

TOWN COUNCIL MINUTES

MARCH 21, 2011

The regularly scheduled meeting of the Hampden Town Council was held on Monday, March 21, 2011. The meeting was held at the municipal building community room and was called to order by Attorney Russell at 7:08 p.m.

Attendance: **Councilors:** 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, Firefighters Jared LeBarnes and Matt St. Pierre

Citizens

The first order of business was the election of Mayor. Attorney Russell asked for nominations. Councilor Brann nominated Janet Hughes for Mayor; seconded by Councilor Lawlis. Councilor Hornbrook nominated Jean Lawlis and she respectfully declined the nomination. There being no further nominations, Attorney Russell closed nominations and vote was 5-1 (Hornbrook). Mayor Hughes was sworn in by Attorney Russell.

Mayor Hughes outlined her goals as Mayor and set out the rules and expectations of councilors and citizens during Council meetings. Councilor Brann requested that these rules be placed on the agenda for discussion at the next meeting.

The Council recognized the Fire Department, represented by Jared LeBarnes and Matt St. Pierre, for their work in obtaining a \$150,000 grant to purchase a new brush truck. Manager Lessard also noted that the Department has written and received additional grants for over \$100,000 worth of firefighting equipment.

A. CONSENT AGENDA

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

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

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

Councilor Cushing noted that these applications have been referred to the Planning & Development Committee, which will be making a recommendation to the Council as to the composition and procedure for selection of that committee. Motion by Councilor Cushing, seconded by Councilor Brann to accept both items – unanimous vote in favor.

B. PUBLIC COMMENTS

Shelley Blosser thanked former Mayor Arnett for his service and said there are many who are heartsick that he has stepped down. She said he will be missed and she wished him and his family well.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. PROPOSED ZONING ORDINANCE TEXT AMENDMENTS re MEDICAL MARIJUANA DISPENSARY AND CULTIVATION FACILITIES AND METHADONE CLINICS – ARTICLES 3.1; 3.2; 3.3; 4.7; 4.24 AND 7.2

Town Planner Bob Osborne introduced the proposed amendments and explained that the purpose is to regulate the location and create performance standards for these facilities. He reported that the Planning Board has returned an ought-to-pass recommendation.

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

Proponents: Ed Armstrong of Kennebec Road stated that this is the first he has heard about this and asked the Council to consider putting it out for vote by the citizens of Hampden.

Brett McBriearity of 1289 Kennebec Road said we don't need methadone in Hampden.

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

Following discussion, motion by Councilor Cushing, seconded by Councilor Lawlis to adopt the amendments as proposed – by roll, call vote was 5-1 (Hornbrook); motioned carried.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

- a. SET DATE FOR SPECIAL ELECTION TO FILL AT-LARGE COUNCIL VACANCY – JUNE 14, 2011

Motion by Councilor Cushing, seconded by Councilor Shakespeare to set the date for the special election for Tuesday, June 14, 2011 in conjunction with the

SAD #22 budget validation referendum – unanimous vote in favor. Nomination papers will be available from the Town Clerk beginning March 22nd and need to be returned by April 14th.

b. COUNCIL COMMITTEE ASSIGNMENTS – FINANCE AND COMMUNICATIONS VACANCIES

Mayor Hughes will chair the Finance Committee. She appointed Councilor Brann to take her place as chair of the Planning & Development Committee and she appointed Councilor Lawlis to replace former Mayor Arnett on the Communications Committee.

c. FINANCE COMMITTEE RECOMMENDATIONS FOR NEW APPOINTMENT AND REAPPOINTMENT:

1. JULIE JOHNSTON – NEW APPOINTMENT TO BOARD OF APPEALS
2. SCOTT LUCIANO – REAPPOINTMENT TO PERSONNEL APPEALS BOARD

Manager Lessard reported that the Finance and Administration Committee had interviewed both candidates and recommended appointment of both.

Motion by Councilor Cushing, seconded by Councilor Lawlis to accept the committee's recommendation for both applicants – unanimous vote in favor.

d. SERVICES COMMITTEE RECOMMENDATIONS FOR REAPPOINTMENT:

1. MARY ELLEN CONNER – LURA HOIT POOL BOARD OF TRUSTEES
2. TRACEY MAHONEY – RECREATION COMMITTEE
3. TERRY BEAN – RECREATION COMMITTEE

Councilor Lawlis reported that the Services Committee has reviewed the applications and recommends reappointment of all three.

Motion by Councilor Lawlis, seconded by Councilor Cushing to reappoint all three applicants. Mayor Hughes asked for a vote and Councilor Hornbrook stated that she wished to abstain from voting because she had not had the opportunity to meet the applicants. Mayor Hughes asked Attorney Russell if a Councilor could abstain from voting. After review of the Council Rules, he advised that Rule #8 provides that every member present, when a question is put, shall give their vote, unless the council, for special reasons, shall excuse them.

Motion by Councilor Cushing seconded by Councilor Lawlis to excuse Councilor Hornbrook from voting – vote was 3 in favor (Hornbrook, Cushing and Lawlis) and 3 opposed (Shakespeare, Brann and Hughes); motion did not carry.

Vote on the original motion to reappoint all three applicants was 5-1 (Hornbrook).

3. UNFINISHED BUSINESS

- a. BUSINESS EXPANSION AND RETENTION (BEAR) PROGRAM STRATEGIC PLAN – RECOMMENDATION OF PLANNING & DEVELOPMENT COMMITTEE TO APPROVE

Community & Economic Development Director Dean Bennett explained the program and noted that the report is the result of over 100 interviews with existing businesses in Hampden. The goal was to identify problematic obstacles to their success and this is a strategic way by which to address those.

As the former chair of the Planning & Development Committee, Mayor Hughes reported that the committee has reviewed the report and recommends that the Council endorse the plan even though it is not required to go to a Council vote.

Motion by Councilor Shakespeare, seconded by Councilor Brann to accept the BEAR program report as presented – By roll call, vote on the motion was 5-1 (Hornbrook).

- b. 2010 COMPREHENSIVE PLAN DRAFT – NEXT STEPS

Attorney Russell reported that there is a provision in the Town Charter that the Council shall make no change in the Comprehensive Plan without the recommendation of the Planning Board. Because the Planning Board as a whole was not involved in the 2010 Plan and did not make a recommendation to the Town Council, it is Attorney Russell's opinion that the 2010 Plan was not effectively adopted. Therefore, he advised that because the adoption of the 2010 Plan was ineffective, it did not repeal the 2001 Plan and that the 2001 Plan is still in effect and the 2010 Plan is essentially a draft (a copy of his memorandum is attached).

Attorney Russell further explained that under the state statute, the Council had the choice to either appoint a comprehensive planning committee or designate the Planning Board as the planning committee. In 2007 the Council voted to establish a planning committee and include Planning Board members on that committee, but the Planning Board as a whole was not involved and did not make recommendation on the proposed plan.

Mayor Hughes asked for comments from the citizens. The following residents again spoke in opposition to the 2010 Comp Plan, with some adding that the 2001 Plan should also be eliminated and that there is a lack of trust in the Town:

Ed Armstrong, Kennebec Rd.
Jeremy Williams, 1334 Carmel Rd. No.
David Ryder, Meadow Rd.
Jeremy W. Jones, Esq.
George Miller, Fowler Rd.
Darrell Sproul, Papermill Rd.

Bernie Philbrick, 1206 Western Ave.
Lisa Carter, Western Ave.
Mike Levesque, Deer Hill Lane
Richard Kelley, 840 Kennebec Rd.
Robert Dunton, 1227 Carmel Rd No.
Linda Valcourt, 205 Monroe Rd.

Clyde MacDonald, a past Councilor and Planning Board member said he wrote the original code enforcement laws for the Town and was Chair of the Planning Board when shoreland zoning was implemented. He noted that he is hearing some of the same arguments today as when the first zoning laws were implemented in 1969 or 1970 and pointed out that the reason land in Hampden is as valuable as it is, is in part because these zoning regulations do protect property values.

Shelley Blosser of 344 Main Road South asked for clarification that a comprehensive plan is not required by the State. Attorney Russell explained that it is required if you want to have a zoning ordinance. She then asked what would happen if the 2001 Plan was not revised. Councilor Brann responded that the 2001 Plan expires on 12/31/2012 and according to the State Planning Office, there would be nothing to support the zoning ordinance so the Town's right to zone ceases at that time. Attorney Russell disagreed and explained that state approval of the comprehensive plan is optional, not mandatory but the benefit of having it certified is that it qualifies the Town for other state programs and if someone challenges the ordinance, there is a better chance to defend it because the state has certified it as being consistent with the Growth Management Act. Attorney Russell clarified that what expires in 2012 is the state's certification of the plan, which means the Town would not qualify for the other benefits, but it does not mean the comp plan is invalid. Mayor Hughes asked Attorney Russell to provide a written legal opinion on this issue.

Mayor Hughes felt it would be appropriate at this time for a motion to forward the 2010 draft Comprehensive Plan to a new committee, including citizens of the Town, with a charge to investigate and review those issues identified over the last three meetings.

Motion by Councilor Cushing, seconded by Councilor Shakespeare that the proposed plan known as the 2010 Comp Plan be referred to the citizen level committee to review and no action to be taken until the committee has been formulated.

During discussion, Councilor Hornbrook stated that it was clear to her that the folks in the room do not want the 2010 Comp Plan referred to a committee, they want it done away with and she feels that we need a motion to kill the draft.

Following further discussion, by roll call vote on the motion to refer the plan to the citizen committee was 5-1 (Hornbrook).

c. MARINA LEASE AMENDMENT re RESTAURANT AND SERVICE OF ALCOHOLIC BEVERAGES

Community & Economic Development Director Dean Bennett explained that in the continuing effort of working with Hamlin Marine on the future development of the marina and adjacent property, this lease amendment paves the way for a full-time restaurant and allows the service of alcoholic beverages. He noted that the current lease only allows a take-out restaurant.

Motion by Councilor Cushing, seconded by Councilor Lawlis to accept the amendment language as presented and authorize the Town Manager to sign the amendment on behalf of the Town – unanimous vote in favor.

d. PAPER TALKS AD REQUEST – COMMUNICATIONS COMMITTEE RECOMMENDATION

Councilor Hornbrook reported that it is the recommendation of the Communications Committee to not purchase an ad at this time.

Contrary to the recommendation of the committee, Councilor Brann moved to purchase a 1/9 page ad in Paper Talks and stated that the reason for that is that the Town has an obligation to preserve and promote the understanding and appreciation of the history of the Town. The cost of the ad would be \$364.00 and 75 copies of the magazine would be delivered to the Town Office. Councilor Lawlis seconded the motion and by roll call, vote on the motion was 5-1 (Shakespeare).

4. NEW BUSINESS

a. APPLICATIONS FOR RENEWAL OF VICTUALER'S LICENSES

1. BANGOR TENNIS & RECREATION CLUB, 60 MECAW ROAD

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

2. BEST WESTERN WHITE HOUSE INN, FILIBUSTER LOUNGE, 155 LITTLEFIELD AVENUE

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

3. DYSART'S SERVICE d/b/a DYSART'S TRAVEL STOP, 366 COLDBROOK ROAD

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

4. RONALD & BARBARA McKINNON d/b/a McK's VARIETY, 995 WESTERN AVENUE

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

5. BRIAN & CINDY CARLISLE d/b/a PIZZA GOURMET, 60 MAIN ROAD NORTH, SUITE A

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

6. KATHY SMITH d/b/a R&K VARIETY, 573 MAIN ROAD NORTH

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

7. DLLS, INC. d/b/a SUBWAY OF HAMPDEN, 7 WESTERN AVENUE

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

b. REQUEST FROM ACANE TO HOLD 2011 SOUADABSCOOK STREAM CANOE RACE

Motion by Councilor Cushing, seconded by Councilor Brann to grant permission to ACANE to hold the 2011 Souadabscook Stream Canoe Race - unanimous vote in favor.

c. BUDGET REVIEW SCHEDULE - DRAFT

Manager Lessard noted that there was a conflict with the Services Committee on Monday, May 9th and requested that the date of the first budget review meeting be changed to May 10th.

Motion by Councilor Cushing, seconded by Councilor Lawlis to accept the proposed schedule as amended – unanimous vote in favor.

D. COMMITTEE REPORTS

Infrastructure – Councilor Shakespeare reported that the committee will meet next Monday at 6:00 pm.

Services – Councilor Lawlis reported that the committee met last Monday and reviewed the SAD #22 trails plan. She said a memorandum of understanding needs to be created and the goal is to have the draft available for the next meeting on April 11th. There will be a stakeholder meeting on May 9th.

Communications – Councilor Hornbrook reported that the committee discussed the upgrade to the digital broadcast equipment, information in regard to live streaming video, and some ideas from residents for a sign out in front of the Town Office announcing meetings and for a bi-weekly e-mail newsletter.

Planning & Development – Mayor Hughes reported that the committee met on March 2nd and reviewed the proposals for marketing the business parks, Hampden Academy re-use, met with Dennis Paper's to discuss their proposal for expansion and talked about improving communications with the Planning Board. The next meeting will be on April 6th at 6:00 pm.

Finance – Manager Lessard reported that the committee reviewed the treasurer's warrants and financial statements and approved the budget meeting draft.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

F. COUNCILOR'S COMMENTS

Councilor Brann commented that there has been a request from a Councilor on behalf of a citizen for copies of over 3,000 pages of documents and he hopes that that citizen has been made aware that the cost of making the copies will be on them. Following some discussion, it was decided that this item would be placed on a future agenda to discuss a policy on how such requests will be handled.

G. ADJOURNMENT

The meeting was adjourned at 10:38 p.m. by Mayor Hughes without objection.



Denise Hodsdon
Town Clerk

MANAGER'S REPORT
March 21, 2011

TAX DUE DATE – A reminder that the second half of property taxes is due by April 6th to avoid interest. The sign is now on the front lawn of the Town Office this week.

Bi-weekly Email – Beginning next week (3/31), the Town will begin sending out an email to persons who register on our website. This email will contain a link to the upcoming Council meeting agenda, a list of Committee meetings to be held, committee vacancies, and other information on current local government actions. This idea was generated from a citizen who attended the Communications Committee meeting on 3/17. The upcoming edition of the newsletter will contain a promotion for residents to sign up on our website so that they can participate in this new communications effort.

Sign for Meetings – The Communications Committee also requested that the Town use a sign in front of the Town Office to notify residents of Council and Planning Board meetings. While staff investigates the cost of a changeable sign for the front of the building we will use the Public Safety speed/notification sign, beginning with tonight's meeting.

Pink Garden – I am happy to report that the tulips are peeking up through the ground in the pink garden in front of the Town Office – thank you to everyone who donated towards the effort.