



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING

Minutes

MONDAY

DECEMBER 5, 2011

7:00 P.M.

*Attending:*

*Mayor Janet Hughes  
Councilor Andre Cushing  
Councilor Tom Brann  
Councilor Shelby Wright  
Councilor Jean Lawlis  
Councilor Kristen Hornbrook  
Councilor William Shakespeare  
Citizens*

*Town Manager Susan Lessard  
Economic Development Dir. Dean Bennett  
Former PW Director Greg Nash  
Public Works Director Galen Swan  
School Supt. Rick Lyons  
Citizen's Comp Plan Committee members  
Councilor-elect Jeremy Williams*

*The meeting was opened by Mayor Hughes at 7:02 p.m. Her remarks expressed hope for a positive holiday season and an increased level of cooperation at Council Meetings.*

*A request was made by Mayor Hughes to consider adding an item to the agenda for the purpose of scheduling Town Manager interviews. Motion by Councilor Brann, seconded by Councilor Cushing to set aside the rules and add Item C-3-d Scheduling Town Manager Interviews. Unanimous vote in favor.*

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

a. Minutes – November 14, 2011

3. COMMUNICATIONS

- a. Emails – Bernie Philbrick – Rain Garden & Bangor Area Stormwater Group
- b. Emails – Cindy Philbrick – Request for New Election

4. REPORTS

- a. Finance Committee Minutes – 11/21/2011
- b. Pine Tree Landfill Complaint Report – October 2011

*Councilor Hornbrook requested that item A-3-b be pulled for discussion.*

*Motion by Councilor Cushing, seconded by Councilor Brann to accept the balance of the consent agenda. Unanimous vote in favor.*

*Councilor Hornbrook stated that Mrs. Philbrick would like Item A-3-b placed on the regular Council agenda for the 12-19-2011 meeting. She has information that she wishes to present on that item and could not be here tonight to do so. Motion by Councilor Hornbrook, seconded by Councilor Cushing to accept item A-3-b. Unanimous vote in favor.*

B. PUBLIC COMMENTS - None

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. Application for Victualer's License received from Carroll Crew, LLC d/b/a Pat's Pizza at 662 Main Road North – *The public hearing was opened by Mayor Hughes. Proponents – None. Opponents – None. Neither for nor against – None. The public hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Brann to approve. Unanimous vote in favor.*

b. Amendment by Substitution of the Town of Hampden Sewer Ordinance – *The Town Manager explained the reasons why the Sewer Ordinance was being updated, which are primarily due to the need for the Town of Hampden ordinance to be consistent with the City of Bangor ordinance because Hampden utilizes the Bangor Sewer Treatment Plant. This ordinance has been reviewed and recommended by the Infrastructure Committee and has been reviewed also by the Town Attorney.*

*The public hearing was opened by Mayor Hughes. Proponents – None. Opponents – None. Neither for nor against – None. The Public hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Brann to adopt the sewer ordinance as presented. Unanimous vote in favor.*

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

a. Report of Election Results 11-08-2011 – *Public Comments – Sheila Williams questioned whether the Town will be reviewing voter files to see if voter addresses are incorrect since there were incorrect ballots given at the election. It was explained that the addresses on the voter list are correct. That any problem would have been someone receiving a ballot from the wrong district – not that their address was listed incorrectly. Results of the election were read. Extensive discussion ensued in regard to the conduct of the election. Both the Town Clerk and the Town Manager answered questions related to processes followed. A recount was held on November 28<sup>th</sup> that validated the election results reported after the election. The Town Manager presented a memo (attached) to the Council in regard to this issue. No action for acceptance of results is necessary for the Council. This item is for informational purposes only.*

3. UNFINISHED BUSINESS

C-2-a

TO: Hampden Town Council  
FROM: Sue Lessard, Town Manager  
DATE: November 29, 2011  
RE: Election Results/Request for New Election

The purpose of this email is to provide information related to the election results that appear on this agenda as well as the email request for a new election submitted by Mrs. Philbrick.

As to the election results, as cited by Town Attorney Russell at the last meeting, although it has been the past practice of the Council to vote to approve and sign the election results, there is no legal requirement or authority for this action. Election results are certified by the warden on Election night and become official, pending recount requests/activity. The results therefore appear on the agenda as a report to the Council instead of a request for action.

Mrs. Philbrick sent an email request for a new election on November 17th, which I forwarded to the Town Council for your information. I have discussed this matter with the Town Attorney and there is no legal provision for a 'do-over' election. In the case of a tie, a run-off election would be conducted, and, as in the case of Candidate Gray from District 2, if a candidate wants to insure that all ballots were appropriately counted, they can request a recount. The five ballots that were identified as having been given to people in the wrong district, while certainly unfortunate, is less than a .2% margin of error for this election and does not negate the election results. Even if those 5 voters had voted for Mr. Gray, that would not have changed the outcome of the election of a councilor for District 2. Further, the contention in the email that multiple people 'insisted' to the clerks at the election that they received the wrong ballot is not backed up the actual events of the day. The Clerk was notified days after the election by one individual that he and his wife had received the wrong ballot, and that they questioned an election official about it and was told it was correct. To date, the Clerk has talked to the election workers at the polls and finds no one that remembers such an encounter, and certainly one that rose to the level of 'insistent' would have been remembered. Standard practice when a question occurs at the polls is for the election worker to seek the assistance of the Warden or the Town Clerk – both of whom are there from the beginning to the end. On election day one person reported that they had the wrong ballot and it was exchanged for a correct one. Prior to election day, Staff discovered that two absentee voters had been given the wrong ballot, contacted the voters involved, and new ballots were issued, and one other individual who picked up an absentee ballot called to say that he had the wrong ballot and a new ballot was issued in that case as well. No other individuals have reported to the town that they received the wrong ballot on or before Election Day, or that they spoke to an election official about it on or before Election Day.

Finally, the question related to the votes that have been represented as being 'not counted' for a candidate was answered at the recount held on November 28<sup>th</sup>. These are votes that either were write ins, or ballots that people did not complete before returning or putting in the machine. They could not be counted because they did not contain anything to count. Blank ballots could not be counted for either side.

- a. 2010 Draft Comprehensive Plan – Citizens Comp Plan Committee Recommendation – *Mayor Hughes thanked all who participated in the 2010 Comprehensive Plan including both the original committee members and the citizens who recently reviewed it as well as staff.*

*Economic Development Director Dean Bennett presented the draft and its history. He indicated that the Citizen Committee vote to endorse the plan was 15-1-1.*

*Jeremy Williams, 1334 Carmel Road North commented on his participation on the Committee. He thanked staff and urged the Council to accept the recommendations and move the plan through the process.*

*Rich Armstrong, Kennebec Road, said that the Committee had met the deadline and done what it was asked to do and that this plan is a much better plan which takes people's property rights into consideration.*

*Councilor Brann stated that there are still three things that have to be done; 1. The Committee must hold a public hearing, 2. The Planning Board must review the document and make a recommendation, 3. The State Planning Office must review the changes for consistency with the growth management act, and finally the Town Council must hold a hearing to consider adoption once those steps have been taken.*

*Motion by Councilor Brann, seconded by Councilor Shakespeare that the Comprehensive Plan be forwarded to the planning board for review and a joint public hearing with the Comp Plan Committee.*

*Discussion – Councilor Hornbrook would not support that motion until she has a chance to review the document and wants to postpone the decision until the next meeting.*

*Councilor Brann suggested sending it as is from the Committee without any modifications at this time.*

*Original motion withdrawn.*

*Motion by Councilor Hornbrook, seconded by Councilor Lawlis to postpone this item until the next meeting. Unanimous vote in favor.*

*Attorney Russell felt that it would make sense to hold a workshop between the Council and the Committee before sending it to the Planning Board.*

*The workshop for this purpose will be held on December 13<sup>th</sup> from 7-9 p.m.*

- b. Hampden Academy Re-Use Offer from School Board – *Mayor Hughes gave background on the offer tendered by the School Board to the Council for the acquisition of the old Hampden Academy property. The Board has requested a response by December 5<sup>th</sup>, which is the date of this meeting.*

*The offer was for the Town to pay \$386,000 as the Hampden share of the fair market value of the property. The Town's review of that appraisal indicates that it is much too high because it does not consider the cost of demolition of the buildings.*

*Councilor Hornbrook has concerns about the price offered for the sale of the old academy.*

*Motion by Mayor Hughes to enter negotiations with SAD 22 on a price for the Old Hampden Academy. Vote 5-2 (Hornbrook, Shakespeare)*

*Roland Narofsky, vice-chair of the School Board stated that WBRC had determined that the buildings are obsolete for educational purposes but that all buildings are up to code for other uses. The appraisal was a 'land only' appraisal.*

*Mayor Hughes believes that the Council needs an open forum with the School Board.*

*Councilor Shakespeare stated that the buildings are outdated and it would take a lot to develop them. He noted that comparisons mentioned of the prices for the sale of the Foster subdivision as well as the strip mall adjacent to the old high school are not really comparable.*

*Councilor Cushing stated that statutory requirements need to be met throughout this process.*

*There was extensive discussion among Councilors about the best way to move forward with this matter.*

*Motion by Councilor Cushing, seconded by Councilor Brann to reconsider the previous motion. Unanimous vote in favor.*

*Motion by Councilor Brann, seconded by Councilor Lawlis to make an offer to the School Board to enter into negotiations for the old Hampden Academy property. Unanimous vote in favor.*

- c. *Introduce Personnel Rules and Policies Ordinance/Handbook for Public Hearing (To replace Personnel Policy Ordinance by substitution) – Councilor Brann introduced this item for public hearing.*
- d. *This item was added to the agenda. Scheduling Town Manager interviews. There are three pending candidates and the 12<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup>, and 22<sup>nd</sup> are available dates. We need at least two councilors to take candidates to meet with department heads and have dinner with the candidates. Councilor availability for meetings was discussed. It was the consensus of the Council to meet with candidates on the 12<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup>. The Mayor will contact MMA representative David Barrett to set up the interviews.*

#### 4. NEW BUSINESS

- a. MRC Board of Directors Ballot – *Mayor Hughes asked the Town Manager for a recommendation of the candidates presented. The Town Manager recommended Philip McCarthy because she knows him well and he has been a well-respected manager for many years. Motion by Councilor Cushing, seconded by Councilor Brann to vote for Philip McCarthy for the MRC Board of Directors. Vote 5 – 1 (Hornbrook) – 1(Wright). Motion carried.*
- b. VFW – Games of Chance License – *Motion by Councilor Cushing, seconded by Councilor Wright to approve. Unanimous vote in favor.*

#### D. COMMITTEE REPORTS

*Infrastructure – Councilor Shakespeare - the last meeting was cancelled.*

*Services - Councilor Lawlis - There has been no meeting since the last Council meeting.*

*Planning & Development – Councilor Brann stated that the committee was working on the sign ordinance and the comprehensive plan.*

*Councilor Cushing – The Committee on Committees work is on the draft handbooks and orientation for committee members. The next meeting will be 12/27 at 6.p.m.*

*Communications – Councilor Hornbrook – The next meeting will be on 12/13 at 6 p.m.*

*Finance & Administration – Mayor Hughes reported that the committee was working on a review of the Code of Ethics and of the Council Rules.*

- E. MANAGER'S REPORT – *The Manager's Report is attached hereto and made part of the minutes.*

#### F. COUNCILORS' COMMENTS

*Councilor Wright – Commended the hard work of the Citizen's Comprehensive Plan Committee and is anxious to meet with them to discuss their work.*

*Councilor Hornbrook – Stated that it is nice to see everyone who comes to the meeting and encouraged people to continue to keep the calls and emails coming.*

*Councilor Cushing – Thanked the Comprehensive Plan Committee and is looking forward to the holidays.*

*Councilor Brann – Asked the Council to have the Town Attorney explore taking action against individuals who make slanderous comments against staff and the Town Council. He wants to know what the options are and wants the subject put on the next Council agenda.*

*Councilor Lawlis – Received a fundraising letter from the pool board fundraising committee asking people to donate to help with the air handling system. She urged everyone to think about making a contribution.*

*Councilor Shakespeare – Supports what Councilor Brann said. The public should be aware that there is a fine line between freedom of speech and defamation of character. He also noted the beautiful Christmas tree in the Council chambers.*

Council Meeting – 12/5/2011

G. ADJOURNMENT

*The meeting was adjourned at 9:40 p.m.*

*Respectfully submitted,*

A handwritten signature in cursive script that reads "Denise Hodson".

Denise Hodson  
Town Clerk

## MANAGER'S REPORT

December 5, 2011

Reeds Brook Thank You – Attached to this report is a thank you letter from Thomas Ingraham, Principal of the Reeds Brook School to Town Clerk Denise Hodsdon and staff for assisting them with a student voting project by allowing the use of the 'real' voting booths. Town staff also delivered and set them up.

State Planning Office Notification – The Town has received a notification from the State Planning Office that the Town of Carmel has submitted a Comprehensive Plan to that office for review for consistency with the Growth Management Act. Deadline for submission of comments on the proposed plan is January 9, 2012.

Penobscot County Refund – The Town received a check in the amount of \$23, 838.45 from Penobscot County as a refund of part of the County Tax paid this year that was supposed to offset the addition of the City of Bangor to the regional dispatch system. Since that was defeated in Bangor, as promised, the County Commissioners refunded \$450,000 to county communities. That is a 3.6% return of the total County Tax of \$662,171.22

Elected Officials Workshop – December 14<sup>th</sup> – A reminder to Councilors that the Maine Municipal Association will be conducting an elected officials workshop at the Bangor Civic Center on Wednesday, December 14<sup>th</sup> from 5 p.m. to 8 p.m. for Councilors from Bangor, Brewer, Old Town, Orono, and Hampden. I have not yet heard from all Councilors on whether they will be attending – if those of you who have not yet done so could let me know, I will notify MMA.

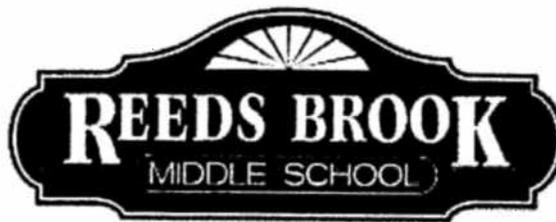
Kiwanis Christmas Party – Thanks go to the Kiwanis Club for once again sponsoring the Tree Lighting and children's Christmas party held on December 4<sup>th</sup>. There was a great turnout for the event.

Municipal Review Committee Meeting – The next meeting of the Municipal Review Committee will be on Tuesday, December 13<sup>th</sup> at 3 p.m. at the Orono Municipal Building.

Penobscot Cable Consortium – The next meeting of the Penobscot Cable Consortium is scheduled for Tuesday, December 6<sup>th</sup> at 1:30 p.m. at Eastern Maine Development Corporation. I will be attending.

Salvation Army Tree – There are still a few tags left on the 'tree' in the Town Office lobby for anyone interested in making a child's Christmas gift wish come true.

County Budget Hearing – The public hearing on the Penobscot County 2012 budget will be held on Tuesday, December 20<sup>th</sup> at 10 a.m. at the County Commissioner's Office on the 2<sup>nd</sup> floor of 97 Hammond Street. It reflects an overall reduction of 1.03% from taxation.



*Reeds Brook Middle School, a supportive learning community,  
challenges all students to achieve individual success.*



November 30, 2011

Ms. Denise R. Hodsdon  
Hampden Town Clerk  
106 Western Avenue  
Hampden, Maine 04444

Dear Ms. Hodsdon,

On behalf of everyone at Reeds Brook Middle School, I want to thank you and the members of your staff who helped us provide Reeds Brook's students with an authentic voting experience.

As you may know, we recently conducted a school-wide campaign to select our school mascot and logo. This followed an extensive process that included students submitting mascot candidates and new logos; our Student Council and Civil Rights Team played important leadership roles in this work.

As our voting day approached a member of the Reeds Brook staff contacted folks in your office about borrowing the town's actual voting booths. I thank you and your staff for not only providing us with the booths but for delivering, erecting and removing them as well. This was very generous and helpful and we truly appreciate it.

I want you to know that our students were very excited about completing ballots in an actual voting booth: this helped make it real and meaningful. It was great.

Again, thanks to all. You folks made a big difference.

Sincerely,

Thomas Ingraham  
Principal

cc: Susan Lessard, Town Manager  
Richard Lyons, Superintendent  
Emil Genest, Asst. Superintendent

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Thomas Ingraham  
Principal

Paul O'Brien  
Assistant Principal

Ann Moody  
Guidance

Laura Matthews  
Athletic Director