

TOWN COUNCIL MINUTES

APRIL 11, 2011

The regularly scheduled meeting of the Hampden Town Council was held on Monday, April 11, 2011. The meeting was held at the municipal building council chambers and was called to order by Mayor Hughes at 7:04 p.m.

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

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: None

Members of the Glue Crew Destination Imagination Team and citizens

A. CONSENT AGENDA

Councilor Shakespeare requested that Item A.3.a. be set aside and Mayor Hughes requested that items A.3.b. through A.3.f. 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.a. THANK YOU – SGT. STEWART FROM DR. EMILY MARKIDES

Councilor Shakespeare read the letter and congratulated Sgt. Dan Stewart for his fine work and noted that this is an excellent reflection on our Police Department.

A.3.b. JOSH EWING – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.c. GAYLE ZYDLEWSKI – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.d. LISA KELLEY – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.e. RICH ARMSTRONG – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A.3.f. MATTHEW McLAUGHLIN – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

Mayor Hughes noted that these applications will be referred to the Planning & Development Committee for review.

Motion by Councilor Shakespeare, seconded by Councilor Brann to accept all items – 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.

3. UNFINISHED BUSINESS

a. COMPOSITION OF COMPREHENSIVE PLAN COMMITTEE – PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATION

Councilor Brann reported that in order to determine how many people would actually be interested in serving on the committee the Planning & Development Committee voted to recommend mailing a notice and application to all postal patrons in Hampden. The decision on how the Citizens Committee will ultimately be structured would be based on the number of applicant responses,

Motion by Councilor Cushing, seconded by Councilor Brann to authorize the Town Manager to prepare a draft mailing, for approval by the Council via email, which will include a notice of the formation of the Citizen Committee together with an application, to be mailed to all postal patron addresses and all applications must be returned by May 2nd – unanimous vote in favor.

Rich Armstrong of Snowman Printing offered to print the mailer at no cost.

Mayor Hughes asked Manager Lessard to discuss an email received from Cindy Philbrick with a continued concern regarding Randall Arendt's affiliation with the Comprehensive Plan. Manager Lessard noted that the questions were in regard to Council authorization for bringing Mr. Arendt to Hampden, what the process was; who was involved and when the motions were made that supported that decision. Manager Lessard provided copies of all minutes with relation to hiring Mr. Arendt and where the money came from to pay for his services. There was also a question about the hiring of Renaissance Planning to assist with the BEAR project. Manager Lessard also provided that information as requested.

Mayor Hughes noted that there was a citizen who wished to make comment and asked the pleasure of the Council. Motion by Councilor Cushing to permit citizen input on this issue – motion did not pass.

The Council took a 10-minute break. Following the break and discussion of Item C.3.b., Councilor Hornbrook objected to the vote to not allow citizen comment on the Randall Arendt discussion. Attorney Russell advised that the discussion did not fit under the description of the item on the agenda and noted that in the future the Council should stick to the topic at hand. He felt it would be appropriate to accept citizen comment at this time because it really wasn't on the agenda.

Following discussion, motion by Councilor Brann, seconded by Councilor Shakespeare to set aside the rules to add an item to the agenda relative to the Town's procedures and involvement of Randall Arendt relative to the Comprehensive Plan – unanimous vote in favor.

Mayor Hughes then invited the public to ask questions and make comment relative to the added item.

Mike Levesque of 1 Deer Hill Lane asked if we paid Mr. Arendt \$5,000 for a 1-day seminar and did the Town pay him to have input into the ordinances relative to the Comp Plan. The response was that Mr. Arendt was paid \$5,000 for his services and expenses, which was to conduct a workshop to help the Town have a better understanding of conservation subdivision, but he was not hired to have input into ordinances.

Cindy Philbrick of Western Avenue said that Randall Arendt doesn't share her vision and since the Council paid \$5,000 to Mr. Arendt, she suggested that she knew of a great speaker, Dr. Kaufmann, who does share her vision and speaks directly toward a comprehensive plan. She feels there should be fair representation and she would like to bring him to Hampden and have the Town Council approve to pay him. It was the consensus of the Council that the first step is to form the citizen committee and then if the committee makes a request for outside resources, it could be considered at that time.

David Ryder of Meadow Road said he was confused as to why Mr. Arendt was hired to come to Hampden. Manager Lessard explained that he made a presentation to Hampden Business Association members, consulted with staff and conducted a workshop for Council, staff and town committees regarding conservation subdivision.

Jeremy Williams of 1334 Carmel Road North said he was forwarded an email from former Mayor Arnett to the Council thanking them for the cake and reception and noted that according to that email it sounded like Randall Arendt was going to be heavily involved going forward. Mr. Williams found it troubling that there was no resolution that Mr. Arendt's ideas and continued guidance would not be used, but he also did not hear anything saying we're going forward other than a little indicator in Councilor Arnett's email comments.

Councilor Brann noted that there are no ordinances in the Town that require conservation subdivision, but this was an opportunity to understand what it is and it would be just another choice in subdivision options. He said that before deciding how to construct ordinances, there had to be an understanding of this new option. That was the point of bringing Mr. Arendt to Hampden, not "should

we implement it?"; not "how it should be implemented"; not "where it should be implemented"; but "what does it look like?" He said that was the only intent of having him here.

Lisa Kelley of 19 Clark Circle said she can understand why the Council would want Mr. Arendt to come and give his perspective, but she also understands the citizens' concerns because he had made comments that he would be willing to look at our ordinances; she noted the timing seems suspicious.

b. ALEWIVES FISHING RIGHTS – CLARIFICATION OF ACTION

Manager Lessard provided a memo to update the Council on actions related to Alewife Harvesting from 1990 forward. A copy of the memo is attached hereto.

c. CODE OF ETHICS

By unanimous vote, this item was postponed until the next meeting.

4. NEW BUSINESS

a. "GLUE CREW" DESTINATION IMAGINATION TEAM – REQUEST FOR FUNDING FOR TRIP TO NATIONAL COMPETITION – FINANCE COMMITTEE RECOMMENDATION

This item was moved to the beginning of the meeting. Following a presentation by the members of the Glue Crew and recommendation of the Finance Committee, Councilor Cushing moved and Councilor Brann seconded to donate \$200 from the Council's General Expense Fund to the Glue Crew – unanimous vote in favor.

b. POLICE CRUISER BID RESULTS – 2010/2011 BUDGET – FINANCE COMMITTEE RECOMMENDATION

This item was postponed until the next meeting at the request of Public Safety Director Rogers.

D. COMMITTEE REPORTS

Services – Councilor Lawlis reported that the committee met earlier this evening and will be meeting again on Monday, May 9th at 7:00 pm to talk about a proposed 1.8 mile recreational trail which would be located on town land adjacent to the school, to be shared by the town and the school district.

Planning & Development – Councilor Brann reported that the committee continues work on the marina project, HA property re-use and the PACE initiative. The committee has also been working on a revised definition of "family" in the Zoning Ordinance. The next meeting is on April 20th.

Communications – Councilor Hornbrook reported that the next meeting is scheduled for 6:00 pm on Thursday, April 21st.

TO: Hampden Town Council
 FROM: Sue Lessard, Town Manager
 DATE: April 6, 2011
 RE: Alewives

The purpose of this memo is to update the Town Council on actions related to Alewife Harvesting from 1990 forward. It also contains information regarding the process used for approvals required by the Department of Marine Resources, and information related to the action taken on 4/4/11.

The following is the action taken on alewives from 1990 - 2010 and the date on which it was taken:

<u>Date</u>	<u>Action</u>
3/19/1990	- Exclusive rights for the taking of alewives
4/1/1991	- Exclusive rights for the taking of alewives
4/6/1992	- Exclusive rights for the taking of alewives
3/15/1993	- Exclusive rights for the taking of alewives
2/7/1994	- Exclusive rights for the taking of alewives
4/3/1995	- Exclusive rights for the taking of alewives
4/1/1996	- Exclusive rights for the taking of alewives
4/21/1997	- Exclusive rights for the taking of alewives
2/17/1998	- Exclusive rights for the taking of alewives
4/5/1999	- Exclusive rights for the taking of alewives
2/7/2000	- Exclusive rights for the taking of alewives
5/14/2001	- To Adopt the Alewives Plan
2/25/2002	- To retain fishing rights with a closed season
2/18/2003	- To retain fishing rights with a closed season
4/20/2004	- To retain fishing rights and adopt recommended regulations
4/25/ 2005	- To retain fishing rights and the same plan as prior year
4/18/2006	- To adopt a moratorium on alewife fishery
3/5/2007	- To retain fishing rights and continue a moratorium
4/7/2008	- Voted to retain Fishing Rights -
4/22/2008	- Public Hearing to Adopt Alewife Ordinance - Ordinance adopted
3/16/2009	- To preserve fishing rights and continue fishing plan in same manner as 2008
4/20/2010	- Voted to preserve fishing rights and continue the fishing plan according to the 2010 Model Alewife Ordinance

I called the Department of Marine Resources to ask them about the model ordinance provision - when it became part of the fishing rights preservation, and what its purpose was. According to Michael Brown, the Department has always required a 'fishing plan' that identified the manner in which fish could be taken, and over what period of time, and the fact that the total catch must be reported to the State. This Model Ordinance is listed in the information provided by the Department of Marine Resources as a "guide for use in developing a local harvesting plan" and most communities use this 'guide' to define its harvesting

plan because it contains parameters that Marine Resources will accept as appropriate for a harvesting plan. It is not required that the harvesting plan be approved by the Town Council - what is required is that the Municipal Officers vote to preserve the fishing rights and that they notify the Department of Marine Resources with that decision and accompanying the request, there must be a harvesting plan.

As you can see, for the past 20 years the Town has been acting in mostly the same manner in requesting preservation of its fishing rights. In 2008, the Town went through the process of formally adopting the Alewives Harvesting Plan as an ordinance. According to our Town Attorney (see attached memo) that Harvesting Ordinance is still in effect and the Council's vote to request preservation of fishing rights and harvesting according to the 2011 regulations presented is valid because the Model presented is identical to what was approved in 2008 as the Alewife Harvesting Ordinance through the formal adoption procedure outlined in the Charter.

Going forward, the action of the Council in regard to Alewives should continue to be to request preservation of fishing rights. Unless the Harvesting Plan proposed by DMR changes, there is no need to reference the harvesting plan in the vote because that is governed by the Ordinance adopted in 2008.

I apologize for the confusion on this item.

Sue Lessard
Town Manager

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MEMORANDUM

Date: April 6, 2011
To: Susan Lessard
From: Tom Russell
Re: Alewife Ordinance

As we discussed, I reviewed the Council agendas and minutes for 2007-2010, and the Council packets for 2008-2010. At the March 5, 2007 council meeting, the Town Council voted to maintain its fishing rights for alewives and to continue with the moratorium on alewife fishing.

The alewife fishing rights, including George LaPointe's Memo dated January 2008 and a Model Alewife Ordinance – 2008 was on the agenda for the April 7, 2008 council meeting. The Memo explained that towns with alewife fishing rights must take annual action to retain those rights, and must have a plan on how the harvesting of alewives will be carried out, which plan must be approved by the Commissioner of Marine Resources. The Memo also described the minimum requirements of the plan, and stated that the Model Ordinance was enclosed as a guide to be used in developing a local harvesting plan. The Model Ordinance contained the minimum requirements for a harvesting plan. The minutes for that meeting indicate that the Conservation Commission had determined that it was appropriate to re-establish the alewife fishing. Councilor Brann introduced the Model Ordinance for public hearing at the next council meeting. The matter was on the April 22, 2008 agenda as Item C-1-a under Public Hearings, and the minutes indicate that the hearing was held on April 22nd, and after the hearing the Council voted to adopt the Ordinance. Therefore, at that point, the Town had effectively adopted a harvesting plan through the enactment of the Ordinance. The Ordinance did not contain a sunset provision, so it is still in effect.

The alewife fishing rights was on the New Business section of the agenda for the March 26, 2009 council meeting as Item 4-e, and the council packet included the January 2009 Memo from Mr. LaPointe. The 2009 version of the Model Ordinance was not in the packet. The minutes for the March 16th meeting indicate that the Council voted "to preserve alewife fishing and continue the alewife fishing plan in the same manner as last year."

The alewife fishing rights was on the New Business section of the agenda for the April 20, 2010 council meeting, and a copy of the Model Alewife Ordinance – 2010 was included in the packet. The Ordinance was not introduced for hearing, and the Council voted on April 20, 2010 “to preserve alewife fishing rights and continue the alewife fishing plan according to the 2010 Model Alewife Ordinance.” I do not interpret that vote as adopting the 2010 Model Alewife Ordinance. Rather, the Council voted to continue the alewife fishing plan according to the provisions of the referenced 2010 Model Ordinance contained in the packet, the provisions of which were identical to the provisions of the Ordinance adopted on April 22, 2008.

The alewife fishing rights was on the New Business section of the agenda for the April 4, 2011 council meeting as Item 4-a, and a copy of the Model Alewife Ordinance – 2011 was included in the packet. Since the document was entitled as an ordinance, I raised the issue concerning the Charter procedure to enact an ordinance. Now that I have reviewed the history of this matter, it is clear that we still have a harvesting plan in effect by virtue of the 2008 Ordinance, and since the provisions of the 2011 Model Alewife Ordinance are identical to the provisions of the Ordinance adopted by the Council on April 22, 2008, there was no need to adopt the 2011 version of the Model Alewife Ordinance. Since the motion approved on Monday was virtually identical to the motion passed at the April 20, 2010 meeting, except that the word “Ordinance” in the 2011 Model Ordinance was changed to “Regulations”, I think the vote was valid because the Town already has a harvest plan as adopted in 2008, the provisions of which are identical to the provisions of the 2011 Model. As explained in Susan Lessard’s Memo, the State apparently does not require an annual vote by the legislative body to adopt the harvesting plan anew each year, it just requires an annual vote to retain the alewife fishing rights, evidence of which must be submitted to the State, along with a copy of the harvesting plan. In essence, the reference to the Model in Monday’s night vote was superfluous and unnecessary.

It is my opinion that as long as the Department of Marine Resources continues to use the same Model Ordinance, which it provides as a guide for the development of an acceptable local harvesting plan, there is no need to re-adopt a new ordinance each year, as the Ordinance adopted on April 22, 2008 is still in effect and contains the required elements of a harvesting plan. At such time as the Department provides a different guide for a local harvesting plan with different requirements, the Town would need to amend the 2008 Ordinance, or replace it, to comply with any new guidelines.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

F. COUNCILOR'S COMMENTS

Councilor Hornbrook thanked the residents for taking the time to come to the meeting.

Councilor Cushing echoed Councilor Hornbrook's comment and he wished Edna Bragg a Happy 106th Birthday.

Councilor Lawlis commented that she walks her dog in the woods every morning and she wants to thank all the landowners who open up their land so people can walk, hike, hunt and snowmobile.

Councilor Shakespeare said he believes that all committee meetings should be taped so there is record of what is said and discussed. He also expressed frustration with the Town Manager having to spend so much of her time answering emails requesting information and he noted that there should be some sort of charge for providing this information, which is allowed under the Freedom of Information Act.

Councilor Brann commented that he has heard from a couple people about the Recreation Department's after school program. They have complained that people have to arrive early in the morning and camp out all day in order to sign their children up for the program. He noted that it is a very successful program and if there is that much demand for it, we need to look into expanding it to accommodate everyone. He suggested that this be referred to the Services Committee.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:45 p.m.



Denise Hodsdon
Town Clerk

MANAGER'S REPORT

April 11, 2011

Tax Collections – I am happy to report that as of today, the Town has collected 93% of the tax commitment for 2010/2011. That is excellent considering that it is only a few days past the due date for the second half. The refreshments on tax due date were well received. Thanks to the staff members who provided the goodies for the customers.

2010 Census Statistics – I have attached a copy of some preliminary Census figures for Hampden. In 2000 our population was 6327 – in 2010 it is 7257 – a 14.7% increase.

Composter Program – A reminder that persons interested in obtaining a home composter must contact Rosemary in the Planning Office at 862-4500 by Thursday, April 21st.

Government on the Go – The second edition of Government on the Go will be emailed out to those who are registered in our online email address database on Thursday, April 14th.

April Newsletter – The April newsletter is at the post office for distribution and should be in mailboxes by Tuesday, April 12th. The canary yellow cover is to attract attention to the lead story about the *Government on the Go* biweekly email notice.

Distributing Applications for Comp Plan Committee – I spoke with Mr. Sproul, who spoke under Public Comments at the last Council meeting about his assertion that he had sent many people from all different vocations in to the town office for applications to the Comp Plan committee and that they were denied an application. Mr. Sproul gave me the name of one individual and I contacted that person to find out what occurred. According to the person involved, they were in the Town Office and had a conversation with a staff member about the Comp Plan in general during which they were told that the Council was in the process of determining what that makeup of a committee to review the plan would be. The person was not offered an application – but the person did not ask for one either. Mr. Sproul indicated that he had to check with a couple of other people that he thought had come in for applications in order to find out what their status was and he also indicated that he had heard people in the audience behind him at the last meeting discussing the subject and was going to check with them. I have been provided with no other names of persons and have discussed the subject with all staff people here. While indeed people may have been told that the Council was still determining what the composition of the Committee would be – anyone who asked for an application was given one. Not only that – the application is also online. Staff was upset at the allegation and I thought it important to find out what the source of the information was. It appears that it was a misunderstanding.