



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING

MINUTES

MONDAY

MAY 20, 2013

7:00 P.M.

*Attending:*

*Mayor Janet Hughes  
Councilor Tom Brann  
Councilor David Ryder  
Councilor Jean Lawlis  
Councilor Bill Shakespeare  
Councilor Carol Duprey*

*Town Manager Susan Lessard  
Town Attorney Thomas Russell  
Town Clerk Denise Hodsdon  
Pool Director Darcey Peakall  
Library Director Debbie Lozito  
Recreation Director Kurt Mathies  
Economic Dev. Director Dean Bennett  
KahBang Representative Tim Lo  
Citizens*

*The meeting was called to order by Mayor Hughes at 7:00 pm.*

- A. CONSENT AGENDA** – *Motion by Councilor Lawlis, seconded by Councilor Shakespeare to accept the Consent Agenda. Unanimous vote in favor.*
- 1. SIGNATURES**
  - 2. SECRETARY'S REPORTS**
    - a. **May 6, 2013**
    - b. **May 13, 2013 Budget Meeting**
  - 3. COMMUNICATIONS**
    - a. **Municipal Review Committee – 2013 2<sup>nd</sup> Quarter Distribution**
    - b. **Maine Dept. of Marine Resources – Acknowledgment of Alewife Fishing Rights**
    - c. **Municipal Review Committee – PERC Environmental Performance**
  - 4. REPORTS**
    - a. **Services Committee Minutes – 5/13/2013**
    - b. **Bangor Humane Society Stray Animal Report – April 2013**
    - c. **Dyer Library Trustees Minutes – 3/13/13**
    - d. **Finance & Administration Committee Minutes – 5/6/2013**
    - e. **Voting Results with 6 Councilors**
- B. PUBLIC COMMENTS** – *There were none.*
- C. POLICY AGENDA**
- 1. PUBLIC HEARINGS**

- a. **Application for Liquor License received from Reid McLaughlin, d/b/a McLaughlin's at the Marina at 108A Marina Road** – Mayor Hughes opened the hearing; no one spoke in favor or opposition and there were no general comments or questions. The hearing was closed. Motion by Councilor Shakespeare, seconded by Councilor Ryder to approve the application. Unanimous vote in favor.
- b. **Ordinance Authorizing Conveyance of Land Owned by the Town of Hampden – Marina Parcel** – Mayor Hughes opened the hearing; no one spoke in favor or opposition and there were no general comments or questions. The hearing was closed. Motion by Councilor Brann, seconded by Councilor Lawlis to adopt the ordinance. Unanimous vote in favor.

## 2. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. **Warrant and Notice of Election – MSAD #22 District Referendum – Bond for Renovations and Improvements – June 11, 2013** – Motion by Councilor Lawlis, seconded by Councilor Shakespeare to countersign the Warrant & Notice of Election. Unanimous vote in favor.
- b. **Warrant and Notice of Election – MSAD #22 Budget Validation Referendum – June 11, 2013** – Motion by Councilor Lawlis, seconded by Councilor Shakespeare to countersign the Warrant & Notice of Election. Unanimous vote in favor.

## 3. UNFINISHED BUSINESS

- a. **Jeep Bid Results – Finance Committee Recommendation** – It was the recommendation of the Finance Committee to accept the highest bid from Barry Moses in the amount of \$4,567.89. Motion by Councilor Brann, seconded by Councilor Shakespeare to accept the bid from Barry Moses in the amount of \$4,567.89 with the proceeds to be deposited into the fire truck reserve account. Unanimous vote in favor.
- b. **Fireworks Ordinance – Planning & Development Committee's Recommendation to Introduce for Public Hearing** – Councilor Brann introduced this item for public hearing at the next meeting.
- c. **Public Works Truck Bid Results – Finance Committee Recommendation** – This item was postponed until after the next meeting of the Infrastructure Committee.
- d. **Committee Assignments** – Mayor Hughes asked for a motion to set aside the rules to add an item to the agenda. Councilor Brann so moved and Councilor Shakespeare seconded the motion. Vote was unanimously in favor. Motion by Councilor Brann, seconded by Councilor Shakespeare to add committee assignments to the agenda.

C-1-b

TOWN OF HAMPDEN

ORDINANCE AUTHORIZING CONVEYANCE OF LAND OWNED BY THE TOWN OF HAMPDEN

RECITALS

Whereas, the Town of Hampden owns land acquired from the City of Bangor by virtue of a deed dated June 23, 1982, recorded in the Penobscot County Registry of Deeds in Book 3314, Page 273 (hereinafter the "Marina Parcel"); and

WHEREAS, Hamlin's Marina, Hampden leases a portion of the Marina Parcel from the Town of Hampden; and

WHEREAS, Hamlin's Marina, Hampden acquired a parcel of land adjacent to the Marina Parcel by deed dated December 27, 2010, recorded in said Registry of Deeds in Book 12366, Page 3 (hereinafter the "Peninsula Parcel"); and

WHEREAS, the Town of Hampden and Hamlin's Marina, Hampden entered into a Land Transfer Agreement dated October 24, 2011, whereby Hamlin's Marina, Hampden agreed to convey the Peninsula Parcel to the Town of Hampden in exchange for the Town conveying a portion of the Marina Parcel to Hamlin's Marina, Hampden; and

WHEREAS, Hamlin's Marina, Hampden conveyed the Peninsula Parcel to the Town of Hampden by deed dated March 29, 2012, recorded in said Registry of Deeds in Book 12772, Page 144; and

WHEREAS, the Town of Hampden has received the necessary governmental approvals to convey the contemplated portion of the Marina Parcel to Hamlin's Marina, Hampden;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS AND IN FURTHERANCE OF THE LAND TRANSFER AGREEMENT, THE TOWN OF HAMPDEN HEREBY ORDAINS:

1. That the Town of Hampden shall convey a portion of the property it acquired from the City of Bangor by deed dated June 23, 1982, recorded in the Penobscot County Registry of Deeds in Book 3314, Page 273, to Hamlin's Marina, Hampden, its successors or assigns, in accordance with the terms and conditions of a Land Transfer Agreement between the parties dated October 24, 2011. The portion of the Marina Parcel to be conveyed being the 7.66 acre parcel depicted on the plan by CES INC, dated October 13, 2011, attached hereto and incorporated herein by reference, along with access and utility easements.
2. That the Town Manager is hereby authorized to execute any and all documents deemed necessary or appropriate to accomplish the transaction contemplated by the Agreement.
3. That the Town Manager is hereby authorized to execute any and all documents deemed necessary or appropriate to terminate the existing lease between the parties, or at the election of Hamlin's Marina, Hampden, to assign it to an entity designated by Hamlin's Marina, Hampden.
4. That this Ordinance shall become applicable upon the date of adoption by the Town Council.

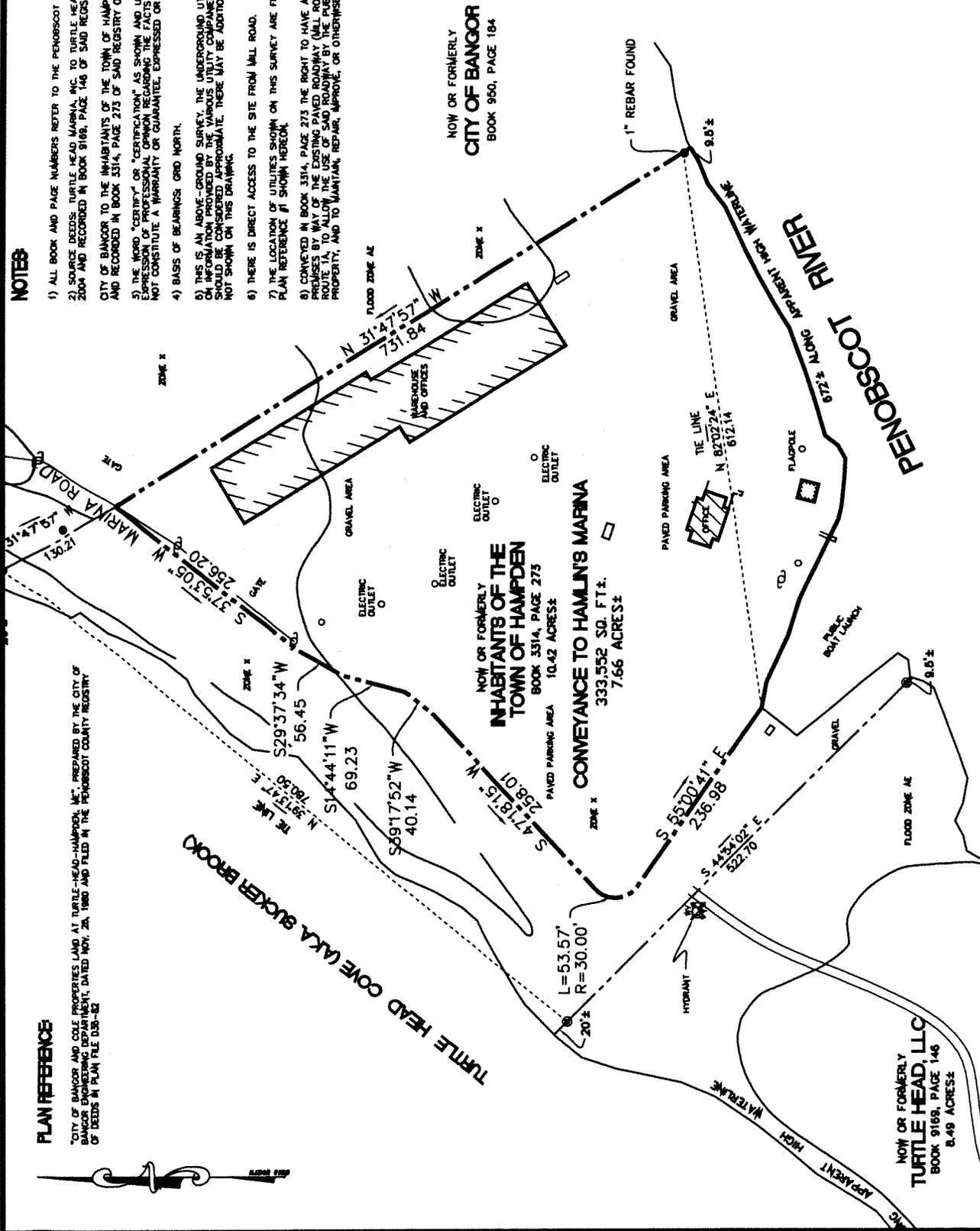
5/6/2013 - Introduced for public hearing  
5/20/13 - Adopted by Town Council

**PLAN REFERENCE**

"CITY OF BANGOR AND COLE PROPERTIES LAND AT TURTLE-HEAD-HAMPDEN, ME", PREPARED BY THE CITY OF BANGOR ENGINEERING DEPARTMENT, DATED NOV. 26, 1980 AND FILED IN THE PENOBSCOT COUNTY REGISTRY OF DEEDS IN PLAN FILE D38-32

**NOTES**

- 1) ALL BOOK AND PAGE NUMBERS REFER TO THE PENOBSCOT COUNTY REGISTRY OF DEEDS.
- 2) SOURCE DEEDS: TURTLE HEAD MARINA, INC. TO TURTLE HEAD, LLC, DATED JANUARY 21, 2004 AND RECORDED IN BOOK 9169, PAGE 146 OF SAID REGISTRY OF DEEDS.
- 3) CITY OF BANGOR TO THE INHABITANTS OF THE TOWN OF HAMPDEN DATED JUNE 23, 1982 AND RECORDED IN BOOK 3314, PAGE 273 OF SAID REGISTRY OF DEEDS.
- 4) THE WORD "CERTIFY" OR "CERTIFICATION" AS SHOWN AND USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THE SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED.
- 5) BASIS OF BEARINGS: GRID NORTH.
- 6) THIS IS AN ABOVE-GROUND SURVEY. THE UNDERGROUND UTILITIES, IF SHOWN, ARE BASED ON INFORMATION PROVIDED BY THE VARIOUS UTILITY COMPANIES AND THESE LOCATIONS SHOULD BE CONSIDERED APPROXIMATE. THERE MAY BE ADDITIONAL UNDERGROUND UTILITIES NOT SHOWN ON THIS DRAWING.
- 7) THERE IS DIRECT ACCESS TO THE SITE FROM MILL ROAD.
- 8) THE LOCATION OF UTILITIES SHOWN ON THIS SURVEY ARE FROM VISIBLE EVIDENCE AND PLAN REFERENCE IF SHOWN HEREON.
- 9) CONVEYED IN BOOK 3314, PAGE 273 THE RIGHT TO HAVE ACCESS TO THE SUBJECT PREMISES BY WAY OF THE EXISTING PAVED ROADWAY (MILL ROAD) TO THE PREMISES FROM ROUTE 1A, TO ALLOW THE USE OF SAID ROADWAY BY THE PUBLIC FOR ACCESS TO THE PROPERTY, AND TO MAINTAIN, REPAIR, IMPROVE, OR OTHERWISE USE THE ROADWAY.



**TOWN OF HAMPDEN TO HAMLIN'S MARINA  
TOWN OF HAMPDEN  
PROPERTY CONVEYANCE EXHIBIT**

|           |            |        |         |
|-----------|------------|--------|---------|
| BY:       | JAT        | DWG:   | 1 OF 1  |
| DATE:     | 10-13-2011 | JN:    | 5479    |
| REV:      |            | SCALE: | 1"=150' |
| REV DATE: |            |        |         |



*Unanimous vote in favor. Due to the resignation of Councilor Wright, Mayor Hughes asked Councilor Shakespeare to chair the Infrastructure Committee and she said she would take Councilor Wright's place as a voting member of the Infrastructure and Services Committee.*

- e. **Re-use of Old Hampden Academy Property** – Motion by Councilor Brann, seconded by Councilor Lawlis to set aside the rules to add another item to the agenda. *Unanimous vote in favor. Motion by Councilor Brann, seconded by Councilor Shakespeare to add discussion of re-use of the Old Hampden Academy property to the agenda, which may go into executive session. Unanimous vote in favor.*

#### **4. NEW BUSINESS**

- a. **KahBang Temporary Campsite – Tim Lo KahBang Executive Director** *Tim Lo informed the Council that he has reached out to the Planning & Development Committee about the KahBang Festival's desire to set up their temporary campsite at the Business Park. He realized that it was most likely too late for this year, but he wanted to open up discussion with the Council and hoped to gather sentiment as to whether the Town would be interested in going forward in 2014. Jeremy Jones of 72 Partridge Road informed the Council that he had done some measurements of the area to get an idea of whether traffic flow would be a problem when Mr. Lo approached the Town last year, and said he didn't see any problem with traffic according to the plan submitted at that time. He encouraged the Council to let them use the business park until the park fills up with businesses. Councilor Brann noted that this use does conform to the Town's codes and he sees no reason not to support this next year. It was the consensus of the Council that there would be support for the campsite next year. However, Councilor Brann did note that the Town does have an RFP out for development of that portion of the business park and warned Mr. Lo that the Town may not still own the property next year.*

- b. **2013/2014 Budget:**

- 1. **Manager's PowerPoint Presentation** – *The Town Manager gave a Power Point presentation concerning the budget and information related to the fiscal position of the Town. The Power Point and Budget Message will be posted on the Town Website and attached to the minutes as part of the permanent record. Jeremy Jones of 72 Partridge Road commented that the Town needs to act as a corporation and we need to live within our means. He urged the Council to cut, cut, cut and not raise taxes.*

- 2. **Library** – *Library Director Debbie Lozito presented the proposed budget which was reviewed line by line. Terry McAvoy of 59 Monroe Road and Alex King of 807 Kennebec Road both had questions*

TOWN OF HAMPDEN, MAINE  
DRAFT CONSUMER FIREWORKS ORDINANCE

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ARTICLE 1:  
PURPOSE

**1.1 Purpose.** This Ordinance regulates the use of consumer fireworks to ensure the public health, safety and welfare of the residents and property owners of the Town of Hampden and of the general public.

ARTICLE 2:  
TITLE AND AUTHORITY

**2.1 Title and Authority.** This Ordinance shall be known as the "Town of Hampden Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S. § 3001, and the provisions 8 M.R.S. § 223-A.

ARTICLE 3:  
DEFINITIONS

**3.1 Definitions.** The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Consumer Fireworks** – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

- C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

**Display** – means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects. "Display" includes a "special effects display" as defined in 8 M.R.S. §221-A(10).

**Fireworks** – means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, and other fireworks of like construction;
- D. Fireworks containing any explosive or flammable compound;
- E. Tablets or other device containing any explosive substance or flammable compound.

The term "fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

**Red Flag Warning** – A term designated by the NOAA's National Weather Service ([www.weather.gov](http://www.weather.gov)) and used by fire-weather forecasters to call attention to limited weather conditions of particular importance that may result in extreme burning conditions. The warning is issued when it is an ongoing event or the fire weather forecaster has a high degree of confidence that the Red Flag criteria will occur within 24 hours of issuance. Red Flag criteria occurs whenever a geographical area has been in a dry spell for a week or two, or for a shorter period, if before spring green-up or after fall color, and the National Fire Danger Rating System (NFDRS) is high to extreme and the following forecast weather parameters are forecasted to be met: 1) a sustained wind average 15 miles per hour or greater, 2) a relative humidity less than or equal to 25 percent and 3) a temperature of greater than 75 degrees F. In some states, dry

lightning and unstable air are criteria. A Fire Weather Watch may be issued prior to the Red Flag Warning.

ARTICLE 4:  
**USE OF CONSUMER FIREWORKS RESTRICTED**

**4.1 Limits on Hours and Dates.** A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Hampden or in or from any watercraft within waters of the Town except during the following times:

between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following days:

- a) July 4<sup>th</sup>;
- b) December 31<sup>st</sup>; and
- c) The weekends immediately before and after July 4<sup>th</sup> and December 31<sup>st</sup>.

**4.2 Limits on Locations.** A person may use, display, fire, or cause to be exploded consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

**4.3 Cessation After Multiple Complaints.** Upon complaints from multiple households to Hampden's Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about immediately cease the use, display, firing, or explosion of consumer fireworks for a 12 hour period from the time of notification to cease if the official determines that any such activity disturbs the quiet, comfort or repose of any reasonable person located within or upon any residential premises.

**4.4 Cessation After Single Complaint.** Upon complaint from a single household to Hampden's Public Safety Department, the Public Safety Director or designee shall have the authority to require that the person(s) complained about cease the use, display, firing, or explosion of consumer fireworks if in the judgment of the official the complainant has special aggravating circumstances such as a sick family member or the presence of animals in the area and the propensity of such animals to suffer adverse health effects from exposure to the noise accompanying fireworks, or, as a result of fear resulting from exposure to such noise, may endanger others. The length of the cessation required will be at the discretion of the Public Safety Director or designee. In instances where the required cessation extends beyond the 12 hour period from the time of notification to cease, the person(s) complained about will be provided with the cessation order in writing.

**4.5 Red Flag Warning.** A person may not use, display, fire or cause to be exploded consumer fireworks on days that are designated by the Maine Forest Service and or NOAA as Red Flag Warning days. It is the sole responsibility of persons using consumer fireworks to ascertain the fire danger rating for the day that the consumer fireworks are used.

**4.6 Collateral Debris on Neighboring Properties and Right of Ways.** A person may not use, display, fire or cause to be exploded consumer fireworks in a manner that does not contain all falling debris from the fireworks to the user's property.

**4.7 Visible Intoxication or Impairment.** A person may not use, display, fire or cause to be exploded consumer fireworks while intoxicated or impaired due to use of alcohol or drugs.

**ARTICLE 5:  
VIOLATION AND ENFORCEMENT**

**5.1 Penalty For Violation.** Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Hampden for its use. Each day such violation occurs or continues to occur shall constitute a separate violation.

**5.2 Enforcement.** This Ordinance shall be enforced by the Town of Hampden Police Department.

**5.3 Injunction.** In addition to any other remedies available at law or equity, the Town of Hampden, acting through its Town Manager, may authorize an attorney apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

**5.4 Seizure & Disposal Of Consumer Fireworks.** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

**ARTICLE 6:  
EXCEPTIONS**

**6.1 Exceptions.** This Ordinance does not apply to any person(s) who has obtained a permit under 8 M. R. S. §227-A to conduct a display of fireworks.

**ARTICLE 7:  
SEVERABILITY**

**7.1 Severability.** In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

*regarding how funds from the library's endowment fund are used. Debbie will get information together for discussion at the next Finance & Administration Committee meeting. No change was made to the proposed total budget of \$238,092.00.*

**3. Recreation** – *Recreation Director Kurt Mathies presented the proposed budget which was reviewed line by line. Kurt explained that this budget includes only salaries and benefits for himself and the Assistant Recreation Director. All other expenses come out of the Enterprise Account. Mr. McAvoy had several questions regarding the Recreation's Enterprise Account and its Reserve Account. Those questions will be addressed at the next Finance & Administration Committee meeting. No change was made to the proposed total budget of \$136,544.00.*

**4. Pool** – *Pool Director Darcey Peakall presented the proposed budget which was reviewed line by line. Mr. McAvoy had questions about the Pool's Endowment fund. He also asked what the total cost is to run the Pool and Recreation departments, regardless of which account the expenses come from. This information will also be reviewed at the next Finance & Administration Committee meeting. No change was made to the proposed total budget of \$224,630.00.*

**5. Debt Service** – *The total debt service budget amount is \$370,670.57.*

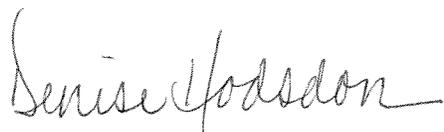
**D. COMMITTEE REPORTS** – *There were none.*

**E. MANAGER'S REPORT** – *There was none.*

**F. COUNCILORS' COMMENTS** – *Councilor Shakespeare noted that the Hampden Garden Club volunteers putting the flowers around the Veterans Memorial had informed him that the flowers were donated by John Calkins.*

**G. EXECUTIVE SESSION** – *Motion by Councilor Brann, seconded by Councilor Lawlis to enter executive session at 9:45 pm to discuss re-use of the old Hampden Academy property pursuant to 1 MRSA §405(6)(c) to include the Town Council, Town Manager, Town Attorney and the Economic Development Director. Unanimous vote in favor. Motion by Councilor Lawlis, seconded by Councilor Shakespeare to re-enter regular session at 10:50 pm. Unanimous vote in favor.*

**H. ADJOURNMENT** – *The meeting was adjourned at 10:51 pm.*



Denise Hodsdon  
Town Clerk