent Council approval, fees will be assessed based on actual costs associated with program implementation.

Applicability: Committee voted that Post Construction Stormwater Ordinance apply to defined urban area and not the rural areas of the community.

Final Action: Planning and Development Committee voted to direct staff to amend text as agreed and circulate to committee prior to forwarding to Council. Committee forwards recommendation to Council as "ought to pass".

At the time of this writing staff has had response from Councilor Hughes only.

The Town of Hampden Hereby Ordains that the following Ordinance be adopted:
Post-Construction Stormwater Management Ordinance

ADOPTED: Hampden Town Council,
Effective Date:

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

Post-Construction Stormwater Management Ordinance

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Adopted by Town Council: 7/6/2009

Section 1. Purpose.

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Hampden through review and approval of *Post-Construction Stormwater Management Plans* and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal *Clean Water Act*, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

Section 2. Objectives

This Ordinance seeks to meet the above purpose through the following objectives:

- A. Reduce the impact of post-construction *discharge of stormwater* on receiving waters; and
- B. Reduce *stormwater* runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of *Best Management Practices* as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules, and ensure that these management controls are properly maintained and pose no threat to public safety.

Section 3. Definitions. (Note: Defined terms appear in *italics* throughout this ordinance).

For the purposes of this Ordinance, the terms listed below are defined as follows:

A. Applicant. "*Applicant*" means a *Person* with requisite right, title or interest or an agent for such *Person* who has filed an application for *New Development* or *Redevelopment* that requires a *Post-Construction Stormwater Management Plan* under this Ordinance.

B. Best Management Practices (“BMP”). “*Best Management Practices*” or “*BMPs*” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMPs* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

C. Clean Water Act. “*Clean Water Act*” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “*Clean Water Act*”), and any subsequent amendments thereto.

D. Construction Activity. “*Construction Activity*” means work or activity undertaken on the *Premises* that results in one acre or more of *Disturbed Area*, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

E. Discharge. “*Discharge*” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of *Pollutants* to “waters of the State.” “*Direct discharge*” or “*point*

source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which *Pollutants* are or may be *discharged*.

F. Disturbed Area. “*Disturbed Area*” means all land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project.

“*Disturbed area*” does not include routine maintenance, but does include re-development and new impervious areas. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered routine maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “*disturbed area*”.

G. Enforcement Authority. “*Enforcement Authority*” means the Code Enforcement Officer and or the Public Works Director who are both authorized by the *Municipality* to administer and enforce this Ordinance.

H. Municipality. “*Municipality*” means the Town of Hampden.

I. Municipal Permitting Authority. “*Municipal Permitting Authority*” means the municipal official or body that has jurisdiction over the land use approval or permit required for a *New Development or Redevelopment*.

J. Municipal Separate Storm Sewer System, or MS4. “*Municipal Separate Storm Sewer System*” or “*MS4*,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any *municipality*, sewer or sewage district, fire district, State agency or Federal agency or other public entity that *discharges* directly to surface waters of the State.

K. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. “*National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit*” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the *discharge* of *pollutants* to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

L. New Development. “*New Development*” means any *Construction Activity* on unimproved *Premises*.

M. Person. “*Person*” means any individual, firm, corporation, *municipality*, quasi-municipal corporation, State agency or Federal agency or other legal entity.

N. Pollutant. “*Pollutant*” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological

materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

O. Post-Construction Stormwater Management Plan. “*Post-Construction Stormwater Management Plan*” means *BMPs and Stormwater Management Facilities* employed by a *New Development or Redevelopment* to meet the standards of this Ordinance and approved by the *Municipal Permitting Authority*.

P. Premises. “*Premises*” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the *Municipality* from which *Discharges* to the *Storm Drainage System* are or may be created, initiated, originated or maintained.

Q. Qualified Post-construction Stormwater Inspector. “*Qualified Post-construction Stormwater Inspector*” means a Professional Engineer who conducts post-construction *Stormwater Management Facilities* inspections for compensation and has a practical knowledge of *stormwater* hydrology and *stormwater* management techniques, including the maintenance requirements for *stormwater* management facilities, and the ability to determine if *stormwater management facilities* are performing as intended.

R. Redevelopment. “*Redevelopment*” means *Construction Activity* on *Premises* already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

S. Regulated Small MS4. “*Regulated Small MS4*” means any *Small MS4* regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an *Urbanized Area* (UA) and those additional *Small MS4s* located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated *Small MS4s*.

T. Small Municipal Separate Storm Sewer System, or Small MS4. “*Small Municipal Separate Storm Sewer System*”, or “*Small MS4*,” means any *MS4* that is not already covered by the Phase I *MS4* stormwater program including municipally owned or operated storm sewer systems and State or federally-owned systems, such as Maine Department of Transportation Maine Turnpike Authority road systems and facilities.

U. Storm Drainage System. “*Storm Drainage System*” means the *Municipality’s Regulated Small MS4*.

V. Stormwater. “*Stormwater*” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

W. Stormwater Management Facilities. “*Stormwater Management Facilities*” means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the *Post-Construction Stormwater Management Plan* for a *New Development or Redevelopment*.

X. Urbanized Area (“UA”). “*Urbanized Area*” or “*UA*” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Section 4. Applicability.

A. In General. This Ordinance shall apply to any application for a building permit, subdivision approval, site plan approval or other zoning, planning or land use approval that is filed on or after July 1, 2009 (or if filed before July 1, 2009, has not become a pending application within the meaning of 1 M.R.S.A. § 302) for any *New Development* or *Redevelopment* within the *Urbanized Area* that *Discharges Stormwater* to the *Municipality’s MS4* and to associated *Stormwater Management Facilities*, and to any *New Development* or *Redevelopment* that receives any such permits or approvals from the Town of Hampden on or after July 1, 2009.

B. Exception. This Ordinance does not apply to *New Development* or *Redevelopment* on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance; said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the *Post-Construction Stormwater Management Plan* requirements for that approved subdivision.

Section 5. Post-Construction Stormwater Management Plan Approval

A. General Requirement. Except as provided in **Section 4.B.** above, no *Applicant* for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for *New Development* or *Redevelopment* to which this Ordinance is applicable shall receive such permit or approval for that *New Development* or *Redevelopment* unless the *Municipal Permitting Authority* for that *New Development* or *Redevelopment* also determines that the *Applicant’s Post-Construction Stormwater Management Plan* for that *New Development* or *Redevelopment* meets the requirements of this Ordinance.

B. Performance Standards

1. **Stormwater Treatment Required.** The *Applicant* shall make adequate provision for the management of the quantity and quality of all *stormwater* generated by the *New Development* or *Redevelopment* through a *Post-Construction Stormwater Management Plan*. This *Post-Construction Stormwater Management Plan* shall be designed by a Professional Engineer to meet the standards contained in the Maine Department of Environmental Protection’s Chapters 500 and 502 Rules and shall comply with the practices described in the manual *Stormwater Management for Maine*, published by the Maine Department of Environmental Protection, January 2006, which hereby are incorporated by reference pursuant to **30-A M.R.S.A. § 3003**.

2. **Location of Facilities.** The *Applicant* may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the *Applicant* must submit to the *Municipality* documentation, approved as to legal sufficiency by the *Municipality’s* attorney, that the *Applicant* has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction *stormwater* management for the *New*

Development or Redevelopment and that the property will not be altered in a way that interferes with the off-site facilities.

3. **Maintenance Agreement Required.** Where the *Applicant* proposes to retain ownership of the *Stormwater Management Facilities* shown in its *Post-Construction Stormwater Management Plan*, the *Applicant* shall submit to the *Municipality* documentation, approved as to legal sufficiency by the *Municipality's* attorney that the *Applicant*, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the *stormwater management facilities*. Applications for *New Development* or *Redevelopment* requiring *Stormwater Management Facilities* that will not be dedicated to the *Municipality* shall enter into a Maintenance Agreement with the *Municipality*. A sample of this Maintenance Agreement is attached as Appendix 1 to this Ordinance.

4. **Easements and Dedications.** Whenever elements of the *Stormwater Management Facilities* are not within the right-of-way of a public street and the facilities will not be offered to the *Municipality* for acceptance as public facilities, the *Municipal Permitting Authority* may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the *Municipality's* attorney, shall be provided to the *Municipality* allowing access for maintenance, repair, replacement and improvement of the *Stormwater Management Facilities*. When an offer of dedication is required by the *Municipal Permitting Authority*, the *Applicant* shall be responsible for the maintenance of these *Stormwater Management Facilities* under this Ordinance until such time (if ever) as they are accepted by the *Municipality*.

5. **Conflict with State Laws or Rules.** In addition to any other applicable requirements of this Ordinance and the *Municipality's* land use ordinances, any *New Development* or *Redevelopment* which also requires a *stormwater* management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the *Applicant* shall document such compliance to the *Municipal Permitting Authority*. Where the standards or other provisions of such *stormwater* rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

6. **Engineering and administrative fees.** At the time of application, the *Applicant* shall pay to the *Municipality* the amount estimated by the Municipal Reviewing Authority to be sufficient to pay the engineering, legal review, and administrative costs incurred by the *Municipality* in review of the *Post-Construction Stormwater Management Plan*. The *Municipality* shall deduct from this amount the actual engineering, legal and administrative costs incurred by the *Municipality*. Any remaining engineering, legal and administrative review costs owed by the *Applicant* shall be paid in full by the *Applicant* prior to the issuance of any temporary or permanent certificate of compliance for the *New Development* or *Redevelopment*, and any unused balance remaining at that time shall be refunded to the *Applicant*.

In addition, any *persons* required to file an annual certification under Section 6 of this Ordinance shall pay, prior to the issuance of any temporary or permanent certificate of compliance for the *New Development* or *Redevelopment*, an amount estimated to equal the *Municipality's* administrative and technical costs of review of the annual certification.

7. **Notice of BMP Discharge to Municipality's MS4.** At the time of application, the *Applicant* shall notify the *Municipal Permitting Authority* if its *Post-Construction Stormwater Management Plan* includes any *BMP(s)* that will *discharge* to the *Municipality's MS4* and shall include in this notification a listing of which *BMP(s)* will so *discharge*.

8. **As-Built Certification.** Prior to the issuance of a Certificate of Compliance for a project requiring a *Post-Construction Stormwater Management Plan* under this ordinance, the *Applicant* shall submit evidence in the form of a letter or plan prepared and stamped by a Professional Engineer who either prepared the *Post-Construction Stormwater Management Plan* and its associated Facilities or supervised the Plan and Facilities construction and implementation. The letter or plan shall certify that the *Stormwater Management Facilities* have been installed in accordance with the approved *Post-Construction Stormwater Management Plan* and that they will function as intended by said Plan.

Section 6. Post-Construction Stormwater Management Plan Compliance

A. General Requirements. Any *Person* owning, operating, leasing or having control over *Stormwater Management Facilities* required by a *Post-Construction Stormwater Management Plan* approved under this Ordinance, and the Facilities are located in the *Urbanized Area* and *Discharge Stormwater* to the *Municipality's MS4*, shall at their own expense demonstrate compliance with that Plan as follows.

1. **Scope of Inspection.** A *Qualified Post-construction Stormwater Inspector* shall, at least annually, inspect the *Stormwater Management Facilities*, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved *Post-Construction Stormwater Management Plan*.

2. **Deficiencies Identified.** If the *Stormwater Management Facilities* require maintenance or repair to function as intended by the approved *Post-Construction Stormwater Management Plan*, that *Person* shall take or cause to be taken corrective action(s) to address the deficiency or deficiencies.

3. **Submission of Inspection Form.** A *Qualified Post-construction Stormwater Inspector* shall, on or by July 1 of each year, provide a completed and signed certification to the *Enforcement Authority* in a form identical to that attached as Appendix 2 to this Ordinance, certifying that he/she has inspected the *Stormwater Management Facilities* and that they are adequately maintained and functioning as intended by the approved *Post-Construction Stormwater Management Plan*, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the *Stormwater Management Facilities* and, if the *Stormwater Management Facilities* require maintenance or repair of deficiencies in order to function as intended by the approved *Post-Construction Stormwater Management Plan*, the *Person* shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

B. Right of Entry. In order to determine compliance with this Ordinance and with the *Post-Construction Stormwater Management Plan*, the *Enforcement Authority* may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the *Stormwater Management Facilities*.

C. Annual Report. Beginning September 1, 2009 and September 1 each year thereafter, the *Municipality* shall include the following in its Annual Report to the Maine Department of Environmental Protection:

- 1 The cumulative number of sites that have *Stormwater Management Facilities* discharging into their *MS4*;
- 2 A summary of the number of sites that have *Stormwater Management Facilities* discharging into their *MS4* that were reported to the *Municipality*;
- 3 The number of sites with documented functioning *Stormwater Management Facilities*; and;
- 4 The number of sites that required routine maintenance or remedial action to ensure that *Stormwater Management Facilities* are functioning as intended.

Section 7. Enforcement.

It shall be unlawful for any *Person* to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the *Post-Construction Stormwater Management Plan*. Whenever the *Enforcement Authority* believes that a *Person* has violated this Ordinance or the *Post-Construction Stormwater Management Plan*, the *Enforcement Authority* may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

A. Notice of Violation. Whenever the *Enforcement Authority* believes that a *Person* has violated this Ordinance or the *Post-Construction Stormwater Management Plan*, the *Enforcement Authority* may order compliance with this Ordinance or with the *Post-Construction Stormwater Management Plan* by written notice of violation to that *Person* indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the *Post-Construction Stormwater Management Plan*;
2. At the *Person's* expense, compliance with *BMPs* required as a condition of approval of the *New Development* or *Redevelopment*, the repair of *Stormwater Management Facilities* and/or the restoration of any affected property; and/or
3. The payment of fines, of the *Municipality's* remediation costs and of the *Municipality's* reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with *BMPs*, repair of *Stormwater Management Facilities* and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

B. Penalties/Fines/Injunctive Relief. Any *Person* who violates this Ordinance or the *Post-Construction Stormwater Management Plan* shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the *Municipality's* attorney's fees and costs, all in accordance with **30-A M.R.S.A. § 4452**. Each day such violation continues shall constitute a separate violation. Moreover, any *Person* who violates this Ordinance or the *Post-Construction Stormwater Management Plan* also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the *Municipality* for violation of federal and State environmental laws and regulations caused by or related to that *Person's* violation of this Ordinance or of the *Post-Construction Stormwater Management Plan*; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

C. Consent Agreement. The *Enforcement Authority* may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the *Post-Construction Stormwater Management Plan* for the purposes of eliminating violations of this Ordinance or of the *Post-Construction Stormwater Management Plan* and of recovering fines, costs and fees without court action.

D. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the *Enforcement Authority* may recommend to the municipal officers that the *Municipality's* attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 8. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any *person*, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Section 9. Basis.

The Town of Hampden enacts this "Post-Construction Stormwater Management Ordinance" (the "Ordinance") pursuant to **30-A M.R.S.A. § 3001** (municipal home rule ordinance authority), **38 M.R.S.A. § 413** (the "Wastewater Discharge Law"), **33 U.S.C. § 1251 et seq.** (the "*Clean Water Act*"), and **40 CFR Part 122** (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems," has listed the Town of Hampden as having a Regulated *Small Municipal Separate Storm Sewer System* ("*Small MS4*"); under this General Permit, listing as a *Regulated Small MS4* necessitates enactment of this Ordinance as part of the *Municipality's* Storm Water Management Program in order to satisfy the minimum control measures required by Part IV H 5 ("Post-construction stormwater management in new development and redevelopment").

APPENDIX 1

**Maintenance Agreement for
Stormwater Management Facilities**

This Maintenance Agreement is made this ____ day of _____ 20____ by and between _____ and the Town of Hampden, Maine.

The project name is _____.

The location is: _____, Hampden, Maine.

The project's Tax Map and Lot Numbers are Tax Map _____, Lot _____.

The project is shown on a plan entitled " _____ " dated _____ and most recently revised on _____, approved by the _____ [Municipal Permitting Board] on _____ and recorded in the Penobscot County Registry of Deeds in Plan Book _____ Page _____ (the "Project").

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Hampden requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of _____ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. _____, for herself/himself/itself, and her/his/its successors and assigns, agrees to the following:

(a) To inspect, clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, as required by **Section 6** of the Town's Post-Construction Stormwater Management Ordinance, to prevent the build up and storage of sediment and debris in the system;

(b) To repair any deficiencies in the *Stormwater Management Facilities* noted during the required inspection;

(c) To provide a summary report on the inspection, maintenance, and repair activities performed, as required by **Section 6** of the Town's Post-Construction Stormwater Management Ordinance, on the *Stormwater Management Facilities* to the Town *Enforcement Authority*;

(d) To allow access by Town personnel or the Town's designee for inspecting the Stormwater Management Facilities for conformance with these requirements.

(e) To create a homeowners' association for the purpose of maintaining the Stormwater Management Facilities.

2. Upon creation of the homeowners' association, the homeowners' association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and _____ shall reference this Agreement in all deeds to lots and/or units within the Project.

Witness

By: _____
Its: _____

TOWN OF HAMPDEN

Witness

By: _____
Printed Name: _____
Its: _____

STATE OF MAINE
_____, ss.

_____, 20__

Personally appeared the above-named _____, the _____ of _____, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Printed Name: _____

STATE OF MAINE

Penobscot, ss.

_____, 20__

Personally appeared the above-named _____, the
_____ of the Town of Hampden, and acknowledged the foregoing
Agreement to be said his/her free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Print Name: _____

APPENDIX 2

**Stormwater Management Facilities Certification
(to be sent to Municipality)**

I, _____ (print or type name), certify the following:
Qualified Post-construction Stormwater Inspector

1. I am making this Stormwater Management Facilities Certification for the following property: _____
(print or type name of subdivision, condominium or other development) located at _____
_____ (print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: _____
_____ (name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. I am a Qualified Post-construction Stormwater Inspector hired by the person/entity named in Paragraph 2;

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On _____, 20____, I inspected the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

7. On _____, 20____, the owner, operator, tenant, lessee or president of the homeowners' association took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6 above:

8. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: _____, 20__.

By: _____
Signature

Print Name

STATE OF MAINE

_____, ss. _____, 20__

Personally appeared the above-named _____, the _____ of _____, and acknowledged the foregoing Certification to be said person's free act and deed in said capacity.

Before me,

Notary Public/Attorney at Law

Print Name: _____

Mail or hand deliver this certification to the Municipality at the following address:

Public Works Director
Town of Hampden
106 Western Avenue
Hampden, ME 04444

DRAFT
HAMPDEN COMMUNITY ROOM RENTAL/USE POLICY

A. Room Use Priorities

The Hampden Community Room's use priorities are as follows:

1. Voting location for all municipal, state, federal elections
2. Police/Fire/personnel Training for the Town of Hampden
3. Training space for Hampden municipal departments
4. Regional training space for municipal-government related entities
5. Meeting space for local non-profit agencies
6. Training space for local companies (Fee required)

B. Municipal Department Use

Hampden Municipal Departments wishing to utilize the community room shall complete a Municipal Department Request Form. Departments using the room are required to set up prior to and clean up after use.

C. Rules for use of Community Room by non-Hampden-municipal-government entities:

1. Parking for room users (during the work day) shall be along the sides of the building in the upper lot, in spaces in the lower lot, and in free spaces behind the post office. No parking during the day in spaces in front of the municipal building. (See attached diagram for entrance and parking areas)
2. Wireless internet is available on site, but there is no availability on site for photocopying, technical support, or provision of projectors or other equipment.
3. Room use is confined to the Community Room only. Access to the remainder of the Public Safety office and living space is not available. This includes the kitchen, unless special permission is granted in advance.
4. The facility set up and clean up is the responsibility of the entity requesting use of the room. A \$25 refundable cleaning deposit is required prior to room use and will be returned immediately after room use if left in clean and neat condition.
5. Local companies utilizing the space shall make arrangements **in advance** before bringing any large vehicles, trailers, or outside demonstration materials to the municipal complex. Space for such activities is very limited.
6. Entities utilizing the room shall be required to pay for any and all damages to the facility caused by participants of their activity.
7. Entities utilizing the facility for activities involving children shall insure that there are sufficient adult supervisors to keep noise and activity at reasonable levels. This facility is located in a Public Safety area and the business of police, fire, and EMS is the first priority there. Personnel in these areas are on duty 24/7 and we ask for courtesy to them while utilizing the facility.

Adopted by Town Council 2/6/09

8. Room users shall be required to fill out a Room Use Request form and submit it to the Town Manager, or his/her designee for approval, at least one month prior to the requested date.
9. For-profit entities utilizing the space shall pay a fee of \$50 for ½ day or evening use and \$100 for full-day use. Half day and evening use is defined as 4 hours or less, including clean-up.

D. Effective Date

Policy Effective Date: July 7, 2009

Council Approved: July 6, 2009

HAMPDEN COMMUNITY ROOM
ROOM USE REQUEST FORM
(Non-Hampden-Municipal-Department)

Date of Application: _____

Name of Entity Requesting Use _____

Address: _____

Telephone: _____

Email: _____

Contact Person Name: _____

Address: _____

Telephone: _____

Email: _____

Date Room Requested for Use: _____

Number of Participants: _____

If event involving children - # of adult supervisors _____

Time required: _____

I, _____, have read the Hampden Community Room Use Policy and agree to adhere to all terms and conditions of that policy.

Date: _____ Signature: _____

Application Granted _____

Application Denied _____

If denied, reason _____

Fee Paid (if any) \$ _____

Date Paid _____

Cleaning deposit paid \$ _____ Date: _____

Cleaning deposit refunded: Yes _____ Date: _____

No _____ Reason for retention _____

Date Posted on Calendar: _____ Posted by: _____

Approved by: _____ Date: _____

Hampden Community Room
Municipal Department Request Form

Date: _____

Department Name: _____

Department Contact: _____

Date Use Requested: _____

If use is for activities involving children, the department shall insure that there are sufficient adult supervisors to keep noise and activity at reasonable levels. This facility is located in the Public Safety area and the business of police, fire, and EMS is the first priority there. Personnel in these areas are on duty 24/7 and we ask for courtesy to them while utilizing the facility.

Time requested: _____

Approval Granted: _____

Approval Denied: _____

Reason: _____

Approved by: _____ Date: _____

Date posted on Calendar: _____

Posted by: _____

c. MAYO ROAD PROJECT – RECOMMENDATION TO CREATE
ORDINANCE FOR NOVEMBER 2009 REFERENDUM

Councilor Brann reported that the Infrastructure Committee has been discussing the need for this project for quite some time. The Committee feels that it is now necessary to go forward and obtain the funds necessary to do the construction. The Committee is recommending that the Mayo Road project be sent to the voters in November 2009.

Manager Lessard explained that referendum questions need to be developed as an ordinance for consideration by the Council after public hearing. She noted that in order for this to be on the November ballot, the Council will need to adopt an ordinance by the middle of August.

Motion by Councilor Cushing, seconded by Councilor Brann that the Town Manager and Town Attorney prepare an ordinance for a referendum question regarding the rebuilding of Mayo Road – unanimous vote in favor.

d. SEWER FEE INCREASE – INFRASTRUCTURE COMMITTEE
RECOMMENDATION TO SEND PROPOSED SEWER FEE
INCREASE IN FEES ORDINANCE TO PUBLIC HEARING

Councilor Brann explained that a fee increase is necessary to repay the bond for the current sewer reconstruction project. The proposed increase is \$1.00 per unit which was recommended to the Finance Committee by the Infrastructure Committee. Manager Lessard reported that the Finance Committee discussed the need for the increase at its meeting earlier this evening. She noted that there have been numerous upgrades to the sewer system without a rate increase, but existing reserves have absorbed all that they can. She explained that this is the first increase since 1998 and the impact for an average bill will be approximately \$8.00 per month.

Motion by Councilor Brann, seconded by Councilor Hughes to amend the fees ordinance to increase the sewer fees, to be referred at the next meeting for public hearing – unanimous vote in favor.

e. COMMITTEE STRUCTURE DISCUSSION

Manager Lessard reminded the Council that when it established the new Council committee structure in January of this year at the recommendation of the Committee on Committees, it was agreed that it would be assessed after six months. Additionally, the Committee on Committees had spent a great deal of time observing the operation of citizen advisory committees, but the Council decided not to take any action relative to these committees until after evaluation of the new Council committee structure.

Following discussion, it was decided that the new Council committee structure is working well and it is time to look at the structure and role of the advisory committees. The Committee on Committees was re-established for that purpose and Councilors Cox, Cushing and Lawlis will

serve on the committee. Community & Economic Development Director Dean Bennett will staff the meetings. It was also decided that members of the advisory committees should be involved in the process.

4. NEW BUSINESS

There was none.

D. COMMITTEE REPORTS

Councilor Cox reported that the next meeting of the Services Committee is scheduled for 6:00 pm on July 13th.

Councilor Cushing reported that the Planning & Development Committee will meet at 7:00 pm on July 15th. Victoria Burpee of EMDC will be addressing the Committee on the TIF process. At its last meeting, the Committee continued its work on shoreland zoning and the proposed ordinance will be on the Council's next agenda for referral to the Planning Board. The Committee also discussed re-use of the current Hampden Academy campus and Councilor Cushing reported that the Committee is recommending a joint meeting of the full Council and representatives of SAD #22. Councilor Lawlis noted that there are State rules that govern how this kind of property can be re-used and she thought it would be in everyone's best interest to get some legal clarification of what the alternatives are. Manager Lessard reported that Attorney Russell is willing to help find legal counsel that specializes in this area if the Council would like him to.

Motion by Councilor Brann, seconded by Councilor Hughes to instruct the Town Manager to secure additional legal representation in consultation with Attorney Russell to help understand the issues – unanimous vote in favor.

Manager Lessard reported that the Finance Committee met earlier in the evening and discussed the proposed sewer rate increase and proposed funding of the Mayo Road project by a referendum bond issue. The Committee also signed the warrants and reviewed year-end financials.

Councilor Brann reported that the Infrastructure Committee will meet at 6:00 pm on July 27th and will continue its discussion of composting opportunities.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached hereto.

Mayor Arnett asked Manager Lessard to contact SAD #22 representatives and propose some dates for a joint meeting to discuss the reuse of Hampden Academy.

F. COUNCILOR'S COMMENTS

Councilor Cushing commented that there are some bushes at the end of Coldbrook Road on Route 1A that are impeding visibility. Public Works Director Chip Swan will contact DOT to let them know.

MANAGER'S REPORT

July 6, 2009

Drainage, Flooding, & DOT Response – Challenged by the highest rainfall total in June in the history of recordkeeping in this region, there have been a number of instances where people had water in their basements, where we had minor road washouts, and where people have experienced drainage problems in backyards. In spite of this, the Town has been very fortunate in comparison to many in the State and in this area.

Councilors Arnett and Lawlis had requested follow up to a flooding complaint in the Main Road South area near the residence of Barry Martin. As you know, Route 1A is the responsibility of the State of Maine to maintain. Public Works Director Chip Swan has been in touch with officials from MDOT in regard to this particular drainage problem and attached is a memo from him outlining the State's plan for correcting the problem. It also identifies other work that the State has done on Route 1A recently to correct other drainage problems.

We have also received a complaint (I spoke with the property owner today) regarding drainage issues on Rte 1A at the end of Hillside Drive. A state engineer was out to visit the property last year but took no action due to no funding. Chip also made calls on this one last year. The State is on a shutdown day today so I will follow up on this one on Tuesday, July 7th.

Year-End 2008/2009 – Included in the packet for the Finance Committee meeting which you all received are the financial statements for year end. I am happy to report that we ended the year with 2.8% of the budget unexpended and with approximately \$47,000 over our estimates in revenue. Since we annually budget \$300,000 from fund balance to reduce taxation, the amount remaining in the 08-09 budget will more than accommodate that usage for the 09/10 fiscal year. In addition, it is noteworthy that not only were 97.6% of current year property taxes collected this past fiscal year – but 97.2 % of ALL taxes and liens that were outstanding. We are in a fortunate position thanks to the long – term planning of the Council over many years and the fiscal restraint practiced going forward.

Newsletter – The July 2009 Newsletter is at the printers and should be ready at the end of this week. It is posted online on the Town website at www.hampdenmaine.com for those with internet access.

Rain Garden – Despite the rain statistics cited above – and the fact that the rain garden was constructed just days before it all began, according to Laura Wilson from the UMaine Cooperative Extension office, who assisted with the design and plantings, it has fared well, all things considered. Once things have dried up a bit – necessary repairs will be done to correct damage and reinforce in areas stressed by the torrential rains. It survived, pretty much intact, from deluge after deluge and once reinforced, and once the plants have a better foothold – should function well.

Employee Newsletter – Long time employee Kathy Cole was the winner of the Name-the-employee-newsletter contest with “In the Loop”. A copy of the newsletter has been provided to each of you.

30 day Notices – 30 Day Notices for unpaid 2008-2009 Property Taxes will be sent out on Monday, July 13th.



TOWN OF HAMPDEN
DEPARTMENT OF PUBLIC WORKS

106 WESTERN AVE.
HAMPDEN, ME 04444

TEL 862-3337

FAX 862-3910

July 6, 2009

To: Sue Lessard
From: Chip Swan
Subject: RTE 1A FLOODING

On June 22nd I sent an email to Dale Doughty, (Region 4 Manager of Maine DOT), and asked Dale if he would respond to Mr. Martin's complaint in regards to the flood issue on Main Rd south.

DOT plans on fixing the problem. They have dig safe the project and have plans to begin as weather permits.

Yours truly,

A handwritten signature in cursive script, appearing to read "Chip Swan".

Chip Swan, PWD

Councilor Lawlis commented that she has visited Dorothea Dix Park several times recently and noted that it is a lovely park. She complimented the efforts of Town employees and the Garden Club.

Councilor Shakespeare commented that the bushes at the end of Canaan Road on Western Avenue are starting to grow out again into Western Avenue and suggested that the Public Works Director take a look at it. Councilor Shakespeare also commented that he has suggested to Manager Lessard that when staff members answer the phone, it would be appropriate for them to identify themselves. Additionally, he commented that he recently saw a memo prepared by a staff member in which an individual was referred to only by last name. He feels that is not respectful and it would be more appropriate to identify individuals as "Mr." or "Mrs." or use their full name.

Mayor Arnett gave one more shout-out for Project Canopy. He particularly wanted to thank the Garden Club for the plants around the gazebo. He noted that Councilor Brann was there with a couple different pieces of equipment. Councilor Brann also recognized the efforts of the Public Works Department in this project.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:07 p.m.



Denise Hodsdon
Town Clerk