



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING

Minutes

MONDAY

APRIL 2, 2012

7:00 P.M.

Attending:

Councilor Andre Cushing

Councilor Tom Brann

Councilor Jean Lawlis

Councilor Shelby Wright

Councilor Kristen Hornbrook

Councilor Jeremy Williams

Town Manager Susan Lessard

Staff members Kathy Cole, Cheryl Johnson, Tammy Ewing

Public Works Director Chip Swan

5th & 6th Grade Destination Imagination Teams

Citizens

The meeting was called to order at 7:06 p.m. by Deputy Mayor Andre Cushing.

Motion by Councilor Lawlis, seconded by Councilor Brann to excuse Mayor Hughes from this meeting. Vote 5-1 (Hornbrook).

Items C-4-a and C-4-b were moved to the beginning of the agenda.

Motion by Councilor Lawlis, seconded by Councilor Wright to accept the consent agenda. Unanimous vote in favor.

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. Planning & Goal Setting Meeting Minutes – 3/17/2012

3. COMMUNICATIONS

4. REPORTS

- a. Finance Committee Minutes – 3/19/2012
b. Infrastructure Committee Minutes – 3/26/2012

B. PUBLIC COMMENTS - *None*

C. POLICY AGENDA

1. PUBLIC HEARINGS - *None*

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

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

- a. Mark Russell – Reappointment to Dyer Library Board of Trustees – Services Committee Recommendation – *Motion by Councilor Lawlis, seconded by Councilor Brann to reappoint Mark Russell to the Dyer Library Board of Trustees. Vote 5-1 (Hornbrook).*

3. UNFINISHED BUSINESS

- a. November 2011 Election – Attorney General Report – *Councilor Hornbrook agrees with comments made by residents that this report is not an investigation or a legal opinion and that the conclusions in the report are based on hearsay, not evidence. Councilor Hornbrook read into the record a six page letter from resident Lisa Carter, Western Avenue which itemizes the objections to the manner in which the report was prepared. This letter is attached to and made a part of the minutes.*
- b. Public Works Vehicle Purchase – Infrastructure and Finance Committee recommendations – *Motion by Councilor Brann, seconded by Councilor Wright to purchase a public works truck from Whited Ford in the amount of \$72,113.32 from Public Works equipment reserve. Unanimous vote in favor.*
- c. Fees Ordinance Updates – Introduction for Public Hearing – *Councilor Brann introduced the Fees Ordinance Update for Public Hearing at the next Council meeting.*
- d. Personal Property Abatements:
 1. Carlen Transport – 2011 \$29,306.88 – *Motion by Councilor Brann, seconded by Councilor Lawlis to abate. Unanimous vote in favor.*
 2. Thibodeau – 2010 \$ 5,030.76 – *Motion by Councilor Brann, seconded by Councilor Williams to abate. Unanimous vote in favor.*
 3. Thibodeau – 2011 \$14,705.91 – *Motion by Councilor Brann, seconded by Councilor Lawlis to abate. Unanimous vote in favor.*

4. NEW BUSINESS

- a. Destination Imagination – Funding Requests – 5th and 6th Grade Teams – *The Glue Crew members (6th grade) explained their project, indicated that they were raising \$10,000 through bottle drives, yard sales, and transfer station drives. Motion by Councilor Wright, seconded by Councilor Lawlis to grant \$200 to the Glue Crew from the Council General Expense budget line item. Vote 5-1 (Hornbrook)*

The 5th grade Destination Imagination Improv team explained their winning project and discussed their fundraising efforts for \$10,000 for

not an investigation - not a legal opinion - just a report
of the Administration in Hampden

Attorney General Schneider, 3/31/12

I have reviewed the "memorandum" by AAG, Phyllis Gardner. I respectfully disagree with the statement in the cover letter addressed to Senator Debra Plowman, that the "memorandum" represents a "thorough review of the matter". In your cover letter, you invited questions, I have many unanswered questions.

Please let me explain. I will refer to the "memorandum", as the "report" in my following questions and comments.

As mentioned in Ms. Gardner's "report", "several"(actually standing room only in your office as you may recall) residents and concerned citizens of Hampden met with you in your office, along with several people involved in the recount, Senator Plowman and several Representatives. Time was understandably limited and a verbal summary of concerns was presented with adamant statements from many of those present that they had proof of their statements and evidence to give to the person investigating the concerns raised. It was also clearly stated, repeatedly, that other than the two registered voters who had already gone to the town office to report they were given incorrect ballots, multiple others had also declared that they had received incorrect ballots. It was repeatedly stated that we would be happy to provide a list of those registered voters and their contact information for the person investigating the concerns in order for that person to contact these voters in order to substantiate what was being reported. At the time of this meeting, the clerk, had declared to those questioning the issue of incorrect ballots being given to the voters, that **no one had come forward reporting any problems with receiving incorrect ballots. Once such declaration was on December 19th, at the Hampden Town Council meeting.** I believe this was well after the clerk had "reviewed the incoming voter list to see if there were any issues regarding ballots being incorrectly distributed so she provide that information to the candidate asking for a recount".

Did the candidate receive any "helpful" information from the clerk regarding any issue of incorrect ballots being handed out? Answer NO.

Were any of those residents who attended the meeting contacted by Ms. Gardner for any "proof" of our concerns or "evidence"? Answer..... NO.

Was there any request for the lists of other voters who declared they also had received incorrect ballots by anyone involved in this"report"? Answer NO.

In fact, none of those who raised the concerns even knew such a "review" was underway until Rep. Andre Cushing made the public announcement that an AG "investigation" was underway, at a Town Council meeting on March 19th. In fact, this was the second announcement regarding the AG's office by Rep. Cushing. The first, I believe, was in December at a public Town Council meeting, where Mr. Cushing announced that he had discussed the concerns regarding the November election with the AG's office and it was concluded that nothing was done wrong. I believe this was prior to Ms. Gardner's "thorough review". It certainly was before the meeting in your office. Those citizens who brought these matters to your office, didn't even receive the courtesy of a copy of the "report" from your office. They had to learn of the report from a local newspaper. Why weren't any of the people who met in your office sent a copy of the "report" prior to the press receiving a copy? According to an e-mail from Hampden Town Manager, Susan Lessard, she received your report, then immediately sent it out to the press. Trying to respond to questions from the press, those of us reporting these serious election issues had to scramble to get a copy of Ms. Gardner's "review" and "conclusions".

What is even more disheartening for me is that the names of two private citizens were included in this report with a clear implication to the public viewing this "report" that Mr. and Mrs. Cormier were either untrustworthy, incompetent or worse, dishonest. Although I do not personally know the Cormier's, I know they are senior citizens and long standing citizens of this community who are well respected. I believe they are registered Democrats. I believe they were deeply concerned and that is why they reported the

incident. If anyone had bothered to ask them, they would have found out that Mr. and Mrs. Cormier adamantly told ballot clerk (Noreen Holt) that they were given incorrect ballots. Regardless of their insistence, they came away from the incoming voter registration desk with (2) ballots for a District they do not live in.

Were Mr. and Mrs. Cormier or their adult son contacted by the AAG or by anyone involved in doing this "report"? Answer..... NO

Did anyone involved with this "thorough review" ask Mr. Cormier or his adult son what happened at the Town Office when they reported the incorrect ballot incident? Answer..... NO

Yet, apparently, according to the conclusion in the "report" Mr. and Mrs. Cormier were incorrect. Without even having the courtesy of being heard it was concluded that they were wrong. In fact, the average person reading this "report" and not knowing anything about Mr. and Mrs. Cormier would most likely conclude that they were liars. I'm not an attorney but it certainly appears from the "report" that the conclusion was based purely on hearsay.

Mr. and Mrs. Cormier had no idea they were going to be listed in such a report, or that an investigation was even being conducted. They were not contacted by your office, nor did Ms. Gardner (et al) ask for their permission to release their names in the "report". Yet their names do appear in the "report" and the "report" was immediately disseminated to the press by Manager Lessard.

Then there is the issue of the seals being broken on the Incoming Voter Lists prior to the request for a recount deadline which was publicly declared, written and stated repeatedly by Manager Lessard and that deadline never changed. When reading the "report" regarding this, I find the only word to describe it is, "Orwellian". To try to get through the maze describing what happened is mind boggling. Here is how it looks to the lay person;

Title 21-A (3) states: " The municipal clerk shall keep these incoming voting lists sealed, for 5 business days after the election or until the time for any recount conducted under section 737-A, contested election or appeal has passed, **whichever is longer**. At the end of the 5th business day after the election, if the clerk verifies that a recount has not been requested, the municipal clerk shall unseal the incoming voting lists and keep it in the clerk's office as a public record for the time pursuant to section 23."

It is undisputed that the deadline given to the candidates to request a recount in the November 2011 election by Manager Lessard was Thursday, November 17th at the close of business. Although I am not an attorney, clearly the law that protects the integrity of elections provides a provision that allows a recount deadline to be later than 5 business days. **The law clearly states that the recount, contested election or appeal take priority over the 5 business day deadline, by the easy to understand grammatical words of our English language, "or", and "whichever is longer"(the longer of two defined periods of elapsed time, either; "after 5 business days" or "after the recount deadline has passed").**

Furthermore, the "report" goes on to conclude that, nothing was done incorrectly when the clerk broke the seals prior to the recount deadline because ""5 business days" had passed. **In Title 21-A (3) it clearly states that the clerk must verify that a recount has not been requested prior to unsealing the lists.** The "report" goes on to say that the clerk **could** say on Wednesday, November 16th, **that no recount had been requested.** Again, I believe any reasonable person would realize that the intent of the law in Title 21-A (3) would have required the Hampden town clerk to inform the Secretary of State's office that although there was not an "official

request for a recount" as of Wednesday, November 16th, however, there was a candidate who had declared his intent that he would be seeking a recount. The fact which AAG Gardner's "report", a fact which can not be overlooked, is that on Wednesday, November 16th, the clerk already knew that a candidate had declared his intent, that he was going to make an official request for a recount by the deadline given to him, which was the following day (November 17th). Candidate Gray e-mailed that he would be in Thursday with an official written request, and his check, to pay for the cost of the recount, a cost and date which was quoted to him when he made his intention known to the clerk. So, Candidate Gray's intentions were known to the clerk on Wednesday, yet she proceeded to unseal the incoming voter's list anyway that very evening, one day earlier than allowed by law.

Candidate Gray made it widely known that he would be coming in the following day, before the deadline that a candidate had to request a recount, in accordance with the "request for a recount deadline date" (Thursday, November 17th), that was established in the record previously by both the Hampden Town Clerk and Town Manager. Elections officials simply cannot be allowed to manufacture 2 separate definitions of what constitutes deadlines. The voters could interpret this maze of confusion and dual definitions as a deliberate, imaginative ruse to circumvent wrongdoings.

According to this "report" apparently, in all future elections, clerks (et al) can notify candidates of a deadline to request a recount and as long as that deadline is after "5 business days", the incoming voter lists, which are vital to many recounts, can be opened and "reviewed", perhaps tampered with, and made public prior (or not) to a recount.

In an e-mail from Manager Lessard regarding breaking the seals prior to the request for recount deadline (see below in red), Manager Lessard stated via the November 17th, 2011 e-mail at 11:32 a.m.; "Denise opened it last night and did it last night so that persons who questioned whether or not ballots were incorrectly distributed could have more information prior to the deadline for asking for a recount." Again, I am certainly not an attorney, but the laws that were created to protect the integrity of the elections and the rights of the voters seem to be clear. In Title 30-A, ss 2530-A it states, **A candidate after paying a fee, and requesting in writing, shall be permitted to inspect the ballots and incoming voting lists under proper protective regulations for the purpose of determining whether or not to request a recount.**" I have yet to find anywhere in the laws that were created to protect the integrity of elections and the rights of the voters, that states the clerk may do this.

The election laws mandate the ballots and incoming voter lists be **sealed** for a reason. Clearly to protect the integrity of the ballots and lists, to ensure they are not altered or tampered with in anyway. How do we the voters have that assurance? They are sealed in a very specific manner and opened in a very specific manner. When that does not happen the assurance of the voter and the integrity of the election process is lost.

COPY OF AN E-MAIL BETWEEN LESSARD AND CARTER ON NOVEMBER 17TH, 2011 (BELOW) Lisa Carter

On Nov 17, 2011, at 11:32 AM, Susan Lessard wrote:

Lisa -

Opening the incoming voter list is not a 'public event'. It is something that occurs more than five days after an election so that the Registrar of Voters can scan in the voter participation records for the Town for that election. That information is then resident in the State CVR system. It is the way that the record of voter participation is updated, and it happens after every election. Denise opened it last night and did it last night so that persons who questioned whether or not ballots were incorrectly distributed could have more

information prior to the deadline for asking for a recount. It is exactly what was described in the memo to the Council that was distributed on Monday night and read into the record Monday night.

The 'event' that is public and requires notice and all sorts of other hoops, so to speak, is a recount. It is at one of those that the tamper-proof ballot boxes have to be unsealed in a public forum.

Sue

On Thu, Nov 17, 2011 at 11:19 AM, Lisa Carter <lisafsa@aol.com> wrote:

Begin forwarded message:

From: lisafsa@aol.com
Date: November 17, 2011 11:17:16 AM EST
To: lisafsa@aol.com
Subject: Re: election question

Sue,

In order for this to happen by statute there must be a request in writing to do so. Who made this request in writing? Even then, notice must be given. This is a public event.

Lisa Carter

Another very troubling aspect in the "report" is the idea that because Manager Lessard apparently read a statement at a council meeting on November 14th, apparently stating that the clerk would be breaking the seals on Wednesday somehow makes it okay. I believe that both the candidates and the public have the right to expect the election laws to be upheld and it is not the burden of the candidates or the public to attend or watch a council meeting in case there might be an announcement to the contrary.

Were the non-incumbant candidates questioned as to whether they received such a notice? AnswerApparently NOT.

After the seals were broken on November 16th, we the public were informed that the incoming voter lists were not available for public inspection. The declaration in the "report" stating, "Finally, the incoming voting list was made public after the recount and has been available for inspection ever since then by any person who wishes to see it." If those preparing the "report" would have talked with any of the citizens who met in your office they would have been given a DVD of the December 19th, 2011 town council meeting where once again the voters of Hampden were told by the town employed attorney, Tom Russell, that the incoming voter lists would be made available some time in the near future. Over a month after the seals had been broken, the lists remained unavailable and off limits to the public, and apparently unavailable to the candidates as well.

The "report" concludes and reports (apparently based on manager Lessard's comments) that the breaking of the incoming voter lists seals was a public event. It goes on to quote Lessard/and clerk, as saying she was surprised no one showed up that evening. Here we go again, with another seemingly willful and documented subterfuge. In the above e-mail dated, November 17th, manager Lessard seems

to have a different version than her statements in this report done months after the incoming voter lists incident. In the e-mail above (the day after the seals were broken) Ms. Lessard states, "Opening the incoming voter list is not a "public event"." She goes on to say, "The "event" that is public and requires notice and all sorts of other hoops, so to speak, is a recount."

Finally, the conclusion in the "report" that the candidate who requested the recount didn't hear the clerk ask him if he wanted to view the incoming voter lists. Let's look at this with a healthy dose of good old fashion common sense. Candidate Gray requested the recount by the deadline given to him. Mr. Gray had to pay \$450.00 and give it to the clerk the date he requested the recount. He was told that he may have to pay more depending on how long the recount took. At the time Mr. Gray requested the recount he did not know that the seals on the incoming voter lists had been broken and the integrity of the lists had been compromised. This is the first time Mr. Gray has decided to get involved and run for office. The "report" states that Mr. Gray's "mother-in-law" was one of his counters. In fact, Mr. Gray's "mother-in-law" is Lois Bloomer. Mrs. Bloomer is well known and highly respected. The other counter for Mr. Gray was Mr. Ed Armstrong, a patriarch of Hampden who is highly respected. Mr. Gray, Mrs. Bloomer and Mr. Armstrong all state that the incoming voter lists were not part of the recount and were not offered by the clerk. However, according to the report the only ones confirming that the clerk offered to bring in the unsealed incoming voter lists was the town employed attorney, Mr. Russell, and the opposing incumbent candidate. The "report" specifically concludes that the clerk must have offered to bring in the lists. Apparently, Mr. Gray, Mrs. Bloomer and Mr. Armstrong are either incompetent, deaf or dishonest. Furthermore, I believe it would be the testimony of Mr. Armstrong and Mrs. Bloomer, had anyone bothered to ask, that "10 ballots with hand written names, etc". were never reviewed or offered to them to be reviewed. This "report" was the first time they had heard of the "uncounted handwritten ballots". For anyone who has ever run for office or even has a small helping of common sense, this accusation that the candidate and his counters did not want to see the "uncounted hand written ballots" or incoming voter list is beyond belief. The question must be asked, "Why on earth would a candidate request a recount, pay for it and then decline to look at the incoming voter lists and uncounted hand written ballots?" The testimony of the town employed attorney at a public town council meeting (so it is recorded on DVD) was that the lists were offered and both candidates "declined". (It might be interesting to note that the public has been informed on several occasions that Mr. Russell represents the council and Town Administration, not the residents of Hampden) The conclusion in AAG Gardner's "report", is that the clerk remembered that she offered the incoming lists, so therefore she did. While referring to the candidates recollections, Candidate Gray and his counters, Mrs. Bloomer and Mr. Armstrong, and all others (asked) who couldn't recall the clerk offering the incoming voter's lists or informing of the "uncounted hand written ballots", have no credibility at all! So therefore, " Nothing was done incorrectly at the recount."

So let's look at the numbers from the AAG's "report" for District 2 alone. This will really make the reader's head spin. The numbers simply leave us perplexed to say the least.

The Clerk's tally in this "report":

684 voters from this District voted

674 ballots were counted for candidates in District 2

-10 difference between voters and votes counted. This -10 is explained by clerk as the 10 undeclared write-in votes.

The "report" then explains based on the further numbers and explanations from the clerk that, "Based on comparing the numbers of voters checked off on the incoming voting list as having voted in each council District to the number of ballots cast in each district, the clerk concluded that five voters had been given the wrong ballot." The report then states, "In District 2, 10 fewer ballots were cast than the number of voters participating." These 10 "missing" ballots are obviously not the "undeclared write-in votes". Where are these 10 "missing" ballots accounted for in the tally reported above?

So to make some sense out of this maze reported in the AAG's "thorough review". (The inconsistencies in the AAG's report seem to revolve around the following incontrovertible divergence between what seems to be the facts presented, and the "report's" conclusions to the contrary.) I think it looks like this;

10 "missing" ballots

10 undeclared write-ins (according to testimony, unknown and unavailable to the counters in the recount)

75 blank ballots (ballots supposedly turned in by those who came in to vote in November that were supposedly put in the voting machine completely blank)

Broken Seals on incoming voter lists and then the lists denied to the public and candidate for review

Multiple people reported receiving incorrect ballots and

Inconsistent, diametrically opposed versions of what happened with regards to events.

Material witnesses that can testify to their inability to obtain the correct local ballot were not interviewed by those preparing this "report".

None of the "evidence" was requested, (as offered), obtained or reviewed, such as DVD's, e-mails, etc. for this "report".

As a friend of mine recently said in jest, reminding me of the famous Hollywood line, "Move on people, nothing to see here!"

I remember as a teenager being very interested in what was going on in our country and what could be done to make sure life was the best it could be for all. I really believed that our Founding Fathers gave us the precious gift of being able to have a revolution with just a pencil. They guaranteed we could change things, even dramatically, with our involvement and votes. Imagine that, we didn't have to endure violence or wars to change things, it could be done by voting. To see what is going on with the election process in our small town of Hampden is deeply troubling to me. And now, using press releases of your "report" saying the Attorney General's office says everything was done right, seems to be a green light for future problems and a cover for the questionable issues here. No problems here people. A green light for all other communities to do the same. For the first time in my life, I no longer believe that my vote can do much of anything. Unfortunately, I'm not the only one. Democracy has become an illusion, perpetuated by those that profit maintaining the status quo. The resurgence of the people, as we can see with the Tea Party and the Occupy movements, attest to the reality that many are finally beginning to see through the smokescreen. When the inevitable is upon us, let's sincerely hope that a revolution can still be won with a pencil.

Sincerely,

Lisa Carter

the cost of the trip to the finals in Kentucky. 9 teams have gone to Globals in the past and this is the first year that 2 teams from Hampden are going together. Motion by Councilor Williams, seconded by Councilor Wright to donate \$200 to the 5th grade Destination Imagination Team for the trip to Global competition. Vote 5-1 (Hornbrook).

- b. Bangor Hydro President Gerry Chasse – Current Initiatives – Councilor Williams – *Bangor Hydro President Gerry Chasse discussed the current initiatives that Bangor Hydro is working on, challenges in the electrical marketplace, the impact of the expiration of the PERC contract in 2018, energy issues across the state, and potential future building plans. Council members asked questions related to these topics and thanked Mr. Chasse for taking the time to come and address the Town Council.*
- c. Request from ACANE to hold 2012 Souadabscook Stream Canoe Race – *Motion by Councilor Williams, seconded by Councilor Wright to approve the request from ACANE to hold the 2012 Souadabscook Stream Canoe Race. Unanimous vote in favor.*
- d. Preservation of Exclusive Rights for the Taking of Alewives – *Motion by Councilor Brann, seconded by Councilor Lawlis that the Town preserve its exclusive rights for the taking of alewives. Unanimous vote in favor.*
- e. Draft FY 2013 Budget Meeting Schedule - *Lisa Kelley, 19 Clark Circle asked about the budget process and when the public would have an opportunity to ask questions in regard to it. Motion by Councilor Lawlis, seconded by Councilor Williams to accept the budget hearing schedule as presented. Unanimous vote in favor*

D. COMMITTEE REPORTS

Infrastructure – Councilor Wright - Public Works truck bids were reviewed at the meeting on March 26th. The next meeting is on April 23rd at 6 p.m.

Services - Councilor Lawlis - The next Services Committee is April 9th at 6 p.m.

Planning & Development – Councilor Brann – the Committee is reviewing the environmental impact assessment of the old Hampden Academy.

Communications – Councilor Hornbrook – The Committee met on March 20th. Thanks to resident Jim Folsom for his programming suggestions. Items discussed were an ad in Paper Talks, live video-streaming, newsletter items, councilor bios and photos for the town website, a portable sound system, and the audio system in the council chambers.

Finance – Town Manager Lessard – The committee met prior to the Council meeting and discussed public works truck bids, personal property tax abatements, the fees ordinance amendments, a Paper Talks ad, sound issues with the Council chambers, Code of Ethics and Council Rules and a protocol for FOAA requests.

E. MANAGER'S REPORT – *The report is attached hereto and made part of the minutes.*

F. COUNCILORS' COMMENTS

*Councilor Wright – Thanked Gerry Chasse for coming to talk with the Council.
Councilor Hornbrook – Thanked everyone who attended the meeting. Due to ongoing concerns over funding outside agencies she did not support funding for the Destination Imagination teams, but she does support their activities. She also asked for clarification as to whether funding for new desks for the new Hampden Academy was included in the construction funds. The manager responded that those funds were included.*

Councilor Brann – None

Councilor Lawlis – Earth Day is coming up – we are celebrating with cleanup and trail work at Dorothea Dix Park.

Councilor Cushing – Thanked the Destination Imagination teams, stated that the Class A Eastern Maine Basketball boys team is going to the legislature for recognition and that Clara Swan turned 100 this month.

G. ADJOURNMENT – *The meeting was adjourned at 9:29 p.m.*

Respectfully submitted,



*Denise Hodsdon
Town Clerk*

MANAGER'S REPORT

April 2, 2012

Tax Due Date – Second half of property taxes are due on Wednesday, April 4th in order to avoid interest. Refreshments will be provided by staff on Wednesday for customers who come in to pay in person. I am pleased to report that the second half of property taxes are coming in well.

Composter Reminder – For those who may have missed the information regarding composter orders, we can still accept applications for them through the month of April. Call Rosemary at the Town Office at 862-4500.

SAD #22 Meeting – I met with the school superintendent and assistant superintendent along with the Manager from Winterport today. According to school officials, the new high school should be completed by mid June and the transfer from the old site also completed by that date. The school will be scheduling tours over the summer so that residents can have the opportunity to see the new school. The project was approved for \$56,000,000 but will be completed for approximately \$51,000,000. It is also on time according to the building schedule. The District budget meeting will be held on June 7th and the validation vote of that meeting will be held on June 12th, the same day as the State election.

Newsletter – The newsletter should go to the person who does the layout by the end of the week and to the printer at the beginning of next week.