



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING  
MINUTES

MONDAY

AUG. 7<sup>TH</sup>, 2017

7:00 P.M.

6:00 p.m. – Finance & Administration Committee

*Attending:*

*Mayor Ryder  
Councilor Sirois  
Councilor McPike  
Councilor Wilde  
Councilor Marble  
Councilor Cormier  
Councilor McAvoy*

*Town Manager, Angus Jennings  
Town Clerk, Paula Scott  
Attorney, Ed Bearor  
Rec Director, Shelley Abbott  
Tom Brann  
William Lippincott  
Jim Kiser  
Donald Meagher (Casella)  
Ted O'Meara (PERC)  
Members of the public*

*Mayor Ryder called the meeting to order at 7:00 p.m.*

- A. PLEDGE OF ALLEGIANCE** – *Mayor Ryder led the Pledge of Allegiance*
- B. CONSENT AGENDA** – *Councilor Marble made a motion, seconded by Councilor McAvoy, to accept the consent agenda. Unanimous vote in favor.*

**1. SIGNATURES**

**2. SECRETARY'S REPORTS**

- a. July 17th, 2017 Council Meeting Minutes**

**3. COMMUNICATIONS**

- a. Notification of Acadia Hospital's reply brief – Acadia Hospital Corp. v. Town of Hampden**

**4. REPORTS**

- a. Finance Committee Minutes –07/17/2017**  
**b. Infrastructure Committee Minutes - None**

**NOTE: The Council will take a 5-minute recess at 8:00 pm.**

MINUTES

- c. **Planning & Development Committee Minutes – 06/21/2017**
- d. **Services Committee Minutes – 06/12/2017**

C. **PUBLIC COMMENTS** – *There were no public comments*

D. **POLICY AGENDA**

1. **NEWS, PRESENTATIONS & AWARDS**

- a. **Proclamation in support of Team Hailey’s Hugs and to recognize September as Childhood Cancer Awareness Month** – *Mayor Ryder read a Council Proclamation in support of Team Hailey’s Hugs and to recognize September as Childhood Cancer Awareness Month*

2. **PUBLIC HEARINGS** –

- a. **Consideration of the proposed repeal and replacement of the Town of Hampden Flow Control Ordinance** – *Upon motion by Councilor Marble, seconded by Councilor McAvoy, Mayor Ryder opened the Public Hearing at 7:05 p.m. Manager Jennings explained that under terms of the joinder agreement, there are requirements to change the destination of solid waste and update the old ordinance that was adopted in the eighties. This would repeal the ordinance and replace it with an updated one, retaining PERC until the Fiberight facility is in operation.*

*Donald Meagher of Casella and former Pine Tree was recognized and stated concerns about the ordinance as currently written, citing concerns about only sending msw to one private entity. He stated that Article 5 is unconstitutionally vague referencing a court case fifteen years ago in which a Hampden landfill ordinance was found unconstitutionally vague. He proposed taking part in further dialogue before action is taken.*

*Ted O'Meara of PERC was recognized and stated his support of comments made by Mr. Meagher. He is concerned because there are agreements between haulers and PERC and Casella and feels this ordinance intrudes on those agreements. He also stated there were issues with Fiberight being a private entity with no public ownership like PERC, which has 20% public ownership. PERC's legal counsel advised this may be unconstitutional and asked that the town take more time and do further work on the ordinance.*

*Bill Lippincott of 30 Wilbur Drive was recognized and inquired what will happen if Fiberight is not ready by 2018 and asked if they can serve in the capacity of a transfer station if they are not up and running.*

## MINUTES

*Manager Jennings stated that a later public hearing tonight regarding zoning ordinance amendments will address that.*

*Councilor McAvoy addressed Mr. O'Meara stating that PERC is a private company, just like Fiberright and that the 20% is an investment not an ownership stake. He found objection to the inference by PERC's attorney about lack of public ownership creating an unconstitutional situation.*

*Don Meagher again approached the podium to respond to Councilor McAvoy as it pertains to Casella. He responded that if there were no Flow Control ordinances today in any community requiring msw to be delivered to PERC, they would still have to do that because of their contractual obligation. Councilor McAvoy stated that the Town of Hampden is not a party to their private agreements, other than the ability to control by ordinance where msw generated in Hampden goes. He asked Attorney Bearor to weigh in.*

*Attorney Bearor stated that Flow Control Ordinances have been the subject of court decisions for a few decades. He advised that PERC may have been viewed as a public institution but he doesn't believe that it will be going forward. He advised that Flow Control ordinances are permissible to allow towns the authority if there is a municipal facility to which trash is directed, but said he is not clear if that alone is a deciding factor. He also advised that many municipalities are adopting this and similar ordinances, and he expects that there will be litigation over it but we won't be defending the ordinance alone. He advised the Council that adopting the ordinance won't put us out there with a great exposure.*

*Manager Jennings confirmed that this is part of the obligations in the joinder agreement that all municipalities signed, and that we are just ahead of the curve.*

*Councilor Marble made a motion to adopt the Solid Waste Flow Control Ordinance as presented. Councilor McAvoy seconded the motion. Mayor Ryder offered a point of procedure in that the public hearing has to close before the vote. Councilor Marble made a motion to close the public hearing. Councilor McAvoy seconded the motion. Unanimous vote in favor which closed the public hearing at 7:25 p.m. Councilor Marble made a motion to adopt the replacement Solid Waste Flow Control Ordinance as presented. Councilor McAvoy seconded the motion. After deliberation amongst the Councilors, the motion was brought to vote. Councilor McAvoy, Councilor Cormier, Councilor Marble, Councilor McPike and Councilor Sirois voted in favor. Councilor Wilde and Mayor Ryder voted in opposition. Motion carries, 5-2.*

## MINUTES

- b. **Consideration of the proposed amendment to Article 4 of the Town of Hampden Fees Ordinance** – *Councilor McPike made a motion to open the public hearing at 7:25 p.m. Councilor McAvoy seconded the motion. Mayor Ryder explained that the amendment is to impound fees that are charged to the owner when a dog is taken to the shelter by the Animal Control Officer. There was no public discussion. Councilor Sirois made a motion to close the public hearing. Councilor McAvoy seconded the motion. Unanimous vote in favor which closed the public hearing at 7:26 p.m. Councilor Sirois made a motion to accept the amendment to the Fees Ordinance. Councilor McAvoy seconded the motion. Unanimous vote in favor.*
- c. **Consideration of the proposed amendments to Sections 5.3 and 7.2 of the Town of Hampden Zoning Ordinance** – *Councilor Marble made a motion to open the public hearing at 7:28 p.m. Councilor McAvoy seconded the motion. There was no discussion. Councilor Sirois made a motion to close the public hearing. Councilor McAvoy seconded the motion. Unanimous vote in favor which closed the public hearing at 7:28 p.m. Mayor Ryder directed comment to Mr. Lippincott who had earlier asked the question regarding transfer stations. Mayor Ryder summarized that these amendments are regarding certificates of occupancy, site plan review, transfer station and definitions. Councilor Sirois made a motion to approve the amendments to the Zoning Ordinance as presented. Councilor Marble seconded the motion. Unanimous vote in favor.*

*Although the public hearing had closed, Mayor Ryder recognized Mr. Lippincott who asked what will happen if Fiberight is not operational by April of 2018; would trash be delivered directly to Norridgewock from where it is generated, or stop in Hampden. Manager Jennings stated that he understood where he was going with the question but that it was not a Zoning question so much as a code question. He emphasized that this zoning amendment will prohibit transfer stations in Hampden. The Council intent was to properly define a transfer station in the ordinance, and to clearly prohibit it.*

- d. **Consideration of the proposed Ordinance to Authorize the Borrowing of Funds to Finance the Purchase of Public Works Vehicles and Associated Equipment** – *Councilor Sirois made a motion to open the public hearing at 7:35 p.m. Councilor McAvoy seconded the motion. Councilors McAvoy, Marble, Wilde, McPike, Sirois and Mayor Ryder voted in favor of opening the public hearing. Councilor Cormier voted in opposition. Motion carries, 6-1. Mayor Ryder summarized the proposed ordinance and its purpose. Councilor McAvoy clarified that this is a procedural vote to approve the ordinance*

## MINUTES

*but that the dollar amount and specifics of the vehicles will be later in a separate vote. Manager Jennings confirmed. There were no public comments. Councilor Sirois made a motion to close the public hearing at 7:36 p.m. Councilor Marble seconded the motion. Councilors McAvoy, Marble, Wilde, McPike, Sirois and Mayor Ryder voted in favor. Councilor Cormier voted in opposition. Motion carries, 6-1. Councilor Sirois made a motion to approve the ordinance to authorize the borrowing of funds to finance the purchase of Public Works vehicles and associated equipment. Councilor Marble seconded the motion. Councilors McAvoy, Marble, McPike, Sirois and Mayor Ryder voted in favor. Councilor Cormier and Councilor Wilde voted in opposition. Motion carries, 5-2.*

### 3. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. **Appointment of Julie Johnston as member of the Board of Appeals** – *Councilor Sirois made a motion to appoint Julie Johnston to the Board of Appeals. Councilor Marble seconded the motion. Unanimous vote in favor.*
  
- b. **Return of Votes cast at the August 1, 2017 RSU 22 Budget Validation Referendum** – *Mayor Ryder read the returns from the August 1<sup>st</sup> RSU 22 Budget Validation Referendum. The budget passed with 249 yes and 230 no. He also mentioned that out of over 5000 voters, only 479 people voted which was a very low turnout. Mayor Ryder recognized the clerk who spoke to the non-binding advisory question that was on the ballot. There were 186 that voted yes on the budget and also voted that the budget was acceptable compared to 149 voters that voted against the budget and said it was too high. This is a difference of 37. She noted that there were 55 “blanks” on the non-binding question. Some were legitimately left blank by the voter, but the majority of them were disqualified because there was commentary written on them. Had those distinguishing marks not been on those ballots, the variance between yes and acceptable, and no and too high may well have changed. The clerk advised the Council and the public that election law 21-A section 696(5) prohibits an election clerk from counting a ballot with distinguishing marks and reminded everyone not to write on their ballots. She concluded with thanking her election workers, elaborating on the great job at the Presidential election and the two elections already held this year. The election workers are well trained, handle elections with professionalism and integrity, and they are a great team.*
  
- c. **Nomination papers for the November 7, 2017 - Mayor Ryder** *informed the public that nomination papers are available at the town office for various positions. There are three positions available on the*

## MINUTES

*school board, two positions available on the Water District board, and four positions available on the Town Council. He encouraged anyone interested in any of these positions to take out papers.*

**4. OLD BUSINESS - None****5. NEW BUSINESS**

- a. **Request for authorization for abatement of ambulance bills generated in 2014 and 2015 that remain delinquent beyond the two year collection threshold – referral from Finance & Administration Committee – Councilor Sirois stated that this was discussed in Finance & Administration Committee with a unanimous vote. Councilor Sirois made a motion to approve authorization for abatement of ambulance bills from 2014 and 2015 that are beyond the collection threshold. Councilor Marble seconded the motion. Unanimous vote in favor.**
- b. **Request for Town Council referral to public hearing the Council Compensation Ordinance – referral from Finance & Administration Committee – Councilor Marble made a motion to refer the Council Compensation Ordinance to Public Hearing on August 21<sup>st</sup>. Councilor Sirois seconded the motion. Unanimous vote in favor.**
- c. **Council Order # 2017-04 to authorize a land swap with Maine Ground Developers – referral from Finance & Administration Committee – Mayor Ryder reported that this was not fully discussed in Finance & Administration and was tabled until August 21<sup>st</sup>.**
- d. **Council Order #2017-05 to amend the Bid Procedure Guidelines – referral from Finance & Administration Committee – Mayor Ryder reported that this was not fully discussed in Finance & Administration and was tabled until August 21<sup>st</sup>.**
- e. **Acceptance of Conservation Easement Holder designation for Constitution Avenue – referral from Finance & Administration Committee – Councilor Sirois stated that this was discussed in Finance & Administration and was referred to Council. He noted that Jim Kiser was here to speak to it. Manager Jennings first summarized that at an earlier Planning & Development meeting, it was recommended to move forward subject to the developer's voluntary contribution in the \$200.00 - \$250.00 range to offset the Town's obligations under the easement. In the Finance & Administration meeting earlier, it was referred to Council by a vote of 5-2. Mr. Kiser**

## MINUTES

*stated that this is a requirement imposed by DEP and the Army Corp of Engineers as wetlands compensation impacts are concerned. In Phase II, impacts proposed by additional lots exceeded the threshold for wetland impacts not compensated for. The easement would contribute to water quality and further contribute to mitigation of wetlands impacts. Mayor Ryder inquired about the prohibitions on the use of the land under consideration. Mr. Kiser stated that as it is currently privately owned, those prohibitions stand. If at some point in the future ownership changed like other town held conservation easements did, the uses of the property could be expanded, but for non-motorized use. There is a snowmobile trail through the parcel that is permitted because of snow cover protection. Councilor McAvoy asked if the intent was to have the Town take ownership. Mr. Kiser responded that the intent is that no decision will be made until a development scenario is put forward for the remaining property. Once that is done, it would likely be held by a homeowner's association or some other ownership. Councilor Marble asked if the Town's acceptance of it affects any decisions by DEP. He stated that as part of the DEP board order they have to find an owner for this, and they assume it to be the Town. Mayor Ryder inquired about the responsibility for marking the property and Jim stated that it would be the responsibility of the property owner.*

*Councilor Marble made a motion to accept the Conservation Easement Holder designation for Constitution Avenue. Councilor Sirois seconded the motion. Upon inquiry by Mr. Kiser regarding the fee, Manager Jennings interjected and stated that his advice would be to amend the motion to include a dollar amount as set by Council and to call it a contribution rather than a fee. Councilor Marble withdrew his motion. Councilor Sirois made a motion for a contribution of \$250.00 to accept the Conservation Easement Holder designation for Constitution Avenue. Councilor McPike seconded the motion. Councilor Marble, Councilor McPike and Councilor Sirois voted in favor. Councilor McAvoy, Councilor Cormier, Councilor Wilde and Mayor Ryder voted in opposition. Motion fails 3-4. Discussion followed about the fee structure, whether to place this back on a committee agenda, or wait for a new request from the developer. Mayor Ryder stated he would like it to go back to P & D and then to Finance & Administration on August 21<sup>st</sup>.*

- f. Request for authorization for the use of Host Community Benefit funds in an amount not to exceed \$800.00 for the purpose of funding insurance coverage for 2017 Children's Day Activities – referral from Finance & Administration Committee – Councilor Sirois made a motion not to use HCB funds in an amount not to exceed \$800.00 for the purpose of funding insurance coverage for Children's Day activities. Councilor McAvoy seconded the motion. Mayor Ryder recognized Tom Brann who approached the podium and stated that**

## MINUTES

*the Children's Day Committee is not flush with cash; that the money currently in the account will be nearly depleted once they pay all the vendors from the event. He also stated that they are trying to raise enough so that next year's event will be paid for, or nearly paid for out of funds collected this year. Councilor Sirois stated that he supports Children's Day and made mention of the great work Tom Brann, Janet Hughes and Bill Shakespeare did in bringing it back from being nearly defunct to what it is today. He feels that it is not fair to other non-profits that have been denied funds in the town's budget to give the Children's Day committee money when they can afford it. Councilor Marble stated that to his knowledge, the Council has not taken a formal stand about not financing non-profits. Manager Jennings concurred, stating that all requests are brought to council during budgeting.*

*Councilor McAvoy wanted to remind Councilors that the motion was in the form of a 'negative' motion, so to vote yes approves the motion. Councilor Wilde raised questions about the other non-profit that was told they could not cook and serve anything in direct competition with the Children's Day. Mr. Brann responded that the group typically sells hamburgers and hotdogs and were asked not to this year because the committee sells them as well, and since the CDC is trying to raise funds, this would be competition. They suggested that the other non-profit sell a different product. At the conclusion of discussion, Mayor Ryder closed the public hearing at 7:37 p.m. and called for a vote on the motion. Councilor McAvoy, Councilor Cormier and Councilor Sirois voted in favor of the motion. Councilor Marble, Councilor Wilde, Councilor McPike and Mayor Ryder voted in opposition. Motion fails, 3-4.*

*Councilor McPike made a motion to authorize up to \$800.00 from Host Community account for the purpose of funding insurance for Children's Day activities. Councilor Marble seconded the motion. Councilor McPike, Councilor Wilde, Councilor Marble, and Mayor Ryder voted in favor. Councilor McAvoy, Councilor Cormier and Councilor Sirois voted in opposition. Motion carries, 4-3*

- g. Request for authorization for the expenditure of an amount not to exceed \$1,500.00 from the Municipal Building Reserve for the purpose of paying Hampden Electric for electrical repairs – referral from Finance & Administration Committee – Councilor Sirois made a motion to authorize the expenditure of an amount not to exceed \$1,500 for the purpose of paying Hampden Electric for electrical repairs. Councilor Marble seconded the motion. Unanimous vote in favor, 7-0.**



## MINUTES

**E. COMMITTEE REPORTS**

*Services Committee – Councilor Marble reported that the next meeting is Monday, August 14<sup>th</sup>.*

*Planning & Development Committee – Councilor McPike reported that the Committee met on July 19<sup>th</sup> and discussed MRC/Fiberight, Colonial Heights Phase 3, defeated tonight. Held an extended discussion on the medical marijuana issue which will likely continue over a series of meetings.*

*Finance & Administration – Councilor Sirois reported that there were two executive sessions held. Other items discussed were the ambulance abatements, the reserve account requests and the Councilor Compensation Ordinance. The two items tabled tonight were not discussed in committee.*

*Infrastructure Committee – Mayor Ryder reported that there were discussions regarding the drainage issue on Schoolhouse Lane, discussion regarding Bid Procedures, review of the draft of the Flow Control Ordinance and Cemetery Ordinance, and DPW Policy discussions.*

- F. MANAGER'S REPORT** – *Manager Jennings reminded everyone that Children's Day is this Saturday and it is a terrific program. He thanked all the volunteers who have put time into it, and especially thanked Recreation Director Shelley Abbot who has put in a lot of time on it. He announced that the paving contract is almost complete and the jobs have gone smoothly. He offered clarification on the recent job posting for a police officer stating that it is due to a resignation and is not an additional position. He informed the public that now that the school budget is set, we will be setting the mil rate at the August 21<sup>st</sup> meeting. He reported on the meeting that DOT held about the Route 1-A project and the Grist Mill Bridge replacement. There is a lot of information about it that will be on the next Infrastructure Committee agenda. Manager Jennings notified the public that they will be receiving a mailer this week that will give information about public workshops to be held August 22<sup>nd</sup>, and September 28<sup>th</sup> regarding the potential pool site improvements. He also reported that the Peer Review report on the Pine Tree Landfill will be on the next Planning & Development Committee agenda.*

**G. COUNCILORS' COMMENTS**

*Councilor McAvoy - Referred back to the election results stating that he finds it disturbing that only 479 people out of 5,882 voted in the recent election stating that this allowed 249 people to approve spending over 6 million dollars of everyone's money. He also reminded everyone to shop local and buy American.*

*Councilor Cormier – No comment*

*Councilor Marble – Echoed remarks made about low voter turnout and that it is disappointing. He stated that even tonight, half of the people in attendance were professionals being paid to express an interest. He encouraged the public to find ways in which they can be involved.*

*Councilor Wilde – Just wishing for good weather to continue through the weekend.*

*Councilor McPike – Stated that the involvement at recent Planning & Development*

**MINUTES**

*Committee meetings regarding marijuana legalization and all that is going along with it has been eye opening and they have appreciated hearing from the public about what they support and what they don't. He encouraged the public to keep coming.*

*Councilor Sirois – No comment*

*Mayor Ryder – No comment*

- H. **ADJOURNMENT** – *Councilor Sirois made a motion, seconded by Councilor McAvoy, to adjourn at 8:30 p.m. Unanimous vote in favor.*

*Respectfully Submitted,*



Paula A. Scott, CCM  
Town Clerk