

TOWN COUNCIL MINUTES

June 1, 2009

The regularly scheduled meeting of the Hampden Town Council was held on Monday, June 1, 2009. The meeting was held at the municipal building council chambers and was called to order by Mayor Arnett at 7:02 p.m.

Attendance: Councilors: Mayor Matthew Arnett, Shannon Cox, Thomas Brann, William Shakespeare, Jean Lawlis and Janet Hughes; Andre Cushing was excused

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Public Works Director Galen Swan, Public Safety Director Joseph Rogers and Recreation Director Kurt Mathies

Pine Tree Landfill Representative Wayne Boyd, Tree Board Members Jim Feverston and Shelby Wright and citizens

A. CONSENT AGENDA

Treasurer's Warrants were reviewed and signed by the Finance Committee at its meeting earlier in the evening. Motion by Councilor Cox, seconded by Councilor Shakespeare to accept the balance of the Consent Agenda – unanimous vote in favor.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. APPLICATION FOR RENEWAL OF VICTUALER'S LICENSE RECEIVED FROM WARREN CARUSO d/b/a DANA'S GRILL AT DOCKSIDE at 100 MARINA ROAD:

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

Proponents – none; Opponents – none: General Questions or Comments – None. The hearing was closed.

Motion by Councilor Lawlis, seconded by Councilor Cox to approve the application – unanimous vote in favor.

- b. APPLICATION FOR RENEWAL OF VICTUALER'S LICENSE
RECEIVED FROM CSW, INC. d/b/a HAMPDEN NATURAL FOODS at
281 WESTERN AVENUE

Proponents – none; Opponents – none: General Questions or Comments
– None. The hearing was closed.

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

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

- a. RAYMOND LORD – BOARD OF APPEALS – PLANNING &
DEVELOPMENT COMMITTEE RECOMMENDATION

Councilor Hughes reported that the Planning & Development Committee
unanimously recommended reappointment. Motion by Councilor
Shakespeare, seconded by Councilor Cox to reappoint Raymond Lord to
the Board of Appeals – unanimous vote in favor.

- b. SAD #22 BUDGET VALIDATION REFERENDUM – JUNE 9, 2009

Town Clerk Denise Hodsdon reminded everyone that the SAD #22 District
Budget Meeting will be held at 7:00 pm on Thursday June 4th at the
Hampden Academy Skehan Gymnasium. The Budget Validation
Referendum will be held in the Community Room on Tuesday, June 9th
and polls will be open from 8:00 am to 8:00 pm.

3. UNFINISHED BUSINESS

- a. PUBLIC WORKS TRUCK BID RESULTS – INFRASTRUCTURE
COMMITTEE RECOMMENDATION

Councilor Brann reported that the Infrastructure Committee has reviewed
the bids and recommends acceptance of the lowest bid from Freightliner
of Maine in the amount of \$118,456.00.

Motion by Councilor Brann, seconded by Councilor Hughes to authorize
the purchase of the truck from Freightliner of Maine as recommended, to
be funded by the Public Equipment Reserve account – unanimous vote in
favor.

- b. LIBRARY ROOF REPAIRS – INFRASTRUCTURE COMMITTEE
RECOMMENDATION TO PUT OUT FOR BID

Councilor Brann reported that the Infrastructure Committee has discussed
the need to replace the library roof as it is no longer feasible to simply
make repairs. The estimated cost is \$13,200.00.

Motion by Councilor Brann, seconded by Councilor Hughes to authorize
replacement of the roof and authorize the Public Works Director to put it
out to bid – unanimous vote in favor.

c. PUBLIC WORKS PAVING

1. INFRASTRUCTURE COMMITTEE RECOMMENDATION FOR ANNUAL TONNAGE
2. INFRASTRUCTURE COMMITTEE RECOMMENDATION FOR 2009/2010 ROAD PAVING LIST

Councilor Brann reported that the Infrastructure Committee has reviewed the plans for paving in 2010 with the Public Works Director and because of an increased number of roads and the rising cost of paving material, we have seen significant increases in the cost of paving. The Committee voted to recommend deleting two roads from the 2010 paving list – Hughes Blvd. and Aaron’s Way – and postpone paving them to another time. The total appropriation without these two roads will be \$400,000.00.

Motion by Councilor Brann, seconded by Councilor Hughes to approve the list of roads to be paved, as amended, for a total budget of \$400,000.00, with \$150,000 to be funded from the Public Works budget and the remainder to be funded from reserves – unanimous vote in favor.

d. LANDFILL CLOSURE AMENDMENT – INFRASTRUCTURE COMMITTEE RECOMMENDATION

Councilor Brann reported that the Infrastructure Committee has reviewed the proposed modification to the landfill’s closure plan and unanimously recommended approval of the request. Manager Lessard explained that the request is to use a limited amount of front-end-process-residue (FEPR) as waste material from June 2, 2009 through the end of the landfill life which is 12/31/09. The need for this material to be used is based on the economic downturn and lack of construction that has severely limited the ability of Pine Tree to have enough waste to complete the planned shape, configuration, and closure of the remaining sections of the landfill.

Manager Lessard informed the Council that the landfill consultants are of the opinion that this should create relatively few problems and there will be minimal odors. However, there will be some construction at the landfill this summer that will require excavation and installation of gas extraction lines, which will cause some gas odors.

Motion by Councilor Brann, seconded by Councilor Shakespeare to approve the request and authorize the Town Manager to sign the compliance agreement on behalf of the Town of Hampden – unanimous vote in favor.

e. POST-CONSTRUCTION STORMWATER ORDINANCE – PLANNING & DEVELOPMENT COMMITTEE RECOMMENDATION FOR PUBLIC HEARING

Councilor Hughes introduced this item for public hearing.

The Town of Hampden Hereby Ordains that the following Ordinance be adopted:
Post-Construction Stormwater Management Ordinance

C-3-e

ADOPTED: Hampden Town Council,
Effective Date:

CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

Post-Construction Stormwater Management Ordinance

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6/1/09:

Introduced for public hearing on 6/15/09

Section 1. Purpose.

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Hampden through review and approval of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

Section 2. Objectives

This Ordinance seeks to meet the above purpose through the following objectives:

- A. Reduce the impact of post-construction discharge of stormwater on receiving waters; and
- B. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of Best Management Practices as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules, and ensure that these management controls are properly maintained and pose no threat to public safety.

Section 3. Definitions.

For the purposes of this Ordinance, the terms listed below are defined as follows:

- A. **Applicant.** "Applicant" means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.
- B. **Best Management Practices (“BMP”).** “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- C. **Clean Water Act.** “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.
- D. **Construction Activity.** “Construction Activity” means Construction Activity including one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.
- E. **Discharge.** “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to,

any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

F. Disturbed Area. “Disturbed Area” is clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

G. Enforcement Authority. “Enforcement Authority” means the Code Enforcement Officer and or the Public Works Director who are both authorized by the Municipality to administer and enforce this Ordinance.

H. Municipality. “Municipality” means the Town of Hampden.

I. Municipal Permitting Authority. “Municipal Permitting Authority” means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

J. Municipal Separate Storm Sewer System, or MS4. “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

K. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

L. New Development. “New Development” means any Construction Activity on unimproved Premises.

M. Person. “Person” means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity.

N. Pollutant. “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

O. Post-Construction Stormwater Management Plan. “Post-Construction Stormwater Management Plan” means BMPs and Stormwater Management Facilities employed by a New

Development or Redevelopment to meet the standards of this Ordinance and approved by the Municipal Permitting Authority.

P. Premises. “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality.

Q. Qualified Post-construction Stormwater Inspector. “Qualified Post-construction Stormwater Inspector” means a Professional Engineer who conducts post-construction Stormwater Management Facilities inspections for compensation and has a practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for stormwater management facilities, and the ability to determine if stormwater management facilities are performing as intended.

*Upon creation of DEP’s Qualified Post-construction Stormwater Inspector program, those individuals who have successfully completed said program and appear on DEP’s list of approved Post-construction Stormwater Inspector’s may at the sole discretion of the Enforcement Authority perform post-construction Stormwater Management Facilities inspections.

R. Redevelopment. “Redevelopment” means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

S. Regulated Small MS4. “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

T. Small Municipal Separate Storm Sewer System, or Small MS4. “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems and State or federally-owned systems, such as Maine Department of Transportation Maine Turnpike Authority road systems and facilities.

U. Storm Drainage System. “Storm Drainage System” means the Municipality’s Regulated Small MS4.

V. Stormwater. “Stormwater” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

W. Stormwater Management Facilities. “Stormwater Management Facilities: means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

X. Urbanized Area (“UA”). “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Section 4. Applicability.

A. In General. This Ordinance applies to all New Development and Redevelopment within the Municipality and to associated Stormwater Management Facilities.

B. Exception. This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance; said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

Section 5. Post-Construction Stormwater Management Plan Approval

A. General Requirement. Except as provided in **Section 4.B.** above, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit or approval for that New Development or Redevelopment unless the Municipal Permitting Authority for that New Development or Redevelopment also determines that the Applicant’s Post-Construction Stormwater Management Plan for that New Development or Redevelopment meets the requirements of this Ordinance.

B. Performance Standards

1. **Stormwater Treatment Required.** The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the New Development or Redevelopment through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed by a Professional Engineer to meet the standards contained in the Maine Department of Environmental Protection’s Chapters 500 and 502 Rules and shall comply with the practices described in the manual *Stormwater Management for Maine*, published by the Maine Department of Environmental Protection, January 2006, which hereby are incorporated by reference pursuant to **30-A M.R.S.A. § 3003**.

2. **Location of Facilities.** The Applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the applicant must submit to the Municipality documentation, approved as to legal sufficiency by the Municipality’s attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New Development or Redevelopment and that the property will not be altered in a way that interferes with the off-site facilities.

3. **Maintenance Agreement Required.** Where the Applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Post-Construction Stormwater Management Plan, the Applicant shall submit to the Municipality documentation, approved as to

legal sufficiency by the Municipality's attorney that the Applicant, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the stormwater management facilities. Applications for New Development or Redevelopment requiring Stormwater Management Facilities that will not be dedicated to the Municipality shall enter into a Maintenance Agreement with the Municipality. A sample of this Maintenance Agreement is attached as Appendix 1 to this Ordinance.

4. **Easements and Dedications.** Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the Municipality for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the Municipality's attorney, shall be provided to the Municipality allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these Stormwater Management Facilities under this Ordinance until such time (if ever) as they are accepted by the Municipality.

5. **Conflict with State Laws or Rules.** In addition to any other applicable requirements of this Ordinance and the Municipality's land use ordinances, any New Development or Redevelopment which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Municipal Permitting Authority. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

6. **Engineering and administrative fees.** At the time of application, the Applicant shall pay to the Municipality the amount estimated by the Municipal Reviewing Authority to be sufficient to pay the engineering, legal review, and administrative costs incurred by the Municipality in review of the Post-Construction Stormwater Management Plan. The Municipality shall deduct from this amount the actual engineering, legal and administrative costs incurred by the Municipality. Any remaining engineering, legal and administrative review costs owed by the Applicant shall be paid in full by the Applicant prior to the issuance of any temporary or permanent certificate of compliance for the New Development or Redevelopment, and any unused balance remaining at that time shall be refunded to the Applicant.

In addition, any persons required to file an annual certification under Section 6 of this Ordinance shall pay, prior to the issuance of any temporary or permanent certificate of compliance for the New Development or Redevelopment, an amount estimated to equal the Municipality's administrative and technical costs of review of the annual certification for a period of twenty (20) years.

7. **Notice of BMP Discharge to Municipality's MS4.** At the time of application, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Municipality's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

8. **As-Built Certification.** Prior to the issuance of a Certificate of Compliance for a project requiring a Post-Construction Stormwater Management Plan under this ordinance, the Applicant shall submit evidence in the form of a letter or plan prepared and stamped by a Professional Engineer who either prepared the Post-Construction Stormwater Management Plan and its associated Facilities or supervised the Plan and Facilities construction and implementation. The letter or plan shall certify that the Stormwater Management Facilities have been installed in accordance with the approved Post-Construction Stormwater Management Plan and that they will function as intended by said Plan.

Section 6. Post-Construction Stormwater Management Plan Compliance

A. General Requirements. Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under this Ordinance, and the Facilities are located in the Urbanized Area and Discharge Stormwater to the Municipality's MS4, shall at their own expense demonstrate compliance with that Plan as follows.

1. **Scope of Inspection.** A Qualified Post-construction Stormwater Inspector shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.

2. **Deficiencies Identified.** If the Stormwater Management Facilities require maintenance or repair to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take or cause to be taken corrective action(s) to address the deficiency or deficiencies.

3. **Submission of Inspection Form.** A Qualified Post-construction Stormwater Inspector shall, on or by July 1 of each year, provide a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 2 to this Ordinance, certifying that he/she has inspected the Stormwater Management Facilities and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

B. Right of Entry. In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

C. Annual Report. Beginning September 1, 2009 and September 1 each year thereafter, the Municipality shall include the following in its Annual Report to the Maine Department of Environmental Protection: _____

- 1 The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;
- 2 A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Municipality;
- 3 The number of sites with documented functioning Stormwater Management Facilities; and;
- 4 The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

Section 7. Enforcement.

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

A. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;
2. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or
3. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

B. Penalties/Fines/Injunctive Relief. Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a

separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

C. Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

D. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the Enforcement Authority may recommend to the municipal officers that the Municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 8. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Section 9. Basis.

The Town of Hampden enacts this "Post-Construction Stormwater Management Ordinance" (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems," has listed the Town of Hampden as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program in order to satisfy the minimum control measures required by Part IV H 5 ("Post-construction stormwater management in new development and redevelopment").

APPENDIX 1

**Maintenance Agreement for
Stormwater Management Facilities**

This Maintenance Agreement is made this ____ day of _____ 20__ by and between _____ and the Town of Hampden, Maine.

The project name is _____.

The location is: _____, Hampden, Maine.

The project's Tax Map and Lot Numbers are Tax Map _____, Lot _____.

The project is shown on a plan entitled " _____ " dated _____ and most recently revised on _____, approved by the _____ [Municipal Permitting Board] on _____ and recorded in the Penobscot County Registry of Deeds in Plan Book _____ Page _____ (the "Project").

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Hampden requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of _____ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. _____, for herself/himself/itself, and her/his/its successors and assigns, agrees to the following:

(a) To inspect, clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, as required by **Section 6** of the Town's Post-Construction Stormwater Management Ordinance, to prevent the build up and storage of sediment and debris in the system;

(b) To repair any deficiencies in the Stormwater Management Facilities noted during the required inspection;

(c) To provide a summary report on the inspection, maintenance, and repair activities performed, as required by **Section 6** of the Town's Post-Construction Stormwater Management Ordinance, on the Stormwater Management Facilities to the Town Enforcement Authority;

(d) To allow access by Town personnel or the Town's designee for inspecting the Stormwater Management Facilities for conformance with these requirements.

(e) To create a homeowners' association for the purpose of maintaining the Stormwater Management Facilities.

2. Upon creation of the homeowners' association, the homeowners' association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and _____ shall reference this Agreement in all deeds to lots and/or units within the Project.

Witness

By: _____
Its: _____

TOWN OF HAMPDEN

Witness

By: _____
Printed Name: _____
Its: _____

STATE OF MAINE
_____, ss.

_____, 20__

Personally appeared the above-named _____, the _____ of _____, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Printed Name: _____

STATE OF MAINE

Penobscot, ss.

_____, 20__

Personally appeared the above-named _____, the
_____ of the Town of Hampden, and acknowledged the foregoing
Agreement to be said his/her free act and deed in said capacity.

Before me,

Notary Public / Attorney at Law

Print Name: _____

APPENDIX 2

**Stormwater Management Facilities Certification
(to be sent to Municipality)**

I, _____ (print or type name), certify the following:
Qualified Post-construction Stormwater Inspector

1. I am making this Stormwater Management Facilities Certification for the following property: _____
(print or type name of subdivision, condominium or other development) located at _____
_____ (print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: _____
(name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. I am a Qualified Post-construction Stormwater Inspector hired by the person/entity named in Paragraph 2;

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On _____, 20__, I inspected the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

7. On _____, 20__, the owner, operator, tenant, lessee or president of the homeowners' association took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6 above:

8. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: _____, 20__.

By: _____

Signature

Print Name

STATE OF MAINE

_____, ss.

_____, 20__

Personally appeared the above-named _____, the
_____ of _____, and acknowledged the foregoing
Certification to be said person's free act and deed in said capacity.

Before me,

Notary Public/Attorney at Law

Print Name: _____

Mail or hand deliver this certification to the Municipality at the following address:

Public Works Director
Town of Hampden
106 Western Avenue
Hampden, ME 04444

f. POLICE CRUISER BID RESULTS

At the recommendation of Public Safety Director Joe Rogers, the Finance Committee recommended acceptance of the bid from Darling's for a Ford Crown Victoria even though it was not the low bid. The low bid was for a Chevrolet and it was Joe's recommendation to purchase the Ford as it is a larger vehicle and would require the same parts and maintenance as the other Ford vehicles in the fleet.

Motion by Councilor Shakespeare, seconded by Councilor Lawlis to accept the bid from Darling's Ford in the amount of \$22,406.00 as recommended by the Public Safety Director – unanimous vote in favor.

g. PROJECT CANOPY UPDATE/REQUEST

Tree Board members Shelby Wright and Jim Feverston informed the Council that they have received verbal confirmation that the Town was awarded the Project Canopy grant. It was unknown whether the grant is for the full amount, but official notification together with a contract will be forthcoming on Thursday of this week.

Shelby said the Tree Board is requesting waiver of the bid procedure to ensure that they have an adequate selection of trees from the vendors they have already consulted with.

Motion by Councilor Brann, seconded by Councilor Cox to accept the grant and authorize Manager Lessard to sign the contract on behalf of the Town – unanimous vote in favor.

Motion by Councilor Brann, seconded by Councilor Cox to authorize the Tree Board to use the expertise within the Tree Board to make proper selection of healthy trees, and therefore waive the bid process, up to the limit of the award and upon official notice of the grant, to authorize the Town Manager to authorize the expenses for the purchase of the trees – unanimous vote in favor.

4. NEW BUSINESS

a. MMA NOMINATING COMMITTEE – EXECUTIVE COMMITTEE

Manager Lessard informed the Council that Mayor Arnett is interested in being nominated for the Maine Municipal Association's executive committee. Motion by Councilor Brann, seconded by Councilor Hughes to endorse the nomination of Mayor Arnett for the MMA executive committee – unanimous vote in favor.

**b. FEES ORDINANCE AMENDMENT re LIQUOR LICENSES AND VICTUALER'S LICENSES – FINANCE COMMITTEE
RECOMMENDATION AND INTRODUCTION FOR PUBLIC HEARING**

The proposed amendment increases fees for liquor license and victualer's license applications to \$125 when a public hearing is required. The

increase is necessary to cover the cost of publishing notice in the local newspaper and the Finance Committee recommends sending the amendment to public hearing.

Motion by Councilor Hughes, seconded by Councilor Lawlis to support the Finance Committee's recommendation and introduce this item for public hearing – unanimous vote in favor.

c. 2010 BUDGET – REVENUES, RESERVES AND FINAL REVIEW

Manager Lessard reported that the Finance Committee reviewed projections for revenues (\$3,624,516) and proposed reserves (\$264,000) for 2010 and it was the committee's unanimous recommendation to accept this as part of the upcoming budget.

Motion by Councilor Cox, seconded by Councilor Lawlis to support the Finance Committee's recommendation relative to the budget for revenues and reserves – unanimous vote in favor.

The Council reviewed the total 2010 proposed budget and following discussion regarding the outside agency request from Penquis CAP, Councilor Brann moved to reduce the appropriation to Penquis CAP from \$19,535.00 to \$14,274.00. Councilor Lawlis seconded the motion and vote was unanimously in favor. The revised total budget for Outside Agency Requests is \$27,839.00.

Councilor Cox introduced the budget for public hearing on June 15, 2009.

D. COMMITTEE REPORTS

In Councilor Cushing's absence, Councilor Hughes reported that the Planning & Development Committee discussed the proposed Post-construction Stormwater Management Ordinance, and continues work on the wood boiler ordinance and the customary rural business amendment to the Zoning Ordinance. The Committee's efforts for its next few meetings will be placed on shoreland zoning.

Councilor Cox reported that the Services Committee will meet on Monday, June 8th at 6:00 pm.

Councilor Brann reported that the Infrastructure Committee will meet on Monday, June 22nd at 6:00 pm. Councilor Lawlis added that representatives from the Department of Environmental Protection made a presentation to the Infrastructure Committee about a composting program, which could be a potential savings for the Town. There are a number of alternatives; one of which would be to build a simple facility at the transfer station for leaves and grass clippings. Others options include finding another facility that already has a composting program that could take our leaves and grass clippings or work with a local farm or third party that is in the business.

Manager Lessard reported that the Finance Committee reviewed the outside agency and school group funding request policy, the proposed community room rental policy, the police cruiser bids and the reserves and revenues portions of the budget.

Mayor Arnett reported that the Hampden Academy Re-use Committee meets monthly and is working diligently. There are some great ideas that have been suggested for the re-use, but there are some issues related to state-level statutory authority. He is confident the committee will come out with a creative recommendation.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached hereto.

F. COUNCILOR'S COMMENTS

Councilor Shakespeare reported that he was recently contacted by a resident who was unhappy about the condition of gravestones in Hampden's cemeteries compared to other municipalities. Manager Lessard explained that this has been discussed in the past and because gravestones are private property, the Town Attorney has advised that the Town should not assume liability for potential damage to the stones.

Mayor Arnett commented that the flower beds in front of the municipal building have been freshened with new flowers and mulch, courtesy of the Hampden Garden Club. He expressed appreciation to the Garden Club and noted that they are also doing work at the Dyer Library and Dorothea Dix Park. He reported that the Garden Club has raised close to \$20,000 for the restoration of their building, Harmony Hall, and any donations toward that effort would be greatly appreciated.

Mayor Arnett also wished former Economic Development Director Bion Foster continuing progress in his recovery and noted that both he and his wife Dorain are an inspiration as they work at his recovery.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:30 p.m.



Denise Hodsdon
Town Clerk

MANAGER'S REPORT

June 1, 2009

Pre-Audit – The auditors will be here for pre-end-of-year work on June 22nd. The final audit will be conducted in July.

Ambulance Services – We have had a request from the Town of Newburgh to consider offering ambulance coverage. I have referred this item to Public Safety for staffing discussions and would like to add it to the agenda for the next Infrastructure Committee meeting as well.

Generational Workplace – Staff member Gretchen Heldmann will be presenting a session the new Generational Workplace at the wellness luncheon on Tuesday, June 2nd.

Employee Newsletter – Staff member Tammy Ewing has taken responsibility for preparing a monthly staff newsletter. The first edition was included with payroll for last week. This is an effort to keep all employees that are part of the Hampden 'team' informed.

Newsletter Deadline – A reminder to all who are writing articles for the upcoming July edition of Hampden Highlights – the deadline for submissions is June 5th to Editor Annie Gabbianelli O'Reilly.

School Budget – The school budget meeting is Thursday evening, June 4th at the high school gym at 7 p.m. The validation referendum on the budget will be held on Tuesday, June 9th in the Community Room.

State Shut-down Days:

2009: Monday, July 6th
 Friday, August 7th
 Friday, September 4th
 Friday, October 9th
 Thursday, December 24th

2010: Friday, January 15th
 Tuesday, February 16th
 Friday, March 12th
 Tuesday, April 20th
 Friday, May 28th

No state agency will be open for business on those days including Motor Vehicle, Vital records, Inland Fish, etc.