



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY

JULY 16, 2012

7:00 P.M.

Attending:

*Councilor Andre Cushing
Mayor Janet Hughes (7:08 p.m.)
Councilor Kristen Hornbrook
Councilor Tom Brann
Councilor Jean Lawlis
Councilor Jeremy Williams*

*Town Manager Susan Lessard
Citizens
Bangor Daily News reporter Andrew Neff*

Deputy Mayor Andre Cushing called the meeting to order at 7:05 p.m.

*Motion by Councilor Lawlis, seconded by Councilor Hornbrook to accept the consent agenda.
Unanimous vote in favor.*

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

a. August 15, 2011

3. COMMUNICATIONS

- a. Reeds Brook Destination ImagiNation Team – Thank You
- b. Weatherbee Destination ImagiNation Team – Thank You
- c. Email – Michael O'Brien/Council – Operational Tone of Council
- d. Email – Lisa Carter – Voting Machines

4. REPORTS

- a. Finance & Administration Committee Minutes – 6/18/2012
- b. Infrastructure Committee Minutes – 6/25/2012
- c. Services Committee Minutes – 6/11/2012
- d. Services Committee Minutes – 6/20/2012 Special Meeting
- e. Services Committee Minutes – 7/9/2012
- f. Pool Board Trustees Minutes – 5/8/2012
- g. Information related to loaning Brownville an Employee/Loader
- h. Pine Tree Landfill – Summary of Recirculation Events – May 2012

B. PUBLIC COMMENTS - *None*

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. Application for Renewal of Victualers License – Bangor Restaurant, LLC d/b/a Dunkin' Donuts at 76 Main Road North – *Deputy Mayor Cushing opened the public hearing. Proponents – none. Opponents – none. Neither for nor against – none. The public hearing was closed. Motion by Councilor Hornbrook, seconded by Councilor Williams to approve the renewal of the victualer's license for Bangor Restaurant LLC d/b/a Dunkin Donuts. Unanimous vote in favor.*
- b. Application for Renewal of Victualers License – Mac's Convenience Stores, LLC d/b/a Circle K #7057 at 63 Main Road North – *Deputy Mayor Andre Cushing opened the public hearing. Proponents – none. Opponents – none. Neither for nor against – none. The public hearing was closed. Motion by Councilor Hornbrook, seconded by Councilor Lawlis to approve the renewal of the victualer's license for Mac's Convenience Stores, LLC d/b/a Circle K #7057. Unanimous vote in favor.*

Mayor Hughes chaired the remainder of the meeting.

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. David Caliendo – Appointment to Appeals Board – Finance & Administration Committee Recommendation - *Motion by Councilor Williams, seconded by Councilor Brann to appoint David Caliendo to the Appeals Board. Unanimous vote in favor.*
- b. Chester Bigelow – Appointment to Appeals Board – Finance & Administration Committee Recommendation – *Motion by Councilor Lawlis, seconded by Councilor Brann to approve appointment of Chester Bigelow to the Appeals Board. Unanimous vote in favor.*

3. UNFINISHED BUSINESS

- a. Town Manager/Town Treasurer Appointment – Resident Lisa Carter – *At the request of Mrs. Carter, this item will be on a future agenda.*
- b. Town Manager Board of Environmental Protection Meetings – Use of Vacation – Councilor Hornbrook – *Councilor Hornbrook indicated that residents had questions about the use of the Manager's time for this purpose. The Manager had provided the Council with copies of minutes of prior Council meetings where her BEP service was discussed.*

Mayor Hughes indicated that this service meets the professional development allowance in the contract.

Councilor Cushing referred back to Finance & Administration for a recommendation.

Councilor Brann indicted that he did not think the Council should go back and re-do every decision made by prior Councils and that it was a waste of time to do so.

Councilor Cushing suggested that this kind of information should be provided in the Councilor Handbook so all Councilors are clear on it.

- c. *Outdoor Facilities Ordinance – Revised Draft – Services Committee Recommendation and Introduction for Public Hearing - Councilor Lawlis introduced the proposed ordinance, as amended to include firearms language provided by Attorney Russell.*
- d. *Western Avenue Sidewalk – Matching Grant Funds – Manager Lessard reported that the Town had applied for two different grants for sidewalk on Western Avenue to Mayo Road. One of the grants was from the intersection of Route 202 to Mayo Road on the inside and the second was to complete the sidewalk that is already started on Western Avenue as far as Sidney Blvd., with a crosswalk across Western Avenue and then a sidewalk on the interior to meet the sidewalk on Mayo Road. MDOT approved the application for the smaller sidewalk and crosswalk. Almost a year ago the Council approved a match for engineering monies. Tonight the Finance Committee recommended that the Town take up to \$31,600 as the match for the Western Avenue sidewalk completion to Mayo Road from Host Community Benefits and the approval of that would accept a grant of \$131,000 from the State as their 80% share of the project.*

Mayor Hughes asked for public comment and there were none. Motion by Councilor Cushing, seconded by Councilor Brann to accept the report and recommendation of the Finance Committee to spend up to \$31,600 from Host Community Benefits for the Town's share of the sidewalk grant project – unanimous vote in favor.

4. NEW BUSINESS

- a. *Ballot – Maine Municipal Association Vice President & Executive Committee – Motion by Councilor Lawlis, seconded by Councilor Brann to approve the slate of candidates as recommended by the MMA nominating committee. Vote 5-1 (Hornbrook).*

Motion by Councilor Lawlis, seconded by Councilor Brann to designate the Town Manager to sign the MMA ballot on behalf of the Council. Unanimous vote in favor.

**TOWN OF HAMPDEN, MAINE
OUTDOOR FACILITIES ORDINANCE**

C-3-C

ENACTED DATE: MONTH, XX, 2012

EFFECTIVE DATE: MONTH, XX, 2012

CERTIFIED BY: _____
Name

Title Affix Seal

**TOWN OF HAMPDEN, MAINE
OUTDOOR FACILITIES ORDINANCE
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**THE TOWN OF HAMPDEN HEREBY ORDAINS THAT THE FOLLOWING
ORDINANCE BE ADOPTED.**

**ARTICLE I.
PURPOSE**

1.1 Purpose. The purpose of this Ordinance is to provide rules and regulations for the use of and conduct in outdoor facilities situated in Hampden. This Ordinance hereby repeals the Dorothea Dix Park Ordinance (adopted 10/16/89) and Papermill Road Recreation Area Ordinance (last amended 5/18/09).

**ARTICLE II.
AUTHORITY**

2.1 Authority. Pursuant to the provisions of Title 30-A M.R.S. Sections 3001 and 3281-3284 and the Charter of the Town of Hampden, Article II, Section 212, and Article III, Section 302, there is hereby established an Outdoor Facilities Ordinance to be organized, administered and governed in accordance with the following provisions.

**ARTICLE III.
APPLICABILITY**

3.1 Applicability. This Ordinance provides full power and authority over all outdoor facilities within the Town.

**ARTICLE IV.
DEFINITIONS**

4.1 Definitions. Unless specifically defined below, words and phrases used in this Ordinance shall have the customary dictionary definitions that give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

Alcoholic Beverage: any beverage containing any amount of alcohol as regulated under state law.

Controlled Substance: any legal or illegal drug, narcotic, hallucinogen, opiate, prescription drug, or any other such substance regulated by state or federal law.

Motorized Vehicle: any vehicle that is propelled by an engine, including but not limited to: cars, trucks, motorcycles, snowmobiles, ATVs, OHVs, dune buggies, dirt bikes, three-wheelers, go-karts, and golf carts.

Outdoor Facility: any park, sports field, forest, wooded area, field, playground, or other property for which the Town of Hampden is the deeded owner.

Parks: Includes the following outdoor facilities: Dorothea Dix Park, Papermill Road Recreation Area, Western Avenue Recreation Area, or other areas designated as such.

Public Safety Department: Includes Police, Fire, and Emergency Medical Services (EMS) Departments.

Sports Fields: Includes the following outdoor facilities: Ball Field Road Ball Field, VFW Recreation Area, Western Avenue Recreation Area, or other areas formally designated as such by the Town Council.

Tobacco Products: cigars, cigarettes, chewing tobacco, snuff, or any other product containing tobacco as regulated under state law.

ARTICLE V. PROHIBITIONS

5.1 Camping. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping in outdoor facilities, nor shall any person leave in outdoor facilities after closing hours, any movable structures or special vehicle that could be used for such purposes. Upon prior approval of a law enforcement officer of the Town of Hampden, overnight camping may be permitted in situations involving unique circumstances.

5.2 Discharge of Firearms. No person shall discharge a firearm within parks or sports fields as defined herein.

Add language before introduction
5.2.1 Exceptions – The foregoing prohibition on the discharge of firearms shall not apply to the firing or discharge of firearms at any military exercise or review; nor to any military personnel or law enforcement officers in the performance of their duties or authorized training; nor to any person in the lawful defense of his or her person, family, or property.

5.3 Fires. No person shall kindle, build, maintain or use a fire except in areas designated for such purposes. All fires shall be properly extinguished before the person utilizing the same leaves the outdoor facility. Any fires shall be continuously under the care and supervision of a competent person from the time it is kindled until it is extinguished. Fires may be prohibited by the Recreation Director, Town Forester, and or employees of the Public Safety Department when, in his or her judgment, the conditions are such that any fire would represent a safety hazard.

5.4 Wood. No person shall cut any wood on any outdoor facility without a prior permit from the Town Forester, who shall have the discretion to deny any application for such a permit if he or she determines that the proposed activity is inconsistent with the goals of the forest management plan for the property.

5.5 Alcoholic Beverages. No person shall consume or be under the influence of alcoholic beverages in any outdoor facility.

5.6 Tobacco Products. No person shall consume or use tobacco products within any outdoor facility.

5.7 Controlled Substances. No person shall consume or use any controlled substance legal or illegal while within any outdoor facility, unless the person has a labeled container and proof of prescription.

5.8 Trash. No person shall scatter, drop or leave any debris trash or other rubbish within any outdoor facility except in receptacles provided for that purpose.

5.9 Animals. All animals brought to any outdoor facility shall be under the owner's control at all times so as to not interfere with the enjoyment of the outdoor facility by other members of the public, if present. No animal shall be off a leash at any time at any sports field as defined herein, or at any part of the Western Avenue Recreation Area. Owners shall pick up after their animals.

5.10 Motor Vehicle Access. Access to outdoor facilities by motor vehicles shall be governed by the rules for that facility contained in the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Upon prior approval of a law enforcement officer of the Town of Hampden, motor vehicle access may be permitted in situations involving unique circumstances. For specific restrictions for each outdoor facility, please refer to the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Motor vehicle access to a facility's parking area is allowed, as this section is meant to address access to parts of facilities that are not meant for motor vehicles.

5.11 Other Vehicles Prohibited. No person shall operate a trail bike, all terrain vehicle, snowmobile, or any other motorized recreational vehicle within any outdoor facility except for on designated trails or areas, or for purposes of maintenance or rescue.

ARTICLE VI. OPERATION

6.1 Hours & Dates of Operation. Outdoor facilities shall be open to the public from a half hour before dawn to an hour after sunset. Outdoor facilities are open 365 days a year as weather allows. For information on reservations, which facilities are plowed during the winter, and closing times for areas with artificial lighting, please see the Recreation Department policy document "Outdoor Facilities Rules and Regulations." Snowmobiles are permitted after dark on designated trails.

ARTICLE VII. ENFORCEMENT

7.1 Law Enforcement. Any law enforcement officer of the Town of Hampden shall have the authority to enforce the provisions of this Ordinance and revoke the permission of any individual

to use an outdoor facility when the officer observes, or has probable cause to believe, that such individual has violated any provisions of this Ordinance, committed a civil infraction within the facility, or has violated any provision of the laws and Ordinances of the State of Maine or the Town of Hampden within the facility. The Recreation Department, Town Forester and Code Enforcement Officer also have the authority to revoke the permission of any individual to use an outdoor facility if they are found to have violated the provisions of this Ordinance.

7.2 Enforcement Mechanism. This Ordinance may be enforced by the institution of legal or equitable proceedings in court, including proceedings pursuant to 30-A M.R.S. §4452.

**ARTICLE VIII.
PENALTIES**

8.1 Penalties. Any person, firm or corporation violating any provisions of this Ordinance shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Fifty Dollars (\$150.00) for each violation. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any fines recovered shall inure to the benefit of the Town of Hampden.

**ARTICLE IX.
SEVERABILITY**

9.1 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**ARTICLE X.
EFFECTIVE DATE**

10.1 Effective Date. Pursuant to Section 213(c) of the Town Charter, this Ordinance shall become effective at the expiration of 30 days after its adoption by the Town Council.

- b. *Ballot – Maine Municipal Association Legislative Policy Committee – Motion by Councilor Cushing, seconded by Councilor Brann to nominate Michael Crooker of Glenburn. Vote 5-1 (Hornbrook)*
- c. *Acceptance of URIP Funds – Motion by Councilor Brann, seconded by Councilor Lawlis to accept the \$78,787 in URIP funds and to authorize the town manager to sign on behalf of the Council. Unanimous vote in favor.*
- d. *Ordinance Exempting Eligible Active Duty Military Personnel from Vehicle Excise Tax – Planning & Development Committee Recommendation and Introduction for Public Hearing – Councilor Brann introduced this ordinance for public hearing.*
- e. *Library – Use of Reserve Funds – Building Repairs – Motion by Councilor Lawlis, seconded by Councilor Brann to authorize the expenditure of \$1250 from Library Reserve for building repairs related to siding and the fire exit. Unanimous vote in favor.*

D. COMMITTEE REPORTS

Services – Councilor Lawlis reported that the committee met last Monday and discussed Papermill Park and what can be done to make it more usable. The Boy Scouts are willing to do some work there and the Recreation Director is seeking a solution to the poison ivy problem

Communications – Councilor Hornbrook stated that the meeting was cancelled due to lack of a quorum and that the 8/14 meeting also needs to be rescheduled due to a conflict. The next Communications Committee meeting will be 7/31 at 6 p.m.

Finance & Administration – Mayor Hughes reported that the Committee had reviewed the June financial statements, discussed police and fire contracts, and other items discussed have already been acted on at tonight's meeting.

- E. *MANAGER'S REPORT – The Manager's Report is attached hereto and made part of the minutes of the meeting*

F. COUNCILORS' COMMENTS –

Councilor Hornbrook expressed appreciation for those who came to the meeting and for those who were watching on Channel 7. She also thanked those who have been in contact by phone and email.

Councilor Cushing indicated that he would not be able to attend the 8/6 meeting. He also noted that the Route 1A construction was proceeding and that there was some concern about the proposed 7-day closure of both lanes for a major culvert installation. Councilor Lawlis – If anyone is looking for a volunteer opportunity, Eastern Area Agency on Aging is looking for candidates.

Councilor Williams – Reminded all that they should be extra cautious with the Children's Day Parade and events coming up to make sure that the children stay away from moving vehicles.

Mayor Hughes – Will check into the proposed 7-day shutdown of Route 1A because that could create problems for businesses and residents in that area.

(SAMPLE)

MUNICIPALITY OF _____, MAINE

ORDINANCE
EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL
FROM VEHICLE EXCISE TAX

Section 1. Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

Section 2. Excise tax exemption; qualifications.

Vehicles owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814(1)(A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A. § 1481(5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

Section 3. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect unless and until it or 36 M.R.S.A. § 1483-A is repealed.

MANAGER'S REPORT
July 16, 2012

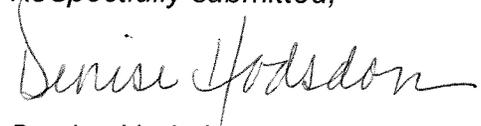
Fact Book 2012 – Maine Biz recently released their Fact Book for the year. Hampden was listed as the 13th fastest growing community in the state according to the percentage of population change between 2000 and 2010. During that time period Hampden's population increased 14.7% to 7,257. In addition, Hampden moved up the ladder in terms of Maine's most affluent communities as well. In ranking by 2010 Census median household income, Hampden is third in the state of Maine with a median household income of \$86,964.

30 day notices – 2012 Taxes – 30 day notices for unpaid 2011-2012 property taxes will be mailed out on Thursday of this week. I am pleased to report that 97.7% of 2011/2012 property taxes had been paid by the fiscal year end on June 30, 2012.

Newsletter – July 2012 – The newsletter will be in mailboxes by Wednesday of this week, but the online version is already posted and can be accessed from the front page of the website.

G. ADJOURNMENT – *The meeting was adjourned at 8:40 p.m.*

Respectfully submitted,

A handwritten signature in cursive script that reads "Denise Hodsdon". The signature is written in black ink and is positioned above the printed name and title.

Denise Hodsdon
Town Clerk