

## TOWN COUNCIL MINUTES

MARCH 7, 2011

The regularly scheduled meeting of the Hampden Town Council was held on Monday, March 7, 2011. The meeting was held at the municipal building community room and was called to order by Mayor Arnett at 7:08 p.m.

**Attendance: Councilors:** Matthew Arnett, Andre Cushing, Janet Hughes, Thomas Brann, Jean Lawlis, William Shakespeare and Kristen Hornbrook

**Town Manager:** Susan Lessard

**Town Counsel:** Thomas Russell

**Department Heads/Staff:** Community and Economic Development  
Director Dean Bennett, Town Planner Bob Osborne and GIS/IT Specialist  
Gretchen Heldmann

Citizens

### A. CONSENT AGENDA

Councilor Hughes requested that Items A.3.h. and A.3.i. be set aside. Motion by Councilor Cushing, seconded by Councilor Lawlis to accept the balance of the consent agenda - Unanimous vote in favor.

A.3.h. CHESTER BIGELOW – CONSERVATION COMMITTEE – NEW APPLICATION  
– REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE.

A.3.i. BERNIE PHILBRICK – CITIZEN COMMITTEE TO REVIEW HAMPDEN  
COMPREHENSIVE PLAN – NEW APPLICATION – REFERRAL TO PLANNING &  
DEVELOPMENT COMMITTEE

Councilor Hughes noted that these applications have been referred to the Planning & Development Committee. Motion by Councilor Hughes, seconded by Councilor Brann to accept both items – unanimous vote in favor.

### B. PUBLIC COMMENTS

Town Attorney Thomas Russell publicly apologized to Councilor Hornbrook for his remarks at the special meeting on March 1st about being “civil to one another” when he was interrupted during his explanation of what constitutes a regulatory taking. He had thought a better choice of words would have been more appropriate and apologized to Councilor Hornbrook twice that evening, but wanted to do so publicly at this time. He said he didn’t mean to offend anyone and apologized for making the reference.

## **C. POLICY AGENDA**

### **1. PUBLIC HEARINGS**

There were none.

### **2. NOMINATIONS-APPOINTMENTS-ELECTIONS**

There were none.

### **3. UNFINISHED BUSINESS**

#### **a. HAMLIN MARINE – FINANCE COMMITTEE RECOMMENDATION FOR LAND SWAP**

Manager Lessard reported that at its meeting on February 7, 2011, the Finance Committee discussed the idea of an even swap of parcel for parcel between Hamlin Marine and the Town for the parcel on which the marina is located and the eleven acre parcel adjacent to it that is vacant. Both are valued similarly. The Committee unanimously voted to recommend to the full Council an even swap of the two parcels that have been under discussion, evaluation and review for the past several years.

Motion by Councilor Brann, seconded by Councilor Hughes to accept the report and recommendation of the Finance Committee – By roll call, vote on the motion was 7-0.

#### **b. 2012 PLOW TRUCK BID RESULTS – FINANCE COMMITTEE RECOMMENDATION**

Manager Lessard reported that the Finance Committee had reviewed the bids with the Public Works Director and recommended acceptance of the low bid for a 2012 International truck from Daigle & Houghton in the amount of \$119,043.36.

Motion by Councilor Cushing, seconded by Councilor Brann to accept the recommendation of the Public Works Director and Finance Committee and purchase the truck from Daigle & Houghton in the amount of \$119,043.36 – unanimous vote in favor.

#### **c. ZONING ORDINANCE TEXT AMENDMENT FOR MEDICAL MARIJUANA DISPENSARY AND CULTIVATION FACILITIES AND METHADONE CLINICS – INTRODUCTION FOR PUBLIC HEARING**

Councilor Hughes introduced this item for public hearing at the next meeting.

#### **d. REQUEST TO REPEAL 2010 COMPREHENSIVE PLAN**

Richard Armstrong of Kennebec Road thanked the Council for the meeting on March 1<sup>st</sup>. At that meeting he had requested that this item be placed on

C-3-c



**TO:** Mayor Arnett and Hampden Town Council  
**FROM:** Robert Osborne, Town Planner RLO  
**SUBJECT:** Draft Zoning Ordinance Text Amendments for Medical Marijuana Dispensary, Medical Marijuana Cultivation Facilities and Methadone Clinics  
**DATE:** March 2, 2011

Please be advised that the Hampden Planning Board held a public hearing on the draft set of amendments to the Zoning Ordinance on the subject topic (as referred by the Town Council at their December 20, 2010 meeting) on January 12, 2011 and referred the item to their Planning Board Ordinance Committee for further review. The Planning Board Ordinance Committee met on January 26, 2011 and considered both the referral language as well as additional language regarding methadone clinics. The Planning Board Ordinance Committee at their January 26, 2011 meeting voted to recommend that language to the Planning Board pending review by Attorney Russell. Tom Russell made suggestions that were incorporated into the new document containing regulations on methadone clinics as well as medical marijuana dispensaries and clinics that the Planning Board held a subsequent newly advertized public hearing on at their February 9, 2011 meeting. The Planning Board voted to recommend the attached draft ordinance amendments to the Town Council with an ought-to-pass recommendation. This now also contains language from Tom Russell, Town Attorney.

At the January public hearing there was public testimony which is detailed in the Planning Board Minutes of the January 12, 2011 meeting (attached). There was no public testimony at the February meeting. There was subsequent to the February hearing some suggestions made by Peter Frazier which are also attached.

3/7/11 Introduced for public hearing on 3/21/2011

**TOWN OF HAMPDEN**  
**Draft**

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

Deletions are ~~Strikethrough~~      Additions Double Underlined

ARTICLE 3  
**REGULATIONS PERTAINING TO INDIVIDUAL ZONES**

**3.1. Industrial Park District**

**3.1.1. Purpose** - This district is established to provide a location for fully serviced industrial development. It is intended that land within this district will be protected from encroachment of non-industrial uses, however, the district also contemplates planned business parks with a more diverse mixture of uses and development standards implemented in a closely managed context. *(Amended 2-20-01)*

**3.1.2. Permitted Uses (Subject to Site Plan or Subdivision Review)** – Manufacturing, compounding, assembling, packing, treatment, warehousing, wholesaling of goods and products, research and testing operations, take-out restaurant, business park, essential service, wireless telecommunications facilities (subject to *Section 4.22*), consulting operations, public or private utility service providers and their related operation, service and maintenance activities, accessory uses or buildings, and other industrial operations, but not including excavation, gravel pit and quarry activities, which conform to all performance standards in this Ordinance. *(Amended 2-20-01, 10-01-01, 12-6-04, 12-17-07)*

In addition to the permitted uses set forth above, permitted uses within a Business Park may also include the following: Office and service businesses, government and institutional uses, places of assembly such as hotel and conference center, bar in conjunction with hotel or conference center, small restaurant, sit down restaurant, retail sales not exceeding 5,000 sq. ft. gross floor area per retail business space or module, accessory uses or structures, day care facilities, essential services, buildings necessary for essential services. A master plan for a Business Park must be prepared by a State of Maine registered engineer, landscape architect, or architect, submitted, and approved by the Planning Board as part of the subdivision review and approval process. The master plan shall indicate the full build-out of the subdivision including but not limited to: building footprint, building height, impervious surface, stormwater management, architectural guidelines, traffic, and other items that the Planning Board may require. The plan shall:

1. Depict the land area designated for the Business Park use.
2. Depict the lotting of the Business Park subdivision. *(Amended 12-17-07)*
3. Establish the overall development criteria for the Business Park.
4. Propose covenants governing use and the appearance, size, and physical location of the building and other necessary site improvements. *(Amended 2-20-01, 12-6-04, 10-01-07)*

**3.1.3. Conditional Uses (Subject to Site Plan Review) – Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to Article 4.24), methadone clinic (subject to Article 4.24), Stockpiles (subject to Article 4.9) not accessory to excavation, gravel pit and quarry activities, living quarters for security personnel, buildings necessary for essential services, buildings greater in height than thirty-five (35) feet. (Amended 3-5-88, 6-15-92, 12-17-07)**

**3.1.4. Lot Dimensions**

	Typical	Business Park as described in 3.1.2. only
Minimum Lot Area	- 1 acre	- 20,000 sq. ft.
Minimum Road Frontage	- 200 feet	- 50 feet
Minimum Setbacks:		
Street Yard	- 50 feet	- 20 feet
Other Yards	- 50 feet	- 20 feet
Maximum Lot Coverage	- 25 percent	- 30 percent
Maximum Impervious Surface	- 60 percent	- 70 percent

(Amended 2-20-01, 12-6-04)

**3.1.5. Special District Regulations** - In addition to the general regulations in Article 4 of this Ordinance, the following specific requirements shall be applicable to the Industrial Park District:

1. When necessary to store or keep articles, goods and materials in the open, the area shall be limited to the rear two thirds of the property. Where necessary to protect the visual amenities of the Industrial Park, the planning board may require screening, as defined, around areas designed for the keeping of articles, goods, or materials where they are exposed to the public view.
2. Buildings in this district shall not be used for any of the following purposes: storage of junk, automobile wrecking, operation of a mine or quarry, rendering plant, or any business having appearance, odor, or noise characteristics detrimental to other businesses in the park, the future of the park, the neighborhood, or the Town of Hampden.
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.
4. In order to protect the integrity of the industrial park, to insure that it is developed in a manner which fits harmoniously with the surrounding environment, and to prevent erosion, the planning board may require landscaping, with lawn, trees, or shrubs, of the front setback. It may also require landscaping of a buffer strip of up to twenty (20) feet on the side and rear lot lines. In such cases, an occupancy permit shall not be issued until the landscaping is complete or until a certified check for the amount of one hundred twenty-five (125%) percent of any unfinished work is accepted by the Town Manager.

(Amended 6-15-92)

### 3.2. Industrial District

**3.2.1. Purpose** - These areas are set aside for non-service intensive industrial uses which do not require the amenities of an industrial park and which would fit into the surrounding rural area with ease. Industries needing public sewer or water are not expected to locate in these areas.

**3.2.2. Permitted Uses (Subject to Site Plan Review)** - Facilities for manufacturing, compounding, processing, packaging, essential service, wireless telecommunications facilities (subject to *Section 4.22*), treatment or warehousing of goods and products, wholesale distribution, take out restaurant, retail sales where such activities are part of and accessory to an industrial use, such facilities having less than five thousand (5,000) square feet of gross floor area, and accessory uses and structures. Excavation, gravel pit and quarry activities are not permitted in the district. (Amended: 10-01-01, 12-6-04, 12-17-07)

**3.2.3. Conditional Uses (Subject to Site Plan Review)** - Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to Article 4.24), methadone clinic (subject to Article 4.24) facilities for manufacturing, compounding, processing, packaging, treatment, buildings necessary for essential services, or warehousing of goods and products, wholesale distribution, retail sales where such activities are part of and accessory to an industrial use, such facilities having more than five thousand (5,000) square feet of gross floor area. Stockpiles (subject to *Article 4.9*), but not including excavation, gravel pit and quarry activities. Accessory uses or structures, building or living quarters for security personnel. (Amended: 12-17-07)

#### 3.2.4. Lot Dimensions

Minimum Lot Area	-	2 acres
Minimum Road Frontage	-	150 feet
Minimum Setbacks:		
Street Yard	-	50 feet
Other Yards	-	35 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

#### 3.2.5. Special District Regulations

1. Notwithstanding the above requirements any structure which requires access to rail service shall not be required to setback from the railroad siding.
2. In order to provide for harmonious development and preserve the rural character the Planning Board may require additional buffers beyond that required in *Article 4.7.11*. (Amended 8-17-92)

### 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)** - Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to Article 4.24), methadone clinic (subject to Article 4.24). 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. Functionally water-dependent uses along 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, 03-01-10)

#### 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 maximum building height regulations in Article 3.3.4. building height may be up to 50 feet under the following standards. Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each yard setback requirement. (Amended 03-01-10)

**EXAMPLE:** A 48 foot tall building is proposed. By subtracting the base Commercial Service District maximum building height from the proposed height the following is the result  $48' - 35' = 13'$ .

Then add that amount to each yard or setback.

Setback Type		Base Setbacks:	Total Setback
Street Yard	-	40 feet	53 feet
Other Yard	-	30 feet	43 feet

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)*
7. Notwithstanding the maximum building height regulations buildings used for functionally water-dependent uses along the Penobscot River are not subject to the maximum building height standard in Article 3.3.4. or 3.3.5.2. provided the lot area for such a use is at least five acres in size. *(Amended 03-01-10)*

**4.7. Off-Street Parking, Loading, Drive-Thru Design and Bufferyard Requirements** – The purpose of this section is to provide minimum standards and design guidelines for off-street parking, and loading areas, drive-thru businesses and bufferyards. *(Amended: 10-12-04)*

**4.7.1. Parking Basic Requirement** - No use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off-street parking spaces in accordance with the following parking requirements. No required parking space shall serve more than one use. Parking areas with more than five (5) parking spaces shall be so arranged that vehicles can be turned around within such area and are prevented from backing into the street.

**4.7.1.1. Minimum Off-Street Parking Space Requirements.** The following are the minimum number of off-street parking spaces that may be provided for each of the uses stated. *(Amended: 10-12-04)*

1. Elderly housing; one (1) space per dwelling unit plus one (1) additional space for every ten (10) dwelling units or fraction thereof.
2. Congregate care facility; one (1) space per dwelling unit.
3. All other dwellings; two (2) spaces for each dwelling unit.
4. Hotels, motels, tourist homes, rooming houses, bed and breakfast establishment; one (1) space per guest room.

5. Hospital or nursing home; one (1) space per three (3) patient beds.
6. Restaurant parking space requirement is based on the following formula:
  - A. Divide the total seats by three. Where seating is provided by bench, booth or picnic table a seat shall be considered two linear feet.
  - B. Divide the total restaurant sq. ft. floor area by 75 sq. ft.

Restaurant minimum parking spaces shall be the sum of A plus B divided by 2.  
Parking shall also be provided for outdoor seating in excess of 12 outdoor seats at one parking space per three seats. (*Amended: 10-12-04*)

7. Other places of assembly such as churches, theaters, funeral homes, auction houses and galleries, where seating can be determined; one (1) space per three (3) seats or one (1) space per six (6) linear feet of bench space. Where seating cannot be determined; one (1) space per one hundred-fifty (150) sq. ft. of gross floor area.
8. Office use; one (1) space per two hundred-fifty (250) sq. ft. gross floor area.
9. Retail and service businesses; one (1) space per two hundred (200) sq. ft. gross floor area (minimum of five [5] spaces).
10. Industrial use, wholesale, warehouse, manufacturing plant; three-quarters (3/4) of a space per employee (minimum of five [5] spaces).
11. Golf course including miniature golf; one and one half (1.5) spaces per hole.
12. Marina; one (1) space per berth, ten (10) spaces per boat launching ramp.
13. Campgrounds, tenting areas, and recreational vehicle parks; one and one half (1.5) spaces per camp site.
14. Preschool facility; one (1) space per three (3) students. (*Amended: 8-22-94*)
15. Auto service; four (4) spaces per service bay (non drive thru service) Drive thru service; two (2) spaces per service bay.
16. Outdoor display and sales such as automobiles, farm equipment, heavy machinery, boats, recreational vehicles; one (1) space per five thousand (5,000) sq. ft. of display area.
17. Uses not listed in this schedule; the standard shall be determined by the planning board based on the most similar use listed or on other available adopted zoning ordinance or published sources of parking standards.
18. Notwithstanding these Minimum Off-Street Parking Space Requirements a site development established prior to the adoption of this ordinance for which a change of use is proposed shall meet parking space requirements for the new use to the maximum practical extent as determined by the Code Enforcement Officer provided that at least 75 percent of the required parking spaces are provided. This provision

shall apply to both on-site and off-site parking spaces. Determination of the number of parking spaces in parking lots where spaces are not delineated shall be based on the traditional usage of the lot. It is not the intent of this regulation to retroactively apply current parking location, setback and design standards to site developments established prior to the adoption of this ordinance. (Amended: 10-12-04)

19. For medical a marijuana dispensary, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.

~~20. For methadone clinic, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.~~

#### 4.24 Performance Standards for Medical Marijuana Registered Dispensaries, Medical Marijuana Cultivation Facilities and Methadone Clinics

4.24.1 Adequacy of Building for the Subject Use. The property and building for a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking areas, and other areas outside of the building(s). A letter of compliance from the Town of Hampden Code Enforcement Officer shall be submitted to the Planning Board as part of the site plan application. The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients and the registered primary caregiver of each registered patient). Any Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), and any Methadone Clinic shall adhere to the laws of the State of Maine and the State of Maine Regulations for Licensing and Certifying Substance Abuse Treatment Programs (14-118 CMR Chapter 5), as any the same may be amended from time to time, and to Ordinances and Codes of the Town of Hampden, as the same may be amended from time to time.

4.24.2. Required Setbacks. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall be located within 1,000 feet of the property line upon which the Dispensary and/or Facility and/or Methadone Clinic is or are located and the nearest property line of any of the following, which is or are in existence when an application for a Medical Marijuana Registered Dispensary and or Medical Marijuana Cultivation Facility and/or Methadone Clinic is made:

4.24.2.1. Preexisting public or private school.

4.24.2.2. Preexisting church or other facility for religious worship.

4.24.2.3. Preexisting residence or lot located in a Residential A District, Residential B District or Rural District.

4.24.2.4. Preexisting licensed daycare facility, or

4.24.2.5. Preexisting juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center or program.

4.24.2.6. Preexisting athletic field, park, playground or recreation facility.

4.24.3. Maximum Number of Subject Use Within the Town of Hampden. No more than one (1) Medical Marijuana Registered Facility and/or one (1) Marijuana Cultivation Facility and/or one (1) Methadone Clinic shall be located in the Town of Hampden. If both a Medical Marijuana Registered Dispensary and a Medical Marijuana Cultivation Facility are located in Hampden, they shall be located on the same property and shall be under common ownership.

4.24.4. Hours of Operation. A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00 a.m. and 8:00 p.m. daily. A Methadone Clinic shall only be open between the hours of 6:00 a.m. and 8:00 p.m.

4.24.5. Signs and Advertising. Medical Marijuana Registered Dispensary and/or Medical Cultivation Facility and/or Methadone Clinic shall conform to the provisions of Article 4.8 Signs of this Ordinance. In addition thereto, any freestanding or sign attached to building(s) in which the Dispensary and/or Facility is located in shall clearly state that it is a Medical Marijuana Dispensary and/or Medical Cultivation Facility and/or Methadone Clinic. There shall be no signage in any window and/or door, except for the hours of operation and the presence of a security system. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers and/or methadone clinic patients.

4.24.6. Security Requirements for Subject Use. Security measures at a Medical Marijuana Registered Dispensary and /or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall include the following at a very minimum:

4.24.6.1. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week to monitor all entrances, along with the interior and exterior of the Dispensary and/or Facility and/or Clinic, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;

4.24.6.2. Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications;

4.24.6.3. A safe affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Dispensary and/or Facility, and a secure storage container for methadone and cash stored overnight in a Clinic;

4.24.6.4. Exterior lighting that illuminates all exterior walls of the licensed Dispensary and/or Facility and/or Clinic; and

4.24.6.5. Deadbolt locks on all exterior doors and locks or bars on any other access point.

All security recordings shall be preserved for thirty (30) days by the management of the

licensed Dispensary and/or Facility and/or Clinic. 4.24.7. Consumption, Ingestion Or Inhalation Of Medical Marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the property of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility is prohibited; provided, however, that a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility employee who is a registered patient, as that term is defined in 22 M.R.S.A. Section 2422(12), as the same may be amended from time to time, may consume medical marijuana inside the building(s) on the licensed property, if such consumption occurs via oral consumption and not by smoking. For purposes of this subsection, the term "licensed property" shall include the lot or parcel of the land upon which the Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility are located.

4.24.8. Visibility Of Activities: Control Of Emissions; Disposal Plan for Subject Use. Visibility of activities: control of emissions: disposal plan for a Medical Marijuana Registered Facility and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall be as follows:

4.24.8.1. All activities of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.

4.24.8.2. No marijuana or paraphernalia shall be displayed or kept in a Dispensary or Facility so as to be visible from outside the building (s).

4.24.8.3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Dispensary and/or Facility and/or Clinic must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

4.24.8.4. Any Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall have in place an operation plan, subject to the approval of Hampden Public Safety, for proper disposal of marijuana related byproducts.

4.24.8.5. Class II Buffervards in accordance with Article 4.7.4 Screening/ Buffervards shall be provided along each lot line or at least along each line of the developed area of buildings and parking areas.

4.24.9. Limitations of Food Products. No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Registered Dispensary except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

4.24.10. Compliance With State and Local Law. A Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries or methadone clinics, the stricter law or regulation shall control.

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:

*Marijuana:* Marijuana shall have the definition set forth in Title 17-A M.R.S.A. Section 1101(1) and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122, Section 1.15), as the same may be amended from time to time.

*Medical Marijuana Registered Dispensary:* Medical Marijuana Registered Dispensary means a not-for-profit entity as defined under Title 22 M.R.S.A. Section 2422 and registered pursuant to Title 22 M.R.S.A. Section 2428 and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the Dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. Any Medical Marijuana Registered Dispensary shall be further defined in, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

*Medical Marijuana Cultivation Facility:* Medical Marijuana Cultivation Facility means a building owned or operated by a not-for-profit entity registered pursuant to the laws of the State of Maine and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that is used for the cultivation or storage of marijuana for the Medical Marijuana Registered Dispensary licensed by the State of Maine for Penquis District 6. Any Marijuana Cultivation Facility shall be further defined in, and shall adhere to, the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

*Methadone Clinic* – Methadone Clinic is a clinic which has been established for the dispensing of methadone (Dolophine) to those who abuse heroin and other opiates. The focus of these clinics is the elimination or reduction of opiate usage by putting the patient on methadone.

tonight's agenda. He asked the Council to vote to repeal the 2010 Comprehensive Plan, but if it didn't carry, he requested the Council create a citizens board of appeals and that no action be taken until the board had the opportunity to review the plan.

The following residents also urged the Council to consider repealing the 2010 Comp Plan:

Dean Wiseman	Scott Carter, Western Ave.
Robert Dunton, Babcock Rd.	Jeremy Williams
Ed Armstrong	Peter Brown, Kennebec Rd.
Lisa Carter	Darrell Sproul, Papermill Rd.
Rod Stanhope, 540 Western Ave.	Sally Leete
Shelley Blosser	Richard Jenkins
Tony Carney	Paul Philbrick
Kevin Fish	Alex King
Matt McLaughlin	

Other residents addressing the Council with their comments were:

Gayle Zydlewski	Kathryn King
Sonja Parker	

Written comments were received from the following citizens prior to the meeting – copies attached and made a part of these minutes:

William Castrucci	Jane Jarvi, 10 Sophie Lane
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After all residents were given the opportunity to make comments, Mayor Arnett asked if any Councilor wished to make a motion. Following some discussion, Councilor Hornbrook moved to repeal adoption of the 2010 Comprehensive Plan as passed on October 5, 2010. For discussion purposes, Councilor Cushing seconded the motion.

Councilor Brann felt that the Council could not vote to repeal the plan without going through the proper notice process as Attorney Russell had advised. He moved to place the item on the table. Councilor Hughes seconded the motion, but to allow for further discussion, she withdrew her second.

Following further discussion, Councilor Brann moved and Councilor Cushing seconded to place the item on the table – By roll call, vote was 5-2 (Hornbrook & Arnett); motion carried.

Motion by Councilor Cushing, seconded by Councilor Brann to constitute a citizen advisory committee and refer to the Planning & Development Committee to develop a proposed composition of that committee and report back to the Council within 30 days – By roll call, vote was 5-2 (Hornbrook & Arnett); motion carried.



Susan Lessard <manager@hampdenmaine.gov>

## Support for 2010 Comp Plan

1 message

Eric and Jane Jarvi <jarvi\_family@yahoo.com>

Fri, Mar 4, 2011 at 4:13 PM

To: manager@hampdenmaine.gov

4 March 2011

First off, let me thank each member of the Town Council who actually worked on the 2010 Comp Plan, as well as the Town Manager & Department Heads for all the work and hours they put into the facilitation of the development of the 2010 Comp. Plan.

At various stages I reviewed parts of the Plan during its development providing input to appropriate Department Heads: I also reviewed the entire document during the time the public was encourage to review the final draft. I also attended the Special Hampden Town Council Meeting. As a Council you were more than gracious in facing an uninformed mob mentality. Tabling (freezing) any actions involving the comp plan was judicious at the time.

My concern: If you as a council choose to suspend the 2010 Comp Plan or agree to put it before the voters, you will set precedence for not only the current council but future councils in the governance of the Town of Hampden. That precedence will be that a few (originally 25 and less than 200) citizens can hold the town hostage on any decision. It also would mean that normal governmental procedures were not binding and could be challenged at every turn. Anarchy is a strong term but potentially could become applicable.

The process followed for the development of the 2010 Comp Plan provided ample opportunity for any resident to participate. Notifications were sufficient, open meetings numerous, and accessibility to any council member or employee available. As you well know, this is not a binding document. The citizens who are disgruntled would be more effective in participating in the drafting of any ordinances which are developed from the Comp Plan. One way would be to work on various boards and committees that currently have numerous vacancies as well as working with the council members and employees of the Town.

It is my hope that you will seriously consider your options as you continue to uphold the US Constitution to "promote the general welfare" of the community.

Sincerely,

Jane Jarvi, 10 Sophie Lane



Susan Lessard <manager@hampdenmaine.gov>

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## Re: Comprehensive Plan

1 message

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**Matthew Arnett** <arnetttowncouncil@gmail.com>

**Mon, Mar 7, 2011 at  
2:45 PM**

To: William Castrucci <wcastrucci@hotmail.com>  
Cc: Andre Cushing <andre@andrecushing.com>, Andre Cushing <andrec@roadrunner.com>, Janet Hughes <hughestowncouncil@gmail.com>, Jean Lawlis <lawlistowncouncil@gmail.com>, Kristen Hornbrook <hornbrooktowncouncil@gmail.com>, Matthew Arnett <arnetttowncouncil@gmail.com>, Tom Brann <tombrann@tds.net>, William Shakespeare <wmshakespeare@hotmail.com>, Susan Lessard <manager@hampdenmaine.gov>

Hi Bill,

Thanks so much for your thoughtful comments. We're going thru a rough patch just now in thinking thru Hampden's future. Like most towns our citizens are not all of one mind. Some are fearful that the Plan represents a threat to their dreams of using their land as a place where they can one day subdivide as a family compound or subdivide to provide income for their retirement. It is not our intention to deprive them of this opportunity and I am confident that we can shape the implementation of the plan to protect their rights. Hampden has a great core of concerned citizens and strong leaders and we will come through this process in a way that is fair to all, and which promotes a bright future for the town and its citizens. We do need strong involvement by all elements of our population and hope you will be a part of that process.

Best wishes,

Matt Arnett

On Mon, Mar 7, 2011 at 1:58 PM, William Castrucci <[wcastrucci@hotmail.com](mailto:wcastrucci@hotmail.com)> wrote:  
Mayor Arnett --

Just a quick note to tell you that I am a resident of Hampden who was present at last week's meeting and who was utterly embarrassed at the behavior and over-the-top (and completely irrelevant) political rhetoric expressed by some of those who attended. I am relatively new to Maine, and my wife and I work in Bangor and Brewer. We specifically chose Hampden because it seemed a place where people are very friendly and very community-oriented. We have small kids and we want them to live in a safe and healthy environment. We took as evidence the fact that the town had willingly chosen to put in even more money than was necessary to make the new high school even better than it was going to be -- this was a town that was willing to sacrifice a little extra for the good of its children and families, and hence a town that would continue to draw new families who had similar views. I like the route this town has taken and I like the direction that it is going, according to the plan. More trails for hiking and biking and skiing, more access to

the river, etc. are what my family values, along with strong support for the public school system.

I am not sure how this Comprehensive Plan became such a hot-button issue (well, I sort of do), nor how it became politicized (again, I have a very good idea), but I do want to express my sincere gratitude to you and to the members of the council and town who have put so much effort into writing it, and to the fine work that it is. I have only been in Hampden about 18 months, so I do not know most of the people yet. Most of my neighbors seem to be supportive. It is hard for me to believe that all the friendly people I run into at Edwards, at soccer games, at school events, etc. also harbor such deep-seated animosity towards the effort of a town government to simply try to guide the community towards a common goal of maintaining a good quality of life for all of its citizens, that they would push to toss out all of this effort on the basis of disinformation, and without having really read the plan. I do hope that I am in the majority here, and that cooler heads will prevail. I am crossing my fingers that tonight's meeting goes more smoothly, and that the level of civility that should exist returns. The articles in the BDN did not paint a flattering light on our town.

I am also hoping that you, and the other members of the council, do not allow this group (hopefully just a very vocal minority) to railroad the Town to simply drop the whole plan. If it needs to come up for a referendum, please please please insist that the referendum be to determine if a specific subsection is to be amended. If it is all tossed out, the town would have no plan and would be a lot less attractive to businesses or families considering moving to the area, and the new town council members in the coming months would have a huge task ahead of them reinventing the wheel.

Not everyone in attendance at these meetings is against the Comprehensive Plan, against government, against community. Thank you for your service to the town.

-- Bill Castrucci

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

##### **a. ACCEPTANCE OF FORFEITED PROPERTY – PUBLIC SAFETY**

Manager Lessard reported that the Finance Committee recommended accepting the forfeited 2002 GMC pickup truck and to allow the Police Department to sell the vehicle and place the proceeds in the police vehicle reserve account.

Motion by Councilor Cushing, seconded by Councilor Lawlis to accept the recommendation of the Finance Committee and authorize Mayor Arnett to sign the Approval of Transfer on behalf of the Town – unanimous vote in favor.

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

Planning & Development – Councilor Hughes reported that the Committee will meet on March 16<sup>th</sup> to address the items discussed tonight.

Communications – Councilor Hornbrook reported that the Committee met on February 23<sup>rd</sup> and discussed the Paper Talks ad request, the broadcast equipment upgrade, the possibility of adding streaming live video and links to local businesses on the Town's website, and reviewed local program development plans. The next meeting will be at 6:00 pm on March 17<sup>th</sup>.

Services – Councilor Lawlis reported that the next meeting will be at 6:00 pm on March 14<sup>th</sup>.

Infrastructure – Councilor Shakespeare reported that the last meeting of the Infrastructure Committee was the semi-annual meeting with the Hampden Water District.

Finance – The Town Manager reported that in addition to items already included in tonight's Council agenda, the Finance Committee reviewed and signed the Treasurer's Warrants and met with two candidates for town boards and recommended appointment of both.

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

A copy of the Manager's Report is attached.

Manager Lessard also reported that the Fire Department received a \$150,000 grant to purchase a new brush truck. She expressed appreciation to Firefighter Jason Lundstrom for his work in writing the grant.

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

Councilor Hornbrook said she was disappointed that the Council avoided taking a vote on the request to repeal the 2010 Comprehensive Plan.

MANAGER'S REPORT  
March 7, 2011

Paula Newcomb Service – Many Town employees attended the visiting hours and funeral service for former Town Clerk Paula Newcomb. The service was a lovely celebration of her life. She will be greatly missed by many many people.

Tax Due Date – 2<sup>nd</sup> Half – A reminder that the second half of property taxes is due Wednesday, April 6<sup>th</sup> in order to avoid interest.

Strategic Planning Session – A reminder to Councilors that the Strategic Planning session to discuss the upcoming budget process and work plan for the Town is Saturday from 9 a.m. to 2 p.m. here at the Town Office.

Harmony Hall Preservation Grant – I am happy to report that the Town has received a Federal grant from the Maine Historic Preservation Commission in the amount of \$7110. for the support of the Harmony Hall Preservation Project. The Town is acting as the applicant in order for the Garden Club to be able to access funds for the restoration of Harmony Hall. Thanks to all the Club members who worked on the Grant application and to Planner Robert Osborne for putting it together for submission. The grant is pending finalization of the federal budget process for the current fiscal year (2011).

Town Clerk Milestone – Our Town Clerk Denise Hodsdon is hitting a milestone birthday on Thursday of this week – 50 years young! As a way to celebrate this milestone, her victory over breast cancer, and to further her efforts for research funding to end breast cancer, Denise is walking in the 60 mile 3 day walk in Boston in June of this year. Anyone wishing to act as a sponsor for Denise in the walk can do so by accessing her webpage at [www.the3day.org/goto/Denise50](http://www.the3day.org/goto/Denise50)

Property Tax Appeal – I have received a written request from a property owner for a hearing with the Board of Assessment Review. I will contact the Board Members and the property owner to schedule a hearing.

Councilor Cushing thanked the citizens who took the time to come out tonight and hoped that they would continue to be involved. He said the vote to table the request to repeal the Comp Plan was not an attempt to avoid voting, but an effort to ensure that citizens would be involved in the process.

Councilor Brann commented that people were disappointed with the vote to table, but he noted that the Council has been accused of doing things without due consideration and "under the cover of darkness". He said if we had voted to repeal without giving proper notice, we would be doing what we are being accused of.

Councilor Brann also requested that the Paper Talks ad request be placed on the next agenda with a recommendation from the Communications Committee.

Councilor Lawlis said in looking at the 2001 Comp Plan and the 2010 Plan she wanted to see what had changed. She feels that any restrictions being placed on landowners that are in addition to what was in the 2001 plan should be looked at very carefully. She said when she looks at the way the 2010 plan was written, she thinks that the goal was to put in some incentives to preserve the rural character of Hampden. She wanted to have the time to make the Plan something that works for people.

Councilor Shakespeare said he too was disappointed that a vote on the repeal request was not taken tonight, but he noted that we have to follow procedures. He feels that there are some justified complaints and things that need to be tweaked and clarified in the Comp Plan and encouraged the residents to continue to be involved.

Councilor Hughes said that in no way, shape or form has she avoided a vote tonight – she needs more information and time to review it.

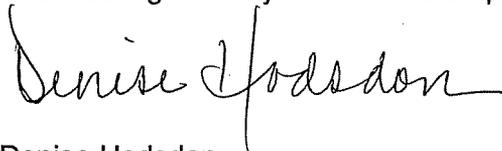
Mayor Arnett said he too shared some concerns relative to land use regulation in the 2010 Plan, things that he had originally favored but no longer does. He said we need to find ways that regulatory actions do not deprive landowners of the value of their land. He also urged the Council to consider forming a citizen advisory committee on budget and taxation and a similar committee on regulation and reform.

Mayor Arnett then informed the Council and public that he has purchased a home in South Carolina and will be selling his home in Hampden. He will be moving in the near future and given that position, he resigned as Mayor and from the Council effective as of adjournment of this meeting.

## **G. ADJOURNMENT**

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The meeting was adjourned at 10:30 p.m. by Mayor Arnett without objection.



Denise Hodsdon  
Town Clerk