

TOWN COUNCIL MINUTES

February 1, 2010

The regularly scheduled meeting of the Hampden Town Council was held on Monday, February 1, 2010. The meeting was held at the municipal building council chambers and was called to order by Mayor Arnett at 7:00 p.m.

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

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Town Planner Bob Osborne and Public Works Director Chip Swan

A. CONSENT AGENDA

Councilor Brann requested that Item A.3.c. be set aside. Motion by Councilor Cox, seconded by Councilor Cushing to accept the balance of the Consent Agenda – unanimous vote in favor.

A.3.c HERMON TOWN COUNCIL – FIRE DEPT. ORGANIZATIONAL IDEAS – REFERRAL TO INFRASTRUCTURE COMMITTEE

Councilor Brann noted that this is a letter from the Hermon Town Council asking if the Town would be interested in exploring the possibility of a cooperative Fire Department program and pointed out that this item is being referred to the Infrastructure Committee. Motion by Councilor Brann, seconded by Councilor Cushing to accept Item A.3.c. – unanimous vote in favor.

B. PUBLIC COMMENTS

Norman Prouty of 57 Mayo Road asked the Council to consider an email that he sent to the Town Councilors and Town Manager asking that more consideration be given to the reconstruction of Mayo Road for safety purposes. He commented that the residents of Mayo Road are concerned that the speed will increase significantly despite the speed limit. He said speeds on the Mayo Road are already excessive with the very poor condition of the road and the residents feel that speeds will increase even more upon completion of the reconstruction. Mr. Prouty recognized that safety has been considered in that a sidewalk is included in the plan, but noted that there a number of homes on this side of Reed's Brook that were built as part of a subdivision that dead-ended at Reed's Brook and most of them do not have turnarounds on their own property and vehicles have to back into the road. Mr. Prouty feels that despite the best efforts of the Police Department, speeds will increase and it will be a very dangerous road. He has made some suggestions of traffic calmers to slow traffic and said he hoped that some consideration would be given to implementing some of those into the reconstruction project.

Motion by Councilor Brann, seconded by Councilor Cushing to refer this to the Infrastructure Committee – unanimous vote in favor.

The Infrastructure Committee will hold a special meeting on Thursday, February 11th at 7:00 pm and a notification of the meeting will be mailed to all residents of Mayo Road.

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. PROPOSED AMENDMENTS TO PUBLIC WAYS ORDINANCE

Town Planner Bob Osborne explained that the purpose of the amendments is to shift the regulation for acceptance of streets from the Zoning Ordinance to the Public Ways Ordinance. The language formalizes the process that the Town Attorney must conduct in order to determine that the street acceptance is ready for Town Council action. The amendment also changes the name of the ordinance to “Town Ways Ordinance.”

Bob reported that Staff recommends the amendment and the Planning & Development Committee has returned an “ought to pass” recommendation.

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 Cushing, seconded by Councilor Cox to accept the recommendation of the Planning & Development Committee and adopt the amendments to the ordinance – unanimous vote in favor.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

a. Applications for Reappointment – Planning & Development Committee Recommendation:

1. Richard Peer – Historic Preservation
2. Andrew Nelson – Planning Board

The Planning & Development Committee has reviewed both applications and has recommended reappointment of both.

Motion by Councilor Brann, seconded by Councilor Cushing to reappoint both applicants – unanimous vote in favor.

3. UNFINISHED BUSINESS



C-1-a

TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Public Ways Ordinance
DATE: January 13, 2009

At the December 2, 2009 Council Planning and Development Committee meeting the committee voted five in favor and none against to return the attached Public Ways Ordinance text amendment language to the Council for public hearing. (This is a companion piece to the amendments to the Zoning Ordinance Article 5 Permits section that the Planning Board is currently considering).

Town Attorney Tom Russell has reviewed this document had the following comments which were incorporated into the draft that the committee recommended:

Proposed Amendments to Public Ways Ordinance

The proposed amendments to Section 1.2 of the Ordinance are consistent with the Town Way Acceptance Protocol I developed for the Town some time ago. As part of the Town Attorney approval process under Section 1.2.1.6, I recommend that the developer be required to submit the items called for in Section 7(A)-(E) of the Protocol, as those items are really necessary for my review of the proposed acceptance of a town way. If those items are not provided by the developer, it will result in additional legal expense to the Town.

Generally the purpose of these amendments is to shift the regulation for acceptance of streets from the Zoning Ordinance to the Public Ways Ordinance where it belongs. You will note that one of the proposed changes to the Public Ways Ordinance is to change the name to "Town Ways Ordinance". Attorney Russell determined that town ways is the term that is used in a number of state laws. This language also formalizes the process that the Town Attorney must conduct in order to determine that the street acceptance is ready for Town Council action.

1/19/2010 - Introduced for public hearing on 2/1/2010
2/1/2010 - Adopted by Town Council

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Public Ways Ordinance

Deletions are ~~Strikethrough~~ Additions Double Underlined

TOWN OF HAMPDEN
TOWN PUBLIC WAYS ORDINANCE

ARTICLE I
GENERAL

1.1 Plan Required - Petitioner for acceptance of a town public way shall submit a plan to the Road Commissioner of such a way prepared by or approved by a registered professional engineer.

1.2 Acceptance by Town Council – The acceptance of any all street or road as a town public ways shall be subject to the approval of the Town Council.

1.2.1 The Town Council shall not consider the acceptance of a street or road as a town way unless and until the following conditions have been satisfied:

1. All outstanding application fees, inspection fees and other costs and expenses must be paid in full.
2. Submission of a sworn written statement from the owner/developer and/or owner's/ developer's engineer that all required improvements have been completed in strict compliance with all applicable construction standards and the approved subdivision plan, and that the owner/developer and/or engineer knows of no defects, from any cause, in the improvements.
3. Submission of a written statement from Town's Public Works Director that all site improvements, including paving and any drainage facilities, have been satisfactorily completed. The written statement shall also indicate if public water and power have been installed and accepted.
4. Deposit of sum of money or other suitable improvement guarantee equal to fifteen percent (15%) of the amount of the full improvement guarantee required by the Subdivision Ordinance with the Town Treasurer. Said money to be used by Town to correct any defects in design, materials, or workmanship that arise within one year from the date of acceptance of the improvements by the Town Council. Any money not used for such purpose by Town within two (2) years of acceptance shall be returned to the pavor.
5. Submission of a written statement from owner's/developer's surveyor that all required property pins have been installed for the lots in the approved subdivision.

6. Submission to the Town Attorney of the document(s) conveying any land, improvements, and any easements to the Town. Owner/Developer shall cause the following documentation to be delivered to the Town Attorney at least three (3) weeks prior to the Town Council meeting at which acceptance is desired:
 - a. Copy of recorded subdivision plan;
 - b. Copy of proposed Warranty Deed conveying the street(s) and improvement(s), as well as any easement(s) appurtenant thereto, to the Town;
 - c. Copy of proposed Warranty Deed conveying any dedicated open space and access easement(s) to the Town;
 - d. Title Opinion or Title Agent's Certificate of Title evidencing that the land, street(s), improvements, open space, and easement(s) are free and clear of any encumbrances, liens, mortgages, etc. If title is not free and clear, owner/developer shall furnish documentation demonstrating that the title matters will be resolved prior to acceptance by the Town; and
 - e. Owner's Affidavit to the effect that all contractors, subcontractors, and material providers have been paid in full, and that the property is not subject to a mechanic's/materialman's lien under Maine law.
 7. Approval by the Town Attorney of the document(s) conveying any land, improvements, or easements to the Town.
 8. Delivery of the duly executed Warranty Deed(s), Easements, Real Estate Tax Transfer Tax Declaration form(s), any documents necessary to provide free and clear title, and check payable to the Registry of Deeds in the amount of the recording fee(s) to the Town Manager.
 9. Payment of Town's legal fees and expenses incurred in reviewing the documentation called for by this ordinance.
 10. Letter from Bangor Hydro indicating that all power utilities have been accepted.
 11. In cases where Public Water has been installed, a letter from the Hampden Water District Superintendant indicating that the water has been installed and tested to their satisfaction.
- 1.2.2. At the sole discretion of the Town Council, it may accept a street or road as a town way if all improvements have been satisfactorily completed, excepted for the final layer of paving, and the developer/owner has provided a performance bond, letter of credit, or some other form of guarantee acceptable to the Town Council and in an amount the Town Council determines to be adequate to ensure completion of the final paving.

1.3 Town Engineer Defined – Town engineer means any person licensed as a professional civil engineer by the State of Maine and employed or designated by the Town Manager.

1.4 Repeal Of Conflicting Ordinances or Resolves – All ordinances and resolves or parts thereof in conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed.

ARTICLE II
STANDARDS AND REQUIREMENTS

- 2.1 Connection With Existing Town Public Way** – All streets or roads shall provide connection with existing Town approved town public ways.
- 2.2 Intersections** – Shall not be less than sixty (60) degrees.
- 2.3 Widths Of Town Public Ways** – Except for industrial streets or roads, town public ways shall have a right-of-way width of sixty-six (66) feet. Industrial roads shall have a right-of-way width of one hundred (100) feet.
- 2.4 Grades** – Grade shall not have less than 0.5% nor more than 8 5%. The roadway area of said way shall be graded to its full width of twenty-six (26) feet for the distance for which acceptances is are requested and shall conform accurately to the grades and cross-sections shown on the plan and profile of said town public way and as accepted by the Hampden Planning Board. All roads and streets shall be properly drained with suitable ditches and street culverts so that all storm water will be drained from the area. The Road Commissioner or the Hampden Planning Board may require loaming and seeding of slopes to help prevent erosion.
- 2.5 Clearing Of Stumps and Roots** – Said way shall be cleared of all stumps, roots, brush, perishable material and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from said way to at least subgrade depth, or as directed by the Road Commissioner or Public Works Dept.
- 2.6 Side Slopes** — Petitioner shall provide the land necessary for cut or fill slopes beyond the limits of the street right-of-way.
- 2.7 Subgrade** — With the exception of industrial ways, said way shall be graded to the subgrade of eighteen (18) to twenty-four (24) inches as specified by the Hampden Planning Board or Road Commissioner. Industrial ways shall be graded to a subgrade depth of not less than twenty-four (24) inches.
- 2.8 Gravel Base** – The roadway area of said way shall be brought to the grade shown on the plan, profile, and cross-section of said way by suitable gravel or material approved by the Road Commissioner or Public Works Dept. The base gravel shall be brought to within four (4) inches of the finish grade, and the top four (4) inches shall be selected materials suitable for finish grade on gravel roads. All gravel shall be thoroughly compacted and rolled and the final surface left true to the established lines and grades.
- 2.9 Surface Treatment** – After the fine gravel has been thoroughly rolled, the surface of the roadway shall be treated with a bituminous pavement. Pavement shall conform to the specifications currently specified by the Maine Department of Transportation for use on State Aid Roads and shall be placed in one-and-a-half inch thickness. Pavement width shall be not less than twenty (20) feet, except in industrial zones where it shall be not less than twenty-four (24) feet, and the roadway shall be provided with a three (3) inch crown from the center line to edge of pavement to insure runoff of water.
- 2.10 Cul-de-sac (Dead-end Street)** - All permanent dead-end streets shall be provided with a turn-around with a minimum diameter of sixty (60) feet. In all other respects said turn-arounds

shall be constructed in accordance with the same specifications as herein above specified for town public ways.

2.11 Culverts - All driveway culverts shall be not less than twelve (12) inches in diameter of corrugated galvanized metal pipe and not less than twenty-four (24) feet in length. Said culverts shall be furnished and installed by the owner under the supervision of the Road Commissioner.

2.12 Opening Town Ways or Streets - No town way or street shall be opened for the purpose of installing or repairing sewers, water, gas, or for any other purpose, unless the individual or corporation wishing to make such an opening shall first obtain from the Road Commissioner a permit to do so and agree to pay the full cost of repairing the damage to the street caused by such opening.

2.13 Modified or Additional Standards - The Road Commissioner may modify or require additional standards due to local soil, physical, or topographical conditions, provided that modifications and variances secure substantially the objectives of the standard or requirement so varied or modified.

ARTICLE III LIMITATION OF TRUCK TRAFFIC

3.1 Limitation/Prohibition of Truck Traffic - Upon designation by the Town Manager and approval of the Town Council truck traffic may be limited or prohibited on specified roads or streets passing through residential areas within the Town of Hampden. There shall be a sign posted at each end of the streets or portions of street so designated showing that the same is a residential street and that through heavy traffic is not allowed. A schedule of those streets or portions of streets so designated shall be maintained in the town office and be available for public inspection during regular business hours. *(Amended: 12/7/87, 3/4/91)*

3.2 Enforcement - When any violation of any limitation or prohibition on truck traffic imposed under Section 1.1 shall be found to exist, any police officer of the Town of Hampden, or any law enforcement officer authorized to enforce traffic violations in the Town of Hampden, is hereby authorized to institute any and all actions and proceedings in the name of the Town of Hampden, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance. *(Amended: 3/4/91)*

3.3 Civil Penalties - Whoever violates any limitation or prohibition on truck traffic imposed under Section 3.1 shall, upon conviction therefor, be liable for a civil penalty in the amount of \$50.00 for the first offense and \$100.00 for each subsequent offense. Each and every violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Hampden. *(Amended: 3/4/91)*

ARTICLE IV USE OF ENGINE OR TRANSMISSION BRAKING DEVICES

(Adopted: 8/18/03)

4.1 Findings. The Town Council finds that the use of engine or transmission braking devices or methods (a/k/a "engine braking" or "dynamic braking") within the Town of Hampden creates unusual and excessive noise that unreasonably disturbs and annoys residents. The prohibition of such devices and methods is necessary to protect the health, safety and public welfare.

4.2 Prohibition. No person may slow a vehicle by a device, method, or practice known as engine or transmission braking (a/k/a "engine braking" or "dynamic braking") whereby rapid downshifting of a vehicle's engine or a compression release device is used in lieu of applying a vehicle's wheel brakes, causing loud noises to emit from the vehicle's engine and/or exhaust system. Such braking by any motor vehicle on any public highway, street, or parking lot within the Town of Hampden is declared to be a public nuisance and is prohibited.

4.3 Enforcement. When any violation of any prohibition imposed under this Article is found to exist, any police officer of the Town of Hampden, or any law enforcement officer authorized to enforce traffic violations in the Town of Hampden, is hereby authorized to institute any and all actions and proceedings in the name of the Town of Hampden, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Article.

4.4 Civil Penalties. Whoever violates this Article shall, upon conviction therefor, be liable for a civil penalty in the amount of \$100.00 for the first offense and \$200.00 for each subsequent offense. Each and every violation shall constitute a separate offense. All civil penalties shall inure to the benefit of the Town of Hampden.

4.5 Emergency Vehicles. The provisions of this Article do not apply to emergency vehicles.

- a. ZONING ORDINANCE TEXT AMENDMENT re INSTITUTIONAL BUILDING DEFINITION – INTRODUCTION FOR PUBLIC HEARING on 3/1/2010

Councilor Cushing introduced this item for public hearing.

- b. ZONING ORDINANCE TEXT AMENDMENT re CONDITIONAL USES IN COMMERCIAL SERVICE DISTRICT – INTRODUCTION FOR PUBLIC HEARING ON 3/1/2010

Councilor Hughes introduced this item for public hearing.

- c. ZONING ORDINANCE TEXT AMENDMENT re ISSUANCE OF BUILDING PERMITS ON SUBDIVISION LOTS AND IN CONJUNCTION WITH PLUMBING PERMITS – INTRODUCTION FOR PUBLIC HEARING ON 3/1/2010

Councilor Cox introduced this item for public hearing.

- d. PROPOSED SHORELAND ZONING ORDINANCE – INTRODUCTION FOR PUBLIC HEARING ON 3/1/2010 WITH REVISED MAP

Town Planner Bob Osborne explained that the only change to the map is that the property lines have been removed. Following brief discussion, Councilor Brann introduced this item for public hearing.

- e. STREET LIGHT LOCATIONS – DUNTON CIRCLE/WESTERN AVENUE AND DUNTON CIRCLE/SILVER DRIFT TRAIL – INFRASTRUCTURE COMMITTEE REPORT

The Council had reviewed this request for street lights at the intersection of Dunton Circle and Western Avenue and Dunton Circle and Silver Drift Trail, both upper and lower locations at its December 7, 2009 meeting. At that time Public Safety Director Joe Rogers had submitted a memo to the Council indicating that the Department supports streetlights at intersections so that motorists can identify their location more easily. There was some question as to whether there were any safety concerns and this item was referred to the Infrastructure Committee for review and recommendation.

Infrastructure Committee Chair Shakespeare reported that the Committee discussed this at its last meeting and voted to return this to the Council for discussion at its next meeting and to forward it to the Finance Committee. The Committee also requested that the Public Safety Director submit another memo to the Council clarifying whether there are safety concerns at any of the requested locations.

Based upon the recommendation of Public Safety Director Rogers, Councilor Brann moved to authorize a street light at the intersection of Western Avenue and Dunton Circle only; Councilor Hughes seconded the motion and vote was unanimously in favor.

C-3-a



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Zoning Text Amendment Institutional Building Definition
DATE: January 26, 2010

The Planning Board at their January 13, 2010 meeting voted unanimously to return the text with an "ought-to-pass" recommendation.

At the time Town Council amended the Residential B District height standards to accommodate the Hampden Academy project it was agreed that a definition of institutional building should be added to the Zoning Ordinance. Please find attached a draft of that definition. This language was reviewed by Attorney Russell who asked if the committee wished that institutional buildings also be owned by the eligible entity. The Council Planning and Development Committee determined that an ownership requirement could present an unintended problem here because, for example, church buildings are owned by diocese or synods rather than locally by a congregation.

2/1/2010 - Introduced for public hearing on 3/1/2010

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 7
DEFINITIONS

7.1. Construction Language - In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

7.2. Definitions - In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Institutional building: A building or group of buildings used to provide a public service and operated by a Federal, State or local government, public or private utility, public or private school or college, tax-exempt organization, and/or a place of religious assembly. Examples include: public agency, public safety and emergency services, essential and utility services, cultural, service and religious facilities, public/private health facilities or other similar uses.

C-3-b



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Conditional Uses in the Commercial Service District.
DATE: January 26, 2010

The Planning Board at their January 26, 2010 meeting voted unanimously to return the text with an "ought-to-pass" recommendation.

This draft zoning ordinance text amendment would make possible a wide range of additional water dependent uses in the Commercial Service District along the Penobscot River.

This language was reviewed by Attorney Russell who recommendations were discussed by the Council Planning and Development Committee. That Committee indicated that they did not wish to add a specific height limitation in feet. They did however wish to incorporate the remainder of the suggestions and those were added to the text of the draft amendment.

2/1/2010 - Introduced for public hearing on 3/1/2010

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

3.3. Commercial Service District

3.3.1. Purpose - This district is intended for the location of heavy commercial uses, wholesale uses, office buildings, automotive type of uses such as sales and service, convenience stores and commercial service type of uses. In general this area is devoted to service or wholesale uses.

3.3.2. Permitted Uses (Subject to Site Plan Review) - Any retail or service business, hotel and motels, business or professional offices, take-out restaurant, small restaurant, sit-down restaurant, automobile service, place of assembly, outdoor recreation and accessory uses or structures. Essential service and buildings for essential service, single family dwellings in existence on the date of this amendment. *(Amended 12-6-04)*

3.3.3. Conditional Uses (Subject to Site Plan Review) – Fast-food restaurant, outdoor dining restaurant, tavern, bar, dance hall, commercial school, drive-thru business, wholesale distribution, truck terminal, light industrial operations (but not including excavation, gravel pit and quarry activities) which do not exceed 10,000 square feet, such as warehousing assembly or fabrication. Functionally water-dependent uses along the Penobscot River. Any establishment which provides in excess of 5,000 square feet of outdoor display or storage of goods or equipment. Stockpiles (subject to *Article 4.9*) not accessory to excavation, gravel pit and quarry activities. *(Amended 4-7-03, 12-6-04, 12-17-07)*

3.3.4. Lot Dimensions

Minimum Lot Area	-	20,000 sq. ft.
Minimum Road Frontage	-	100 feet
Minimum Setbacks:		
Street Yard	-	40 feet
Other Yards	-	30 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

3.3.5. Special District Regulations

1. Where a commercial or industrial use abuts any residential use or residential district, the other yard setback shall be double where it abuts the residential property.
2. Notwithstanding the above maximum building height regulations in Article 3.3.4 ~~structures not intended to be occupied may be constructed up to 50 feet in height when treated as a conditional use.~~ building height may be up to 50 feet under the following standards.

Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35 feet from the proposed building height and add that difference to each yard setback requirement.

EXAMPLE: A 48 foot tall building is proposed. By subtracting the base Commercial Service District maximum building height from the proposed height the following is the result $48' - 35' = 13'$.

Then add that amount to each yard or setback.

<u>Setback Type</u>	<u>Base Setbacks:</u>	<u>Total Setback</u>
<u>Street Yard</u>	<u>- 40 feet</u>	<u>53 feet</u>
<u>Other Yard</u>	<u>- 30 feet</u>	<u>43 feet</u>

3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding. *(Amended 8-17-92, 10-4-93)*
4. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 feet and no part of the vehicle queue shall be located within 100 feet of a residential structure. *(Amended 12-6-04)*
5. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. *(Amended 12-6-04)*
6. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. *Title 28-A*. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. *Title 28-A: LIQUORS §1051. Licenses generally* which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. *(Amended 12-6-04)*
7. Notwithstanding the maximum building height regulations buildings used for functionally water-dependent uses along the Penobscot River are not subject to the maximum building height standard in Article 3.3.4. or 3.3.5.2. provided the lot area for such a use is at least five acres in size.

C-3-c



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner
SUBJECT: Draft Zoning Ordinance Text Amendments for Issuance of Building Permits on Subdivision Lots and in Conjunction with Plumbing Permits
DATE: January 26, 2010

The Planning Board at their January 26, 2010 meeting voted unanimously to return the text with an "ought-to-pass" recommendation. They did note that this approval should be linked to the approval of the Town Ways Ordinance amendments currently before the Town Council because of the language requiring a letter from a professional land surveyor indicating that all subdivision monuments have been set.

This draft zoning ordinance text amendment clarifies under what conditions the Code Enforcement Officer can issue a building permit in a newly constructed subdivision. The amendment also clarifies what sort of plumbing permit is required for issuance of a building permit.

This language was reviewed by Attorney Russell he made some adjustments for the building permit language prior to the Ordinance Committee meeting.

Proposed Amendments to Article 5 of Zoning Ordinance

The proposed amendments to Section 5.3.1.8 and Section 5.3.1.9 are the same ones that I reviewed in March of 2008, and my comments have been incorporated therein. Therefore, I find the proposed amendments to be acceptable, except that in Section 5.3.1.9, the word "disposal" should be "Disposal".

2/1/2010 - Introduced for public hearing on 3/1/2010

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 5
ENFORCEMENT
(Amended: 6/ 3/02)

5.1. Administrative Officer - This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Town Manager with confirmation by the Town Council.

5.2. Duties - The Code Enforcement Officer, in enforcing this Ordinance, shall be responsible for establishing reasonable procedures for enforcement, keeping all activities within the jurisdiction of this Ordinance under surveillance, issuing building and/or use permits where applicable, keeping public records of his proceeding and instituting or causing to be instituted any or all actions that might be appropriate for the enforcement of this Ordinance.

5.3. Permits - Application for a building permit and a certificate of compliance shall be made concurrently with the initial application.

5.3.1. Building Permits

5.3.1.1. Building Permit Required - An application shall be submitted to the Code Enforcement Officer for the following activities, and these activities shall not commence in the Town of Hampden without a permit being issued.

1. Construct or alter a structure.
2. Change of exterior dimensions of an existing structure;
3. Construct a sign or change the exterior dimensions of a sign;
4. Reconstruction of a disaster-damaged or disaster-destroyed structure.

5.3.1.2. No building permit shall be issued except in conformity with the provisions of this Ordinance.

5.3.1.3. Within fourteen (14) days of the filing of an application for a building permit, the Code Enforcement Officer shall approve or deny such application or shall refer the applicant to the planning board or the Board of Appeals. The decision shall be in writing and communicated directly to the applicant. In the case of a denial of an application, the decision shall include reasons for such. One (1) copy of the Code Enforcement Officer's decision shall be filed in the municipal office.

(Amended:09-18-06)

5.3.1.4. No building permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent. The Code Enforcement Officer may require that any application for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on site soils survey, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed, together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure, and other such information as may be necessary to provide for the execution and enforcement of this Ordinance.

5.3.1.5. Applications for permits with their accompanying plans and building permits shall be maintained as a permanent record by the Code Enforcement Officer.

5.3.1.6. A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within six (6) months of the date on which the permit is granted, or if the work or change is not substantially completed within two (2) years of the date on which the permit is granted.

5.3.1.7. No building permit, demolition permit, earth moving permit, sign permit or certificate of compliance shall be issued without payment of fees in accordance with the Town of Hampden Fees Ordinance. *(Amended: 11-17-03)*

Any structure on which construction, including but not limited to foundation work, has begun before the issuance of a building permit will be assessed double the above described fees.

5.3.1.8. ~~Building permits for structures to be located on subdivision lots shall not be issued by the Code Enforcement Officer until all improvements, including public utilities (sewer, water and electrical), roads and drainage facilities as approved by the Planning Board and required by town ordinances, are completed to the satisfaction of the Town designated engineering consultant and the road, if any, has been accepted by the Town Council as a town way, unless the following improvements have been completed:~~

- ~~1. Installation of all public utilities, in accordance with the approved subdivision plan, including sewer, water and electrical,~~
- ~~2. Substantial construction of roads, meaning the complete installation of gravel sub-base and drainage facilities including ditches, detention basins, road culverts, driveway culverts, etc., and~~
- ~~3. Installation of all property pins for the subdivision lots by a registered surveyor.~~

5.3.1.9. *Plumbing Wastewater Disposal Permit Required* - No building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless either a valid internal plumbing subsurface wastewater disposal permit or sewer hook-on permit has been secured by the applicant or his authorized agent in conformance with the plumbing code of the State of Maine Subsurface Wastewater Disposal Rules or the Town of Hampden Sewer Ordinance.

The Public Safety Director's memo also recommended that the Town consider a policy on new streetlights so that future requests may be reviewed using established criteria. Motion by Councilor Hughes, seconded by Councilor Brann to refer this back to the Infrastructure Committee to review the recommendations of Public Safety and in doing that consider the other 2 lights as part of that process – unanimous vote in favor.

f. **COMPREHENSIVE PLAN – SUGGESTED TIME FRAME/ADOPTION PROCESS**

The Council reviewed and endorsed the suggested timeframe and process for finalization and adoption of the 2010 Comprehensive Plan as submitted by the Community and Economic Development Director (copy attached).

4. NEW BUSINESS

a. **SEWER COMMITMENT – 4TH QUARTER 2009**

Motion by Councilor Brann, seconded by Councilor Cushing to approve and sign the Sewer Commitment – unanimous vote in favor.

b. **WATER DISTRICT REQUEST FOR MEETING DATE (2/10, 2/11 OR 2/12)**

At the request of the Water District's Board of Trustees, a meeting was scheduled for Thursday, February 11th at 6:00 pm for the purpose of discussing meter reading cost sharing with the Town and a proposed Water District rate increase.

c. **SEWER MANHOLE COVER RISERS – PUBLIC WORKS DIRECTOR'S REQUEST TO WAIVE BID PROCEDURE – INFRASTRUCTURE COMMITTEE RECOMMENDATION**

Councilor Shakespeare reported that the Infrastructure Committee had discussed a request from the Public Works Director to waive the bid procedure for 72 sewer manhole cover riser rings which will be required as part of this year's paving program. The Public Works Director had reported that there was only one vendor in the state that makes the rings and the Committee recommended that the Council approve the request.

Motion by Councilor Shakespeare, seconded by Councilor Brann to approve the request to waive the bid procedure – unanimous vote in favor.

d. **PUBLIC WORKS TRUCK AND LOADER BIDS – REQUEST FROM PUBLIC WORKS DIRECTOR TO SOLICIT BIDS – INFRASTRUCTURE COMMITTEE RECOMMENDATION**

Councilor Shakespeare reported that the Infrastructure Committee had discussed a request from the Public Works Director to advertise for bids

C-3-f

To: Manager Lessard
Town Council Members

From: Dean L. Bennett, Director of Community and Economic Development

Subject: Suggested Timeframe and Process to Comprehensive Plan Adoption

Date: January 27, 2010



As requested, I hereby submit a suggested timeframe and process by which to accomplish the finalization, submission and adoption of the 2010 Hampden Comprehensive Plan. As you are aware, more than 50 people, special interest groups, department heads, and committees have contributed to the development of this proposed plan. In addition, we have shared the working draft with the State Planning Office during its development to minimize the likelihood of numerous inconsistency findings which are common at the end of this process. Upon your endorsement and Managers direction, I am prepared to facilitate this process immediately.

1. Completion of Public Education/Input Process (60 days)
 - a. Recording of a Hampden Highlights Newsmagazine Show presenting/discussing the role, components, policies and overall concepts within the Proposed 2010 Hampden Comprehensive Plan.
 - b. Three (3) informational workshops, for the purposes of discussing the objectives and goals of the 2010 Comprehensive Plan with the general public. These workshops to be recorded and broadcast via Hampden Highlands Newsmagazine. Public input/comments to be recorded and provided to Council for consideration prior to adoption.
 - c. Offering the availability of the Director of Community and Economic Development to community groups, via Newsmagazine, Newsletter and/or direct mail, to present and discuss the Proposed Comprehensive Plan.

2. Council to approval and submit draft plan to the State Planning Office for consistency determination. State Planning Office has 45 days to review plan and return findings. (45 days)

3. Council to review State comments. Revisions to plan in response to State objections and resubmission of changes to SPO. Town to receive approval letter from State Planning Office once consistency is determined. (30 days)

4. Public Hearing must be held on Proposed Plan. Plan must be available for public review 30 days prior to public hearing. State comments must be available to public at the public hearing. (45 days)

5. Adoption of 2010 Hampden Comprehensive Plan.

for a new truck and loader prior to the next budget cycle. The two vehicles would cost approximately \$200,000 and it was the recommendation of the Committee to go out to bid in March 2010.

Motion by Councilor Shakespeare, seconded by Councilor Cox to approve the request and recommendation of the Infrastructure Committee.

e. POVERTY ABATEMENT REQUEST – EXECUTIVE SESSION
PURSUANT TO 1 M.R.S.A. §405(6)(F) CONFIDENTIAL RECORDS

This item was moved to the end of the agenda.

D. COMMITTEE REPORTS

Councilor Hughes reported that the Planning & Development Committee met last week and reviewed the Shoreland Zoning Ordinance and heard an update from the Director of Community and Economic Development relative to the BEAR program and the marina project. The next meeting will be at 6:00 pm on February 3rd.

Councilor Cox reported that the Committee on Committees will meet at 6:00 pm on February 9th.

Councilor Lawlis reported that the next Services Committee meeting is scheduled for 6:00 pm on February 8th. The Friends of Dorothea Dix Park will be holding its first meeting within the next month; the Dog Park committee has met twice and has an upcoming meeting on February 10th at 6:00 pm.

Councilor Shakespeare reported that the Infrastructure Committee met on January 25th and in addition to the items already discussed this evening, the Public Works Director updated the Committee on the Route 1A MDOT project, which has been postponed until the summer of 2011, and the Mayo Road Reconstruction informational meeting. The next meeting of the Infrastructure Committee is scheduled for 6:00 pm on February 22nd.

E. MANAGER'S REPORT

Manager Lessard reported that she is taking vacation time to chair the two weeks of BEP hearings in Augusta regarding the HoltraChem cleanup appeal. She thanked the Council for allowing her to do that. She also expressed appreciation to the Administration staff for handling everything while she has been in Augusta.

She reported that the Town received the final Host Community Benefit check today in the amount of \$41,000.

Manager Lessard reminded everyone that the grace period for transfer station decals is over and that any vehicle without a decal will be turned away from the transfer station. Additionally, the grace period for dog licenses has expired and there is a \$15.00 late fee in effect.

F. COUNCILOR'S COMMENTS

Councilor Brann suggested that after the public hearing and approval of the Shoreland Zoning Ordinance, a specific date should be set for submission for map changes.

Councilor Cushing noted that there is a meeting of the Hampden Business Association tomorrow morning at 7:30 am at Maine Savings Credit Union.

EXECUTIVE SESSION: - POVERTY ABATEMENT REQUEST

Motion by Councilor Cushing, seconded by Councilor Brann to enter Executive Session pursuant to 1 M.R.S.A. §405(6)(F) Confidential Records – unanimous vote in favor.

Motion by Councilor Brann, seconded by Councilor Cushing to come out of Executive Session at 8:50 pm – Vote 7-0

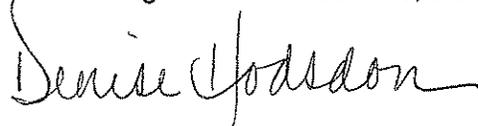
Motion by Councilor Cushing, seconded by Councilor Lawlis to deny the 2009 poverty abatement request – Vote 7-0

Motion by Councilor Brann, seconded by Councilor Shakespeare to deny the 2008 poverty abatement request – Vote 5-2; motion carried

Motion by Councilor Brann, seconded by Councilor Cushing to authorize the Town Manager to waive penalties and interest on the applicant's taxes if she works out and keeps an agreement with the Town Manager for payment of taxes – Vote 5-2; motion carried.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:10 p.m.



Denise Hodsdon
Town Clerk