

## TOWN COUNCIL MINUTES

MAY 2, 2011

The regularly scheduled meeting of the Hampden Town Council was held on Monday, May 2, 2011. The meeting was held at the municipal building council chambers and was called to order by Mayor Hughes at 7:00 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:** Recreation Director Kurt Mathies and Public Works Director Chip Swan

Citizens and members of the press

### A. CONSENT AGENDA

Councilors requested that items A.3.b. through A.3.i be set aside. Motion by Councilor Cushing, seconded by Councilor Brann to accept the balance of the consent agenda - Unanimous vote in favor.

A.3.b. JUDY MARKOWSKY – NEW APPLICATION FOR FRIENDS OF DOROTHEA DIX PARK – REFERRAL TO SERVICES COMMITTEE

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

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

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

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

A.3.h. SPENCER MEYER – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

A3.i GREGORY SIROIS – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE

Mayor Hughes noted that these applications will be referred to the committees as identified for review.

**A.3.g. ROBERT LAWLIS – NEW APPLICATION FOR CITIZEN COMPREHENSIVE PLAN COMMITTEE – REFERRAL TO PLANNING & DEVELOPMENT COMMITTEE**

Councilor Hornbrook questioned whether there would be a conflict of interest given that the applicant is the spouse of a Councilor. Attorney Russell advised that he was not aware of any statute that would prohibit his appointment to a committee.

Motion by Councilor Brann, seconded by Councilor Shakespeare to accept all items – unanimous vote in favor.

**B. PUBLIC COMMENTS**

Attorney David Crocker, who is representing the Hampden Association of Land Owners (HALO) distributed copies of a letter addressed to Manager Lessard dated May 2, 2011. The letter outlines certain issues of concern to HALO and a copy is attached.

Councilor Cushing disclosed that Mr. Crocker represents him as part of a team in a lawsuit related to clean elections so he would be unable to participate in any issues related to his representation on behalf of another group.

Bud Hall, owner of Anglers Restaurant said he wanted to plant a seed with the Council on considering Anglers being allowed to host a farmers' market on Saturday mornings. He envisions the farmers setting up tents around the outside edge of their parking lot. He has talked with some organic farmers and local business owners and he would like to continue and expand Anglers' community involvement as a way of giving back. This was referred to the Planning & Development Committee.

David Ryder of Meadow Road asked why the old Route 9 (running from Route 9 to the Shaw Hill Road) is being neglected. He said you can't drive on it and he wants to know why. This was referred to the Infrastructure Committee and Manager Lessard will discuss it with the Public Works Director.

Lisa Kelley of 19 Clark Circle said she was reviewing last year's budget and questioned why the Town is taking taxpayer dollars and making specific contributions to outside agencies. She said it is her understanding that taxes are to be used to maintain the town and she feels that contributions should be an individual taxpayer's decision and not that of the Town Council. Manager Lessard explained that these entities write letters to the Town and are invited to address the Council during the budget process with what services they provide to residents. Manager Lessard suggested that anyone with concerns related to the process is welcome to attend the budget workshop where outside agencies are discussed.

**C. POLICY AGENDA**

**1. PUBLIC HEARINGS**

# David Peter Crocker

ATTORNEY AND COUNSELOR AT LAW  
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May 2, 2011

VIA HAND DELIVERY

Ms. Susan Lessard, Town Manager  
Town of Hampden  
106 Western Avenue  
Hampden, ME 04444

Re: Legal Status of Town of Hampden 2001 Comprehensive Plan

Dear Ms. Lessard:

This office represents the Hampden Association of Landowners (HALO), a newly formed association promoting and protecting the interests of Hampden property owners. HALO is very concerned with the status of Hampden's comprehensive planning process, the failure properly to approve the 2010 Comprehensive Plan and the plan's subsequent review.

After research, there is also considerable doubt as to whether the town properly approved the existing 2001 Comprehensive Plan. As I'm sure you'll agree, there are potentially serious legal ramifications in the absence of proper approval.

The baseline requirement for approval of any comprehensive plan may be found in section 604 of the Hampden charter, which states unequivocally that the Town Council "shall approve no changes in the comprehensive plan without the recommendation of the Planning Board." According to the charter's revision history, this provision was in effect in December 2001, when the 2001 plan was ostensibly approved by the Town Council.

A detailed review of the 2000-2001 Town Council and Planning Board meeting minutes reveals no Planning Board approval or recommendation for approval prior to the Town Council's December 17<sup>th</sup> vote approving the 2001 Plan. It is difficult to see how there could be such a recommendation. The Town Council minutes indicate that there were ongoing changes to the 2001 Plan as late as October-November of 2001 and that the council felt obliged to hold another public meeting on December 3, 2001. At the December 3<sup>rd</sup> meeting, the council attempted to approve the plan but was prevented from doing so by the town's attorney, who indicated that the amended plan should be put out for public reading and comment and only approved after full review by the council.

Ms. Susan Lessard  
Town of Hampden  
May 2, 2011  
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The council's formal approval vote took place on December 17, 2001, *without* recommendation by the Planning Board as required by the charter. While in previous correspondence with HALO members you indicated that the Planning Board and 2001 Comp Planning Committee were one and the same, a close inspection of town records shows this not to be the case. There were indeed two entities but only Planning Board recommendation is required by the town charter.

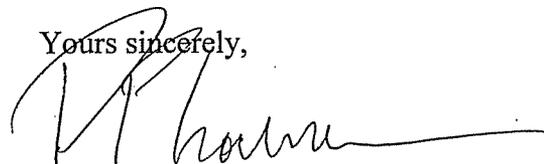
Needless to say, Hampden landowners have operated (some would say, suffered) under the ordinances enacted pursuant to the 2001 Plan and there is good reason to believe both the ordinances and the 2001 Comprehensive Plan are void. It is also reasonable to assume that the town has significant exposure to Hampden landowners who in reliance on an invalid plan and ordinances (a) were denied the full use of their property or (b) expended large sums for planning and approvals that they didn't need.

Our membership as well as Hampden residents generally are greatly concerned about these matters and the Town Council's apparent determination to push forward with implementation of the yet-unapproved 2010 Comprehensive Plan. I refer, of course, to the council's action during the March 1, 2011, special meeting during which the council excluded the BEAR program from the 2010 plan. This action was of dubious legality and merely confirms the suspicion abroad that there is an agenda at work. HALO urges the council to observe a moratorium of BEAR while all these matters are sorted out.

After these initial issues are resolved, HALO would like to work with the town on appropriate land use policy. The entire matter of comprehensive planning and the status of the 2010 Plan is deeply controversial at best. Hopefully, HALO can assist the town in formulating land use policy that permits owners to realize the economic potential of their property while preserving the town's unique character. Such policy planning is uniquely a *local* matter and should be *entirely* in the hands of people who live in the town. In fact, such local control of land use should be the foundation of the town's policy.

We look forward to the town's response regarding these issues.

Yours sincerely,



David P. Crocker

DPC/mbs

cc: HALO Board  
Town Council  
General Distribution

- a. APPLICATION FOR RENEWAL OF VICTUALER'S LICENSE RECEIVED FROM ANGLERS RESTAURANT AT 91 COLDBROOK ROAD

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

No one spoke in favor or opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the application; unanimous vote in favor.

- b. APPLICATION FOR RENEWAL OF LIQUOR LICENSE RECEIVED FROM ANGLERS RESTAURANT AT 91 COLDBROOK ROAD

Mayor Hughes opened the hearing.

No one spoke in favor or opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the application; unanimous vote in favor.

- c. APPLICATION FOR RENEWAL OF VICTUALER'S LICENSE RECEIVED FROM NEALLEY'S CORNER STORE AT 1230 KENNEBEC ROAD

Mayor Hughes opened the hearing.

No one spoke in favor or opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the application; unanimous vote in favor.

- d. APPLICATION FOR VICTUALER'S LICENSE RECEIVED FROM McLAUGHLIN'S AT THE MARINA, 100 MARINA ROAD

Mayor Hughes opened the hearing.

No one spoke in favor or opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Shakespeare, seconded by Councilor Cushing to approve the application; unanimous vote in favor.

- e. APPLICATION FOR LIQUOR LICENSE RECEIVED FROM McLAUGHLIN'S AT THE MARINA, 100 MARINA ROAD

Mayor Hughes opened the hearing.

No one spoke in favor or opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the application; unanimous vote in favor.

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

### **a. SERVICES COMMITTEE RECOMMENDATIONS FOR REAPPOINTMENT:**

1. DONALD DESMARAIS – EDYTHE DYER LIBRARY BOARD OF TRUSTEES
2. RUTH STEARNS - EDYTHE DYER LIBRARY BOARD OF TRUSTEES
3. JOHN SKEHAN EDYTHE DYER LIBRARY BOARD OF TRUSTEES

Services Committee Chair Lawlis reported that it was the recommendation of the Committee to reappoint all three applicants. Motion by Councilor Lawlis, seconded by Councilor Brann to reappoint all three applicants to the Library Board of Trustees; vote was 5-1 (Hornbrook)

### **b. PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATION FOR APPOINTMENT – CHESTER BIGELOW – NEW APPLICANT FOR CONSERVATION COMMISSION**

Planning & Development Committee Chair Brann reported that the committee unanimously recommended appointment. Motion by Councilor Brann, seconded by Councilor Cushing to appoint Chester Bigelow to the Conservation Commission; vote was 5-1 (Hornbrook)

## **3. UNFINISHED BUSINESS**

### **a. DRAFT ZONING ORDINANCE AND SHORELAND ZONING ORDINANCE TEXT AMENDMENTS re DEFINITION OF FAMILY – REFERRAL TO PLANNING BOARD**

Councilor Lawlis referred this item to the Planning Board.

### **b. CONSENT TO MARINA PROPERTY SUBLEASE – HAMLIN'S MARINA AND McLAUGHLIN, LLC**

Manager Lessard explained that in order for Hamlin's to sublease the property for a restaurant, the Town must approve it. She noted that Attorney Russell has reviewed the lease and has recommended a few minor changes which he has conveyed to the lessee's attorney. She recommended that the Council approve the sublease with the changes as recommended by the Town Attorney.

Motion by Councilor Brann, seconded by Councilor Lawlis to authorize the sublease between Hamlin's Marina and McLaughlin's LLC with the changes outlined by the Town Attorney; unanimous vote in favor.

C-3-a



**TO:** Mayor Hughes and Hampden Town Council  
**FROM:** Robert Osborne, Town Planner *RO*  
**SUBJECT:** Draft Zoning Ordinance and Draft Shoreland Zoning Ordinance Text Amendments for  
Definition of Family  
**DATE:** April 7, 2011

At the April 6, 2011 Council Planning and Development Committee meeting there was a vote to send this amendment of the definition of family of both the Shoreland Zoning Ordinance and Zoning Ordinance forward to the Town Council with a recommendation that it be referred to Planning Board for public hearing. Please find attached a copy of the draft amendments to the Zoning Ordinance and Shoreland Zoning Ordinances.

5/2/2011 - Referred to Planning Board

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

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

Deletions are ~~Strikethrough~~      Additions Double Underlined

**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:

~~*Family:* One (1) or more persons related by blood, adoption or marriage occupying a premises and living as a single housekeeping unit. A family may contain no more than two (2) individuals not related by blood adoption or marriage except for "community living facilities" as defined by Title 30-A, Section 4357 which shall be considered a family.~~

*Family:* Shall mean an individual, or a group of two or more persons, occupying a dwelling unit and living as a single housekeeping unit. When occupancy of a dwelling unit is by a group of two or more persons, the group of persons occupying the dwelling must either be:

- a. Related by blood, adoption, domestic partnership, or marriage; or
- b. Comprised of two persons who are not related by blood, domestic partnership, adoption or marriage, and any children related to either or both of them by blood, adoption or marriage;
- c. Comprised of persons, whether or not related to each other by blood, domestic partnership, adoption or marriage, but not to exceed four unrelated persons. Family shall not include a group of unrelated persons occupying a boarding home, rooming house, hotel/motel, tourist home or inn.
- d. A Community Living Arrangement as defined by Title 30-A, Section 4357.

Note: For the purposes hereof, the number of unrelated persons occupying a dwelling unit shall be calculated as follows: Any persons related by blood, adoption or marriage plus one unrelated person shall be considered to constitute a total of two unrelated persons, and each additional unrelated person shall be added to determine the total number of unrelated persons occupying the dwelling unit. By way of example, two or more related persons occupying a dwelling unit combined with two unrelated persons occupying the dwelling unit yields a total of three unrelated persons occupying the dwelling unit.

*Community Living Arrangement:* Shall mean a housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

TOWN OF HAMPDEN  
Draft

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

Deletions are ~~Strikethrough~~      Additions Double Underlined

**17. Definitions.**

~~Family: "Family" means one (1) or more persons related by blood, adoption or marriage occupying a premises and living as a single housekeeping unit. A family may contain no more than two (2) individuals not related by blood, adoption or marriage except for "community living facilities" as defined by Title 30-A, Section 4357 which shall be considered a family.~~

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Community Living Arrangement: Shall mean a housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

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

Manager Lessard reported that the Public Safety Director discussed the bids with the Finance Committee and it was the committee's recommendation to accept the low bid from Darling's Ford for a 2011 Ford Interceptor in the amount of \$21,888.00. Motion by Councilor Cushing, seconded by Councilor Brann to accept the recommendation of the Finance Committee; unanimous vote in favor.

d. PAVING BID RESULTS – FINANCE COMMITTEE RECOMMENDATION

Manager Lessard reported that the Public Works Director discussed the paving bid results with the Finance Committee and it was the committee's recommendation to accept the low bid of \$67.37 per ton from Vaughn Thibodeau. Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the recommendation of the Finance Committee; unanimous vote in favor.

e. SALT BIDS – REQUEST OF PUBLIC WORKS DIRECTOR TO EXTEND 2010 CONTRACT WITH HARCROSS – INFRASTRUCTURE COMMITTEE RECOMMENDATION

Public Works Director Chip Swan had discussed his request to continue with the contract at \$63.42/ton with the Infrastructure Committee. It was the committee's recommendation to approve the request. Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the Public Works Director's request and to extend the 2010 contract with Harcross; unanimous vote in favor.

f. CODE OF ETHICS

Mayor Hughes asked the Council to review the Code of Ethics and make any comments. After initial review, she plans to compile all the comments and come up with a working document.

Councilor Hornbrook noted that Section 11 indicates that there shall be a Board of Ethics and she asked if that is up to date and wanted to know who is serving on it. Manager Lessard said that to the best of her knowledge there is no Board of Ethics and hasn't been since before she came to Hampden. She suggested that the Council needs to establish the board and determine some sort of membership for it.

During discussion, Councilor Brann noted that this is an ordinance that has fallen through the cracks due to lack of use. Councilor Hornbrook asked if we haven't been using it what's the point of reviewing it now and what is the process to repeal it? Councilors Cushing and Brann said they would be opposed to repealing it.

Councilor Hornbrook stated that in light of the upcoming budget and other items, she would be in favor of tabling this until the Council gets through with the pressing business. She then moved to table discussion of the Code of Ethics until a later date when the Council has more time to spend on it. Councilor

Lawlis seconded the motion and vote was 3 in favor (Cushing; Hornbrook and Lawlis) and 3 opposed (Hughes, Shakespeare and Brann); motion did not carry.

Motion by Councilor Hughes, seconded by Councilor Brann to postpone this item until the next meeting; vote was 5-1 (Hornbrook).

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

a. **FRIENDS OF DOROTHEA DIX PARK WATER INSTALLATION PROPOSAL – SERVICES COMMITTEE RECOMMENDATION**

Jane Jarvi, a member of the Friends of Dorothea Dix Park (FODD) and Recreation Director Kurt Mathies informed the Council that there had been no water service at the park since 2006. FODD has received some donations and with the work of volunteers, the group wants to put in a water shed for use by the employees and the garden club and they plan to put in a new water fountain. The cost to the town would be approximately \$3,000, which would come from the Recreation clearing account.

Motion by Councilor Brann, seconded by Councilor Shakespeare to authorize Friends of Dorothea Dix Park to proceed, and use up to \$3,000 from the Recreation clearing account, to provide water service to the Dorothea Dix Park this season; unanimous vote in favor.

b. **RECREATION COMMITTEE REQUEST TO MOVE FORWARD WITH GOALS OUTLINED IN DRAFT 2010 COMPREHENSIVE PLAN – REFERRAL TO SERVICES COMMITTEE**

Mayor Hughes asked for public comment:

Jeremy Williams, 1334 Carmel Road North said he was shocked to see this on the agenda as he thought the 2010 draft was set aside. He said it was his understanding that this was a dead issue for now until the citizens committee reviews it. He asked "how do you implement something from a draft?"

Tracey Mahoney of 59 Surrey Lane, a member of the Recreation Committee, said she understands that there are landowner issues in the draft plan, but she asked people to realize that the Recreation Committee needs some sort of town support for any grant acquisition processes and everything the committee has been working for and needs to move forward has been outlined in the comprehensive plan. She said an unintended consequence to nullifying it has been to completely cease what the Recreation Department can do.

Shelley Blosser of 344 Main Road South asked if the 2001 plan is in place and doesn't have to be revised until 2012, why isn't the committee able to apply for grants under the 2001 plan? Mrs. Mahoney indicated that the 2001 plan does not specify certain goals. Recreation Director Kurt Mathies noted that when the 2001 plan was drafted, it was extremely thin on recreation and that the department did not receive some of the grants it had applied for because it was not indicated in the current plan.

Ms. Blosser said she does understand the concern, but she feels that in order to proceed in a way that reflects integrity, you can't put the cart before the horse. She asked if it is legal to proceed with a draft that has not been implemented. She reminded the Council that they voted to not proceed with the 2010 plan until the citizen committee had been formed and she feels this would contribute to the atmosphere of distrust. She questioned whether it would even be legal to proceed with something that has not been implemented.

Lisa Carter of Western Avenue said the Council did not vote not to proceed, but the 2010 plan was not passed properly and therefore it is not in place. She noted that in the 2010 un-passed plan there was a mandate for recreation trails that many people had a problem with. She asked the Council to show integrity tonight and not move this.

Attorney Russell pointed out that a comp plan is many things and a lot of it is goals; just because the comp plan was not adopted, it doesn't mean that the town can't independently pursue those goals. He noted that the only thing a comp plan is required for is a zoning ordinance; it is not required to pursue goals. He noted that if a grant requirement is that it has to be in a comp plan, then it has to be, but legally if the Town wanted to develop a recreational field, it doesn't need a comp plan to do that.

Jane Jarvi of 10 Sophie Lane, a member of Recreation Committee said the impact on the community will be tremendous if the committee is not given permission to move forward. She said we cannot apply for another canopy grant or for trails money for the Dorothea Dix Park, which is already being advertised nationally as a destination. She noted the lack of sufficient recreation fields in the town and some of the programs are using privately-owned fields. She pointed out that there is an opportunity under some of the old Hampden Academy re-use proposals that perhaps some of the facilities will come available to the community and if the recreation committee is frozen out from pursuing any of those functions, there will be a long-term financial effect on the community.

Rich Armstrong of 109 Kennebec Road said it is very simple – if the 2010 plan is not planned, then the Recreation Department cannot apply for or receive funding. He said he may personally agree with what the Recreation Department wants to do, but if it means that the whole comp plan has to be passed in order to do that, forget it.

Rick Kelley, 840 Kennebec Road said it seems strange to him that this all attached to the comprehensive plan. He said he is all for the recreation department, has no problem supporting it and it should stand alone separate from the comp plan.

Jeremy Williams of 1334 Carmel Road North said nobody has approached him about a walking trail and he is sure that there are a lot of people who would have no problem sharing some of the resources of their property. He said he would like to see the Recreation Committee come see HALO to see what its members have to offer.

Sally Leete questioned why recreation departments all over the country are getting grant funding without a comprehensive plan, and Hampden isn't.

Jeremy Jones of the Partridge Road suggested that the Recreation Committee find another way and focus on one recreation goal that does not infringe on any private property rights.

Recreation Director Kurt Mathies said the committee isn't asking that this be passed to use it to request funding, however it would like to plan for the things that need to be done so that when the plan is passed, it can then apply for grants to get done whatever needs to be done. The problem is that the March 1<sup>st</sup> vote states that anything in that plan cannot be worked on. He noted that the 2001 plan does not have the things in it that the 2010 plan does and it is the committee's understanding that it would not be able to work on those things even if it is just coming up with the plan that we can submit when it is passed.

Lisa Kelley of 19 Clark Circle stated that the Recreation Committee can't use a draft and asked if the Council could separate the recreation part out from the 2010 plan.

Councilor Cushing clarified that the vote on March 1<sup>st</sup> was to suspend the implementation of the comprehensive plan and at that point the Council was not aware of the error in the adoption of the plan. He noted that the second phase of a comprehensive planning process is implementing the goals of that plan through ordinance, zoning, etc. With the vote to suspend implementation, the problem for the Recreation Committee is that the goals established in that plan have been suspended.

Mrs. Kelley asked if the plan was not legally adopted, does that trump the vote to suspend implementation.

Attorney Russell said that raises the question if we still need that vote in place because it was on the premise that the plan was valid. Even though the plan is not adopted and is in a draft form, certainly the Recreation Committee could work on strategies on how it would implement those goals if they are ever enacted. He said it seems that this just stymies the process and he didn't think that the goals for the recreation program were all that controversial. He further clarified that just because they are stated as goals in the comp plan, there are many things in it that the Town can still do without the plan being passed. He said the impediment is the vote that was taken to suspend all implementation of the goals in that plan; it is not the fact that we don't have a plan anymore, it is that vote that prevents us from pursuing other goals in the comp plan that aren't related to zoning.

The Council discussed whether the vote to suspend implementation needs to be rescinded and Councilor Brann moved and Councilor Lawlis seconded to rescind the vote of March 1<sup>st</sup>. Following further discussion, the motion was withdrawn and the issue will be put on the next agenda.

c. NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE  
PROCLAMATION – 5/14/2011

Motion by Councilor Brann, seconded by Councilor Cushing to support the proclamation; unanimous vote in favor.

d. SEWER COMMITMENT – 1/1/2011 TO 3/31/2011

Motion by Councilor Brann, seconded by Councilor Cushing to sign the commitment; unanimous vote in favor

e. ARBOR DAY PROCLAMATION – MAY 19, 2011

Manager Lessard explained that this is required in order to retain our Tree City USA status. Motion by Councilor Brann, seconded by Councilor Cushing to proclaim May 19, 2011 as Arbor Day in the Town of Hampden; unanimous vote in favor.

f. SEWER LINE DESIGN – INFRASTRUCTURE COMMITTEE  
RECOMMENDATION

Mayor Hughes recused herself from discussion of this item and asked Deputy Mayor Cushing to take over. Deputy Mayor Cushing read a letter from Hughes Bros. requesting approval of a proposed extension of a sewer main at 101 Coldbrook Road. After construction, Hughes Bros. will request that the proposed sewer main be accepted by the Town as public sewer. Infrastructure Committee Chair Shakespeare reported that it was the consensus of the committee to recommend authorization to proceed with the project as proposed.

Motion by Councilor Shakespeare, seconded by Councilor Brann to authorize Hughes Bros. to proceed with the proposal; vote was 5-0-1 (Hughes)

g. EMAIL REQUEST – 2001 COMP PLAN

Bernie Philbrick sent a letter to the Council and Manager Lessard in which he questioned the validity of the 2001 Comp Plan. He had reviewed meeting minutes of the Town Council and Planning Board from July 2000 to December 2001 and raised several questions. He is asking the Council to review his findings and determine if the 2001 plan is actually legitimate.

Councilor Cushing asked Attorney Crocker if he wanted to add anything. Attorney Crocker said everything was in his letter and noted that after careful review of both the Planning Committee and Town Council minutes for 2000 and 2001, he can't find anywhere that the Planning Board actually provided the requisite recommendation of approval as required by Sec. 604 of the Town Charter.

Motion by Councilor Lawlis, seconded by Councilor Shakespeare to refer this to Attorney Russell for review and legal opinion; vote was 5-0-1 (Cushing).

**Town Of Hampden Proclamation**  
**National Association of Letter Carriers Food Drive Day**  
**Saturday, May 14, 2011**

WHEREAS, the National Association of Letter Carriers, the United States Postal Service, and the AFL/CIO have partnered with the United Way of Eastern Maine for the 19<sup>th</sup> annual National Association of Letter Carriers Food Drive; and

WHEREAS, this event is the largest one-day food drive in the nation and has raised over 90 million pounds of food nationally for each of the past three consecutive years, feeding families throughout the nation; and

WHEREAS, an estimated 30 million people in America face hunger each day, including 12 million children; and

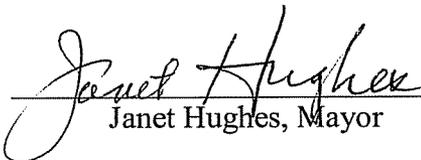
WHEREAS, letter carriers across Maine will collect food at residents' mailboxes on Saturday, May 14, 2011, to be dispersed to local food banks and pantries;

NOW, THEREFORE, I, Janet Hughes, Mayor of the Town of Hampden, do hereby proclaim Saturday, May 14, 2011 as

**NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE DAY**

in Hampden, and urge all citizens to combat hunger in Maine by leaving non-perishable food items by their mailboxes for their letter carriers on this day. Further, I encourage all residents to recognize and commend Hampden letter carriers, the volunteers involved and the people who donate food throughout the city for their generosity and participation in this tremendous community event to alleviate hunger in Maine.

Dated: May 2, 2011

  
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Janet Hughes, Mayor

# ARBOR DAY PROCLAMATION

WHEREAS, In 1872, Sterling Morton proposed that a special day be set aside for the planting of trees, and

WHEREAS, the holiday called Arbor Day, was first observed with the planting of more than a million trees in a single state, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in Hampden increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

THEREFORE, I JANET HUGHES, MAYOR OF THE TOWN OF HAMPDEN, TOGETHER WITH THE HAMPDEN TOWN COUNCIL, DO HEREBY PROCLAIM MAY 19, 2011 AS

## ARBOR DAY

IN THE TOWN OF HAMPDEN, AND WE URGE ALL CITIZENS TO SUPPORT THE EFFORTS TO PROTECT OUR TREES AND WOODLANDS, and

FURTHER, We urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

DATED this 2<sup>nd</sup> day of May in the year 2011.

Mayor Janet Hughes

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

Infrastructure – Councilor Shakespeare reported that in addition to items already discussed this evening, the committee discussed striping quotes for roads and crosswalks as well as the proposed budget for the Public Works Department with the Public Works Director.

Services – Councilor Lawlis reported that the committee will meet at 6:00 pm on May 9<sup>th</sup>. There will be a special presentation at 7:00 pm on the proposed trail system in collaboration with SAD #22.

Planning & Development – Councilor Brann reported that the next meeting will be at 6:00 pm on May 4<sup>th</sup> at which time the committee will review applications received for the citizens comprehensive plan committee. Town Clerk Denise Hodsdon advised that today was the deadline for submitting applications for that committee and there were two people who had submitted their applications today. Councilor Brann requested a straw vote of the Council to send the two applications received today directly to the Planning & Development Committee for review; vote was unanimously in favor.

Communications – Councilor Hornbrook reported that at its last meeting the committee discussed live video streaming, local programming development, ideas to update the website, and the sound system in the Council chambers.

Finance & Administration – Manager Lessard reported that most of what the committee discussed earlier this evening has already been acted on tonight. There was a discussion regarding committee chair duties and whether all committee meetings should be recorded. The result of that discussion was to include suggestions made in the review of Council Rules as that process moves forward.

#### **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 and for all the calls and emails.

Councilor Cushing echoed Councilor Hornbrook's comment and said he appreciated people watching from home. He noted that the budget process was coming up and encouraged residents to come to the workshop meetings.

Councilor Brann commented that there is potential for some misconception of things that will be changing in the Town. He noted that the Shoreland Zoning Ordinance and requirements are dictated by the State and are not part of the comprehensive plan. He said there are some new state laws relative to building codes and energy codes and while not imposed by the Town, it will be the Town's responsibility to enforce those new laws. Councilor Brann also noted that he has an objection to the mobile sign being used in front of the Town Office to announce Council meetings because it is prohibited under

MANAGER'S REPORT  
May 2, 2011

Budget Meeting – A reminder that the first budget meeting of the Council will be held on Tuesday, May 10<sup>th</sup> at 6 p.m. at the Town Office. I will be distributing the budget and posting those accounts to be discussed on the website on Thursday of this week.

Candidate Night – The Communications Committee agreed that a Candidates Night for the upcoming June 14<sup>th</sup> election was a good idea. A date has not been set as of yet. I did not raise the idea at the Communication Committee meeting – but perhaps it would be possible to hold it on May 19<sup>th</sup> immediately following a slightly earlier Communications Committee meeting?

Finance/HR Director - It is with sadness that I report that our Finance/HR director today announced her plans to retire in September of this year. She has been a terrific employee and an integral part of the Town Office team. I will work with staff to develop a transition plan and provide a recommendation to the Council through the Finance Committee for moving forward.

HBA Meeting – The monthly Hampden Business Association Meeting is being held Tuesday, May 3<sup>rd</sup> from 12-1 at Angler's Restaurant.

Board of Environmental Protection – As you all know, I currently Chair the Maine Board of Environmental Protection and have served on that Board since my appointment to it in June of 2007. Recently, the Attorney General's office rendered a legal opinion in regard to the status of former DEP Commissioner Darryl Brown and a potential conflict of interest in serving as Commissioner. The statute in question is 38 M.R.S.A § 341-C(8) and it relates to conflicts of interest created by owning or working for an entity that has or obtains permits under the NPDES program. Commissioner Brown accepted another post in the administration rather than submit his financial and client records to public scrutiny to determine whether or not a conflict actually existed.

Subsequently, all members of the Board of Environmental Protection, including myself, received letters from the Governor requesting employment and income information in order to determine if Board Members might also be seen as having conflicts with this same statute. The Town of Hampden has a Combined Sewer Overflow Permit and an MS4 Stormwater general permit – both of which are considered applicable permits under this statute. While State employees are exempt – it appears Municipal employees are not – even though another section of the same statute says that Municipal Employees are eligible to serve on the Board. I have referred the matter to the Attorney General's office for consideration, but have responded to the Governor with this information and asked him to let me know how he wishes me to proceed. I am letting you know because it is likely that it will end up in the press and I did not want the Council to be surprised by it.

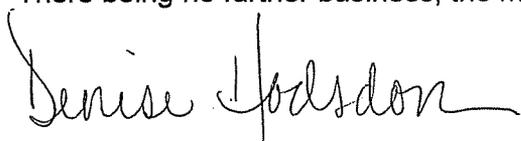
the signs section in the Town's Zoning Ordinance. He noted that the Council needs to review and discuss that part of the ordinance and requested that it be included on the next agenda of the Planning & Development Committee.

Councilor Lawlis commented that she was surprised by the number of people who are upset about things showing up at Council meetings when it appears that there is nothing controversial on the agenda. She said she was most surprised by the new organization HALO; she said she is a landowner and she doesn't know anything about it – who the members are, how you find out about it or how you join. She wondered if it was a private secret group or if it was an open public group. Members of HALO informed her that it is a public group. She said she thinks things should be a little more open.

Councilor Shakespeare commented that there is a need for a Code of Ethics as demonstrated by Mayor Hughes this evening when she recused herself from discussion of the item involving Hughes Bros. He noted that a resident of Jay's Way had sent an email to the Town relative to the need for a street light on that street and he asked that be included on the next agenda of the Infrastructure Committee.

#### **G. ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:12 p.m.



Denise Hodsdon  
Town Clerk