



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY

JUNE 3, 2013

7:00 P.M.

Attending:

*Mayor Janet Hughes
Councilor Tom Brann
Councilor David Ryder
Councilor Jean Lawlis
Councilor Bill Shakespeare
Councilor Carol Duprey*

*Town Manager Susan Lessard
Town Attorney Thomas Russell
Town Clerk Denise Hodsdon
Public Safety Director Joe Rogers
Town Planner Bob Osborne
Representatives from Social Service
Agencies
Citizens*

The meeting was called to order by Mayor Hughes at 7:08 pm.

A. CONSENT AGENDA – *Motion by Councilor Shakespeare, seconded by Councilor Brann to accept the Consent Agenda. Unanimous vote in favor.*

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. **May 16, 2013 Budget Meeting**
- b. **May 23, 2013 Budget Meeting**

3. COMMUNICATIONS

4. REPORTS

- a. **Finance & Administration Committee Minutes – 5/20/2013**
- b. **Lura Hoit Pool Trustees Minutes – 4/9/13**
- c. **Bus Ridership Report**
- d. **Infrastructure Committee Minutes – 5/28/2013**

B. PUBLIC COMMENTS – *There were none.*

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. **Consumer Fireworks Ordinance** – *Town Planner Bob Osborne summarized and introduced the Ordinance explaining that it codifies at a municipal level the State regulations with a few notable exceptions:*

1) it lays out specific hours for the discharge of consumer fireworks; 2) prohibits discharge on days when the NOAA's National Weather Service issues a Red Flag Warning; and 3) gives Public Safety authority to deal with complaints. Bob reported that the Planning & Development Committee recommends adoption of the proposed ordinance.

Mayor Hughes opened the public hearing at 7:18 pm.

Proponents: Sean MacMillan, who owns a fireworks store in Holden brought examples of several different kinds of consumer fireworks and cautioned the Council that the Town's ordinance should be very specific in what is allowed and when certain fireworks can be set off and when they cannot. He noted that there are different grades for consumer fireworks, some of which are very large and loud and people would not be happy if someone was setting them off late at night. Ed Murphy of 12 Perry Road, was co-owner of a large fireworks company with Rick Briggs. Mr. Briggs was unable to attend the meeting and sent along his written comments which Mr. Murphy read into the record, a copy of which is attached and made a part of the minutes. Mr. Murphy then had his own comments; he pointed out that the banning of firearms within congested areas of the town does not prohibit the possession of firearms, just the discharge of the same in those areas for public safety reasons. He believes that fireworks should be considered for the same reasons in the same areas. He said banning the discharge of fireworks tied to certain times of day and year sounds like a good idea to the layperson, but it won't work. He said that those that are intent on discharging consumer fireworks will do so and it will be extremely hard to catch and prosecute them. Mr. Murphy is a professional fireworks person trained in safety, knowing the product and what it can do and he said they never react the same every time. He said it doesn't take a professional to light the fireworks, but in a congested area, it may take a professional fireman or paramedic to fix the problem. As a former firefighter for the Town of Hampden, Mr. Murphy said he has had his share of mopping up the scenes following discharge of fireworks that consumed a house. He said he will not ask that the use or possession be banned in the Town of Hampden, but it needs to be done safely. He said he would feel more comfortable if the discharge of fireworks was banned in the same areas where the discharge of firearms is banned.

No one spoke in opposition and there were no general questions or comments. The hearing was closed at 7:35 pm.

Councilor Lawlis said she finds it quite telling that three professionals have concerns about our ordinance so she was inclined to work more on the ordinance and maybe solicit the involvement of people to help write it. Mr. Murphy offered to work with the committee.

Councilor Shakespeare said even before these gentlemen spoke, he had serious reservations with the ordinance after talking with other Hampden residents. After hearing the comments and warnings from these two individuals he has even more concern about the hours and public safety. Motion by Councilor Shakespeare, seconded by

Public Comments: Draft Consumer Fireworks Ordinance

First, thank you for entering these comments in the public record. Unfortunately due to prior work commitments I am unable to attend tonight's meeting.

My name is Rick Briggs, from 79 Kennebec Road. For those who do not know me I will provide the following information: My past experiences include the following:

- 20 years as a firefighter/EMT, including 10 years as a fire inspector and public education officer, 15 years as Juvenile fire setter specialist, provided treatment to victims of fireworks injuries, and fought residential fires caused by fireworks.

- certified by the National Fire Academy in Maryland as a fire prevention specialist

- 25 years a state of Maine licensed pyrotechnician, twelve years as president of a large fireworks company

- BS degree in Education and Associate degree in Fire Science from University of Me.

- Served 10 years on the town council, including almost 8 years as Mayor

Some would say that these experiences plus many more would make me uniquely qualified to provide comments regarding this proposed ordinance.

Since I left the town council, some three years ago, this is the first time I have felt the need to provide public comment. Although, I am an avid watcher of your meetings on the cable channel, I have remained quiet. During the past few years, there have many issues and difficult discussions in this room that almost encourage me to speak. However, this issue is too important to me and too close to my heart to remain silent.

The ordinance as written does not provide the level of protection needed for our community. It is important to remember that consumer fireworks can cause great injury, kill, and destroy property. In many cases, children are the victim.

Injuries that I know first-hand. In 1999, a device that would now be legal for all shot into my ankle and leg causing life threatening injuries. Thanks to EMS quick response and emergency surgery in Portland within 15 minutes of the event, my leg was saved.

Hampden is no longer a rural community. The community now consists of subdivisions filled with families with homes in many cases only 100 feet from each other. The Town council was very wise many years ago to pass a firearms ordinance to protect its citizens.

The same logic that was applied then should be applied now for fireworks. The noise, fire danger, and chance for human injury from devices that may travel up to 300 feet are too great to do anything different. These devices that are now allowed by the state have no place in urban neighborhoods, such as one like our Independence Avenue for example.

Many communities have completely banned fireworks use in their community. While this would be preferred choice. At the very least the following should be strongly considered for this ordinance.

- 1.) No fireworks allowed with any area of Hampden where firearms are not permitted
- 2.) No fireworks should be permitted on any day other than July 4th and December 31st, and the weekends before and after July 4th and December 31st.

Just last evening, fireworks were being used for over two hours in a dense neighborhood here in Hampden. The same neighborhood that some 13 years ago saw a garage burned completely and a home heavily damaged by consumer fireworks. People forget all too soon, how tragedy can occur so fast.

In addition, I realize this is a consumer fireworks ordinance. However, I would also urge the council to consider regulating retail and storage sites. The State regulations do not go far enough to protect our residential community. These thoughts would include only minor changes to our zoning ordinances to provide great protection.

Please take this issue seriously. Please do not just rubber stamp something because of the decision to allow consumer fireworks in Maine. Spend some time, and draft an ordinance that meets Hampden's needs. People, mostly children, will thank you for saving them from some very serious injuries.

TOWN OF HAMPDEN, MAINE
DRAFT CONSUMER FIREWORKS ORDINANCE

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ARTICLE 1:
PURPOSE

1.1 Purpose. This Ordinance regulates the use of consumer fireworks to ensure the public health, safety and welfare of the residents and property owners of the Town of Hampden and of the general public.

ARTICLE 2:
TITLE AND AUTHORITY

2.1 Title and Authority. This Ordinance shall be known as the "Town of Hampden Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, and the provisions 8 M.R.S. § 223-A.

ARTICLE 3:
DEFINITIONS

3.1 Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47.

"Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

- C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Display – means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects. "Display" includes a "special effects display" as defined in 8 M.R.S. §221-A(10).

Fireworks – means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, and other fireworks of like construction;
- D. Fireworks containing any explosive or flammable compound;
- E. Tablets or other device containing any explosive substance or flammable compound.

The term "fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

Red Flag Warning – A term designated by the NOAA's National Weather Service (www.weather.gov) and used by fire-weather forecasters to call attention to limited weather conditions of particular importance that may result in extreme burning conditions. The warning is issued when it is an ongoing event or the fire weather forecaster has a high degree of confidence that the Red Flag criteria will occur within 24 hours of issuance. Red Flag criteria occurs whenever a geographical area has been in a dry spell for a week or two, or for a shorter period, if before spring green-up or after fall color, and the National Fire Danger Rating System (NFDRS) is high to extreme and the following forecast weather parameters are forecasted to be met: 1) a sustained wind average 15 miles per hour or greater, 2) a relative humidity less than or equal to 25 percent and 3) a temperature of greater than 75 degrees F. In some states, dry lightning and unstable air are criteria. A Fire Weather Watch may be issued prior to the Red Flag Warning.

ARTICLE 4:
USE OF CONSUMER FIREWORKS RESTRICTED

4.1 Limits on Hours and Dates. A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Hampden or in or from any watercraft within waters of the Town except during the following times:

between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following days:

- a) July 4th;
- b) December 31st; and
- c) The weekends immediately before and after July 4th and December 31st.

4.2 Limits on Locations. A person may use, display, fire, or cause to be exploded consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

4.3 Cessation After Multiple Complaints. Upon complaints from multiple households to Hampden's Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a 12 hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort or repose of any reasonable person located within or upon any residential premises.

4.4 Cessation After Single Complaint. Upon complaint from a single household to Hampden's Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Public Safety Director or designee. In instances where the required cessation extends beyond the 12 hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

4.5 Red Flag Warning. A person may not use, display, fire or cause to be exploded consumer fireworks on days that are designated by the Maine Forest Service and or NOAA as Red Flag Warning days. It is the sole responsibility of persons using consumer fireworks to ascertain the fire danger rating for the day that the consumer fireworks are used.

4.6 Collateral Debris on Neighboring Properties and Right of Ways. A person may not use, display, fire or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user's property.

4.7 Visible Intoxication or Impairment. A person may not use, display, fire or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.

**ARTICLE 5:
VIOLATION AND ENFORCEMENT**

5.1 Penalty For Violation. Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Hampden for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

5.2 Enforcement. This Ordinance shall be enforced by the Town of Hampden Police Department.

5.3 Injunction. In addition to any other remedies available at law or equity, the Town of Hampden, acting through its Town Manager, may authorize an attorney apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

5.4 Seizure & Disposal Of Consumer Fireworks. The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

**ARTICLE 6:
EXCEPTIONS**

6.1 Exceptions. This Ordinance does not apply to any person(s) who has obtained a permit under 8 M. R. S. §227-A to conduct a display of fireworks.

**ARTICLE 7:
SEVERABILITY**

7.1 Severability. In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

Councilor Lawlis to table this, take it back for more consideration and forethought, and get some professionals involved. Vote was 1 in favor (Shakespeare); 5 opposed (Ryder, Lawlis, Hughes, Brann, and Duprey); motion failed.

Councilor Brann said he didn't think this goes far enough either, but he would rather see this ordinance adopted than have no ordinance at all. He pointed out that the Council could adopt it and then amend it later. Motion by Councilor Brann, seconded by Councilor Ryder to adopt the ordinance as submitted. Following discussion, vote on the motion was unanimously in favor.

The ordinance was referred back to the Planning & Development Committee for further consideration.

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. **Reminder – SAD #22 Budget Validation Referendum and District Referendum re Bond for Renovations and Improvements – June 11, 2013** – *Town Clerk Denise Hodsdon reminded everyone that the election is scheduled for Tuesday, June 11th and the polls will be open from 8:00 am to 8:00 pm.*

3. UNFINISHED BUSINESS

- a. **Public Works Truck Bid Results – Recommendations of Infrastructure Committee and Finance & Administration Committee** – *Councilor Shakespeare reported that both the Infrastructure Committee and Finance & Administration Committee have recommended a 3-year lease purchase of a 2013 Ford F-550 from White Ford in the amount of \$73,239.80. Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the purchase of the truck from White Ford in the amount of \$73,239.80, with funding to come from the Public Works Equipment Reserve account. Unanimous vote in favor.*

4. NEW BUSINESS

- a. **2013/2014 Budget:**

1. Social Service Agency Requests

Manager Lessard explained that the budget as proposed does not include any funding for outside agencies, but that the agencies have the right to make requests.

Anne Bennett from Hampden Garden Club informed the Council that the club had requested \$600.00;

The Red Cross had submitted a written request for \$2,000.00 but there was no representative present;

Kathy Bernier of Hammond Street Senior Center indicated that their organization was asking for \$35 per member from Hampden for a total request of \$5,530.00;

Vivian Gresser from Hampden Historical Society said they were requesting funding in the amount of \$1,000.00;
Josephine Cirrinone from Eastern Area Agency on Aging requested \$3,500 on behalf of her agency;
Theresa Cuccinoti of Penquis CAP explained that they were requesting 1.3% of services received by the Town for a total of \$7,272.00.
Public Comment: Jeremy Jones of the Partridge Road asked the Council to remember that we need to live within our means and shouldn't use a tax increase as an easy way out. He said there are many organizations in Hampden that do good work and enhance and improve our living experience in this town. We can all use our individual skills by volunteering and helping those organizations with fundraisers without raising our taxes.
Kristen Hornbrook said she supports all these organizations and believes that residents should support them also, but on their own. She said it is not the Town's job to spend taxpayers' dollars to donate to non-profit organizations.
2. Reserves – No change was made to the proposed total of \$140,000.00, a reduction of \$85,000.00 from last year.
3. Revenues – Manager Lessard has projected revenues to be \$3,226,750.00.
4. Budget Review & Introduction for Public Hearing – Councilor Brann introduced the budget for public hearing on June 17th.

D. COMMITTEE REPORTS

Services Committee – Councilor Lawlis – The next meeting will be at 6:00 pm on June 10th.

Planning & Development Committee – Councilor Brann – The next meeting will be at 6:00 pm on June 5th with agenda items to include the proposal for the old Hampden Academy property, proposal for development of the business park, sign ordinance, marina project, and the TIF program.

Infrastructure Committee – Councilor Shakespeare – The committee met on May 28th and discussed the purchase of the Public Works truck, a proposed Public Works meal certificate policy, and the process for filling the vacancy on the Hampden Water District Board.

Finance & Administration – Mayor Hughes – The committee met earlier in the evening and reviewed the endowment accounts for the Pool and Library and the enterprise accounts for the Recreation Department and the Skehan Center.

E. MANAGER'S REPORT – A copy of the Manager's Report is attached and made a part of the minutes.

F. COUNCILORS' COMMENTS – There were none.

G. ADJOURNMENT – The meeting was adjourned at 9:58 pm.


Denise Hodsdon
Town Clerk



**TOWN OF HAMPDEN
PUBLIC NOTICE**

C-4-a-4

Notice is hereby given that the Hampden Town Council will hold a public hearing at 7:00 pm on Monday, June 17, 2013 at the Hampden Municipal Building for consideration of the entire FY 2014 proposed town budget.

**PROPOSED 2014
HAMPDEN TOWN BUDGET**

ACCOUNT NUMBER	ACCOUNT NAME	PROPOSED BUDGET 2014
01-01	ADMINISTRATION	\$571,822.00
01-02	GIS/IT	\$115,083.00
01-03	COMMUNICATIONS	\$21,479.00
01-05	TOWN COUNCIL	\$35,090.00
01-10	MUNICIPAL BUILDING	\$85,890.00
01-15	TAX COLLECTOR	\$6,000.00
01-20	ELECTIONS	\$7,039.00
01-25	PLANNING/ASSESSING	\$252,149.00
01-30	ECONOMIC DEVELOPMENT	\$113,583.00
05-03	NON-DEPT. UTILITIES	\$468,400.00
05-01	POLICE	\$1,000,379.00
05-05	FIRE DEPARTMENT	\$966,835.00
05-10	PUBLIC SAFETY	\$185,131.00
10-01	PUBLIC WORKS	\$1,282,415.00
10-05	MUNICIPAL GARAGE	\$29,080.00
15-10	SOLID WASTE	\$388,274.00
20-01	RECREATION	\$136,544.00
20-10	DYER LIBRARY	\$238,092.00
20-20	LURA HOIT POOL	\$224,630.00
20-25	MARINA	\$0.00
25-10	THE BUS	\$89,380.00
30-10	BUILDINGS & GROUNDS	\$91,564.00
*38-00	OUTSIDE AGENCY REQUESTS	\$0.00
40-10	GENERAL ASSISTANCE	\$7,500.00
50-10	DEBT SERVICE	\$370,671.00
55-00	RESERVES	\$140,000.00
67-10	TIF	\$17,110.00
GROSS	MUNICIPAL BUDGET TOTAL	\$6,844,140.00
LESS	MUNICIPAL REVENUES	\$3,226,750.00
= NET	MUNICIPAL BUDGET TOTAL	\$3,617,390.00
	SAD #22 TAXATION AMOUNT	\$5,559,261.00
	COUNTY TAXATION AMOUNT	\$731,537.00

ESTIMATED TOTAL TAXATION REQUIREMENT \$9,908,188.00

* Outside Agency Requests have been made, but recommendation for funding is not included in this budget.
 Proposed FY 2014 budget figures are as of 6/3/13. Estimated mil rate impact as presented is a .50 increase (current mil rate is 15.90/thousand and has been for six years).
 Copies of the entire proposed FY 2014 Budget are available for public inspection at the Hampden Town Office.

6/3/2013 - Introduced for Public Hearing

Posted 6/4/2013

MANAGER'S REPORT

June 3, 2013

Town Resident Survey – Surveys were distributed on May 24th and so far we have had several hundred returned. We encourage residents who have not yet done so to complete and return their surveys.

Meeting Reminder – A reminder to all that we have scheduled a special Council meeting for June 24th in order to allow for extra time for the State to determine its budget and for the Council to reflect on substantive comments made at the Public Hearing to be held on Monday, June 17th. Infrastructure is also that evening and will be held at 5:30 p.m. prior to the meeting.

June 30th Deadline for unpaid Taxes- A reminder to those who have not paid their annual property taxes that any tax unpaid after June 30, 2013 will be, pursuant to State Law, printed in the next Town Report covering the 2012/2013 fiscal year.