

TOWN COUNCIL MINUTES

OCTOBER 1, 2007

The regularly scheduled meeting of the Hampden Town Council was held on Monday, October 1, 2007. The meeting was held at the municipal building council chambers and was called to order by Mayor Briggs at 7:00 p.m.

Attendance: **Councilors:** Mayor Rick Briggs, Robert Gilberti, Thomas Brann, Matthew Arnett, Edward Murphy, and Shannon Cox. Andrew Colford was absent.

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

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

Pine Tree Landfill representatives and citizens

A. CONSENT AGENDA

Treasurer's Warrants were circulated for approval and signatures of the Finance Committee. Councilor Murphy requested that Item A.3.b. be set aside. The balance of the consent agenda was accepted without objection.

A.3.b. WATER DISTRICT RATE FILING

Councilor Murphy expressed concern about the increase the Water District is requesting. He feels that it is excessive and that the Council needs further information. He noted that the one of the biggest components is a \$400,000 increase in wages and he would like a breakdown of that amount. Manager Lessard will attend the public hearing tomorrow at Reed's Brook Middle School and bring back information to the Council. Motion by Councilor Murphy, seconded by Councilor Brann to accept Item A.3.b. – unanimous vote in favor.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. ZONING ORDINANCE TEXT AMENDMENT – SECTION 3.1.2
INDUSTRIAL PARK DISTRICT PERMITTED USES

Town Planner Bob Osborne explained that this is a housekeeping item that clarifies the intent of limitation on retail uses in the district – that it is the individual uses that are limited to 5,000 square feet for commercial activities rather than the overall gross floor area of the building. He reported that the Planning Board unanimously returned an ought-to-pass recommendation.

Mayor Briggs 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 Arnett, seconded by Councilor Gilberti to adopt the amendment to the Zoning Ordinance as submitted.

During discussion Councilor Brann expressed concern that this would make it possible to construct a chain of buildings into a strip mall-type structure on consecutive lots. Manager Lessard noted out that the master plan for the business park allows for a building envelope on each lot and nothing could be built outside that footprint. Councilor Brann commented that that is a nice fail-safe but it doesn't always work since the Council just approved the modification of the building envelope on one lot after the building had been built. He said that what concerns him most is that in the recent past there have been several situations developing at the business park which required changes in the way that the covenants were originally approved. He feels that some of the original promises made when the business park was developed are falling by the wayside.

By roll call, vote on the motion was 5 (Murphy, Cox, Gilberti, Arnett and Briggs) to 1 (Brann) – motion carried.

Councilor Arnett commented that Councilor Brann made a very good point and he would like to see that whole strategy be reviewed as we go through the transition with the new Economic Development position. Councilor Cox also supported that idea.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

a. HAWTHORNE RIDGE II SUBDIVISION – ROAD ACCEPTANCE – REMAINDER OF DUNTON CIRCLE AND SILVER DRIFT TRAIL

Public Works Director Chip Swan informed the Council that the roads are completed and ready to be accepted. Manager Lessard reported that the Town Attorney has reviewed the deeds and they are in acceptable form. Motion by Councilor Arnett, seconded by Councilor Gilberti to accept the remainder of Dunton Circle and Silver Drift Trail in Hawthorne Ridge II Subdivision – unanimous vote in favor.

b. TRUCK BID RESULTS – PUBLIC WORKS

Public Works Director Chip Swan reported that bids were opened on September 10th and there were three bidders. Chip recommended acceptance of the bid from Whited Truck Center in the amount of \$113,940.00. Manager Lessard explained that this was the truck budgeted for a year ago, but because the emission controls on these truck were changing we waited out a year. Due to that, the truck is considerably more expensive than when we last went to bid for a truck. She reported that the equipment reserve account is approximately \$27,000 short for purchase of this truck. In order to complete this purchase she recommended that the balance could come from the EPA garage reserve account. There is currently \$70,000 in that reserve that has been set aside for improvements related to stormwater runoff, which have to be completed by 2010. She noted that would allow two budget years to make up that difference, but allows the truck replacement schedule to stay on track.

Motion by Councilor Brann, seconded by Councilor Arnett to accept the bid from Whited Truck Center in the amount of \$113,940 with funds to come from the Public Works Equipment reserve and the EPA Garage reserve accounts. By roll call, the vote was unanimously in favor of the motion.

c. MUNICIPAL GARAGE HEATING SYSTEM BID RESULTS – PUBLIC WORKS

Public Works Director Chip Swan informed the Council that there were three bids and he recommended acceptance of the bid from Mechanical Services in the amount of \$28,690.00 for a Roberts Gordon TF-300 heating system. Manager Lessard noted that the Town Garage reserve account has sufficient funds to cover the cost of the new furnace.

Motion by Councilor Arnett, seconded by Councilor Brann to accept the recommendation of the Public Works Director and to award the bid to Mechanical Services in the amount of \$28,690.00 with funding to come from the Town Garage reserve account. By roll call, vote was unanimously in favor of the motion.

d. MUNICIPAL GARAGE PROPANE BID RESULTS – PUBLIC WORKS

Three bids were received for 5000 gallons of propane and Chip recommended acceptance of the bid from R.H. Foster in the amount of \$.20/gallon over rack price. Motion by Councilor Brann, seconded by Councilor Arnett to accept the bid from R.H. Foster – unanimous vote in favor.

e. LAKEVIEW CEMETERY EXPANSION BID RESULTS – PUBLIC WORKS

Public Works Director Chip Swan reported that bids for the Lakeview Cemetery design and were opened on September 21st and there were 9 bidders. The bids ranged from \$2,945.00 to \$13,600.00 and he

recommended acceptance of the bid from Applebee Engineering in the amount of \$2,945.00. Motion by Councilor Brann, seconded by Councilor Cox to award the bid to Applebee Engineering in the amount of \$2,945.00 with funding to come from the Cemetery reserve fund – unanimous vote in favor.

f. DOROTHEA DIX – FOREST MANAGEMENT PLAN – COUNCILOR BRANN

Councilor Brann reported that the Community Services Committee has reviewed the forest management plan by Prentiss & Carlisle, but they would like to move on to a more detailed planning process for Dorothea Dix Park. He noted that Prentiss & Carlisle proposed two options – one is a cleaning and thinning of Dorothea Dix Park, which would result in removing dangerous dead and dying material and cleaning up the ground to make it more passable. The other option is do a design change in the park in that instead of having the trail going straight down the hill where it gets flooded and washed out, have it meander through the park in several places and put clearings and picnic areas throughout the park. Councilor Brann felt that this more detailed plan could be done on a break-even basis because of the value of the material that would be removed in the process. He requested permission from the Council to pursue finding someone to develop a more detailed plan.

Motion by Councilor Brann, seconded by Councilor Arnett to give the Community Services Committee permission to pursue bids and estimates on what it would cost to have a formal plan developed for the reclaiming of Dorothea Dix Park – unanimous vote in favor.

4. NEW BUSINESS

a. REQUEST FOR ACCESS EASEMENT – ALEX KING

Manager Lessard received a letter from Alex King, who just purchased Tax Map 5A, Lots 29 and 34 off Ichabod Lane, requesting an easement from the Town for vehicle access from Ichabod Lane across the Town's right of way that is bordered by Tax Map 5A Lots 9, 11 and 13 to his Lot 34. Manager Lessard explained that a street that was not constructed as part of the subdivision loses its status as a paper street. However, that doesn't mean that the Town loses ownership of it – it was deeded to the Town as part of the original subdivision. She said the problem is that two lots, one of which was part of that subdivision and the other part of the remaining land, that have no other access and are landlocked by that Town-owned strip of land. Mr. King's request is to be allowed to utilize that easement for vehicle access to one of his lots.

Alex King who currently resides at 807 Kennebec Road informed the Council that he was the original buyer of Lot 25 on Ichabod Lane in 1977. He intends to build a house on the property he just purchased. He said when he bought Lot 25 in 1977, the original developer went through bankruptcy and there were only 2 homes on the road for five years. Mr.

Brooker bought the property in 1982 and built the rest of the lots on the final subdivision plan. Mr. King said the road on the plan looped around to Lot

34 that he just purchased. He said there is a good gravel road right through the middle of Lot 34 which the residents used to use regularly until the State took wetlands mitigation for Route 15 in Brewer. It took 22 acres on the end of that and dug up the back side of the road. He said that stopped the locals from using that road completely around, but there was a walking path left.

Mr. King stated that the only access for him is through that deeded part, which he thought was part of all the remaining land that he was buying. However, in 1986 Mr. Booker deeded all roads on the three subdivision plans to the Town, including that right of way, which landlocked Lot 34.

Attorney Russell pointed out that Mr. King could use Lot 29 as access. Mr. King stated that the problem is that Lot 29 has never been developed and if he has to come in from Lot 29, he will have to build approximately 900 feet of road to get to Lot 34 and it would disrupt the neighborhood a lot more. He would not have to do much to have a good road through Lot 34 if the Town gives him an easement over the existing planned road.

Councilor Brann asked Attorney Russell if, when the roads were accepted, was this parcel accepted as a town way or just as town land? Attorney Russell said the minutes are ambiguous, but he does not think it was the intent of the Council to accept something as a town way, with an obligation to maintain it and plow it, that wasn't even built. He believes it was the Council's intent to accept Ichabod Lane, not this spur, but the deed conveyed it. Attorney Russell is of the opinion that it is not a town way.

Following further discussion about whether that piece could be accepted as a town way and the need for further research by Attorney Russell, Mr. King said he was not looking for the town to maintain that road – right now he is just looking for a way to get a vehicle and equipment down that road to access his property. Mayor Briggs asked Attorney Russell if that would be feasible. Attorney Russell suggested granting some sort of limited temporary easement and to specify what rights he would be given.

Councilor Gilberti moved to grant a temporary limited right of way per the Town Attorney's contractual agreement with Mr. King; Councilor Brann seconded the motion but then moved that the motion be tabled for action until the documents are available for Council review on October 15th. Councilor Arnett seconded the motion to table – unanimous vote in favor.

b. STONE CREEK SUBDIVISION – ROAD ACCEPTANCE

Manager Lessard reported that all the appropriate documents have been submitted and the road is ready for acceptance. Attorney Russell has reviewed the deeds and they are satisfactory. Motion by Councilor Brann, seconded by Councilor Gilberti to accept Graystone Drive in Stone Creek Subdivision – unanimous vote in favor.

c. SNOW AND ICE CONTROL – ROUTE 1A

Public Works Director Chip Swan informed the Council that the Maine DOT has determined that Route 1A from the Bangor line to Route 9 is designated as a state highway and they are responsible for the winter maintenance of that highway. DOT does not have enough trucks to plow that portion of Route 1A and is proposing that the Town continue to plow Route 1A and pay the Town \$4000 per mile for a total sum of \$14,560.00. Chip recommended acceptance of this proposal.

Motion by Councilor Brann, seconded by Councilor Arnett to accept the State's proposal and to authorize the Town Manager to sign the agreement on behalf of the Town – unanimous vote in favor.

d. APPLICATION FOR OUTDOOR WOODBURNING FURNACE
LICENSE RECEIVED FROM PATRICK AUDET, 381 MAIN ROAD
NORTH

Motion by Councilor Arnett, seconded by Councilor Gilberti to approve the application and grant the license – unanimous vote in favor.

D. COMMITTEE REPORTS

There were none.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

F. COUNCILOR'S COMMENTS

Councilor Gilberti commented that he was glad to see that there are potential candidates to fill the vacated seat at the end of the year. He will have discussions with each and will formally announce his support for one of the candidates prior to the election.

Mayor Briggs noted that Councilor Colford had requested an excused absence for this meeting. Councilor Gilberti moved to excuse Councilor Colford – motion failed for lack of a second.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:42 p.m.

Denise Hodsdon
Town Clerk