

## TOWN COUNCIL MINUTES

JANUARY 2, 2007

Due to the New Year's Day holiday, the regularly scheduled meeting of the Hampden Town Council was held on Tuesday, January 2, 2007. The meeting was held at the municipal building council chambers and was called to order by Attorney Thomas Russell at 7:02 p.m.

**Attendance: Councilors:** Rick Briggs, Robert Gilberti, Thomas Brann, Andrew Colford, Edward Murphy, Matthew Arnett and Shannon Cox

**Town Manager:** Susan Lessard

**Town Counsel:** Thomas Russell

**Department Heads/Staff:** Town Planner Bob Osborne and Public Safety Director Joseph Rogers

Pine Tree Landfill representatives and citizens

The first order of business was the swearing in of incumbent Councilors Robert Gilberti and Matthew Arnett and Councilor-Elect Shannon Cox by Attorney Russell. Next was the election of Town Council Mayor and Attorney Russell requested nominations. Councilor Gilberti nominated Councilor Briggs and Councilor Murphy seconded the nomination. Motion by Councilor Brann, seconded by Councilor Murphy to close nominations – unanimous vote in favor. Vote on the nomination of Councilor Briggs for Mayor was unanimously in favor. After swearing him in, Attorney Russell turned the gavel over to Mayor Briggs to conduct the remainder of the meeting.

Before commencing with the agenda, Mayor Briggs took a few minutes to outline a few priorities for 2007, including completion of the Comprehensive Plan review process, paying off the debt service for the Business Park and deciding what to do with the other phases of the park, continuing to produce a conservative line-by-line budget, and growth of the Town's volunteer boards and committees.

### A. CONSENT AGENDA

There were no Treasurer's Warrants for signatures of the Finance Committee. Councilor Brann requested that Item A.3.b. be set aside; Councilor Arnett requested that Item A.4.a. be set aside and Councilor Murphy requested that Item A.4.c. be set aside. The balance of the Consent Agenda was accepted without objection.

**A.3.b. PINE TREE/TOWN – HOST COMMUNITY BENEFIT – NOVEMBER 2006**

Councilor Brann noted that the letter indicates that the fee payment of \$18,512.03 is for November, 2006, but the monthly breakdown provided by Casella indicates it is for December. Manager Lessard explained that the monthly breakdown indicates the month in which the benefit is paid, not the month it was generated. Motion by Councilor Brann, seconded by Councilor Gilberti to accept Item A.3.b. – unanimous vote in favor.

**A.4.a. HOST COMMUNITY BENEFITS AGREEMENT – SIGNED 12/18/06**

Councilor Arnett noted that Paragraph 2.a.(ii) indicates that Casella's obligation to pay the \$1.85 per ton fee "shall terminate upon the earlier of (i) the date upon which the total capacity of Phases VI, VII, VIII-C-1, VIII-C-2 and VIII-C-3 has been reached, or (ii) December 31, 2009, unless otherwise extended by written agreement of the parties." While there is a plan approved by DEP that would terminate all waste disposal as of December 31, 2009, Councilor Arnett asked what if plans go awry and this period has to be extended and waste comes in after December 31, 2009. He would like some written reassurance from Casella that should extenuating circumstances require the deposit of waste after December 31, 2009, that the Town will be reimbursed according to the schedule of this document. Manager Lessard will make that request. Motion by Councilor Arnett, seconded by Councilor Brann to accept Item A.4.a. – unanimous vote in favor.

**A.4.c. SEX OFFENDER NOTIFICATION**

Councilor Murphy noted that there is a new person at the Mission farm on the Meadow Road and questioned whether he was correct in his understanding that this is a replacement, not an addition. Manager Lessard explained that this person increases the number on paper at that facility, but it is her understanding that one person is not physically there any longer. However, his legal residence has not yet been changed. There is the same number at that location as there was previously. Councilor Murphy asked if this new person would be considered a low risk. Public Safety Director Joe Rogers said that based on the fact that it is a 20-year old conviction and he has not re-offended, he would say yes he is low risk, but the Hampden Police Department does not do risk assessments because it is not qualified to do so. This person did not come from probation so no risk assessment accompanied him when he moved to Town. Motion by Councilor Murphy, seconded by Councilor Arnett to accept Item A.4.c. – unanimous vote in favor.

**B. PUBLIC COMMENTS**

There were none.

**C. POLICY AGENDA**

**1. PUBLIC HEARINGS**

There were none.

**2. NOMINATIONS-APPOINTMENTS-ELECTIONS**

There were none. However, at this time Councilor Gilberti requested an excusal from the second meeting of January. Councilor Arnett so moved, seconded by Councilor Murphy – unanimous vote in favor.

**3. UNFINISHED BUSINESS**

**a. OUTDOOR WOODBURNING FURNACES - REGULATIONS**

Councilor Brann explained that the Charter and Ordinance Committee has recommended the proposed regulations (copy attached) as an amendment to the Fire Prevention Code. The proposed regulations would require that the units be operated in absolute compliance with manufacturer's instructions and recommendations and would prohibit the operation of these units between May 1 and October 31.

Councilor Colford pointed out that anyone wishing to use one of these units to heat their pool would be prohibited from doing so under this proposal. Councilor Brann said this has become such an issue that he would like to introduce it for public hearing now and modifications could be made at a later time if justified. He introduced it for public hearing at the next meeting.

Councilor Gilberti asked if the Town would require a permit to operate one of these units. He questioned how the Code Enforcement Officer would know whether it was being operated within the manufacturer's instructions and regulations if there is no permit to operate it.

Attorney Russell recommended that the regulations include a definition of a woodfired boiler or furnace so there is no question about what is being discussed. He also commented that the prohibition of the creation of odor could be problematic and wondered what the intent is. Perhaps there could be some quantifiable definition of odor.

Following further discussion, Councilor Brann withdrew his introduction and this will go back to Committee and staff for consideration of adding verbiage for permitting, licensing and definitions.

There were a couple people in the audience who wished to speak about this issue. Bob Frank said he appreciates the Council's endeavor to solve a problem that has been plaguing several neighbors for at least four years. He thinks the potential ordinance

is just a beginning however. He said that it has been well-documented that most of these units are not capable of burning clean even if you follow their manufacturer's standards. He suggested that one way to solve the problem is to perhaps ban these in residential areas.

Don Darling of Murphy Lane, who works for the Maine Department of Environmental Protection, said he has had a fair amount of experience in observing and listening to complaints from people in other towns. In his own experience, the ones he has observed really can not be operated routinely in a way that is not going to bother somebody in terms of the smoking issues. He said until either the DEP or EPA specifies emissions limits, we are inviting trouble as long as these units are permitted. He said the DEP is currently working on regulations. Mr. Darling feels that the ordinance is a very reasonable start, but we need to keep in the back of our mind that as long as these things are around there will be instances where neighbors, including the operators, will be exposed to substantial levels of smoke every time these things are operated. He encouraged the Council to continue with this, but keep in mind that down-the-road, these units may have to be prohibited altogether.

#### **4. NEW BUSINESS**

##### **a. CHAMBER OF COMMERCE ANNUAL DINNER/BREAKFAST RESERVATIONS**

This item was informational only. The annual Chamber dinner will be held on Wednesday, January 17<sup>th</sup> and Manager Lessard requested that any Councilor planning to attend let her know by January 12<sup>th</sup> so she can make the reservations.

##### **b. VFW – BINGO & GAMES OF CHANCE**

Manager Lessard received a request earlier today from Whitcomb-Baker VFW Post 4633 to add an item to the agenda for the Council to vote on issuing the annual letter to the Maine State Police authorizing the VFW to operate bingo and games of chance. The current license expired on 12/31/06 and they inadvertently forgot to request a new one.

Councilor Gilberti moved to suspend the rules to add an item to the agenda regarding VFW bingo and games of chance. Councilor Arnett seconded the motion and vote was unanimously in favor.

Motion by Councilor Gilberti, seconded by Councilor Arnett to authorize the Town Manager to issue a letter authorizing the Whitcomb-Baker VFW Post 4633 to operate bingo and games of chance – unanimous vote in favor.

#### **D. COMMITTEE REPORTS**

Each Councilor completed their choice of committee assignments and Mayor Briggs will have the complete list of assignments at the next meeting.

Councilor Brann reported that the Community Services Committee will meet tomorrow night at 7 pm.

Councilor Arnett reported that there have been some comments about the possibility of having background music for some of the Cable TV programs, but the Communications Committee needs to look into royalty issues.

#### **E. MANAGER'S REPORT**

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

#### **F. COUNCILOR'S COMMENTS**

Councilor Arnett commented that the sex offender issue continues and he would like to have the Town Manager explore with appropriate officials at the state level the availability of someone with expertise to come talk to the Council, perhaps as a work session. Even if the Town has no control over the Bangor Mission, he would like to know whether the experts regard that as an unreasonable risk for the community to bear or not. He said it would behoove the Council to be as up-to-date on the best information possible as it is a potentially emotional and divisive matter. He said the Council should be very concerned about the behavior of these people, but also not lose sight of the generic problem of the health and safety of all members of the community, children in particular. This issue about housing in one place might bury a more significant problem that we are not aware of in terms of the broad ways that a community and school district should be protecting its children.

Councilor Gilberti welcomed Councilor Cox and said he looks forward to an interesting year. He said another goal on his agenda, other than economic development and making sure the budget is lean and trim, is the transfer station and curtailing its rising cost of operation.

Councilor Cox thanked everyone for the warm welcome and said she is looking forward to working with the Council. She said it was an honor to be here and it should be a fun three years.

Mayor Briggs recapped the issues that the Council would like public feedback on over the coming months: the transfer station and associated rising cost; alternative energy, alternative plans, group purchasing, regionalization; the sex offender issue, woodburning furnaces, economic development, communications and the budget.

**G. ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:50 p.m.

Denise Hodsdon  
Town Clerk