

TOWN COUNCIL MINUTES

JUNE 4, 2007

The regularly scheduled meeting of the Hampden Town Council was held on Monday, June 4, 2007. The meeting was held at the municipal building council chambers and was called to order by Mayor Briggs at 7:04 p.m.

Attendance: Councilors: Mayor 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 Economic Development Director Bion Foster

A member of the press and citizens

A. CONSENT AGENDA

Treasurer's Warrants were circulated for approval and signatures of the Finance Committee. The balance of the Consent Agenda was accepted without objection.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. MORATORIUM ORDINANCE ON THE ISSUANCE OF PERMITS OR APPROVALS FOR MINERAL EXTRACTION AND EARTHMOVING ACTIVITIES IN EXCESS OF 1,000 CUBIC YARDS OF MATERIAL

Mayor Briggs explained that this moratorium would replace the expired moratorium and will allow the Ordinance Committee and Planning Board the time needed to complete the mineral extraction amendments to the Zoning Ordinance. Ordinance Committee Chair Arnett reported that the Committee recommends adopting the moratorium. Town Attorney Russell indicated that a repealer provision will be included in the new Mineral Extraction ordinance that will repeal the moratorium.

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

Proponents: None

Opponents: Alan Gardner of B.A. Gardner stated that there are some issues about native material. This has nothing to do with material hauled in from another source and stockpiled. There are some real big issues with this and you're blanketing homeowners and building contractors with this moratorium. He said there should be something determining between a stockpile and a fill – there are no rules and he thought it should be dropped.

General Questions or Comments: Janet Hughes of Hughes Bros. stated that when the moratorium went into effect last year they had concerns. Hughes Bros. has been in business for over 50 years and gravel pits and stockpiling materials is their livelihood. She noted that the moratorium defines mining activity but does not define earthmoving activity and she asked what that definition is. She expressed concern that this could prevent them from rehabbing their historical pits and put them in violation of DEP rules and regulations.

Manager Lessard noted that pending the Committee's work on the mineral extraction ordinance, entities that were in business and operation prior to the start were not prohibited from continuing to work. This moratorium is a continuation of the same moratorium that has been place and anyone in operation prior to will not be impacted while this moves through the public hearing process. She pointed out that later on in the agenda is the mineral extraction ordinance for referral to the Planning Board. They will hold a public hearing to take testimony about concerns and then it will come back to the Council for another public hearing depending on the recommendation of the Planning Board.

Mrs. Hughes asked if this moratorium would affect industrial and commercial development by the definition of the earthmoving piece of the moratorium. Attorney Russell said the ordinance does not define earthmoving per se, but it does require an earthmoving permit for a number of activities which include the filling, grading, lagooning, dredging, excavation, processing and storage of earth products. He said all this does is put a moratorium on the issuance and processing of any applications for earthmoving permits, but there are exemptions for the requirement of earthmoving permits, one of them being earthmoving activity in an approved subdivision. If a contractor is constructing a road and other infrastructure in an approved subdivision, that would not require a permit so would not be prohibited under the moratorium. Secondly, a permit would not be required in the construction of a permitted structure and any earthmoving activity related to the construction of that structure would not be prohibited.

The hearing was closed.

Councilor Gilberti hoped that all the companies involved in this type of activity were involved in the total process of writing this ordinance and the finished product is something that would work for the town and the actual

end-users. He said he could not vote in favor of a moratorium if the people it affects are not satisfied that they can continue doing business.

Attorney Russell explained that the other option proposed was to make the mineral extraction ordinance retroactive, which would put a greater hardship on the developers and contractors if they had to undo what they have done because the ordinance was retro-active.

Councilor Gilberti noted that a couple people arrived after the hearing was closed and asked if the Council would allow them to comment if they so wished. Attorney Russell advised that the public hearing should be re-opened in order to accept additional comments. Motion by Councilor Gilberti, seconded by Councilor Brann to re-open the public hearing – unanimous vote in favor. The hearing was re-opened.

Opposed: Herb Sargent of 47 Town Farm Road said he was initially satisfied with the answers the Council gave to Mrs. Hughes, but he now has questions relative to approved projects, such as the Route 1-A sewer replacement. He noted there are stockpiles that are appurtenant to that project and every project like that will require stockpile areas. There may be requirements for removal of materials from stockpiles in areas adjacent to approved projects and he thought the Council should give consideration of that.

Attorney Russell said he would prefer to leave that up to the Code Enforcement Officer's discretion if there is property next door and that is where they will store the materials while they are working on the site. He thinks that is something that could be accommodated, but he would not blanket say that stockpiling materials on other lands in the neighborhood would be allowed. He said if it is truly incidental to the construction activity that has been approved, that is one thing, but if the principal use is stockpiling and processing, that is not something that would be allowed.

Mr. Sargent said he thought the way the moratorium is written, it closes the loop on the adjacent property. Councilor Brann said in discussions with the Code Enforcement Officer, if it is an approved project there will be no problems.

There was no one else who wished to speak in favor or opposition or who had questions or comments so the hearing was closed.

Motion by Councilor Arnett, seconded by Councilor Brann to adopt the Moratorium on the Issuance of Permits and Approvals for Mineral Extraction. By roll call vote, the motion passed 7-0.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

a. CONSERVATION COMMISSION AWARD CRITERIA

Town Planner Bob Osborne explained that this is a protocol to review candidates for the Conservation Commission's annual conservation award. The purpose of creating this guideline is to create a mutually agreed upon fixed purpose for the award that would create consistency from year to year and elevate the significance of the award.

Motion by Councilor Brann, seconded by Councilor Cox that the Town Council recognizes and supports the guidelines for the Hampden Conservation Award – unanimous vote in favor.

b. NON-STORMWATER DISCHARGE ORDINANCE – INTRODUCTION FOR PUBLIC HEARING

Manager Lessard explained that the adoption of an ordinance is one of the components for the Town's license for stormwater discharges. Councilor Arnett introduced this for public hearing.

c. REQUEST FOR DONATION – IRAQ SERVICEMEN PROJECT

Manager Lessard received a letter from Hampden Academy student Brittney Ginn requesting a donation from the Town in support of this project. Motion by Councilor Colford, seconded by Councilor Arnett to donate \$1,000 from the Council's general expense account.

Discussion: Manager Lessard noted that the general expense account only has a balance of \$300 to \$500. Councilor Colford amended his motion to fund the donation from Host Community Benefit fund. Councilor Arnett agreed to the amendment.

Councilor Arnett commented that there needs to be a process in place whereby the Council agrees as to what levels are appropriate for various kinds of grants and that they need to be incorporated into the budget. Councilor Cox echoed Councilor Arnett's comments.

Mayor Briggs inquired whether these funds would go to local servicemen. He pointed out that it would not be appropriate to use Host Community Benefit money if these funds were going into a pool to serve everyone nationwide, but would be appropriate if it benefits citizens from this community. Manager Lessard said it would be for local servicemen.

Councilor Murphy suggested that a portion of the \$1000 could be paid from the Council's general fund in this year's budget and the balance could come from the same account in next year's budget. Councilor Brann also suggested that it could be funded from fund balance at the end of the year.

Councilor Colford withdrew his motion and Councilor Arnett agreed to the withdrawal.

Motion by Councilor Colford, seconded by Councilor Brann to donate \$1000 for the Iraq servicemen project to be funded from fund balance. Vote on the motion: Councilor Cox opposed; all others in favor – motion carried.

d. 2008 BUDGET:

01-30 ECONOMIC DEVELOPMENT

Economic Development Director Bion Foster explained that as a result of the discussions with the Council, the budget format will remain the same through December 31st. By January a part-time person would be hired to work 30 hours per week in tandem with the Economic Development Director, Town Council and the Economic Development Committee. The line items for Compensation-Salaries, FICA/Medicare and Travel/Training would be increased to reflect this new position.

There was discussion about hiring a person to work full-time to work with the Economic Development Director, Town Planner and Code Enforcement as soon as a qualified person can be found. Motion by Councilor Brann, seconded by Councilor Colford to authorize the Town Manager to begin advertising for a full-time person to function in Planning and Economic Development. Following further discussion, vote was unanimously in favor of the motion.

Manager Lessard recommended that the total Economic Development budget be set at \$100,000 in order to accommodate a full-time position. Councilor Brann moved and Councilor Gilberti moved to set the total budget for Economic Development at \$100,000.00. By roll call vote, the motion passed 7-0.

FIRE TRUCK RESERVE ACCOUNT – (\$25,000 Proposed)

Manager Lessard reported that the tank truck did pass its inspection and Public Safety will go forward with the recommended repairs that were identified.

Public Safety Committee Chair Murphy reported that the Committee will meet at 6:00 pm on June 6th to further discuss repair costs of the tank truck.

Motion by Councilor Brann, seconded by Councilor Murphy to approve the \$25,000.00 proposed amount for this line item.

Discussion: Councilor Colford stated that the reserve account has historically been used for a pumper truck and no reserve account has been used for a tanker truck. He said that theoretically, the money appropriated for fire truck reserve is for replacement of the pumper. He feels that the Council needs to look at funding a tanker truck reserve in addition to a fire truck reserve. He would like to see this line item funded at \$75,000.00.

A roll call vote was taken: Councilor Colford opposed; all others in favor – motion carried.

BUDGET OVERVIEW

Mayor Briggs read the totals for each account and Councilor Brann moved to send the proposed 2008 budget to public hearing. Councilor Cox seconded the motion and vote was unanimously in favor.

4. NEW BUSINESS

a. BANGOR STORMWATER GROUP – GRANT APPLICATION

The Bangor Area Stormwater Group was awarded an \$85,385.00 grant on behalf of Bangor, Hampden, Milford and Veazie. Manager Lessard requested authorization to sign acceptance of this grant on behalf of the Town of Hampden. Councilor Arnett so moved; seconded by Councilor Brann – unanimous vote in favor.

b. PRIVATE PUMP STATION AMENDMENTS TO SUBDIVISION ORDINANCE – REFERRAL TO PLANNING BOARD

Motion by Councilor Brann, seconded by Councilor Cox to refer the amendments to the Planning Board – unanimous vote in favor.

c. DRAFT ZONING ORDINANCE TEXT AMENDMENTS FOR MINERAL EXTRACTION AND FILLING, GRADING AND STOCKPILING – REFERRAL TO PLANNING BOARD

Motion by Councilor Brann, seconded by Councilor Arnett to refer the amendments to the Planning Board. By roll call vote the motion passed 7-0.

d. PROPOSED PROCEDURE FOR ACCEPTANCE OF SUBDIVISION OPEN SPACES – TOWN PLANNER

Town Planner Bob Osborne proposed that the Council authorize direct communication between the staff and the Community Services Committee. A copy of the proposed procedure is attached. Motion by Councilor Brann, seconded by Councilor Cox to adopt this as a policy for handling subdivision open spaces – unanimous vote in favor.

D. COMMITTEE REPORTS

Councilor Brann reported that the Community Services Committee met with Prentiss & Carlisle regarding their inventory of several pieces of town land, the first being Dorothea Dix Park. Prentiss & Carlisle will be providing a management plan designed on a break-even cost situation to improve the forest, increase the grass space and re-orient the trail system. They also looked at the parcel on Kennebec Road, which is mostly wetland, the land adjacent to the school in the Four Mile Square and the LL Bean property.

E. MANAGER'S REPORT

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

F. COUNCILOR'S COMMENTS

Councilor Gilberti noted that this is Cancer Survivor Week and numerous events are happening this week including an event this Saturday on the Bangor Waterfront. He suggested contacting Eastern Maine Healthcare for more information.

Councilor Murphy commented that the new community map is very nice. However the Ammo Industrial Park was left off the map and he requested that it be included in the next printing.

Mayor Briggs commented that it was an exciting week for the region with the announcement that Cianbro is coming to Brewer, which will have a ripple effect on Hampden and the announcement that people are going back to work in Old Town.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 p.m.

Denise Hodsdon
Town Clerk