

TOWN COUNCIL MINUTES

JULY 7, 2008

The regularly scheduled meeting of the Hampden Town Council was held on Monday, July 7, 2008. The meeting was held at the municipal building council chambers and was called to order by Mayor Briggs at 7:03 p.m.

Attendance: Councilors: Mayor Rick Briggs, Andrew Colford, Matthew Arnett, Andre Cushing, Shannon Cox and Edward Murphy. Thomas Brann was excused.

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Public Works Director Chip Swan and Pool Director Darcey Peakall

Mayor Briggs noted that Councilor Brann was unable to attend the meeting and had requested an excused absence. Motion by Councilor Colford, seconded by Councilor Murphy to excuse Councilor Brann – unanimous vote in favor.

A. CONSENT AGENDA

Treasurer's Warrants were circulated for approval and signatures of the Finance Committee. Councilor Cushing requested that Item A.3.a. be set aside. Motion by Councilor Arnett, seconded by Councilor Murphy to accept the balance of the Consent Agenda – unanimous vote in favor.

A.3.a. DOT/TOWN – TRANSIT BONUS

Councilor Cushing asked Manager Lessard to explain what the transit bonus is used for and why the state is unable to fund it at 100%. Manager Lessard explained that the transit bonus is applied for annually and is the difference between what the Town funded its community bus at in 2001 and what it funds it at in any given year. The transit bonus application is based on the increase from one to the other and Hampden has applied for that every year. Funds are disbursed based on the amount of money available and the total amount requested by municipalities. She noted that it has never been funded at 100%. The Town uses the money to help defray the cost of operating the bus system. Motion by Councilor Cushing, seconded by Councilor Arnett to accept Item A.3.a. – unanimous vote in favor.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. APPLICATION FOR VICTUALER'S LICENSE RECEIVED FROM
MAC'S CONVENIENCE STORES, LLC d/b/a CIRCLE K #7057 at 63
MAIN ROAD NORTH

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

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

- a. NATURAL GAS – NEXT STEPS

This item was moved to the top of the Policy Agenda. Nancy Hamilton of 3 Dewey Street urged the Council to continue looking into the possibility of bringing a natural gas line to Hampden. She noted that at the Public Works Committee meeting it appeared that everybody had a positive attitude toward bringing the gas line to Hampden. She has talked with Jerry Livengood, a representative from Bangor Gas and he feels that there is sufficient potential income in the town in order to recapture the cost of putting the line in. She said it is just a matter of him waiting to get the preliminary information and contact the property owners.

Councilor Murphy reported that the Public Works Committee did meet with Mr. Livengood and the committee is making a recommendation to the Council for further action. The end of the company's large supply line is in front of the Fairfield Inn on the Odlin Road and it would not be difficult to continue that into Hampden down the Route 202 corridor, but they feel conducting a survey would be helpful in determining where they would have potential customers.

There was discussion about the possibility of including a questionnaire, to be provided by Bangor Gas, on the Town's website or in the next newsletter inviting people to respond so the company would know how many interested parties there are in Hampden. Attorney Russell cautioned against the Town advocating for one kind of heating source over another. Manager Lessard offered that the Town could provide a mailing list to Bangor Gas if they want to mail a survey to potential customers.

Councilor Cushing suggested that perhaps it would be appropriate for Economic and Community Development Specialist Dean Bennett to contact Bangor Gas, as a business which has expressed an interest in potentially locating in Hampden, and offer the same level of service currently offered to other businesses. Following further discussion, Councilor Murphy moved and Councilor Colford seconded to refer this to Economic and Community Development Specialist Dean Bennett – unanimous vote in favor.

Councilor Cox suggested holding some sort of public forum in which all energy companies who wished to participate could inform the public of what types of energy are available.

b. LETTER OF CONFIRMATION – KR PROPERTIES, LLC

Attorney Russell explained that Section 3.9 of the Declaration of Covenants, Conditions and Restrictions for the Hampden Business and Commerce Park was intended to prohibit speculation of lots in the park and it has two purposes: 1) if a buyer does not develop a lot from one year from the date of purchase; or 2) if the buyer was ever going to sell the lot in its unimproved state, in either case the Town would have the option buy the lot back. Prior to sale, the owner is required to notify the Town of its intention to sell and the Town has 60 days to exercise its option, otherwise the owner is free to sell at any price. The attorney for KR Properties has expressed concern that this is a perpetual right-of-first-refusal. Attorney Russell and the buyer's attorney have determined that Section 3.9(c) which refers to the process by which the Town may exercise its right to repurchase is not a separate option to purchase. Attorney Russell informed the Council that the sale of Lots 13 and 15 closed last week and he prepared a letter for Manager Lessard's signature (copy attached) memorializing what the two attorneys had agreed the intent was. They also requested confirmation from the Council that it agrees with the interpretation and analysis of that provision and Attorney Russell advised that the Council confirm the letter.

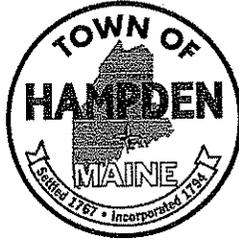
Motion by Councilor Murphy, seconded by Councilor Cushing to confirm the Manager's letter dated June 30, 2008 – unanimous vote in favor.

c. BID RESULTS – PUBLIC WORKS VEHICLES

Bids were opened on July 3rd for a zero-turn mower, a 2009 pickup truck and a 2009 GM 5500 truck. Public Works Director Chip Swan provided the bid results for the Council's consideration. He recommended acceptance of the low bid from Greenway Equipment in the amount of \$8,250.00 for the mower. Motion by Councilor Arnett, seconded by Councilor Cushing to accept the bid from Greenway Equipment in the amount of \$8,250.00 from the Buildings & Grounds reserve account.

Manager Lessard asked the Council for leeway in financing these purchases if that is more advantageous than fully paying for them at the time of purchase.

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Phone: (207) 862-3034
Fax: (207) 862-5067
email: h

m

C-3-b

June 30, 2008

John W. Austin
KR Properties, LLC
75 Postal Service Way
Scarborough, Maine 04070

Re: Lots 13 and 15 in the Hampden Business & Commerce Park (the "Park"), as shown on the Plans recorded in the Penobscot County Registry of Deeds (the "Registry") in Plan Book 2007, page 112

Dear Mr. Austin:

Reference is made to that certain Declaration of Covenants, Conditions and Restrictions for the Hampden Business and Commerce Park dated October 7, 2002 and recorded in the Registry in Book 8503, Page 78, as amended by those certain Certificate of Amendments dated January 23, 2008 and recorded in the Registry in Book 11274, Page 328 (collectively, the "Declaration").

On behalf of the Town of Hampden (and its successors and assigns, the "Town"), the Declarant under the Declaration, I hereby confirm and certify to KR Properties, LLC the following:

1. I am the duly appointed Town Manager for the Town and am authorized to execute and deliver these confirmations and certifications to you;
2. The provisions set forth in Section 3.9(c) of the Declaration refer to the process by which the Town may exercise its right to repurchase unimproved lots in the Park as established in Section 3.9(b) of the Declaration, and is not a separate option to purchase unimproved or improved lots in the Park; and
3. Construction of the paved parking lot on Lot 13 in accordance with the site plan approved by the Town is sufficient under the Declaration to constitute an "improvement", as defined in the Declaration, and the timely construction of said paved parking lot on Lot 13, with no other improvements on said Lot 13, within the time frames established in Sections 3.9(a) and (b) is sufficient to terminate the Declarant's repurchase options for Lot 13 set forth in Section 3.9.
4. The certifications I have made to you in items 2 and 3 above are subject to confirmation of the same by the Hampden Town Council, which is scheduled to meet on July 7, 2008..

The undersigned understands that KR Properties, LLC, in reliance on the confirmations and certifications set forth herein, is purchasing Lots 13 and 15 referenced above for purposes of developing them together, and will invest substantial funds in developing the lots.

Very truly yours,

Town Manager

Councilor Cushing offered a friendly amendment to the motion to add “to permit the Town Manager to consider alternate financing if it is more advantageous than an outright purchase.” Councilor Arnett agreed to the amendment. Vote on the motion as amended was unanimously in favor.

Three bids were received for a 2009 ¾ ton pickup truck with plow and lift. Chip recommended acceptance of the bid from Quirk Ford in the amount of \$22,710.00, but requested an additional \$2,000.00 for accessories such as new tool boxes, radio and light bar. Motion by Councilor Cushing, seconded by Councilor Arnett to accept the bid from Quirk Ford in the amount of \$22,710 and to authorize an additional \$2,000 for accessories to be funded from the equipment reserve account; and to permit the Town Manager to consider alternate financing – unanimous vote in favor.

The third vehicle is a 2009 GM 5500 truck and three bids were received. Chip recommended acceptance of the bid from Varney GMC in the amount of \$90,665.00. Motion by Councilor Cushing, seconded by Councilor Cox to accept the bid from Varney GMC in the amount of \$90,665.00 and to authorize the Town Manager to explore financing if it is more beneficial for the Town – unanimous vote in favor.

d. BID RESULTS – POOL FLOORING

Bids for pool flooring were opened on June 30th and there was only one bidder. Pool Director Darcey Peakall informed the Council that she obtained four estimates for the flooring which were over the \$4,000 bid threshold so she was required to put the project out to bid. None of the companies who had provided estimates submitted a bid. The one bid received was from V.L. Walton’s Flooring in the amount of \$6,239.59. Motion by Councilor Murphy, seconded by Councilor Cushing to accept the bid from V.L. Walton’s flooring in the amount of \$6,239.59 – unanimous vote in favor.

Manager Lessard suggested that perhaps it was time for the Finance Committee to look at raising the bid threshold. Councilor Cushing moved to direct the Finance Committee to review the ceiling on bids. Councilor Arnett seconded the motion with an amendment to reexamine the whole bid process. The amendment was accepted by Councilor Cushing and vote on the motion as amended was unanimously in favor.

Darcey also informed the Council that one of the boilers at the pool has failed inspection so she is running on only one boiler now. She has had two companies look at it and the estimates for repair exceed \$3,500 with no guarantee and replacement of the boiler would cost approximately \$14,500.00. She is working with Public Works Director Chip Swan in seeking alternate energy options.

e. FINANCE COMMITTEE RECOMMENDATIONS

In Finance Committee Chair Brann’s absence, Manager Lessard reported that the Finance Committee met on June 26th and the minutes of that

meeting were included in the Council packet.

One item discussed was the itemized sewer capital proposals and the Committee is recommending that Phases 1 through 3 be included on the November ballot for bonding in the amount of \$1.85 million.

Motion by Councilor Cushing, seconded by Councilor Cox to accept the Finance Committee's recommendation related to Phase 1 through 3 of the sewer capital plan and include that in a bond issue in the amount of \$1.85 million for the November ballot. By roll call vote was 6-0 in favor.

The proposed ordinance authorizing appropriation and borrowing of funds to finance the proposed project will be on the next Council agenda for introduction for public hearing.

There was also a recommendation from the Finance Committee to allow the Manager to move an additional step (5%) on the wage scale and to allow the annual \$3,500 tuition/ education funding to remain in the budget for use either for courses or professional development.

Motion by Councilor Cushing, seconded by Councilor Arnett to accept the recommendation of the Finance Committee in regards to the Manager's salary – unanimous vote in favor.

4. NEW BUSINESS

- a. APPLICATION FOR RENEWAL OF OUTDOOR WOOD-BURNING FURNACE LICENSE RECEIVED FROM RODNEY STANHOPE AT 540 WESTERN AVENUE

Motion by Councilor Murphy, seconded by Councilor Colford to approve the application – unanimous vote in favor.

- b. TIME WARNER CABLE – INTEREST DIVESTITURE

Manager Lessard explained that Time Warner, Inc. is divesting itself of its interest in Time Warner Cable, Inc., but it does not materially change the services provided to Hampden customers. The company included a sample resolution in the event the Council wished to formally approve the divestiture. Councilor Arnett noted that the Communications Committee sees no adverse impact but sees no particular reason to approve. This item was informational only and no action was taken.

D. COMMITTEE REPORTS

Councilor Colford reported that the Public Safety Committee will be meeting on July 16th at 7:00 pm to discuss the proposed new fire truck.

Councilor Arnett reported that the Communications Committee has reviewed the upcoming newsletter and it will be mailed out at the end of July. He asked all

Committees to notify the Clerk when a meeting is scheduled so that it may be posted on the Town's website in a timely manner.

Councilor Arnett further reported that the Charter & Ordinance Committee met jointly with the Planning Board's Ordinance Committee relative to building height limitations in the commercial zone. Discussions will continue on that issue.

Councilor Cushing reported that the Committee on Committees is in the process of reviewing the Council sub-committees and citizens advisory committees. The next meeting of that Committee will be at noon on July 17th.

Councilor Cushing further reported that the Council's Economic Development Committee will meet on July 17th at 7:00 pm.

Councilor Cox reported that the Community Services Committee will meet at 6:00 pm on July 15th.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

MOU Progress: Together with Manager Lessard, Deputy Mayor Andrew Colford and Councilor Cox will attend the meeting with SAD #22 officials relative to the Memorandum of Understanding.

F. COUNCILOR'S COMMENTS

Councilor Cushing said it has been brought to his attention that there are some deep ruts in Locust Grove Cemetery and asked if Public Works could assess whether grading the center of the roads might be possible. He also asked if it would be possible to provide trash barrels at the cemetery. He thanked the Public Works Department for attending to the replacement of the aging stop signs, but noted that in some areas street signs are installed on top of stop signs and are difficult to see because of the positioning of the stop signs. Councilor Cushing also informed the Council that the Brewer City Council honored their commitment in the Hike for the Homeless challenge and wore their purple t-shirts at their meeting on June 24th.

Councilor Colford thanked all the Veterans for all they did in the July 4th parade.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 9:30 p.m.



Denise Hodsdon
Town Clerk

MANAGER'S REPORT

July 7, 2008

Fiscal Year End – Fiscal year end went smoothly. We are now in the process of setting up the new year budget. We will have a commitment for Council consideration at the first meeting in August. Our audit is set up for the week of September 22nd.

MOU Progress – The School Superintendent, Assistant Superintendant and School Board Chair would like to set up a meeting with myself and the Mayor and another Council member to finalize the Memorandum of Understanding regarding the access off Route 9 for the new school. Dates of July 17th or 18th are available for them. Both 'sides' have offered wording for the agreement and the goal of this meeting is to find common ground with which to go forward.

Transfer Station Incident – We had an incident on Sunday at the Transfer Station where someone deposited what turned out to be pool chemicals in one of the packers. There was a resulting strong unidentified chemical odor. Our new Transfer Station supervisor, Chris, did a good job of notifying the fire department to have it checked out.

Transfer Station – C&D/Wood – The first two months of the new process at the transfer station has seen a marked decline in the disposal of construction & demolition debris. The month of May was down 92 tons from April, and the first collection week in June was down 2 tons from the first collection week in May and 4 tons from the second collection week in May. Wood was down 65 tons from April to May. Those savings translate for the month of May alone translate to \$11,500.

C&D Site at Pine Tree – We have been notified that Casella will continue to operate the C&D transfer site at the location on Emerson Mill Road after the facility stops accepting waste and is finally capped and closed.