



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
AGENDA

MONDAY

DECEMBER 21, 2015

7:00 P.M.

• 6:30 pm – Finance & Administration Committee Meeting

A. PLEDGE OF ALLEGIANCE

B. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

a. December 7, 2015 Meeting Minutes

3. COMMUNICATIONS

a. Pat's Pizza – Victualer's License Renewal

4. REPORTS

a. Finance Committee Minutes – 11/16/2015

b. Services Committee Minutes – 11/9/2015

C. PUBLIC COMMENTS

D. POLICY AGENDA

1. NEWS, PRESENTATIONS & AWARDS

a. Councilor William Shakespeare – Thank You

2. PUBLIC HEARINGS

a. Proposed Zoning Ordinance Map amendment to Map 9A/Lot 1 at corner of Emerson Drive and Coldbrook Road from Residential A District to Business District

3. NOMINATIONS – APPOINTMENTS – ELECTIONS

a. Francis Pergolizzi – Application for Appointment to Recreation Committee – Services Committee Recommendation

b. Stephanie Shayne – Application for Reappointment to Recreation Committee – Services Committee Recommendation

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

- c. Anthony Mourkas – Application for Reappointment to Library Board of Trustees – Services Committee Recommendation
- d. Cheri Condon - Application for Reappointment to Library Board of Trustees – Services Committee Recommendation
- e. Patrick Foley - Application for Reappointment to Pool Board of Trustees – Services Committee Recommendation
- f. Gerry Ouellette – Application for Reappointment to Personnel Appeals Board – Finance Committee Recommendation

4. UNFINISHED BUSINESS

- a. Revised Order re Fundraising at the Transfer Station
- b. Update on Proposed MRC Legal Agreements and Discussion of proposed Solid Waste Agreement from PERC

5. NEW BUSINESS

- a. Proposed Amendments to Subdivision Ordinance to Provide for Construction of Private Roads – Planning & Development Committee Recommendation to Refer to Planning Board
- b. Zoning Ordinance Text Amendment – Section 7.2 Building Height Definition – Introduction for Public Hearing
- c. Zoning Ordinance Text Amendment – Section 4.10 Home Occupation Permits – Town Attorney Opinion – Referral back to Planning & Development Committee
- d. Zoning Ordinance Text Amendment – Section 4.8 Signs – Introduction for Public Hearing
- e. Kiwanis Poker Tournament License Renewal

E. COMMITTEE REPORTS

F. MANAGER'S REPORT

G. COUNCILORS' COMMENTS

H. ADJOURNMENT



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY

DECEMBER 7, 2015

7:00 P.M.

Attending:

*Mayor David Ryder
Councilor Bill Shakespeare
Councilor Terry McAvoy
Councilor Dennis Marble
Councilor Stephen Wilde
Councilor Greg Sirois*

*Town Manager Angus Jennings
Town Clerk Denise Hodsdon
Councilor-Elect Ivan McPike
Citizens*

Mayor Ryder called the meeting to order at 7:03 pm

- A. **PLEDGE OF ALLEGIANCE** – *Mayor Ryder led the Pledge of Allegiance*
- B. **CONSENT AGENDA** – *Motion by Councilor Shakespeare, seconded by Councilor Marble to accept the Consent Agenda. Unanimous vote in favor.*

1. SIGNATURES

2. SECRETARY’S REPORTS

- a. **November 16, 2015 Meeting Minutes**

3. COMMUNICATIONS

- a. **Betty Magaw – Application for Appointment to Personnel Appeals Board or Board of Appeals – Referral to Finance Committee**
- b. **Cheri Condon – Application for Reappointment to Library Board of Trustees – Referral to Services Committee**
- c. **Anthony Mourkas - Application for Reappointment to Library Board of Trustees – Referral to Services Committee**
- d. **Patrick Foley - Application for Reappointment to Pool Board of Trustees – Referral to Services Committee**
- e. **Stephanie Shayne - Application for Reappointment to Recreation Committee – Referral to Services Committee**
- f. **Gerry Ouellette – Application for Reappointment to Personnel Appeals Board – Referral to Finance Committee**
- g. **Hampden Garden Club/Manager Jennings – Thank you**

4. REPORTS

- a. **Finance Committee Minutes – 10/19/2015**
- b. **Infrastructure Committee Minutes – 10/26/2015**

- C. **PUBLIC COMMENTS** - *None*

D. POLICY AGENDA

1. NEWS, PRESENTATIONS & AWARDS - None

2. PUBLIC HEARINGS - None

3. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. **Joan Reilly – Appointment as Associate Member of Planning Board – Planning & Development Committee Recommendation – Motion by Councilor Shakespeare, seconded by Councilor McAvoy to appoint Joan Reilly as an Associate Member of the Planning Board. Unanimous vote in favor.**

4. UNFINISHED BUSINESS

- a. **Proposed Zoning Ordinance Map amendment to Map 9A/Lot 1 at corner of Emerson Drive and Coldbrook Road from Residential A District to Business District – Introduction for Public Hearing – Councilor Shakespeare introduced this item for public hearing at the next meeting.**
- b. **Pine Tree Landfill Post Closure Monitoring – Proposal from Drumlin, LLC and SoilMetrics, LLC – Recommendations of Infrastructure and Finance Committees – Mayor Ryder explained that the proposal is for Drumlin, LLC and SoilMetrics to continue to review Annual Reports and other documents prepared by Casella and the Maine Department of Environmental Protection and to provide an analysis of that review to the Town, at an estimated cost of \$3,000. Motion by Councilor Shakespeare, seconded by Councilor Marble to continue with the services of Drumlin, LLC for landfill post closure monitoring, at a cost of \$3,000 to be paid from the Host Community Benefit fund. Unanimous vote in favor.**
- c. **Discussion of Proposed MRC Legal Agreements & Potential Multi-town Legal Review – Manager Jennings noted that the Council’s comments relative to the MRC/Fiberight proposed legal agreements have been forwarded on to the MRC. One of the comments that the Council had put on record was that before the Town entered into the agreements, it would be prudent to get legal review, but questioned if it made sense for the Town to incur legal costs to review proposed revisions that are coming from a non-profit that ostensibly is representing the Town. This issue was raised by several other towns as well and at their last meeting, the MRC Board approved funding for a third-party legal review which will be managed without any direct involvement of the MRC. The coalition of towns is being led by the Town of Hermon and they have agreed to a scope of work and to hire Attorney Jim Katsiaficas. Part of the review will be the question of what**

are the implications of the proposed change to the corporate structure of the MRC, which at present is a non-profit, and how does its role as Hampden's and other communities' representative change as the partner and ultimately the vendor on municipal solid waste management? Manager Jennings has had several discussions with Hermon's Town Manager Roger Raymond and has asked what is involved in becoming a supporting community. Manager Raymond said that they have taken the position that because Hampden is the proposed host community that we would not be eligible to be a sponsoring community. They have taken the same position for any community that has a board member on the MRC. They are trying to avoid any conflict or any appearance of conflict. However Manager Jennings will be attending the meetings. It is expected that the MRC will have finalized the legal agreements by their annual meeting on December 16th and legal review will not begin until those documents are provided by MRC. Once those documents are received by the attorney, that will begin a 30-day review period. Therefore, Manager Jennings is estimating that it will be mid-January before the legal review is complete. Manager Jennings noted that in his review of the scope of work, it appears to be very responsive to some of the questions raised by the Council.

5. NEW BUSINESS

- a. Transfer Station Swap Shop Building Replacement – Recommendations of Infrastructure and Finance Committees –**
Councilor Marble reported that the Infrastructure Committee has been discussing issues at the Transfer Station with DPW Director Sean Currier. One of the problem areas is the swap shop and Director Currier has recommended replacing the swap shop shed with a pre-fab building and moving it to another location within the Transfer Station in order to alleviate traffic-flow issues. Motion by Councilor Marble, seconded by Councilor Shakespeare to authorize the Public Works Director to expend \$4792.00 from of the monies set aside from the savings on discontinuing Saturday Bus service, for the purchase of the shed. Unanimous vote in favor.

- b. Fundraising at the Transfer Station –**
In the Infrastructure Committee's review of issues with the Transfer Station, there was discussion of the potential dangers of groups conducting fundraising activities at the facility. Manager Jennings had prepared a proposed order prohibiting fundraising activities within the fenced-in area of the Transfer Station for the Council's consideration. Councilor McAvoy expressed concern about limiting it to just fundraising activities and suggested that the proposed order be amended to prohibit any activities not directly related to the operation of the transfer station. Councilor Shakespeare agreed and felt that such activities should be prohibited on the entire transfer station property, not just the fenced-in area. Councilor Marble suggested that the policy be amended to read

“Ordered, that, in order to minimize potential danger or inconvenience associated with internal traffic circulation, activities not related to the disposal of waste shall not be permitted within or around the Town of Hampden Transfer Station.” and to strike the remainder of the language. Motion by Councilor McAvoy, seconded by Councilor Shakespeare to adopt the order as amended. Vote on the motion was 5-1 (Sirois); motion carried. Manager Jennings will have the revised order for Council signatures at the next meeting.

c. Proposed Mailbox Policy – Infrastructure Committee

Recommendation – Infrastructure Committee Chair Councilor Marble noted that the policy is basically the same as the State’s policy. It would hold the Town harmless for any damage to mailboxes through the act of plowing and it includes guidelines for the placement of mailboxes to minimize the chance of damage. Motion by Councilor Marble, seconded by Councilor Sirois to adopt the policy regarding mailboxes. Unanimous vote in favor.

d. Declaration of Surplus Property – Marina Floats –

Recommendations of Infrastructure and Finance Committees –
Manager Jennings explained that the Town has a legal obligation to provide public access to the waterfront, which is satisfied by the ramp. However, the floats are not a requirement in order to provide public access. The floats are owned by the Town but have historically been maintained by the marina operator. They have fallen into disrepair and there is no budget for their replacement. The Infrastructure Committee has recommended declaring them as surplus property. Motion by Councilor Marble, seconded by Councilor Sirois that the Town Council authorize the Town Manager to dispose of the floats pursuant to Item 5 of the Town of Hampden Bid Procedure Guideline or, if no party is interested in taking ownership, to discard the floats in a suitable manner. Unanimous vote in favor.

e. Approval of Expenditure of \$15,000 of Surplus Monies for Cruiser Replacement – Finance Committee Recommendation – Mayor

Ryder explained that \$15,000 was included in the FY14 budget as part of the Police Department budget for the purchase of a new police cruiser. There was no police vehicle purchase in FY14 and the unexpended \$15,000 cruiser replacement line item should have been carried forward to be used once a new vehicle was purchased. The funds had not been carried forward so were put into the “surplus” account. \$15,000 had also been included in the FY15 Police budget and a new vehicle was purchased in September 2015. Council approval is required to use “surplus” money from FY14 funds. Motion by Councilor Shakespeare, seconded by Councilor Sirois to approve the expenditure of \$15,000 from the general fund surplus monies for the cruiser replacement. Unanimous vote in favor.

E. COMMITTEE REPORTS

Services Committee – Councilor McAvoy noted that the committee has not met since the last Council meeting and the next meeting is at 6:00 pm on December 14th.

Infrastructure Committee – Councilor Marble reported that the committee met on November 23rd and discussed the contract regarding landfill monitoring, a policy regarding the use of the community room, the condition of the marina floats, and the mailbox policy. The next meeting will be at 6:00 pm on December 28th.

Planning & Development Committee – Councilor Shakespeare reported that the committee met on December 2nd and continued discussion of a new marina sign, its type, location and how it would be funded. The committee completed its work on the proposed amendments to the Subdivision Ordinance relative to private roads. Code Enforcement Officer Myles Block updated the committee on the status of ongoing efforts to secure some buildings which are considered dangerous. The committee discussed the need for wetland mitigation for the proposed MRC project and utilizing a portion of the LL Bean property for that mitigation.

Finance & Administration Committee – Mayor Ryder reported that in addition to the items already discussed by the Council this evening, Manager Jennings reported the preliminary findings from the FY15 audit. One of the items that has come out of the audit is that the sewer revenues are not fully covering sewer operating and capital costs. The Town Manager and Public Works Director will be working on a proposal for increasing sewer rates in order to make that sustainable for itself.

F. MANAGER'S REPORT – Manager Jennings reported that the Development Review Team had a pre-application meeting with the MRC regarding the anticipated Fiberright development. The applicant's design engineer, the Town's independent review engineer, and superintendents from Hampden Water District and Bangor Water District also attended that meeting. The project is currently in the permitting process with DEP with hopes that the permit will be issued by the end of the year.

Manager Jennings will be meeting with Laurie Linscott of the Bus on December 16th regarding financing of the Bus and how the rate structures are allocated among the towns. Earlier that day he will be meeting with the Bangor City Manager to review a number of items of common interest.

He reported that the Town Office will be closed from 11:30 am to 1:30 pm on December 15th for the Employee Christmas Party.

He will be attending a regional managers' meeting on December 10th regarding the legal review of the MRC documents.

He met last week with Danny Lafayette regarding a number of issues at the Skehan Center. He will provide a detailed update on that meeting at the December 14th Services Committee meeting.

He informed the Council that the School Building Committee is meeting at 6:30 pm on December 14th where they will continue their discussion of the McGraw-Weatherbee complex. Because that conflicts with the Services Committee meeting, incoming Councilor Ivan McPike has volunteered to attend that meeting.

He also informed the Council that he has been looking at the possibility of developing an inclement weather policy. The Public Works Department is currently down one person from years past and it is the recommendation of the Public Works Director that transfer station employees be temporarily reassigned to support plowing and snow

December 7, 2015

removal. If we do adopt this practice, it would result in temporary closures of the transfer station and any changes to normal hours of operation would be posted to the website and the Town's local cable channel with as much advance notice as possible.

G. COUNCILORS' COMMENTS

Councilor Shakespeare thought the Christmas trees in the Council chambers and in front of the Town Office were beautiful.

Councilor Marble thanked Kiwanis and Town Staff for the very nice tree lighting event on Sunday.

Councilor McAvoy thanked Councilor Shakespeare and Tom Brann for taking the flags down and appreciated that the holiday lights are now up. He also reminded everyone to shop local and buy American.

Mayor Ryder congratulated Denny Babcock on his retirement from the Public Works Department after 16 years of service. He appreciated that there were members of the public at tonight's meeting. He noted that when he thanked the Garden Club at the last meeting for the flowers out in the front of the Town Office, he should have acknowledged that they also tend the gardens at the gazebo at the pool, the Reeds Brook School entrance, Dorothea Dix Park and Harmony Hall. He expressed appreciation to them again for the beautiful gardens around town.

H. ADJOURNMENT – *There being no further business, the meeting was adjourned at 7:58 pm.*



Denise Hodsdon
Town Clerk

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Phone: (207) 862-3034
Fax: (207) 862-5067
email: info@hampdenmaine.gov

B-3-a

December 7, 2015

Mike & Tina Carroll
Pat's Pizza
662 Main Rd. North
Hampden, ME 04444

Dear Mike and Tina:

Your application for renewal of your Victualer's License has been approved. Accordingly, I am enclosing the license, which under Section 5.A of the Town of Hampden Victualer's Ordinance, must be displayed in a place within the establishment where it can be readily viewed by any member of the public.

Please call if you have any questions.

Sincerely,

Denise Hodsdon, CMC
Town C

Enclos

VICTUALER'S LICENSE CERTIFICATE

No. 21

MUNICIPALITY OF HAMPDEN, MAINE

To all whom these presents may concern: Date: December 7, 2015

KNOW YE, that Carroll Crew, LLC (Mark & Tina Carroll),

doing business as PAT'S PIZZA

has been duly licensed as a Victualer at 662 Main Road North

in the Municipality of Hampden by said Municipality until December 17, 2016,

and has paid the fee of Fifty Dollars (\$50.00).

Authorized Municipal Officer / **CODE ENFORCEMENT OFFICER**

FINANCE & ADMINISTRATION COMMITTEE MEETING

Monday, November 16, 2015

MINUTES*Attending:**Mayor David Ryder**Councilor Terry McAvoy**Councilor William Shakespeare**Councilor Greg Sirois**Councilor Stephen Wilde**Town Manager Angus Jennings**Councilor Dennis Marble**Public Safety Director Joe Rogers**Mayor Ryder called the meeting to order at 6:00 p.m.***1. Meeting Minutes**

- a. **October 19, 2015**– *Motion by Councilor McAvoy, seconded by Councilor Marble to approve the October 19, 2015 minutes. Unanimous vote in favor.*

2. Review & Sign Warrants – *Warrants were reviewed and signed by Committee members.***3. Old Business****a. Sale of Surplus Vehicles**

1. **1996 Ford E-350 Miller/McCoy Ambulance – Public Safety** – *Motion by Councilor Marble, seconded by Councilor Wilde, to recommend sale of the old ambulance for \$3,500.00 which was the best offer received. Unanimous vote in favor.*
2. **2007 Ford Crown Victoria – Public Works (formerly Public Safety)** – *Motion by Councilor Marble, seconded by Mayor Ryder, to recommend sale of the old police cruiser for \$500.00 which was the best offer received. Unanimous vote in favor.*

4. New Business

- a. **Interview – Avery Caldwell – Applicant for Board of Assessment Review** – *The applicant for appointment appeared before the Committee and discussed his qualifications including fifteen years in real estate. Mayor Ryder and Councilor Marble thanked him for his interest in serving the community, and the Committee agreed. The Committee unanimously endorsed a recommendation of appointment.*
- b. **Public Safety Grant Acceptance & Approval of Matching Funds** – *Motion by Councilor Shakespeare, seconded by Councilor Marble to accept the Maine Municipal Safety Enhancement grant in the amount*

of \$2000 and to recommend expenditure of \$1,052 from the Matching Grants Reserve Fund. Unanimous vote in favor.

- c. Update regarding Sanitary Sewer System Mapping – Stillwater Environmental Engineering** – *Town Manager Jennings read a memo into the record from GIS/IT Specialist Kyle Severance regarding a proposal from Stillwater Environmental Engineering to update the mapping of the Town's sanitary sewer system. Councilor McAvoy noted that this work would be helpful to the DPW Director to comply with Federal stormwater management requirements. Councilor Marble noted that if, in the course of their work, problems were found with the infrastructure, we would be notified. Town Manager Jennings said that, in order to help absorb or offset costs such as these, it will be important to update the Town's policies regarding inspections of tie-ins to the sewer system, and to update the fee structure. Motion by Councilor Marble, seconded by Councilor Wilde to refer the proposal to the Council with a recommendation for acceptance. Mayor Ryder noted that, because the work is budgeted and the amount of the contract will be less than \$5,000, Council approval isn't needed. Town Manager Jennings explained that, because the funding for this work was recently re-allocated from The Bus line item to a newly created stormwater line item through a budget adjustment, this was brought forward so the Council is aware of how the funding is helping the Town comply. Councilor Marble's motion was approved unanimously.*
- d. Review of MRC Draft Agreement for Municipal Solid Waste Management Starting in 2018** – *Town Manager Jennings reported to the Council regarding a working meeting that was held last week, and attended by the DPW Director, Councilor McAvoy, Councilor Wilde, and resident Ivan McPike, to review the draft legal documents proposed by the Municipal Review Committee (MRC). The Committee discussed the items in the draft memo prepared to convey to MRC the Council's comments on the proposed drafts, which was included in the meeting packet. Discussion items included questions regarding the capacity of Juniper Ridge to handle additional MSW if the Fiberight facility became unavailable; the proposed exclusivity clause; MRC's role under the proposed changes to the bylaw (which have not yet been provided) relative to its historical role representing Hampden and other communities; whether as host community Hampden would be exempt from tipping fees at the Fiberight facility; responsibility for MSW delivery; and acceptable waste. The Committee felt that the draft comments accurately reflected their questions and concerns, but also felt that legal review would be needed prior to entering into any binding agreements. Town Manager Jennings updated the Committee on ongoing efforts by a group of other communities to pursue shared legal review (with resulting reduced cost) focused on issues of common interest to many communities. He will continue to correspond with other Town Managers and, as long as the specific terms of that review*

meet Hampden's interests, he will recommend that Hampden participate in this multi-town legal review. The Committee agreed that this would be a good idea. By unanimous consent, the Committee recommended the draft comments be forwarded to the Council for endorsement, then sent to MRC.

5. Public Comment – None.

6. Committee Member Comments – None.

There being no further business, the meeting was adjourned at 6:56 p.m.

Respectfully submitted –

Angus Jennings, Town Manager

SERVICES COMMITTEE MEETING
Monday, November 9, 2015

MINUTES – DRAFT

Attending:

Councilor Terry McAvoy

Mayor David Ryder

Councilor Dennis Marble

Town Manager Angus Jennings

Councilor William Shakespeare

Councilor Stephen Wilde

Councilor Greg Sirois

Chairman McAvoy called the meeting to order at __ p.m.

1. **MINUTES – September 14, 2015** – *Motion by Councilor McAvoy, seconded by Mayor Ryder, to approve the minutes of the September 14, 2015 Services Committee meeting with no changes. Unanimous vote (6-0) in favor.*

2. OLD BUSINESS

- a. **Discussion – Fall Soccer Programming Change for 2016** – *Town Manager Jennings provided background regarding evaluation of programming, parking and timing at the Lura Hoit Pool site. He presented a report prepared by Recreation Director Shelley Abbott that provided details regarding programming, timing and attendance, and recommending adjustments to the fall 2016 program calendar to work within available parking capacity. Councilor Marble said it looks like we have options to look at. Mayor Ryder said that the reliance on orange cones wasn't a solution and that the parking constraints and traffic patterns affecting the pool facility and Western Avenue were a concern. He said that the VFW fields, owned by the town, are busy on Sunday but not on Saturday, and could be a better alternative for soccer programs. There is also a soccer field behind the Skehan Center. Councilor McAvoy said we need to find out what fields are available, and Town Manager Jennings suggested that a town-wide map of recreational facilities with notes regarding utilization could be prepared over a period of time. There was discussion about park access in the winter and it was acknowledged that public works would not clear snow from the parks. There was discussion about the Outdoor Facilities Ordinance and the need to revisit it.*

3. NEW BUSINESS

- a. **Reappointment Application – Recreation Committee – Jane Jarvi** – *Motion by Councilor Marble seconded by Councilor Shakespeare to recommend that the Town Council reappoint Jane Jarvi to the Recreation Committee. Unanimous vote in favor.*

b. The Connector Bus – discussion of costs and benefits – *Councilor Shakespeare spoke to discuss his request for this item to be included on the agenda. He said that he is not against the Bus running five days a week, but that it bothers him to see it running empty day after day. He said that it is utilized here and there, and picks people up at Hannaford's and along Main Road, but that he feels ¾ of the riders are from Bangor. He feels that the town should negotiate its cost share, and that the town should not be paying more than ¼ of the cost (of the Hampden route). He does not see the need for Bus service to the 4-mile square, and suggested that Hannaford's could be the area's bus stop. Councilor Sirois said that Hampden's costs should relate to who is picked up or dropped off in Hampden. Councilor Shakespeare said that they don't have the equipment or practices to track where people are picked up and dropped off. Councilor Wilde said that, north of Bangor, three towns split the cost among themselves. Councilor Shakespeare said that he's not against helping Bangor, but that we're paying almost \$100,000 a year. Councilor Wilde said that bus service supports our economic development, but Councilor McAvoy said that Hermon doesn't have bus service and it hasn't hurt them. Councilor Wilde said we need to look at the bigger picture. Mayor Ryder said we could buy a bus and hire two retirees part-time to run it. Councilor Marble said it's a bigger issue than ridership, that it can't be evaluated solely on a cost basis. Bangor provides most of the jobs for Hampden residents, and if we limit it too much we'll hurt people who rely on the service. He suggested that Town Manager Jennings contact Laurie Linscott to convey the Council's concerns regarding whether the current cost would be supported in the FY17 budget. Councilor Wilde agreed that the Town Manager should open a dialogue about the cost structure, and Councilor Marble said it should be made clear that the Council is not eager to continue at the current costs. Councilor Sirois agreed that the costs are too much, but said it's a service we need to continue. Town Manager Jennings will follow up with Laurie Linscott.*

4. PUBLIC COMMENTS – *None.*

5. COMMITTEE MEMBER COMMENTS – Councilor McAvoy asked the Town Manager for an update on the town's franchise agreement with Time Warner Cable, as well as more information about the town's role in a regional consortium relative to cable. He would like to know whether the requirements for cable coverage in Hampden are being met. Mayor Ryder said it is hard to fathom that every house in town doesn't have the ability to access cable. Councilor Marble said there is a reimbursement opportunity for costs incurred for town investments in cable, and Councilor McAvoy said that PEG funds (Public Education and Government Access) were drawn from customer payments of the franchise fee on everyone's cable bills. Town Manager Jennings said he would learn more

about the town's role in the regional negotiating consortium, the status of the town's cable franchise agreement, and any opportunity for funding.

There being no further business, the meeting was adjourned at 6:58 p.m.

Respectfully submitted –

Angus Jennings
Town Manager

D-2-a

Proposed Zone Change:

The Town of Hampden Planning Board conducted a Public Hearing at 7:00pm, November 18, 2015, in the Town Council Chambers of the Town Office on the following application:

Dennis and Debbie Melvin have requested approval of a zone change on property located at Map 9A, Lot 1 at the corner of Emerson Drive and the Coldbrook Road. The zone change if granted, would rezone the property from Residential A District to Business District.

Planning Board has approved the zone change with "Ought to Pass" recommendation to Town Council pending legal review.



If you have any questions, please call Dean Bennett, Community Development Director, at 862-3034.



Check One: Initial Application
 Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: PERGOLIZZI FRANCIS S

ADDRESS: 98 MAIN TRAIL HAMPDEN 04444
STREET TOWN MI ZIP

MAILING ADDRESS (if different): _____

TELEPHONE: 269 804 9619 207 973 1069
HOME WORK

EMAIL: fpergolizzi57@gmail.com

OCCUPATION: DIRECTOR OF ATHLETICS HUSSON UNIVERSITY

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: RECREATION COMMITTEE

SECOND CHOICE (OPTIONAL): _____

How would your experience, education and/or occupation be a benefit to this board or committee?
24 years in intercollegiate athletics

Are there any issues you feel this board or committee should address, or should continue to address?
Not that I am aware of.

- 3 YEAR
- CONSERVATION COMMITTEE
- BOARD OF ASSESSMENT REVIEW
- PERSONNEL APPEALS BOARD
- LURA HOIT MEMORIAL POOL
- ECONOMIC DEVELOPMENT COMMITTEE
- FRIENDS OF DOROTHEA DIX PARK
- DYER LIBRARY
- RECREATION COMMITTEE
- BOARD OF APPEALS
- HISTORIC PRESERVATION COMMITTEE
- TREE BOARD

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY		Date Application Received: <u>NOV 09 2015</u>
COUNCIL COMMITTEE ACTION:	_____	DATE: _____
COUNCIL ACTION:	_____	DATE: _____
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____



Check One: Initial Application Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Shayne Stephanie
LAST FIRST MI

ADDRESS: 82 Foster Ave Hampden 04444 (as of Dec 2015)
STREET TOWN ZIP

MAILING ADDRESS (if different): Po Box 15 Hampden

TELEPHONE: 216-0843 404-5632
HOME WORK

EMAIL: Shaynes@husson.edu

OCCUPATION: Director of Graduate Programs & Asst. Professor - Husson University

BOARD OR COMMITTEE PREFERENCE:
FIRST CHOICE: Recreation Committee

SECOND CHOICE (OPTIONAL): _____

How would your experience, education and/or occupation be a benefit to this board or committee? As a business professor, I can provide assistance in Strategic planning and cost/benefit analysis. Having served on the committee for 2 years, I am looking forward to continuing the work we started.

Are there any issues you feel this board or committee should address, or should continue to address? The committee made a lot of progress this year in drafting a strategic plan. Going forward, key issues are: Field spaces, effective use of Stehan Center; continued expansion of programming to serve variety of groups.

- CONSERVATION COMMITTEE
- BOARD OF ASSESSMENT REVIEW
- PERSONNEL APPEALS BOARD
- LURA HOIT MEMORIAL POOL
- ECONOMIC DEVELOPMENT COMMITTEE
- FRIENDS OF DOROTHEA DIX PARK

- DYER LIBRARY
- RECREATION COMMITTEE
- BOARD OF APPEALS
- HISTORIC PRESERVATION COMMITTEE
- TREE BOARD

3 YEAR
5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY		Date Application Received: <u>NOV 18 2015</u>
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____



Check One: Initial Application Reappointment Application

D-3-C

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: MOURKAS ANTHONY L
ADDRESS: 171 PATTERSON ROAD HAMPDEN ME 04444

MAILING ADDRESS (if different):

TELEPHONE: 207-862-5990 HOME WORK

EMAIL: ANTHONY.MOURKAS@MAC.COM

OCCUPATION: EDUCATOR

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: EDYTHE DYER LIBRARY BOARD OF TRUSTEES

SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee? I HAVE BEEN A MEMBER OF THE LIBRARY BOARD FOR 20 YEARS, I WISH TO CONTINUE IN THIS CAPACITY.

Are there any issues you feel this board or committee should address, or should continue to address?

- CONSERVATION COMMITTEE
BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
ECONOMIC DEVELOPMENT COMMITTEE
FRIENDS OF DOROTHEA DIX PARK

3 YEAR

- EDYTHE DYER LIBRARY
RECREATION COMMITTEE
BOARD OF APPEALS
HISTORIC PRESERVATION COMMITTEE
TREE BOARD

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY

Date Application Received DEC 01 2015

COUNCIL COMMITTEE ACTION: DATE:

COUNCIL ACTION: DATE:

NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



Check One: Initial Application Reappointment Application

D-3-e

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: FOLEY, Patrick MI
ADDRESS: 79 Hinchley Hill Rd Carmel ME 04419
STREET TOWN ZIP

MAILING ADDRESS (if different):

TELEPHONE: 207 450 3379 HOME 404 7235 WORK

EMAIL: PJ.Foley@hotmail.com

OCCUPATION: military Fire Fighter

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: Lura Hoyt Pool Board

SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee? Having served on this board for the past years has given me experience that will help to keep the board moving forward

Are there any issues you feel this board or committee should address, or should continue to address? none

3 YEAR

- CONSERVATION COMMITTEE
BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
ECONOMIC DEVELOPMENT COMMITTEE
FRIENDS OF DOROTHEA DIX PARK

- EDYTHE DYER LIBRARY
RECREATION COMMITTEE
BOARD OF APPEALS
HISTORIC PRESERVATION COMMITTEE
TREE BOARD

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY
Date Application Received: DEC 01 2015
COUNCIL COMMITTEE ACTION: DATE:
COUNCIL ACTION: DATE:
NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



Check One: Initial Application Reappointment Application

D-3-f

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Ouellette Coery John
LAST FIRST MI

ADDRESS: 477 Back Winterport Road Hampden ME 04444
STREET TOWN ZIP

MAILING ADDRESS (if different):

TELEPHONE: 207-842-2894 207-848-5540
HOME WORK

EMAIL: gouellette@mcfire.com

OCCUPATION: Human Resources Safety Manager

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: Personnel Appeals Board

SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee? 28 years As a Senior Human Resources Safety Manager

I have been a board member for several years now. Im Honal

To be able serve my town I live in when the time comes for resolution issues.

Are there any issues you feel this board or committee should address, or should continue to address? NO

3 YEAR

- CONSERVATION COMMITTEE
BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
ECONOMIC DEVELOPMENT COMMITTEE
FRIENDS OF DOROTHEA DIX PARK

- EDYTHE DYER LIBRARY
RECREATION COMMITTEE
BOARD OF APPEALS
HISTORIC PRESERVATION COMMITTEE
TREE BOARD

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY

Date Application Received: DEC 01 2015

COUNCIL COMMITTEE ACTION: DATE:

COUNCIL ACTION: DATE:

NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:

D-4-a

TOWN OF HAMPDEN
IN THE TOWN COUNCIL

Order 2015-03

Adoption: December 7, 2015

**ORDER ESTABLISHING LIMITATIONS ON UNRELATED ACTIVITIES
AT THE TOWN TRANSFER STATION**

ORDERED, that, in order to minimize potential danger or inconvenience associated with internal traffic circulation, activities not related to disposal of waste, recycling, yard waste and construction debris, and/or access to the "swap shop," shall not be permitted within or around the Town of Hampden Transfer Station.

This Order shall remain in effect until rescinded by the Town Council.

Town Clerk:

ORDERED by a majority of the Town Council:

Denise Hodsdon

TOWN OF HAMPDEN
IN THE TOWN COUNCIL

Order 2015-03

Adoption: December 7, 2015

Deleted: _____

ORDER ESTABLISHING LIMITATIONS ON UNRELATED ACTIVITIES
AT THE TOWN TRANSFER STATION

Deleted: FUNDRAISING

ORDERED, that, in order to minimize potential danger or inconvenience associated with internal traffic circulation, activities not related to disposal of waste, recycling, yard waste and construction debris, and/or access to the "swap shop," shall not be permitted within or around the Town of Hampden Transfer Station.

Deleted: fundraising

Deleted: the fenced-in portion of

This Order shall remain in effect until rescinded by the Town Council.

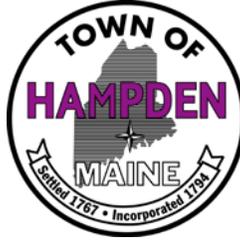
Deleted: Fundraising activities on the Transfer Station property, but outside of the fenced-in portion, may be authorized by the Director of Public Works on a case by case basis for one or more specified date and time, provided that:¶
¶
<#>any such request is received in writing at least five (5) days prior to the requested activity; and¶
<#>any such request specifies the number of participants in the requested fundraising activity, and the manner of proposed fundraising (i.e. signage, table set up, if any, etc.).¶
¶
Any authorized fundraising activity shall be subject to whatever restrictions on location or otherwise that the Director deems to best protect public safety and convenience.¶
¶

Town Clerk:

ORDERED by a majority of the Town Council:

Denise Hodsdon

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Phone: (207) 862-3034
Fax: (207) 862-5067
Email:
townmanager@hampdenmaine.gov

TO: Town Council
FROM: Angus Jennings, Town Manager
DATE: December 17, 2015
RE: Updated proposals from MRC and PERC, and Status of Legal Review

Please find enclosed:

- The final form of scope and contract for independent legal review of the updated MRC Solid Waste Agreements;
- Materials distributed at the MRC Board Annual Meeting; and
- Proposed Solid Waste Agreements received from PERC on December 16.

Proposed updated Solid Waste Agreements are available on the MRC website (www.mrcmaine.org/post-2018), and were ratified by the MRC Board at their Annual Meeting on December 16, but are not enclosed here. Note that the updated MRC documents differ from those previously reviewed by the Council. I have not yet reviewed the updated drafts to determine whether and to what extent the updated documents are responsive to the Council's questions and comments to MRC on November 17.

I attended a meeting of about twenty Town Managers last Thursday December 10 to discuss the independent legal review of the MRC documents. That review, which is now underway, is expected to be complete around mid-January. It is not known whether the form of the proposed MRC documents will change as a result of the independent legal review. However, the MRC Board's vote at their Annual Meeting to approve the documents was subject to completion of the legal review – so it would not be unexpected if the MRC Board revisits their vote and approves further updated documents in January.

The results of the independent legal review will be made available to all 187 MRC member communities, and will be shared with you upon receipt. Upon receipt of any updated MRC proposed documents, or confirmation that those documents now pending are in final form, the question of how to proceed with planning for Hampden's post-2018 Municipal Solid Waste Management will be "on the table."

This memo and accompanying materials are provided to keep the Council updated regarding this matter; however no Council action is requested at this time.

December 4, 2015

VIA E-MAIL AND U.S. REGULAR MAIL

Roger Raymond, Town Manager
Town of Hermon, Maine
PO Box 6300
Hermon, ME 04402

**Town of Hampden
RECEIVED**

DEC 10 2015

**Office of the
Town Manager**

Re: Engagement Letter

Dear Mr. Raymond:

This letter will serve to confirm that Perkins Thompson, P.A. (the "Firm") will act as counsel to the Town of Hermon (the "Town") in connection with review of an agreement between the Town and the Municipal Review Committee ("MRC") and related documents regarding solid waste disposal and management as described in the "Perkins Thompson Proposal for Legal Services," Attachment A to this letter (the "Engagement"). The Town is not engaging us for business or scientific consultation and advice; our professional services are limited to legal matters.

This letter is prompted by ethical considerations as well as our desire to have a clear understanding with the Town regarding the legal services to be performed in this Engagement and the estimated cost of those services.

By signing this letter you acknowledge that we are legal counsel to the Town only, and we are not agreeing to act as legal counsel to any officer, agent or employee of the Town, or to undertake any duties or responsibilities to any such person.

I have attached a copy of the Firm's Statement of Billing Policies, Attachment B, which is part of the terms of our Engagement.

Any dispute with respect to legal fees between the Town and the Firm shall, at the election of either party, be subject to arbitration in Maine under the procedures adopted by the Maine Board of Overseers of the Bar or such other arbitration procedure as to which the Town and the Firm may subsequently agree. Any other dispute between the Town and the Firm that arises out of or relates to this agreement or the services provided by the Firm shall also, at the election of either party, be subject to binding arbitration in Maine under the commercial arbitration rules of the American Arbitration Association or such other arbitration agreed to by the parties.

PHILIP C. HUNT
JOHN S. UPTON
PEGGY L. McGEHEE
MELISSA HANLEY MURPHY
JOHN A. HOBSON
JAMES N. KATSIARCAS
TIMOTHY P. BENOIT
J. GORDON SCANNELL, JR.
FRED W. BOPP III
MARK P. SNOW
WILLIAM J. SHELS
DAVID B. McCONNELL
PAUL D. PIETROPAOLI
RANDY J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGIE
STEPHANIE A. WILLIAMS
PETER J. McDONELL
SARA N. MOPPIN
SHAWN K. DOIL
JOSEPH G. TALBOT
LAUREN B. WELIVER
JOSEPH C. SIVISKI
JOHN W. MASLAND

While we cannot accurately predict the time required or the results obtained in this matter, we will keep you apprised of all material developments in a timely manner. We will need your full cooperation and assistance in connection with this matter.

E-mail communication has proven to be a great benefit to most clients. However, we recognize that it is technologically possible to intercept unencrypted e-mail and that there is no guarantee that unencrypted e-mail will remain private. Although we routinely communicate with many clients using unencrypted e-mail, we do not do so if the client has any concerns or instructs us not to do so. Therefore, we ask the Town to consider this issue carefully and advise us promptly if it do not wish to communicate by unencrypted e-mail. If the Town does communicate with us by e-mail, please be advised that the Firm utilizes a "spam filter" to eliminate unwanted or unsolicited e-mail. While we try to ensure that no legitimate messages are removed, the technology will occasionally remove messages that should not have been quarantined. Accordingly, if anyone sends an e-mail message to us and does not hear back from the recipient within the expected time frame, please call to confirm that the message has been received. Also, please be aware that under Maine's Freedom of Access Act and the Maine Rules of Evidence, any communications, whether by email, posted U.S. Mail or fax, generally are considered public records unless protected by statute, attorney-client privilege or work product doctrine, and that there is only a limited attorney-client privilege for attorney communication with a public officer or agency.

Please also be advised that the Firm has instituted a file retention policy whereby client files ordinarily are held for a period of eight years after they are closed. Unless we receive a request from the Town in writing, after the expiration of this eight-year period, the file in this matter may be destroyed. Regardless of whether or not such a written request is made, the Firm may decide to retain copies of some or all of the documents in the file for the Firm's archival purposes. However, we cannot guarantee that we will preserve copies of any part of the file beyond the expiration of the eight-year period.

As we are not general counsel to any of the Town, our representation of the Town is limited to the Engagement described in this Letter. We reserve the right to represent persons and entities before the Town and its boards and commissions on matters unrelated to this Engagement or to other engagements with the Town. Your signature below acknowledges that this Firm may continue to represent or may undertake in the future to represent other clients in any matter that is not substantially related to the matter that is the subject of this Engagement or other engagements with the Town, even if the interests of such clients in these matters are directly adverse to the Town and even if such representations would be concurrent, and constitutes informed consent to such representation.

We have performed a conflict check on the names Mr. Raymond has provided. We believe the Firm is free to undertake this matter. If we discover a conflict after work has begun, the Town agree to use reasonable efforts to help us resolve the conflict to the satisfaction of all parties. We do not check to determine whether other clients of the Firm may take positions on certain issues that may be adverse to or inconsistent with positions the Town may favor respecting that subject

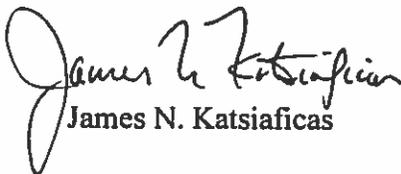
matter. The Town's signature below acknowledges and consents to the limited scope of our conflicts check and any issue conflicts.

Either of us may terminate this Engagement at any time for any reason by written notice, subject on our part to our professional obligations to the Town under the applicable rules of professional conduct. Unless previously terminated, our representation of the Town will terminate on our sending the Town our final statement for services rendered in this matter. Unless the Town engage us after termination of this matter, we will have no continuing obligation to represent the Town or advise the Town with respect to future legal developments.

I believe that this Letter summarizes the terms of our Engagement. If the Town has any questions, please let me know. So that we may have a record of our understanding, please sign and date the enclosed duplicate original of this Letter and return it to me in the enclosed self-addressed return envelope.

We look forward to assisting you.

Sincerely,

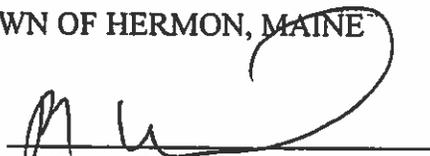

James N. Katsiaficas

Effective December __, 2015

Agreed to and Accepted:

TOWN OF HERMON, MAINE

By:


Roger Raymond,
Its Town Manager

Perkins Thompson Proposal for Legal Services

The law firm of Perkins Thompson (the "Firm") proposes to provide the following legal services for the Town of Hermon, Maine ("Town") with regard to the Municipal Review Committee, Inc.'s ("MRC") proposed documents for municipal solid waste ("MSW") management and disposal in the manner described below.

- Review of proposed agreement documents prepared by MRC (the "Proposed MRC Documents"), including but not limited to:
 1. Municipal Joinder Agreement and exhibits;
 2. Master Waste Supply Agreement and exhibits;
 3. Development Agreement between MRC and Fiberight, LLC (Feb. 4, 2015);
 4. Site Lease and exhibits;
 5. Articles of Incorporation; and
 6. By laws.
- Review of current solid waste-related documents (the "Existing Agreements"):
 1. Penobscot Energy Recovery Corporation Agreements and amendments, including but not limited to each Municipality's Waste Disposal Agreement, and Second Amended, Extended and Restated Waste Disposal Agreement (if any);
 2. MRC Agreement; and
 3. Amended and Restated Bylaws of Municipal Review Committee, Inc. (Revised as of July 23, 2014).
- Preparation of a written legal review to be provided to the Town through its Town Manager, Roger Raymond, prepared from the Town's perspective, regarding the following concerns:
 1. The Town's obligations and responsibilities under the Proposed MRC Documents;
 2. MRC's obligations and responsibilities to the Town under the Proposed MRC Documents, whether these differ between "joining" and "member" municipalities, how these differ from MRC's responsibilities under the Existing Agreements, and what the ramifications might be for joining municipalities;

3. Are there any exceptions to the MRC; Town; and joining, member, original charter, amending charter and equity municipalities' obligations?
 4. Explain the meaning and effect of the indemnification and insurance and dispute resolution provisions in the Proposed MRC Documents;
 5. Explain how the Proposed MRC Documents and obligations for joining municipalities affect the Existing Agreements for MRC and equity municipalities;
 6. Outline potential liabilities and options to joining and member municipalities should MRC's proposed Fiberright project fail or not meet expectations;
 7. Identify and describe provisions in the Proposed MRC Documents that would allow a joining or member municipality to terminate the agreements before the termination date and if there are none, should there be?
 8. Identify and describe any provisions in the Proposed MRC Documents that would allow a joining or member municipality to increase or decrease the tonnage of MSW it is required to provide if the municipality deems it necessary to do so, and if there are none, should there be?
- We understand that the work-product we prepare for the Town as part of this Engagement will be distributed among the 187 municipalities that are members of MRC, including the Town and the municipalities of Bangor, Bucksport, ██████████ Old Town, and Veazie, Maine, (the "Municipalities"), as well as the other municipal members of MRC; however, our legal services provided hereunder are for the sole benefit of and on behalf of the Town. No one other than the Town may legally rely upon Perkins Thomson's work product.
 - Perkins Thompson shall provide the written legal review to the Town within 30 days of its receipt from the Town and MRC of the proposed MRC Documents and the Existing Agreements in digital and hard copy; approximately one week before providing the final draft of that written legal review to the Town, we will travel to a meeting of the Town's and Municipalities' officials to answer questions regarding the Proposed MRC Documents.
 - The attorney primarily responsible for preparation of the legal review is James N. Katsiaficas, Esq.; however, he will be assisted by Business Practice Group attorney Mark P. Snow, Esq. and by other Firm attorneys as needed.
 - Perkins Thompson will bill this matter at the rate of \$225 per hour, which is a discount from Mr. Katsiaficas' and Mr. Snow's standard hourly rate of \$290, and is our special rate for single matter representation of governmental entities.
 - In light of the number of documents to review and compare and their length and detail, an estimate of the amount of time to examine the documents and to draft the legal review

document is approximately 40 to 55 hours, at an estimated cost of \$9,000 to \$12,375, plus the time to travel to and from and attend our meeting with the Town's and the Municipalities' officials, plus out-of-pocket disbursements. We will do our best to minimize the cost of this legal review, but these are complex documents to review, compare and describe.

- We understand that the goal here is to summarize and explain the parties' obligations, liabilities and risks so that the Town can understand those in order to:
 - (1) make informed decisions about entering into the Proposed MRC Documents, and
 - (2) request modifications to the Proposed MRC Documents to address their concerns.
- We will be available for further consultation by the Town or by the Municipalities, to advise and assist in modifying the Proposed MRC Documents, and/or to attend meeting(s) to discuss this matter at the request of the Town or the Municipalities, for the same \$225 hourly rate (plus out-of-pocket disbursements) quoted for preparation of the written legal review, subject to rate increase on or after January 1, 2017.

**Perkins Thompson, P.A.
Statement of Billing Policies**

The following policies regarding fees and other charges apply to our performance of legal services on behalf of our clients, unless other arrangements are made in writing.

(1) Consistent with ethical standards applicable to our lawyers, we charge reasonable fees for our legal services. Numerous factors go into the establishment of a reasonable fee, and the primary factors will normally be our hourly rates and the number of hours expended. Our hourly rates vary in accordance with the experience and expertise of the lawyer performing a particular service. The hourly rates of our lawyers will be supplied upon request.

(2) We normally review and, if appropriate, revise our hourly rates on an annual basis. Adjustments are usually effective January 1.

(3) Attorneys and paralegals maintain contemporaneous time records to record their time expended.

(4) Although hourly rates and hours spent are the primary factors used in computing a reasonable fee, additional factors may be considered, which include the following:

- Difficulty of a particular project and expertise required;
- Result obtained;
- Efficiency with which it is obtained; and
- Extent to which a project requires special or expedited attention or precludes other legal work.

(5) We also charge for out-of-pocket disbursements which we incur in connection with a particular matter, including:

- Long distance telephone calls and faxes;
- Copying;
- Travel expenses;
- Parking and mileage;
- Special delivery, courier, express delivery, and extraordinary mailing costs;
- Computer research charges;

PERKINS THOMPSON, P.A.
1000 BROADWAY
SUITE 2000
NEW YORK, NY 10004
TEL: 212 512 2000
FAX: 212 512 2001
WWW.PT.COM
JAMES K. KATYKIAN
TODD P. PERKINS
JACQUELINE M. BELLUSO
FRED W. BOUTER
MARK P. BROW
WILLIAM J. SHELS
DAVID B. FRODOINELL
PAUL D. METROPOLOU
RANDI J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGE
STEPHANIE A. WILLIAMS
PETER J. McDONELL
SARA N. HOPPIN
SHAWN K. DOL
JOSEPH G. TALBOT
LAUREN B. WELVER
JOSEPH C. SIKSKI
KIM W. MASLAND

- Service of process fees;
- Staff overtime (as necessary under the circumstances);
- Expert witness costs and expenses;
- Court costs and deposition charges; and
- Filing and recording fees.

For disbursement items that exceed \$100, we will generally transmit invoices to a client for direct payment. If you prefer, we can establish a separate expense retainer that will be held by us and applied against these expenses. For lesser disbursements, we will generally advance the amount and include a charge for reimbursement in our statement. You agree to be fully responsible for all such costs incurred, regardless of whether or not these costs are advanced by the Firm.

(6) We will normally submit monthly statements to a client for our fees for services and disbursements. These statements will contain a description of the services performed and disbursements paid by us. If a client's special needs require a particular form of statement, or different timing other than monthly statements, we will make every reasonable effort to fill those needs. Similarly, if you have any special policies with respect to the information you want us to include in our monthly statements, please advise us promptly. If you have not provided us with a written notice regarding an item on your monthly statement within thirty (30) days from receipt of your monthly statement, the charges on that particular monthly statement will be deemed reasonable, necessary, due and payable. It is important to us that the fees and expenses charged be fair and reasonable in relation to the services rendered and that you understand our billing procedures thoroughly. We welcome any questions you may have concerning your monthly statements or otherwise, at any time

(7) We are proud of the promptness with which we attend to our clients' legal needs and ask that our clients reciprocate by promptly remitting payment of our statements. We ask that all statements be paid in full within 30 days of their receipt. A late charge of 1.5% per month will be assessed upon all balances which remain unpaid for more than 30 days from the date of an invoice. In addition, if an account remains unpaid, we reserve the right, consistent with ethical requirements, to terminate work until the account is brought current.

(8) For new clients, as well as special projects for existing clients, we customarily request an appropriate retainer as a deposit against fees and other charges and that the client grant to us a present and continuing security interest in all retainer funds to secure all payment and performance obligations to us, however arising. Any balance remaining from the retainer deposit at the conclusion of a project will be promptly refunded.

We appreciate the opportunity to represent you, and we look forward to working with you.

MRC ANNUAL MEMBERSHIP MEETING

Cross Insurance Center
515 Main Street
Bangor, Maine 04401
December 16, 2015
3:00 – 5:00 p.m.

AGENDA

1. Call to Order
2. Welcome & Opening Remarks – MRC President, Chip Reeves
3. Results of MRC Board of Directors Election
4. Overview of Preliminary FY 2016 Budget – MRC Treasurer, Sophie Wilson
5. Overview of the MRC integrated Post 2018 recycling, processing, organics utilization and disposal system – Greg Louder
6. Overview of the Fiberight, Hampden Facility Approach to advanced processing of MSW in our region beyond 2018 – Craig Stuart-Paul, Fiberight President and CEO
7. Introduction of Project Development Partners – Craig Stuart-Paul
8. Overview of MRC economic pro forma analysis of the Fiberight project – George Aronson
9. Update on Fiberight Project state and local permitting status – Denis St. Peter, CES, Inc.
10. Overview of the Fiberight Project contract documents developed by the MRC for 2016 consideration of approval by the MRC member communities – Dan McKay, Eaton Peabody
11. MRC Board consideration of any additional revisions to the Fiberight project contract documents
12. Report on status of independent legal review of Fiberight project contract documents
13. Next steps to implement the Fiberight Project – the local contract document approval process
14. Closing Remarks – MRC Members/Board of Directors
15. Adjourn

Public Meeting – Please Post



Post 2018 Resources available on MRC website

The MRC posted the following documents on its website for Members to review before the Annual Meeting on December 16. Please visit www.mrcmaine.org/post-2018/ to view the following Post 2018 Planning Documents:

- 1) Municipal Joinder Agreement (red-line from October 9, 2015 version)
- 2) Master Waste Supply Agreement (red-line from October 9, 2015 version)
- 3) Site Lease (red-line from October 9, 2015 version)
- 4) MRC Restated Articles of Incorporation Exhibit A
- 5) Amended and Restated Bylaws (clean)
- 6) Amended and Restated Bylaws (red-line)
- 7) Sample Town Warrant

In addition, the MRC has produced additional documents to address questions raised throughout this planning process. The following documents are also available on the Post 2018 webpage:

- 1) Solid Waste Management Capacity in Maine
- 2) Recycling Post-2018
- 3) MRC Selection of Fiberright Technology
- 4) Equity Charter Municipalities Assets: Shares of Custody Account and Tip Fee Stabilization Fund
- 5) Equity Charter Municipalities Assets: Shares of Debt Service Reserve Fund and Limited Partnership Shares in the PERC Partnership
- 6) Historical Deliveries by Charter Municipalities to PERC
- 7) Updated FAQs

If you would like a hard copy of any of the resources listed above mailed to you, please contact Greg Lounder at (207) 664-1700 or glounder@mrcmaine.org. Please note that following the finalization of the legal agreements, all MRC Members will receive a hard copy in the mail.

MRC needs your local legislative approval from January – May 2016.

Municipalities whether Equity Charter or Charter members that do not sign up between now and May 1, 2016 will forfeit a favored position (\$2.21 per ton) and will not be eligible for rebates during the first term (15 years). The MRC Board will consider waiving this if a municipality can demonstrate good faith for the delay (i.e. if your town meeting is scheduled for May 1 or later).

Upon approval of a total of 150,000 tons of delivery commitments to Fiberright, the MRC will purchase and develop the proposed site in Hampden. Fiberright will close on financing and begin construction.

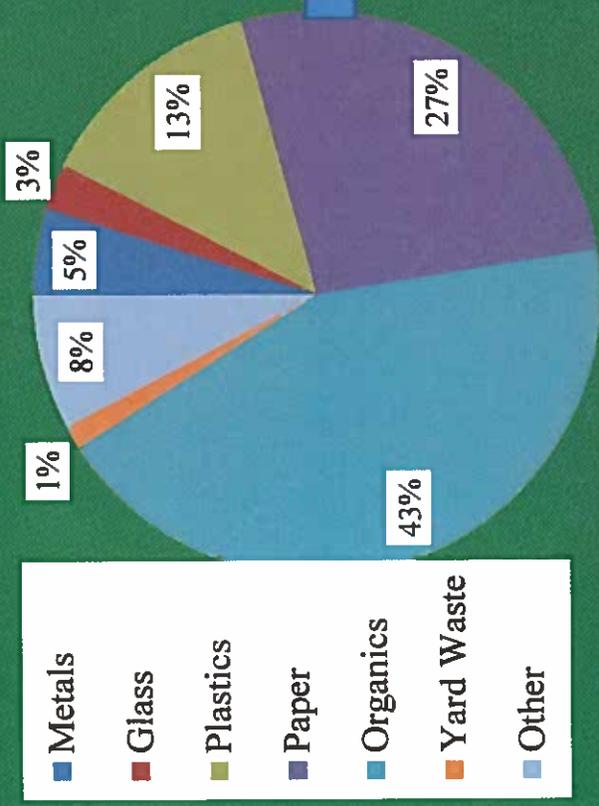
Economic Analysis of Fibrigh

George Aronson, CRMC

MSW composition and products

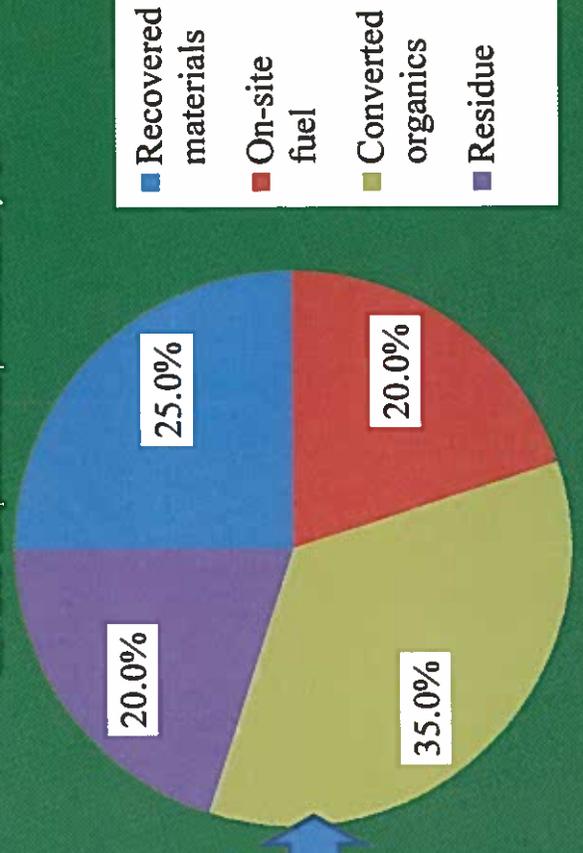
Maine MSW Composition

Source: 2011 Residential Characterization Study,
Professor G. Criner and T. Blackmer, University of Maine



Products of the Fibrigh Process

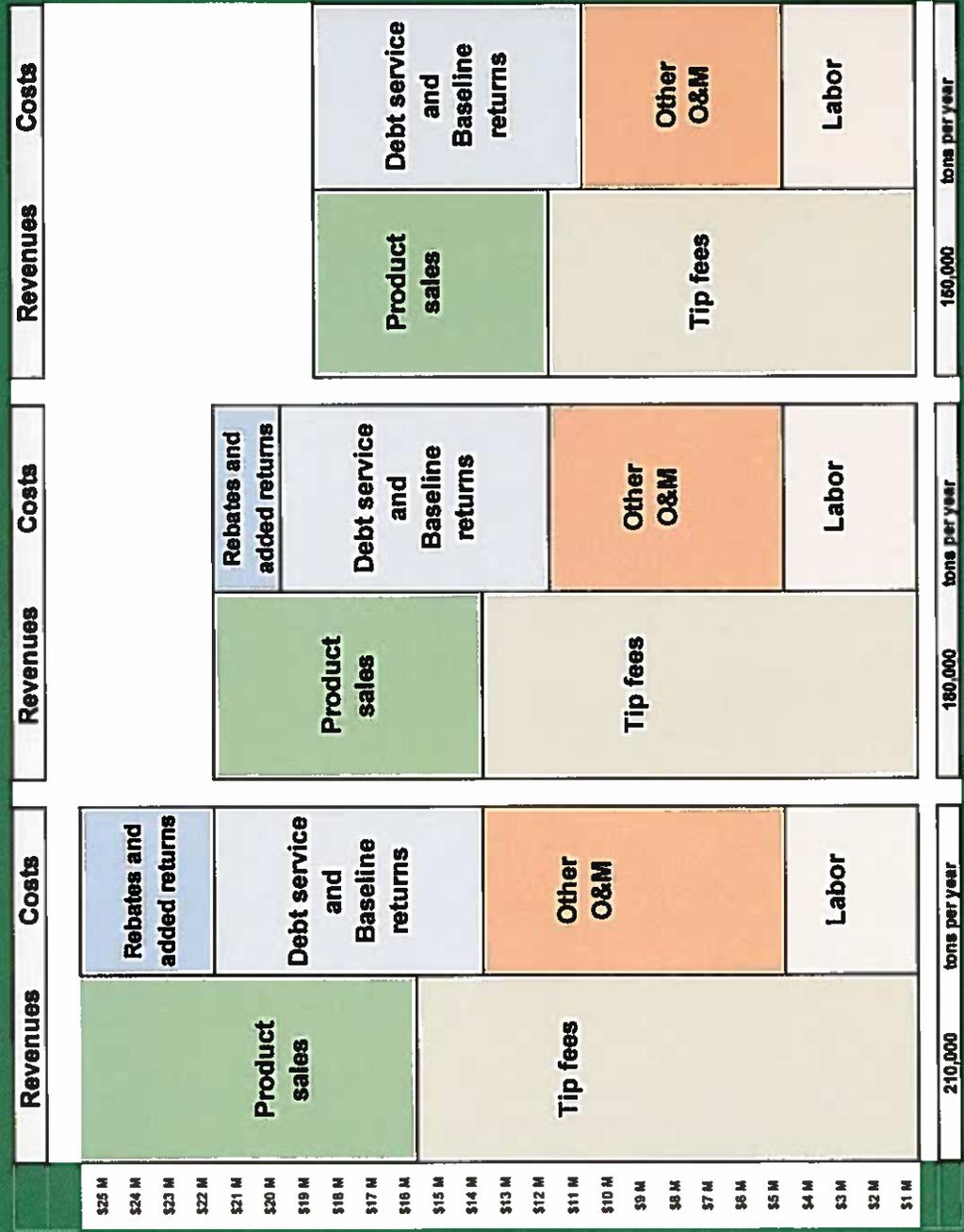
Actual shares of products will vary with MSW composition and process recovery rates



Economic Analysis of Fiberight

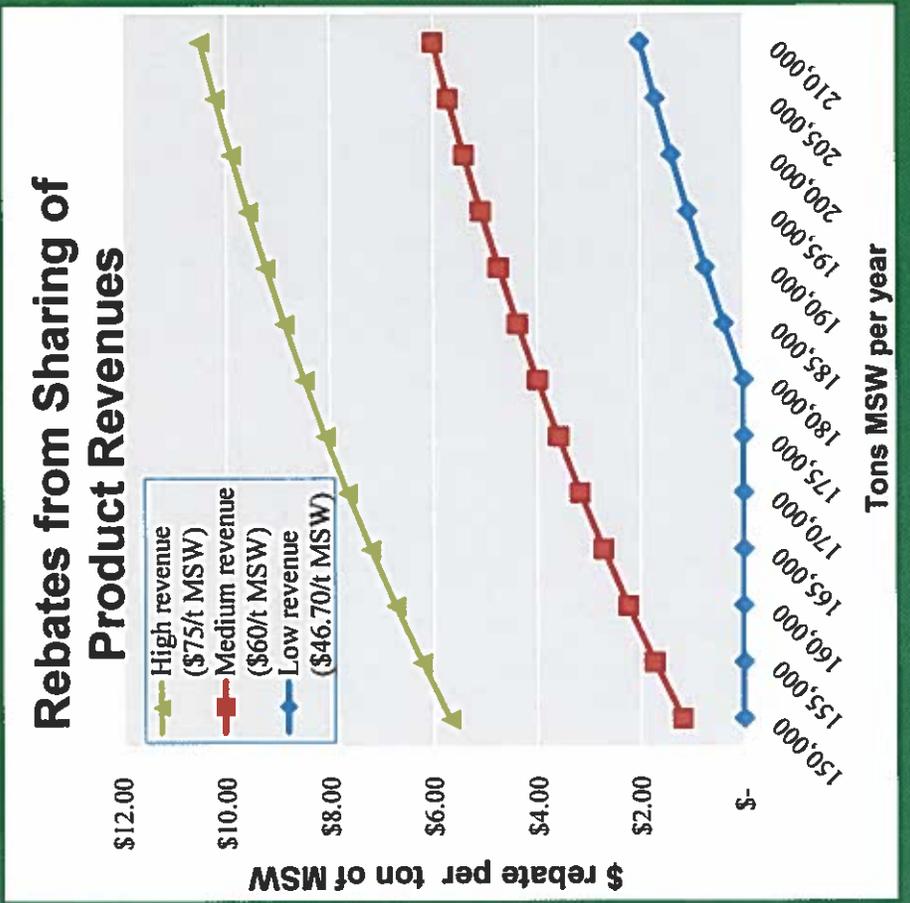
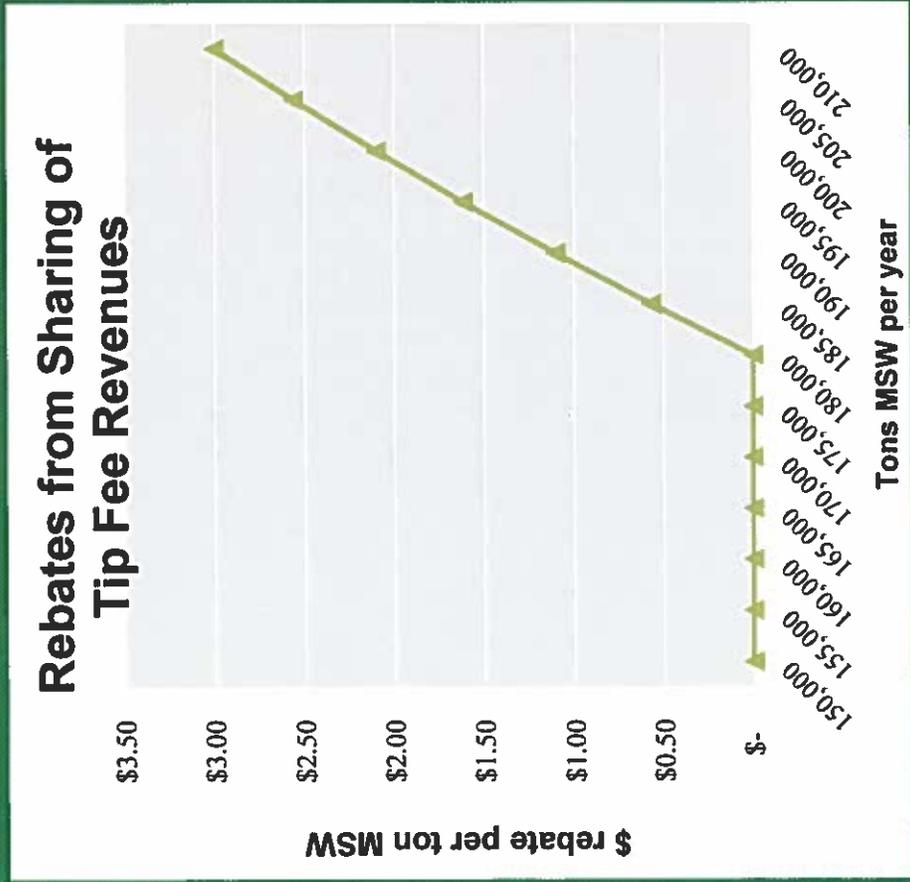
George Aronson, CRMC

- Tip fees cover labor and O&M costs
- Product sales provide returns
- More tons bring more revenues, lower per-ton costs and more rebates



Economic Analysis of Fiberight

George Aronson, CRMC





Penobscot Energy Recovery Company

P.O. Box 160 • 29 Industrial Way
Orrington, Maine 04474
(207) 825 - 4566

ESOCO ORRINGTON, LLC.
Plant Operator

MEMORANDUM

FROM: John Noer *John*
TO: Penobscot Energy Recovery Company Municipal Customers
RE: PERC Post-2018 Final Solid Waste Agreement and Schedule A
DATE: December 14, 2015

In preparation for the expiration of your current contract for municipal solid waste disposal in 2018, are working hard to give you new options that offer your community proven waste solutions with long-term price stability, flexibility, local control and transparency. We at PERC wish to continue our longstanding relationship with your community. The PERC facility is permitted, fully compliant with all environmental regulations and, based on a recent report from HDR Engineering, Inc., is in very good condition and can operate effectively for at least the next 20 years.

We are pleased to be able to offer you two different but complementary plans:

1. *PERC Standard Option:* An agreement to send your non-recycled municipal solid waste to PERC at specified tipping fees, similar to what you have now but with some important improvements, such as no guaranteed annual tonnage.
2. *Pay-as-You Throw Option:* As a complement to the PERC standard option, an exciting new pay-as-you-throw (PAYT) option in cooperation with WasteZero, where all of your waste disposal costs – including tipping fees – could be paid through the sale of bags. We are committed to increasing recycling and material recovery in Maine and have developed this option to help you increase recycling and reduce the amount you pay to dispose of trash. The PAYT option represents a new path forward in terms of taking waste disposal costs out of your budget and improving your existing recycling rates.

We want to meet with you, either individually or as part of a regional meeting, to go over these options in more detail and address any questions or concerns you may have. We will contract you directly to schedule a meeting; in the meantime, please contact Rod Carr who is assisting us locally at (207) 622-6924 or Tamara Haley at (612) 284-3380 or thaley@usaegroup.com for questions or to set up a meeting.

PERC STANDARD OPTION

A few months ago we asked for your comments on a draft agreement. Based on the feedback we received, we've made a few minor changes to the agreement to provide clarity. These changes are listed in a separate memo in front of the attached contract.

Here are some of the Post-2018 contract highlights:

- **LONG-TERM, FIXED PRICE AGREEMENTS** The tipping fees are \$84.36 per ton for a 15-year agreement; \$89.57 for a 10-year agreement. There will be no increases over the term of the agreement other than standard increases based on the Consumer Price Index (CPI).

- **NO GUARANTEED ANNUAL TONNAGE (GAT)** The new agreement is “term-based” as opposed to “tonnage-based,” and takes into account changing market conditions and improved recycling efforts by removing the municipal commitment to a guaranteed tonnage requirement.
 - **LOCAL CONTROL** You retain control over how trash is collected in your community and how it is transported to the PERC facility, and you can tailor waste disposal and recycling programs to meet the needs of your community without needing to obtain outside approval.
 - **GUARANTEED BACK-UP DISPOSAL** Similar to what is in place today, we have back-up disposal agreements in place in the unlikely event that PERC should not be operational for any reason what-so-ever.
-

WASTEZERO PAYT OPTION

PERC is committed to increasing recycling across its service area, and we are eliminating the GAT to help you do that. Our facility offers a world-class disposal option, but we only want you to pay to dispose of things that can not otherwise be reduced, reused or recycled. That’s why we are excited to join forces with WasteZero, a national leader in municipal waste reduction, to develop pay-as-you-throw (PAYT) program alternatives for non-recyclable MSW. These alternatives will make it even easier for you to reduce trash and save money.

The advantages of these alternatives are significant:

- **STRONG LOCAL CONTROL** You decide what costs are built into the sale of bags, everything from tipping fees to transportation, to recycling. Additionally, agreements can be structured to generate revenue through program rebates, but again this is up to your community to decide.
- **REDUCE SOLID WASTE** WasteZero’s PAYT programs cut solid waste tonnage by an average of 44%. Because residents pay on a per-bag basis, there is incentive to reduce MSW and increase recycling.
- **MOVE TRASH TO UTILITY PRICING** WasteZero’s PAYT Programs allow municipalities to charge residents fairly for trash services – just like electricity and water. This allows communities to first reduce costs (by reducing tonnage) and then remove the remainder from your city or town budget to whatever extent you feel is appropriate.

As with the PERC standard agreement, WasteZero PAYT options offer you local control, flexibility and the added protection of back-up disposal agreements. Enclosed is additional information from WasteZero about the services they can offer your town and the effectiveness of their programs.

We urge you to carefully consider not only our two waste disposal options, but any other proposals that are put before you. Compare all of them. Ask lots of questions. Determine what will work best for you because decisions you make in the next few months will have implications for your community and its taxpayers for many years to come.

We want to work with you to find solutions to your solid waste needs and not be just another vendor selling something to your town. The options we have put before you reflect that, and we look forward to meeting with you to discuss them. Again, we will contract you directly to schedule a meeting; in the meantime, please contact Rod Carr who is assisting us locally at (207) 622-6924 or Tamara Haley at (612) 284-3380 or thaley@usaegroup.com for questions or to set up a meeting.

We hope to hear from you soon.

WASTE DISPOSAL COMPARISON CHART

What is important to you?	PERC Offering	With WasteZero PAYT	Other Plans
A permitted, fully compliant facility	✓		?
Predictable operating costs	✓		?
Proven technology	✓		?
Long-term, fixed price agreements	✓		?
Strong local control and flexibility	✓		?
No annual tonnage requirements	✓		?
Guaranteed back-up disposal	✓		?
No debt commitment	✓		?
No general obligation for local taxpayers	✓		?
Achieve municipal recycling goals		✓	?
Reduced solid waste disposal		✓	?
Fund all or part of solid waste expenditures, including tipping fees and collection		✓	?



WasteZero Trash Metering™



Gloucester's Pay As You-Throw trash program is being credited with having kept more than 2,300 tons of rubbish out of the incinerator in 2009, while boosting recycling by 360 tons. The implementation of this program has already exceeded our expectations.

From "30% savings on city trash in first year."
GloucesterTimes.com, March 7, 2010
WasteZero customer since 2009

WasteZero Trash Metering™ programs offer more services, supplies—and results—than traditional PAYT programs.

Across the country, pay-as-you-throw (PAYT) programs have gained momentum and popularity as municipalities recognize the growing challenges they face with the increasing quantity of their municipal solid waste—and where to put it. As landfills fill up and close, as tipping fees increase, and as incinerator popularity wanes, residents are taking more responsibility for the cost of their garbage. PAYT programs, where residents use designated bags or tags and are charged based on the amount of trash they throw away, make sense—the less trash thrown out, the less the resident pays.

But traditional PAYT programs are not without drawbacks. Enter WasteZero Trash Metering.

Traditional Pay-As-You-Throw vs. WasteZero Trash Metering

Traditional PAYT has been described as the cheapest, most effective, and most flexible option for increasing recycling, composting, and source reduction.¹

But why do only about 26% of US communities adopt PAYT?

Program Type	Benefits	WasteZero Trash Metering	PAYT
Traditional PAYT Programs	Help reduce trash	✓	✓
WasteZero Trash Metering™ Programs	Implement easily and quickly	✓	
	Easily understood by residents	✓	
	Manufacture, customize, distribute, warehouse, and inventory its own plastic trash bags—right here in the US	✓	
	Are turnkey	✓	
	Offer program design	✓	
	Make annual pricing recommendations	✓	
	Plan program launch	✓	
	Spearhead communication (print, web, press)	✓	
	Offer Retail Store Distribution™ (of WasteZero Trash Metering bags), including: <ul style="list-style-type: none"> • Account receivable collections • Logistics • Inventory monitoring and controls 	✓	
	Provide accounting and reporting for program revenues and costs	✓	
Reduce municipal solid waste tonnage by 44% and more	✓		

WasteZero reduces a community's solid waste going into landfills by 44%.
At \$50 to \$100 a ton for tipping fees, what would that mean to your community?

¹ Skumatz L. Recycling Incentives. Resource Recycling, 2011, March:19



Concord, NH, saw its solid waste volume decrease nearly 50% and recycling increase 75% within three months of implementing PAYT—to the tune of a \$528,000 savings per year in reduced disposal costs for the city.

Huffington Post
 “Help lame my trash,” April 15, 2010

WasteZero Delivers Resident-Friendly Implementation



- 1 Ninety days in advance, the program is introduced to residents via web, print, and press.
- 2 Customized bags featuring the town’s municipal seal are produced for resident use.
- 3 WasteZero stocks the municipality’s bags for easy access by residents in supermarkets across town.
- 4 The program goes live. From there, trash is being “metered” using WasteZero Trash Metering bags.
 - Recycling is collected in city-provided bins or totes (or at transfer station).
 - Trash is collected (or accepted at transfer stations) only in municipality’s approved bags.



Maybe it’s the wallet talking or maybe the switch raised everyone’s awareness but the move by Marshfield to a Pay-As-You-Throw trash program has had a remarkable effect on the town’s budget and the environment.

Debbie Sullivan
 Recycling Coordinator, Marshfield, MA
 WasteZero customer since 2010

WasteZero Trash Metering Results

Within 30-60 Days	<ul style="list-style-type: none"> ✓ Trash tonnage to landfills and incinerators is reduced by 30% to 50%.¹ ✓ Recycling rates increase as landfill/incinerator tonnage decreases. ✓ The program is operating smoothly with 99%+ compliance. 	Over Time	<ul style="list-style-type: none"> ✓ Tonnage can be reduced by an additional 10% to 30%¹, saving even more in landfill- and incinerator-related expenses. ✓ Recycling revenues rise as more material is diverted. ✓ Residents become increasingly satisfied as they understand the benefits of the program.
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¹ Assuming municipality has no managed waste reduction program at inception.

About WasteZero

WasteZero is the nation’s leading provider of proven and practical waste reduction programs. We partner with municipalities throughout the US to develop innovative programs and services that reduce the amount of waste deposited into landfills and burned in incinerators, increase recycling, and generate savings and revenue. With more than 850 municipal partners—more than any other company in the US—WasteZero provides best-in-class services that include WasteZero Trash Metering™ programs and Pay As-You-Throw conversion programs proven to reduce solid waste 44% annually on average.

WasteZero manufactures 99% of the supplies that support our programs, including customized plastic trash bags made in the US with the industry’s state-of-the-art technology. Our Retail Store Distribution Program™ offers trash bag warehousing, inventory management, accounting and reporting, and more. WasteZero has offices in Cambridge, MA, Raleigh, NC, Murrells Inlet, SC and Chicago, IL. For more information, please visit www.wastezero.com or call 800-866-3954.

Find out more at www.wastezero.com

WASTEZERO PAYT SUCCESS STORIES: WATERVILLE, ME



IN THE PROGRAM'S FIRST SIX MONTHS, THE CITY SAW:

53%

decrease in solid waste tonnage

\$78,000

in disposal savings

1,075

tons of solid waste diverted

16,000
POPULATION

\$33,000
MEDIAN INCOME/HOUSEHOLD

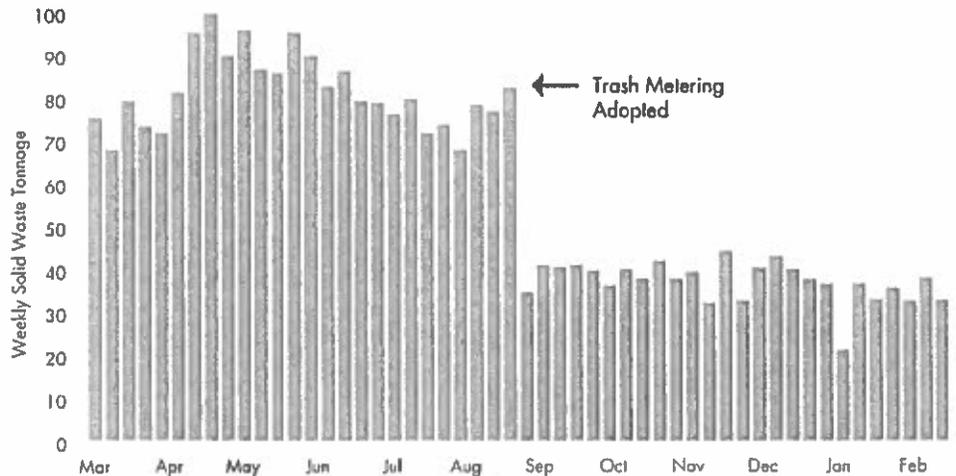
**BAG-BASED PAYT WITH
CURBSIDE TRASH & SINGLE-
STREAM RECYCLING
COLLECTION**

USING PAY-AS-YOU-THROW TO BRING CURBSIDE RECYCLING

When the city of Waterville, Maine, began PAYT, it chose to use some of the proceeds of the program to fund a curbside single-stream recycling system that residents had been clamoring for.

At the six-month mark, the program was exceeding all of its waste reduction and financial targets.

WATERVILLE ME WEEKLY SOLID WASTE TONNAGE



Source: Waterville Department of Public Works

ANNUAL POUNDS OF TRASH PER CAPITA



WasteZero
Save Money. Reduce Waste.

WASTEZERO PAYT SUCCESS STORIES: ELIOT, ME



IN THE PROGRAM'S FIRST FOUR MONTHS

Trash volume dropped

57%

(from 268 tons to 116 tons)

The Town saved

\$8,589

(decreasing their incineration expenditure from \$15,236 to \$6,647)

6,200
POPULATION

\$75,000
MEDIAN INCOME/HOUSEHOLD

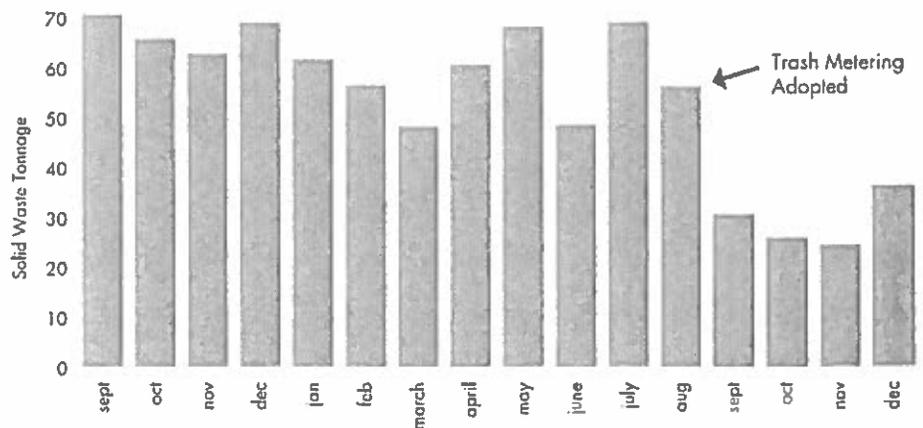
BAG-BASED PAYT AT THE
DROP-OFF CENTER

57% TRASH IN REDUCTION IN JUST FOUR SHORT MONTHS!

The small town of Eliot, ME decided to find a way to reduce the tax burden on residents. To address these efforts, in early September, 2013, the Town kicked off its WasteZero PAYT program.

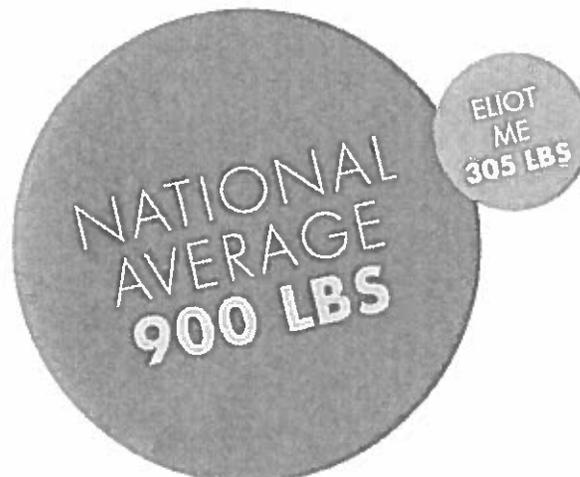
In four short months, the amount of trash generated dropped by more than half, and the Town saved close to \$9,000, putting them on a path to exceed their projected first-year savings.

ELIOT, ME. SOLID WASTE TONNAGE, Sept. 2012 - Dec. 2013



Source: Eliot Department of Public Works

ANNUAL POUNDS OF TRASH PER CAPITA



WasteZero[®]
Save Money Reduce Waste

KAMINSKI LAW OFFICE, PLLC
TOWN CENTER OFFICE PLAZA
3535 PLYMOUTH BOULEVARD
SUITE 211
PLYMOUTH, MINNESOTA 55447

TO: John Noer
FROM: Stephen Kaminski
DATE: December 14, 2015
SUBJECT: Changes to Waste Disposal Agreement

Attached is the revised Waste Disposal Agreement that should be delivered to the municipalities. I have made several small changes that should be highlighted to each of the municipalities as follows:

1. Due to the positive feedback we have received from various municipalities, I have changed Section 5 so as to delete the requirement that PERC receives commitments for a minimum amount of solid waste from the municipalities.

2. I added the contact information for Penobscot Energy Recovery Company, Limited Partnership in Section 9(a).

3. In Schedule A, I have changed Section 2 so that the municipalities know that PERC is guaranteeing the Tipping Fee through June 30, 2016.

4. In Schedule A, I changed the beginning of Section 3(a) to more clearly state that the amount of the "Estimated Tonnage" that is provided by the municipality is just an approximation and that this "Estimated Tonnage" is NOT a guarantee, in any way, as to the amount of solid waste that the municipality will deliver to the PERC facility.

5. In Schedule A, I have changed Section 4 so as to delete the provision allowing the tipping fee to be increased due to a change in law.

Other than the changes listed above, no other changes have been made to the Waste Disposal Agreement.

Let me know if you have any questions.

Stephen

WASTE DISPOSAL AGREEMENT

THIS WASTE DISPOSAL AGREEMENT is made and entered into as of the ____ day of _____, 2015, by and between **PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP**, a Maine limited partnership, and _____, a _____.

RECITALS:

WHEREAS, the Municipality needs a comprehensive, environmentally sound, reliable, long-term management strategy for handling the present and projected volumes of non-hazardous Solid Waste generated within the Municipality;

WHEREAS, it is the policy of the State of Maine, as directed through the State of Maine's adoption of the Solid Waste Hierarchy, to reduce the volume of Solid Waste going into landfills, to recycle Solid Waste whenever possible, and to maximize resource recovery;

WHEREAS, improved waste management within the region of which the Municipality is a part will serve the goals of (1) recovering energy from waste; (2) reducing the indiscriminate disposal of waste; (3) coordinating Solid Waste management among political subdivisions; and (4) developing and maintaining financially secure waste facilities;

WHEREAS, the State of Maine requires that each municipality provide for the disposal of domestic and commercial non-hazardous Solid Waste generated within such municipality;

WHEREAS, Solid Waste issues present communities with serious long-term financial, management, governmental and technical problems in the disposal of Solid Waste;

WHEREAS, the effective management of Solid Waste is crucial to the continued financial well-being of the Municipality and the region of which it is a part;

WHEREAS, PERC owns and operates the PERC Facility that recovers certain recyclable materials and otherwise converts Solid Waste into energy in the Town of Orrington, Penobscot County, Maine;

WHEREAS, the Municipality is willing to commit to delivering to PERC and the PERC Facility the Solid Waste generated within the Municipality so as to assure the ongoing supply of Solid Waste to the PERC Facility for a fixed period of time as defined below; and

WHEREAS, this Agreement will only become effective upon the satisfaction of certain requirements as provided in Section 5 below.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises of the parties hereto, and the mutual benefits to be gained by the performance hereof, the parties hereto agree as follows:

1.) Definitions. The terms defined in this Section 1 (except as may be otherwise expressly provided in this Agreement or unless the context otherwise requires) shall, for all purposes of this Agreement, have the following respective meanings:

(a) Acceptable Waste. The term "Acceptable Waste" shall mean all combustible Solid Waste that the Municipality shall deliver, or cause to be delivered, to the PERC Facility for disposal as may be limited by federal, state, and local laws, ordinances, permits, regulations, approvals and restrictions as they may apply to the receiving facility except for the following:

- (1) demolition or construction debris from building and roadway projects or locations;
- (2) liquid wastes or sludges;
- (3) abandoned or junk vehicles;
- (4) Unacceptable Waste;
- (5) dead animals or portions thereof or other pathological wastes;
- (6) water treatment facility residues;
- (7) tree stumps;
- (8) tannery sludge;
- (9) waste oil;
- (10) discarded white goods such as freezers, refrigerators, washing machines, etc.;
- (11) electronic waste including, without limitation, television sets, computers, computer monitors, and computer accessories) all as determined by PERC from time-to-time;
- (12) Acceptable Waste that, in the reasonable judgment of PERC and based solely upon a visual inspection of the Acceptable Waste, has a BTU content of less than four thousand (4,000) BTUs per pound unless the Acceptable Waste fails to meet the aforementioned BTU minimum requirement solely because of the moisture content of such Acceptable Waste and such moisture content is due primarily to abnormally wet weather conditions; or

(13) Waste which, in the reasonable judgment of PERC and based upon a visual inspection at the time of deliver, could, if processed, result in (a) damage to the PERC Facility, (b) the interruption of normal operations of the PERC Facility, or (c) PERC incurring extraordinary processing or maintenance costs.

(b) Municipality. The term "Municipality" shall mean _____.

(c) PERC. The term "PERC" shall mean Penobscot Energy Recovery Company, Limited Partnership, a Maine limited partnership.

(d) PERC Facility. The term "PERC Facility" shall mean that certain waste-to-energy facility owned by PERC and located on Industrial Way in Orrington, Maine.

(e) Solid Waste. The term "Solid Waste" shall mean non-hazardous solid materials with insufficient liquid content to be free-flowing which are of no value to the immediate source from which they emanate as evidenced by their disposal, discard, or abandonment without consideration in return including, but not limited to, ordinary household, municipal, institutional, and commercial wastes, all as may be defined or limited by applicable federal, state and local laws, ordinances, permits, regulations, licenses, approvals, and restrictions.

(f) Solid Waste Hierarchy. The term "Solid Waste Hierarchy" shall mean the enunciated state government priorities with respect to the generation and disposal of solid waste within the State of Maine as set forth in 38 M.R.S. §1302 or any successor thereto.

(g) Term. The term "Term" shall have the meaning specified in Section 6.

(h) Tipping Fee. The term "Tipping Fee" shall have the meaning specified in Section 3(c) below.

(i) Transportation Vehicles. The term "Transportation Vehicles" shall mean motorized vehicles necessary for the Municipality to transport (or cause to be transported) the Acceptable Waste to the PERC Facility including, without limitation, tractors, trailers, and "packer" trucks (front load and rear load), all of which must be self-unloading.

(j) Unacceptable Waste. The term "Unacceptable Waste" shall mean all Solid Waste that is not Acceptable Waste including, without limitation, (a) any material that by reason of its composition, characteristics or quantity is ineligible for disposal at the facility in question pursuant to any applicable federal, state or local laws, rules, regulations, or permits; (b) hazardous, toxic, radioactive, hospital or laboratory wastes or substances; or (c) any other material that the receiving party reasonably concludes would require special handling outside the normal course or presents an endangerment to its facility, the public health or safety, or the environment.

2.) Representations and Warranties. Each party hereto represents and warrants to the others that:

- (a) it is duly organized, validly existing, and qualified to do business and is in good standing in every jurisdiction in which this Agreement requires its performance;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action by such party;
- (d) the execution and delivery of this Agreement by such party and the performance of the terms, covenants and conditions contained herein will not violate the articles of incorporation or by-laws (or other constituent documents) of such party, or any order of a court or arbitrator, and will not conflict with and will not constitute a material breach of, or default under, the provisions of any material contract by which such party is bound;
- (e) it and any subcontractors have all necessary permits, licenses and other forms of documentation, and its personnel have received all necessary training including, but not limited to, health and safety training, required to perform its respective obligations hereunder; and
- (f) These warranties shall survive the expiration or earlier termination of this Agreement.

3.) Municipality Delivery Obligations. During the Term, the Municipality agrees to the following:

- (a) The Municipality shall deliver all Acceptable Waste that is generated within the Municipality to the PERC Facility. The Municipality further agrees that it will not deliver Acceptable Waste collected by the Municipality to any landfill, or other solid waste disposal facility, except in instances where it first obtains prior written consent from PERC to do so. Furthermore, in the event that the Municipality uses a transfer station (or any other type of unloading, loading or transloading facility), Municipality acknowledges that Municipality is obligated to ensure that any Solid Waste delivered to such transfer station shall be delivered to the PERC Facility. The Municipality agrees to use its best efforts to avoid delivering any Unacceptable Waste to the PERC Facility and shall not knowingly mix any Unacceptable Waste with Acceptable Waste.
- (b) The Municipality acknowledges and agrees that the Municipality (or a hauler or other designated representative hired by the Municipality) may be denied entrance to the PERC Facility (or to a transfer station serving the PERC Facility) by PERC if Solid Waste is delivered at any time other than the PERC Facility's (or transfer station's) standard receiving hours or if the Municipality has not paid the Tipping Fee, or if PERC has a reasonable basis to believe that a vehicle contains Unacceptable Waste.
- (c) The Municipality shall (1) deliver to the PERC Facility the estimated tonnage of Solid Waste; and (2) pay to PERC the tipping fee (the "Tipping Fee") for each ton of

Solid Waste delivered by the Municipality to the PERC Facility as described on Schedule A which is attached hereto and incorporated herein by reference.

4.) PERC's Obligations. During the Term, PERC agrees to the following:

(a) PERC will accept all of the Acceptable Waste delivered by the Municipality to the PERC Facility.

(b) That PERC currently has, and shall have throughout the Term, the ability and capacity to accept the Acceptable Waste.

(c) Deliveries by the Municipality to the PERC Facility of the Acceptable Waste shall be recorded separately. Unless otherwise agreed to by the parties hereto, each incoming Transportation Vehicle shall be labeled with a unique vehicle number and hauler code. Each incoming Transportation Vehicle shall be individually weighed at the time of arrival at the PERC Facility to determine the incoming Transportation Vehicle's gross truck weight. After being unloaded, but prior to departing from the PERC Facility, the incoming Transportation Vehicle shall be weighed empty at the PERC Facility to determine its tare weight (to the nearest hundredth of a ton).

(d) A multi-part weigh ticket shall be produced for each such incoming Transportation Vehicle which weigh ticket shall show (1) the incoming Transportation Vehicle's tare and gross truck weights, (2) the number of tons of Acceptable Waste being delivered to the PERC Facility by the incoming Transportation Vehicle (to the nearest hundredth of a ton), (3) the time of the delivery, and (4) the incoming Transportation Vehicle's vehicle identification number. The weigh ticket shall be signed by PERC's scale house operator and the driver of the incoming Transportation Vehicle. PERC and the driver shall each receive a copy of the weigh ticket.

(e) PERC shall retain all weigh tickets for a period of not less than three (3) years. The weight record shall be used by PERC as the basis for invoicing the Municipality. The Municipality shall have the right to inspect PERC's weight records of Acceptable Waste deliveries upon reasonable written request. Such inspections shall be conducted during business hours in such a manner as to not unreasonably interfere with PERC's business operations.

(f) PERC shall submit a weekly invoice to the Municipality indicating (i) the number of tons of Acceptable Waste disposed of at the PERC Facility during the prior month; and (ii) the fees due therefor pursuant to Section 3. All such invoices shall be due and payable by the Municipality within thirty (30) days from the date of the invoice.

5.) Necessity of Delivery Obligations. Both the Municipality and PERC acknowledge and agree that this Agreement is being signed so that (a) the Municipality can be assured of continuing the Municipality's comprehensive and environmentally sound disposal of its non-hazardous Solid Waste generated within the Municipality; and (b) PERC can be assured of a steady supply of Solid Waste from the Municipality to the PERC Facility for a fixed period.

After signing this Agreement, both the Municipality and PERC acknowledge and agree that PERC needs to receive commitments for the delivery and receipt of Acceptable Solid Waste from other municipalities and private businesses so as to assure the continued operation of the PERC Facility.

6.) Term. The Term of this Agreement shall begin on April 1, 2018 and shall expire on the date specified in Schedule A (including any renewals thereof as provided in Schedule A) unless earlier terminated as provided herein (the "Term").

7.) Termination. The parties hereto acknowledge and agree that this Agreement shall terminate as follows:

- (a) Except as provide in Schedule A (relating to the automatic renewal of the Agreement), upon the expiration of the Term; or
- (b) Upon mutual written agreement of the Municipality and PERC; or
- (c) By either party by providing written notice to the other party if the other party commits a material breach of this Agreement, and the breach is not cured within sixty (60) days after receipt of written notice from the party not in breach, stating the nature of the breach; or
- (d) In the event of a "Deemed Termination" by the Municipality as that term is defined in Schedule A; or
- (e) By either party, in the event that PERC does not receive written commitments for the delivery of Solid Waste as provided in Section 5 above; or
- (f) By either party by providing written notice to the other party in the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the other party, or the appointment with or without such other party's consent of an assignee for the benefit of creditors or of a receiver for such other party, or the going into liquidation voluntarily or otherwise for the making of a composition with creditors of such other party.

8.) Indemnification. PERC agrees to indemnify, defend and hold harmless the Municipality and its managers, employees and agents, and the Municipality agrees to indemnify, defend and hold harmless PERC and its directors, officers, owners, managers, employees and agents, from and against all loss, liability, damage and expense (including attorneys' fees and expenses incurred in enforcing this indemnification), arising out of or relating to (i) any breach by an indemnifying party of this Agreement, (ii) any negligent or willful act or omission of an indemnifying party, or (iii) any violation by an indemnifying party of applicable laws, regulations, permits or licenses. The indemnifying party shall be entitled to control (at its sole expense) the defense of any claim, action, suit or proceeding giving rise to an obligation of such indemnifying party to provide indemnification under this Section 8; provided, however, that no settlement thereof may be entered into without the written consent of the indemnifying party and the indemnified party, which consent shall not be unreasonably withheld, delayed or conditioned.

9.) Miscellaneous.

(a) Notices. All notices to be given under this Agreement shall be in writing and delivered personally, or shall be mailed by U.S. Express, registered or certified mail, return receipt requested or an overnight service with receipt as follows:

PERC Penobscot Energy Recovery Company, Limited Partnership
 29 Industrial Way
 Orrington, Maine 04474
 Attn: John Noer

The Municipality _____

(b) Governing Law. This Agreement and any issues arising hereunder or relating hereto shall be governed by and construed in accordance with the laws of the State of Maine except for conflicts of laws provisions that would apply the substantive law of another state.

(c) Venue. The parties hereto agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated only in the state and federal courts having jurisdiction over the parties hereto.

(d) Limitation of Liability. Neither party shall be liable to the other for special, incidental, exemplary, punitive or consequential damages including without limitation loss of use, loss of profits or revenues, or cost of substitute or re-performed services, suffered, asserted or alleged by either party or any third party arising from or relating to this Agreement, regardless of whether those damages are claimed under contract, warranty, indemnity, tort or any other theory at law or in equity.

(e) Disclaimer of Joint Venture, Partnership, and Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon either party. Neither party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other party.

(f) Force Majeure.

(1) "Force Majeure" shall mean any act, event or condition materially and adversely affecting the ability of a party to perform or comply with any material obligation, duty or agreement required under this Agreement, if such act, event, or condition is beyond the reasonable control of the nonperforming party or its agents relying thereon, is not the result of the willful or negligent action, inaction or fault of the party relying thereon,

and the nonperforming party has been unable to avoid or overcome the act, event or condition by the exercise of due diligence, including, without limitation: (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (ii) an act of public enemy, war, blockage, insurrection, riot, general unrest or restraint of government and people, civil disturbance or disobedience, sabotage, act of terrorism or similar occurrence; (iii) a strike, work slowdown, or similar industrial or labor action; (iv) an order or judgment (including without limitation a temporary restraining order, temporary injunction, preliminary injunction, permanent injunction, or cease and desist order) or other act of any federal, state, county or local court, administrative agency or governmental office or body which prevents a party's obligations as contemplated by this Agreement; or (v) adoption or change (including a change in interpretation or enforcement) of any federal, state or local law after the Execution Date of this Agreement, preventing performance of or compliance with the obligations hereunder.

- (2) Neither party shall be liable to the other for damages without limitation (including liquidated damages) if and to the extent such party's performance is delayed or prevented due to an event of Force Majeure. In such event, the affected party shall promptly notify the other of the event of Force Majeure and its likely duration. During the continuation of the Force Majeure Event, the nonperforming party shall (i) exercise commercially reasonable efforts to mitigate or limit damages to the performing party; (ii) exercise commercially reasonable due diligence to overcome the Force Majeure event; (iii) to the extent it is able, continue to perform its obligations under this Agreement; and (iv) cause the suspension of performance to be of no greater scope and no longer duration than the Force Majeure event requires.
- (3) In the event of a delay in either party's performance of its obligation hereunder for more than sixty (60) days due to a Force Majeure, the other party may, at any time thereafter during the continuation of delayed performance, terminate this Agreement.

(g) Entire Agreement. It is understood and agreed that all understandings and agreements heretofore had among the parties hereto related to the subject matter of this Agreement are merged in this Agreement, which alone fully and completely expresses their agreement and contains all of the terms agreed upon among the parties hereto with respect to the subject matter of this Agreement, and that this Agreement is entered into after full investigation, no party relying upon any statement or representation, not embodied in this Agreement, made by any other. All exhibits, schedules and other attachments are a part of this Agreement and the contents thereof are incorporated herein by reference.

(h) Amendment. This Agreement cannot be amended, modified or supplemented, nor can any term or condition be waived in whole or in part, except in writing and signed by all of the parties hereto.

(i) Non-Waiver. No waiver by any party to this Agreement of any failure or refusal by the other party to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply. No waiver by any party hereto of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by such party giving such waiver. No waiver by any party hereto with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

(j) Severability; Modification Required By Law. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions thereof or hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreement of the parties herein set forth.

(k) Headings. The headings of sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

(l) Successors and Assigns. This Agreement and all of the provisions thereof and hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

(m) Assignment. Neither this Agreement nor any of the rights, interests, obligations, and remedies hereunder shall be assigned by any party, including by operation of law, without the prior written consent of the other parties, such consent to not be unreasonably withheld, conditioned or delayed, except (a) to its parents, subsidiaries and affiliates provided that the assigning party shall remain liable for all of the obligations hereunder, (b) at its expense to a person, firm, or corporation acquiring all or substantially all of the business and assets of the assigning party provided that the assignee assumes the obligations of the assigning party arising hereunder from and after the date of acquisition, and (c) as security to entities providing financing for the assigning party or for any of its affiliates or for construction, reconstruction, modification, replacement or operation of any of the facilities of the assigning party or its parents, subsidiaries or affiliates.

(n) Construction. This Agreement and its exhibits and schedules are the result of negotiations between the parties and have been reviewed by all parties. Accordingly, this

Agreement will be deemed to be the product of the parties thereto and no ambiguity will be construed in favor of or against any party.

(o) No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

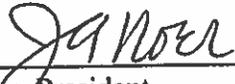
(p) No Brokers. The parties agree that they have entered into this Agreement without the benefit or assistance of any brokers, and each party agrees to indemnify, defend and hold the other harmless from any and all costs, expenses, losses or liabilities arising out of any claim by any person or entity that such person or entity acted as or was retained by the indemnifying party as a finder or broker with respect to the sale of the assets described herein.

(q) Further Acts. Each party agrees to perform any further acts and to execute, acknowledge, and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

(r) Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which together will constitute one and the same instrument.

PERC:
THE PENOBSCOT ENERGY RECOVERY
COMPANY, LIMITED PARTNERSHIP

By: USA Energy Group, LLC
Its: General Partner

By: 
Its: President

MUNICIPALITY:

By: _____
Its:

By: _____
Its:

By: _____
Its:

By: _____
Its:

Municipality: _____

SCHEDULE A
TO THAT CERTAIN WASTE DISPOSAL AGREEMENT
DATED AS OF THE
___ DAY OF _____, 20__

1.) Statement of Intent. The parties hereto acknowledge and agree that it is the policy of the State of Maine, as directed through the State of Maine's adoption of the Solid Waste Hierarchy, to reduce the volume of Solid Waste going into landfills, to recycle Solid Waste whenever possible, and to maximize resource recovery from the Solid Waste. The parties hereto also understand that the effective management of Solid Waste is crucial to the continued financial well-being of the Municipality. Because of this, the Municipality is seeking a comprehensive, environmentally sound, reliable, long-term strategy for managing the present and projected volumes of non-hazardous Solid Waste generated within the Municipality. PERC owns and operates the PERC Facility that has effectively and efficiently, for many decades, accepted Solid Waste, recovered certain recyclable materials, and otherwise converted Solid Waste into energy. Both the Municipality and PERC seek to have the PERC Facility to continue operating and the delivery of a predictable stream of Solid Waste to the PERC Facility is essential for the continued operation of the PERC Facility. Based on the foregoing, the purpose of the parties entering into this Agreement is to allow (a) the Municipality to effectively manage its Solid Waste within the Solid Waste Hierarchy; and (b) PERC to continue to serve the communities in reducing and reusing its Solid Waste. Therefore, in accordance with the terms of the Solid Waste Hierarchy, the Municipality is willing to commit to delivering to PERC and the PERC Facility the Solid Waste generated within the Municipality so as to assure the ongoing supply of Solid Waste to the PERC Facility for a fixed-period of time as defined below.

2.) Term of Agreement and Tipping Fee.

Authorization Signature	Term of Delivery Commitment	Tipping Fee (per ton)
_____	_____, 2018 through _____, 2033	\$84.36
_____	_____, 2018 through _____, 2028	\$89.57

The parties hereto agree that any Agreement signed for a either a fifteen (15) year or ten (10) year term shall automatically renew on the same basis unless otherwise terminated, in writing, by either the Municipality or PERC with at least twelve (12) months prior written notice. Also, any contract term that is less than ten (10) years shall be priced on a case-by-case basis and will be based on the then current market pricing. The pricing listed above is guaranteed through June 30, 2016.

3.) Estimated Delivery Amount.

(a) Based on the amount of Solid Waste generated by the Municipality in prior years, the estimated annual tonnage to be delivered by the Municipality shall be approximately _____ tons (the "Estimated Tonnage"). Both PERC and the Municipality acknowledge and agree that the Estimated Tonnage described above does not guarantee that the Municipality will deliver a minimum amount of tonnage to the PERC Facility on an annual basis. Rather, the Estimated Tonnage described above is a good faith estimate of the annual tonnage that the Municipality believes will be generated within the Municipality and that such Estimated Tonnage is subject to change which is a direct result of the Municipality engaging in increased recycling, repurposing or composting (or other materials management process adopted into, and ranked higher by, the Solid Waste Hierarchy) in accordance with the Solid Waste Hierarchy. Notwithstanding the fact that the Estimated Tonnage described above is not a commitment by the Municipality to deliver a minimum amount of Solid Waste to the PERC Facility, the Municipality acknowledges and agrees that the Waste Disposal Agreement (including this Schedule A) is being signed in good faith by both PERC and the Municipality and that PERC is relying upon the Municipality's commitment to deliver to the PERC Facility the Solid Waste generated within the Municipality.

(b) Both the Municipality and PERC believe that the amount of Estimated Tonnage as described above is unlikely to change materially over time. However, if there is a material change in the amount of the Estimated Tonnage, the Municipality will provide written notice to PERC that there has been a material change in the amount of the Estimated Tonnage that will be delivered to the PERC Facility and that such material change is the direct result of a change in the market conditions as to the amount of Acceptable Solid Waste generated within the Municipality.

(c) In the event that PERC becomes aware that the Municipality is not delivering all of its Solid Waste to the PERC Facility as agreed to by the Municipality pursuant to the terms of this Agreement, PERC may give written notice to the Municipality of such delivery failure and both the Municipality and PERC shall meet at the PERC Facility so as to resolve the issue. Such meeting shall occur at such time reasonably agreeable to both PERC and the Municipality but, in no event, more than thirty (30) after delivery of the written notice to the Municipality by PERC. In the event that the Municipality and PERC are unable to resolve such dispute during this meeting, then PERC shall have the right (but no obligation) to declare that this Agreement has been deemed terminated by the Municipality due to the Municipality taking actions that are inconsistent with the terms of this agreement and that have the purpose or effect of interfering with the Municipality's performance of this Agreement (a "Deemed Termination").

4.) Changes to the Tipping Fee – Adjustment for CPI. The Tipping Fee shall be increased on a quarterly basis by a percentage equal to the percentage change in "CPI" for the most recently released 12-month period preceding the one-year anniversary date of this Agreement. The term "CPI" shall mean the Consumer Price Index-All Urban Consumers (U.S. cities average, all items) as published by the U.S. Bureau of Labor Statistics. If this index ceases to be published, a comparable index shall be designated, in writing by the parties hereto.

5.) Early Termination. Notwithstanding the provisions of Section 7 of the Agreement, both PERC and the Municipality acknowledge and agree that this Agreement may be terminated as follows:

- (a) Upon ninety (90) days prior written notice by the Municipality to PERC (the "Municipality Termination"); or
- (b) Upon PERC's determination that a Deemed Termination has occurred.

Within thirty (30) days after a Municipality Termination or a Deemed Termination, the Municipality shall pay to PERC an amount equal to the product of (i) the average annual amount paid (or required to be paid) by the Municipality to PERC for the immediately preceding two (2) years (and taking into account any amounts paid to PERC prior to the beginning of the Term of this Agreement); multiplied by (ii) three (3). In addition to this amount, the Municipality shall pay to PERC all reasonable legal fees and costs incurred by PERC in obtaining this payment.



Denise Hodsdon <clerk@hampdenmaine.gov>

D-5-b
D-5-c
D-5-d

Fwd: Ordinance amendments for review
1 message

Angus Jennings <townmanager@hampdenmaine.gov>
To: Denise Hodsdon <clerk@hampdenmaine.gov>

Wed, Dec 16, 2015 at 5:36 PM

For packet

Begin forwarded message:

From: "Edmond J. Bearor" <ebearor@rudmanwinchell.com>
Date: December 16, 2015 at 5:26:18 PM EST
To: 'Angus Jennings' <townmanager@hampdenmaine.gov>
Cc: "Lynn E. Brochu" <lbrochu@rudmanwinchell.com>
Subject: RE: Ordinance amendments for review

Angus/ Denise:

In response to Town Manager Jennings request, I reviewed the proposed revisions to the town's Zoning Ordinance attached to the November 30, 2015 memo from Community Development Director Bennett.

In short, I find the proposed amendments, with the exception of the Home Occupation amendment proper for consideration and adoption by the Town Council.

The amendment to the Home Occupation section of the Ordinance giving the CEO unfettered discretion in administering to decide which applications will be reviewed by that office and which will be reviewed by the planning board is, in my opinion, a standardless delegation of authority. While there is a check on the CEO's discretion in the form of abutter notification which could trigger a request for a public hearing which the CEO would have to direct to the planning board, there aren't any objective criteria that the CEO is required under the ordinance to employ in deciding whether to review an application or refer it to the planning board.

Perhaps, for example, the CEO could retain review over Home Occupation applications that will generate fewer than "X" trips per day, or occupy less than 250 s.f. or 10% of the residential structure. Without such limitations, however, this section could be open to challenge by an applicant who shows that he was sent to the planning board, which denied his application, while other similarly situated applicants who were only required to undergo CEO review got their permits.

There are likely other ways to streamline the review process for non-controversial home occupation

applications, but I don't believe it's my role at this stage to propose options, as the planning board and staff have been working on this matter for quite awhile and I'm not familiar with the dynamic that might exist in this process to date process and as I understand it the Council is to vote the proposal up or down at its upcoming meeting. If I can elaborate further on this or if you have questions, give me a call.

Ed

Edmond J. Bearor, Esq.

The Graham Building | 84 Harlow Street

P.O. Box 1401 | Bangor, Maine 04402

tel: 207.947.4501 | fax: 207.941.9715

direct dial: 207.992.2626

ebearor@rudmanwinchell.com

RUDMAN • WINCHELL

COUNSELORS AT LAW

From: Angus Jennings [<mailto:townmanager@hampdenmaine.gov>]

Sent: Wednesday, December 02, 2015 3:51 PM

To: Edmond J. Bearor

Cc: Denise Hodsdon

Subject: Ordinance amendments for review

Ed,

Thanks for your time on the phone. Please find attached the zoning amendments with associated documentation. If you need anything further don't hesitate to follow up with me, or directly with Dean Bennett. We'd like to put these on the 12/21 Council agenda for final action so would need your review no later than Thursday 12/17.

Thanks,

Angus

--

Angus Jennings
Town Manager

Town of Hampden

106 Western Avenue
Hampden, ME 04444
(207)-862-3034
townmanager@hampdenmaine.gov

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To: Angus Jennings, Town Manager
From: Dean Bennett, Director of Community Development
Date: November 30, 2015
Subject: Legal Review

.....

On November 18, 2015, the Hampden Planning Board reviewed the following draft amendments to the Zoning Ordinance and has recommended the following action items to the Town Council:

Building Height Definition Revision: Requested by CEO and intended to establish one definition of Building Height within the Zoning Ordinance, International Building Code and Residential Code. (Planning Board recommends to Town Council "Ought to Pass")

Home Occupation Revisions: Intended to expedite the review and approval time of Home Occupation applications that are unlikely to be controversial in nature. (Planning Board recommends to Town Council "Ought to Pass")

Sign Revisions: Intended to address long standing sign issues and update zoning standards with statutory minimums.

Note: Draft had been reviewed by Attorney Russell prior to the Planning Board recommending a change on page 4 (4.8.2.6) with regard to Sign Nuisances as noted in draft. I have also included Attorney Russell's explanation of his recommended change. (Planning Board recommends to Town Council "Ought to Pass" with minor change on page 4 as noted)

Zoning Change: A Public Hearing was conducted with regard to proposed change in zone designation of Map 9A/Lot 1 from Residential A District to Business District. Parcel is located at the corner of Emerson Drive and Coldbrook Road. (Planning Board recommends to Town Council "Ought to Pass")

I have attached the supporting documentation and am requesting a legal review and subsequent public hearings on a future Town Council Agenda, once legal review is completed.

D-5-b



To: Hampden Planning Board
From: Dean Bennett, Director of Community and Economic Development
Subject: Building Height Definitions
Date: November 4, 2015

The Planning Board Ordinance Committee reviewed the Code Enforcement Officer's proposed request to amend the definition of Building Height in the Zoning Ordinance to be the same as the currently adopted State mandated International Building and Residential Code definition of Building Height to avoid any code inconsistency.

The Committee requested to see the definition in the mandated code prior to acting on the request for approval.

See Attached.

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be enacted.

Additions underlined

Deletions ~~stricken~~

7.2. Definitions - In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

...

Building height: ~~The vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.~~ As defined by the current building code in effect in the Town of Hampden.

CHAPTER 5

GENERAL BUILDING HEIGHTS AND AREAS

SECTION 501 GENERAL

501.1 Scope. The provisions of this chapter control the height and area of structures hereafter erected and additions to existing structures.

[F] 501.2 Address identification. New and existing buildings shall be provided with *approved* address numbers or letters. Each character shall be a minimum 4 inches (102 mm) high and a minimum of 0.5 inch (12.7 mm) wide. They shall be installed on a contrasting background and be plainly visible from the street or road fronting the property. Where access is by means of a private road and the building address cannot be viewed from the *public way*, a monument, pole or other *approved* sign or means shall be used to identify the structure.

SECTION 502 DEFINITIONS

502.1 Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

AREA, BUILDING. The area included within surrounding *exterior walls* (or *exterior walls* and *fire walls*) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the *building area* if such areas are included within the horizontal projection of the roof or floor above.

BASEMENT. A *story* that is not a *story above grade plane* (see "*Story above grade plane*" in Section 202).

The definition of "Basement" does not apply to the provisions of Section 1612 for flood loads (see "Basement" in Section 1612.2).

EQUIPMENT PLATFORM. An unoccupied, elevated platform used exclusively for mechanical systems or industrial process equipment, including the associated elevated walkways, *stairs*, *alternating tread devices* and ladders necessary to access the platform (see Section 505.5).

GRADE PLANE. A reference plane representing the average of finished ground level adjoining the building at *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

HEIGHT, BUILDING. The vertical distance from *grade plane* to the average height of the highest roof surface.

MEZZANINE. An intermediate level or levels between the floor and ceiling of any *story* and in accordance with Section 505.

SECTION 503 GENERAL BUILDING HEIGHT AND AREA LIMITATIONS

503.1 General. The *building height and area* shall not exceed the limits specified in Table 503 based on the type of construction as determined by Section 602 and the occupancies as determined by Section 302 except as modified hereafter. Each portion of a building separated by one or more *fire walls* complying with Section 706 shall be considered to be a separate building.

503.1.1 Special industrial occupancies. Buildings and structures designed to house special industrial processes that require large areas and unusual *building heights* to accommodate cranes or special machinery and equipment, including, among others, rolling mills; structural metal fabrication shops and foundries; or the production and distribution of electric, gas or steam power, shall be exempt from the *building height and area* limitations of Table 503.

503.1.2 Buildings on same lot. Two or more buildings on the same lot shall be regulated as separate buildings or shall be considered as portions of one building if the *building height* of each building and the aggregate *building area* of the buildings are within the limitations of Table 503 as modified by Sections 504 and 506. The provisions of this code applicable to the aggregate building shall be applicable to each building.

503.1.3 Type I construction. Buildings of Type I construction permitted to be of unlimited tabular building heights and areas are not subject to the special requirements that allow unlimited area buildings in Section 507 or unlimited *building height* in Sections 503.1.1 and 504.3 or increased *building heights and areas* for other types of construction.

SECTION 504 BUILDING HEIGHT

504.1 General. The *building height* permitted by Table 503 shall be increased in accordance with this section.

Exception: The *building height* of one-story aircraft hangars, aircraft paint hangars and buildings used for the manufacturing of aircraft shall not be limited if the building is provided with an automatic fire-extinguishing system in accordance with Chapter 9 and is entirely surrounded by *public ways* or yards not less in width than one and one-half times the *building height*.

FURNACE. A vented heating *appliance* designed or arranged to discharge heated air into a *conditioned space* or through a duct or ducts.

GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose *conditioned space*. Includes the area of glazed fenestration assemblies in walls bounding conditioned basements.

GRADE. The finished ground level adjoining the building at all *exterior walls*.

GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GRADE, PIPING. See "Slope."

GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 ft (1829 mm) from the building between the structure and a point 6 ft (1829 mm) from the building.

GRIDDED WATER DISTRIBUTION SYSTEM. A water distribution system where every water distribution pipe is interconnected so as to provide two or more paths to each fixture supply pipe.

GROSS AREA OF EXTERIOR WALLS. The normal projection of all *exterior walls*, including the area of all windows and doors installed therein.

GROUND-SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

GUARD. A building component or a system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered *habitable spaces*.

HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HANGERS. See "Supports."

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEAT PUMP. An *appliance* having heating or heating/cooling capability and that uses refrigerants to extract heat from air, liquid or other sources.

HEATING DEGREE DAYS (HDD). The sum, on an annual basis, of the difference between 65°F (18°C) and the mean temperature for each day as determined from "NOAA Annual Degree Days to Selected Bases Derived from the 1960-1990 Normals" or other weather data sources acceptable to the code official.

HEIGHT, BUILDING. The vertical distance from *grade plane* to the average height of the highest roof surface.

HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost *story*, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

HIGH-EFFICACY LAMPS. Compact fluorescent lamps, T-8 or smaller diameter linear fluorescent lamps or lamps with a minimum efficacy of:

1. 60 lumens per watt for lamps over 40 watts.
2. 50 lumens per watt for lamps over 15 watts to 40 watts.
3. 40 lumens per watt for lamps 15 watts or less.

HIGH-TEMPERATURE (H.T.) CHIMNEY. A high temperature chimney complying with the requirements of UL 103. A Type H.T. chimney is identifiable by the markings "Type H.T." on each chimney pipe section.

HILL. With respect to topographic wind effects, a land surface characterized by strong relief in any horizontal direction.

HORIZONTAL BRANCH, DRAINAGE. A drain pipe extending laterally from a soil or waste stack or *building drain*, that receives the discharge from one or more *fixture drains*.

HORIZONTAL PIPE. Any pipe or fitting that makes an angle of less than 45 degrees (0.79 rad) with the horizontal.

HOT WATER. Water at a temperature greater than or equal to 110°F (43°C).

HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes, defined as the U.S. Atlantic Ocean and Gulf of Mexico coasts where the basic wind speed is greater than 90 miles per hour (40 m/s), and Hawaii, Puerto Rico, Guam, Virgin Islands, and America Samoa.

HYDROGEN GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated systems for generating gaseous hydrogen. Hydrogen generating *appliances* utilize electrolysis, reformation, chemical, or other processes to generate hydrogen.

IGNITION SOURCE. A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include *appliance* burners, burner ignitions and electrical switching devices.

INDIRECT WASTE PIPE. A waste pipe that discharges into the drainage system through an air gap into a trap, fixture or receptor.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A system for disposal of sewage by means of a septic tank or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

D-5-c



To: Hampden Planning Board
From: Dean Bennett, Director of Community and Economic Development
Subject: Home Occupations
Date: November 9, 2015

The Planning Board Ordinance Committee reviewed and discussed proposed changes to the Home Occupation provisions of the Zoning Ordinance at their October 14, 2015 meeting. As a result of these discussions, the Committee requested that staff include provisions which require abutter notification and opportunity to request a public hearing in cases where the Code Enforcement Officer elects to act upon the application rather than forward to the Planning Board.

Those provisions have been drafted and included in the attached draft for Planning Board consideration.

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be enacted.

Additions underlined

Deletions ~~stricken~~

4.10. Home Occupation Permits - A home occupation permit shall be granted to a person or corporation and is not granted to run with the land nor is the permit transferable to a subsequent owner or renter. Applicants shall demonstrate that they have adequate right, title and interest in a property in order to apply for a home occupation. Where home occupations are expressly prohibited by deed restriction, lease, subdivision covenant and or subdivision plan condition the Planning Board/Code Enforcement Officer shall find that the applicant lacks adequate right, title or interest to grant a home occupation permit. Application for a home occupation permit shall include a plan in accordance with *Article 4.1.9, Site Sketch*. If new construction is proposed the requirements of *Article 4.1., Site Plan Review* shall be met in addition to the requirements of *Article 4.10 Home Occupation Permits*.

Upon receipt of a complete application, the Code Enforcement Officer may, at his discretion, act upon the application or forward to the Planning Board for consideration.

If the Code Enforcement Officer elects to act upon the application, a decision may not be rendered until such time that the applicant provides evidence of abutter notification. The notification shall include a description of the proposed activity and a "Home Occupation Public Hearing Request Form", provided by the Code Enforcement Officer, which may be submitted to the Code Enforcement Office within 10 days of receipt by the abutter.

If a such a Public Hearing is requested by an abutter, the Code Enforcement Officer will direct the application to the Planning Board for consideration. If a request for Public Hearing is not received within 10 days of receipt by the abutter, the Code Enforcement Officer may render a decision on the application.

All home occupations shall be planned, operated and maintained according to the following standards: *(Amended: 03-21-05)*

4.10.1. Employees - A home occupation shall be conducted by a member or members of the immediate family occupying the dwelling unit. There shall be no more than one person employed who does not reside on the premises.

4.10.2. Incidental and Subordinate - To insure that the character of the neighborhood is not transformed from one which is primarily residential, the home occupation shall be clearly

incidental and subordinate to the use of the dwelling place as a place of residence. The home occupation shall be carried on wholly within the principal residential or accessory structure on the premises. If carried on within the principal residential structure, it shall not occupy more than thirty (30%) percent of the floor area. If the home occupation is carried on within an accessory structure the total floor area dedicated to the home occupation use shall not exceed fifty (50%) percent of the total finished floor area of the principal residential structure. Home occupations shall not utilize outdoor storage or display. *(Amended: 02/06/84, 03-21-05)*

4.10.3. Appearance and Performance Standards - In no way shall the appearance of the structure or the premises be altered or the occupation within the residence be conducted such that the structure or premises differs from its residential character by use of colors, materials, premises layout, construction or lighting. Temporary garages, instant garages or portable garages constituted of a metal or wooden frame and a tarpaulin-like canvas or vinyl cover do not satisfy the requirements of this section. The proposed home occupation shall not be overtly evident from beyond the property line of the subject premises except for the presence of a sign and customer or client parking. Home occupations shall not cause sound, noise, odors, dust, gas, fumes, smoke, light or other dangerous emissions discernable or detectable from beyond the property line of the subject property. In addition, no home occupation shall be allowed which creates a fire hazard to the premises or neighboring premises or which creates electrical interference such that it causes visual or audible interference in any radio or television receivers off the premises. The applicant shall demonstrate that the proposed home occupation will not interfere with the peaceful use and enjoyment of residential properties located in the area of the proposed use. *(Amended: 03-21-05)*

4.10.4. Signs and Advertising - Permitted: one (1) unlighted, unreflective sign no greater than four (4) square feet located on premises only. Off-premises Official Business Directional Signs, as defined in *23M.R.S.A. section 1903*, are prohibited. Newspaper, radio, T.V. or telephone listing advertising may be used to the extent that *Articles 4.10.5 and 4.10.6* are not violated. *(Amended: 11-05-90, 03-21-05)*

4.10.5. Traffic and Parking - The proposed site layout shall provide for safe ingress and egress to and from public and private roads by providing adequate sight distances and minimal turning conflicts with roads and driveways Provision shall be made available for vehicles to turn around on the premises. Off-street parking which includes no more than three (3) spaces located in the front yard shall be provided for all expected customer/clients of the home occupation. No home occupation shall be approved or allowed to operate if it generates more than an average of ten (10) auto trips by customer/clients in any one day. *(Amended: 03-21-05)*

~~**4.10.6. Commercial Vehicles** - No commercial vehicles in excess of three quarter (3/4) ton capacity shall be used by a home occupation for the delivery of materials to and from the premises and no commercial vehicles in excess of three quarter (3/4) ton capacity shall be parked on or about the premises.~~

4.10.7. Utilities and Public Facilities - There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes. *(Amended: 03-21-05)*

4.10.8 Additional Conditions Necessary for Approval of Home Occupations. If in the judgment of the Planning Board/Code Enforcement Officer additional improvements or safeguards are necessary in order to make a proposed home occupation safe, sanitary or less intrusive in a neighborhood the Board/Officer may place conditions on the approval of the home occupation that further limit the operation of the business, provide for screening or bufferyards or improve traffic safety. *(Amended: 03-21-05)*

4.10.8. Alterations to Land and Buildings of Previously Approved Home Occupations. If additions or alterations have been constructed, or are proposed for construction to primary use residences or to accessory use buildings which in the opinion of the Code Enforcement Officer significantly alter a Planning Board/Code Enforcement Officer approved home occupation, the Code Enforcement Officer shall require that the home occupation use seek a revision from the permit issuing authority. In order to determine if the alterations or additions alter the approved Home Occupation the Code Enforcement Officer shall review the municipal documents on file including the minutes of the Board meeting at which the Home Occupation was approved, and/or permit conditions stipulated by the Code Enforcement Officer. The Code Enforcement Officer shall not issue a building permit or certificate of compliance for such additions or alterations that have not received a Home Occupation permit approval unless the applicant surrender the home occupation permit and or conditional use/site plan home occupation use approval in writing. *(Amended: 03-21-05)*

4.10.9. Discontinuation and Abandonment of a Legacy Home Occupation. If a home occupation, created under the provisions of the Ordinance prior to January 1, 2005, has been discontinued or abandoned for a period of 12 months the home occupation use may not be re-established without first receiving a Home Occupation Permit under the provisions of *Article 4.10* of this ordinance. The Code Enforcement Officer shall have authority to issue a determination that the use has been discontinued or abandoned for a 12-month period. *(Amended: 03-21-05)*

D-5-d



To: Hampden Planning Board
From: Dean Bennett, Director of Community and Economic Development
Subject: Sign Revision Recommendations
Date: November 4, 2015

At the Planning Board Ordinance Committee Meeting of October 14, 2015, the following actions were taken:

Committee Action: Motion was made and seconded to forward the draft Sign Revisions to the Planning Board as presented, with the addition of two minor changes on page 4 of the document as noted. Recommendation is "ought to pass". Vote: 5-0.

The drafts Sign Revisions are attached.

In addition, I have attached the email from Attorney Russell explaining why he recommended the wording of 4.8.2.6 that was originally proposed to the Committee.

The Town of Hampden hereby ordains that the following amendments to the Zoning Ordinance be enacted.

Additions underlined

Deletions ~~stricken~~

4.8. Signs. Signs provide vital information to the public, assist in the response and rescue of public safety and engender a sense of place. The following provisions shall apply to signs and billboards in all districts where permitted.

4.8.1. Off-Premises Signs - No off-premises signs shall be erected or maintained in the Town of Hampden except in conformity with *23 MRSA section. 1901-1925 the Maine Traveler Information Services Law*. Off-premises official business directional signs may be located in the Town of Hampden in such locations and in such a manner as allowed under *23 MRSA sections 1901-1925* and under the rules and regulations of the State of Maine Department of Transportation. Provided, however, that off-premises official business directional signs for home occupations are prohibited. Authorization for official business directional signs shall be obtained from the Code Enforcement Officer~~Official~~.

1. *Exception for property identification numbers* - Each residential premises is allowed a mailbox with the identification number of the property clearly marked on it. If the mailbox is on the opposite side of the street of the house or if there is no mailbox, the premises is also allowed an MDOT approved sign post, or similar structure, with numbers that meet the standards of subparagraph a below. Such signs are also allowed on an adjacent parcel with written permission of the landowner.
 - a. All non residential uses must display the identification number of the property. The area required by the number is not included in the calculation of the total square footage of the sign.
 - b. Approved address numbers shall be placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet

letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

2. *Exception for industrial subdivision entrance sign* - In Planning Board approved Industrial Subdivisions a sign marking each public street entrance shall be permitted. Such signs shall be limited to 70 square feet per face and shall only contain the name of the subdivision, the name of the public subdivision's street, and owner identification information. The sign may be located in the raised median of the entrance street provided that it is at least 20 feet from the nearest perpendicular traveled way and the sign itself creates no visual barrier from the ground up to a height of 6 feet.
3. *Exception for industrial subdivision directory sign* - In Planning Board approved Industrial Subdivisions a directory sign marking tenants in the subdivision located near each public street entrance shall be permitted. Such signs shall: be unlighted, be limited to 50 square feet per face, not exceed five feet in height, and shall only contain the name of subdivision, information about the subdivision's management, and the name and address of each subdivision's tenant. The sign may be located in the public right of way provided that it is at least 100 feet from the entrance and does not create a visual barrier to individual lot entrances.

4.8.2. On-Premises Signs - All on-premises signs shall be located and erected in conformity with State Law (23 MRSA sections 1901-1925). In addition the following regulations apply:

1. *Visual obstruction* - No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. *Sign Illumination: Sign illumination is permitted in all districts, except on properties used for residential purposes, as long it conforms to 4.8.2.1.*
- ~~3.~~ *3. Visual distraction* - Flashing, moving, or animated signs are prohibited.
- ~~4.~~ *4. Height limit* - No sign shall exceed twenty-five (25') feet in height.
- ~~5.~~ *5. Size limit* - No sign shall exceed the maximum sign size for the district in which the sign is placed. Freestanding signs are sized of the basis of one sign face. Except that

signs located on-premises but greater than fifty (50') feet from a building and visible from Interstate 95 shall be limited to one sign and shall not exceed one hundred fifty (150) square feet in area or the maximum sign size allowed in the district, whichever is less. Such signs, visible from Interstate 95, shall have no panel dimension greater than twenty (20') feet.

~~5.~~ 6. *Neighborhood nuisance* - No sign shall be erected ~~maintained in a manner in~~ which the operation or illumination thereof may cause nuisance or undue distraction to nearby residents or occupants.

Planning Board Ordinance Committee Recommended Change to 6. Above:

6. *Nuisance Signs* – No sign shall be erected or maintained in a manner in which the operation or illumination thereof may cause nuisance or undue distraction to nearby residents or occupants.

~~5. *Setbacks* – Signs shall be set back at least eight (8') feet from the street line and other lot lines, except signs on properties adjacent to Residential A, B, or Rural District boundaries. In that case, signs shall be set back from the side lot line at least the distance of the minimum required side yard depth for the district to which they are adjacent and shall be set back from the street line at least eight (8') feet.~~

7. *Roof signs* - Roof signs shall not extend more than ten (10') feet above the roofline.

8. *Changeable Signs* – Are Permitted in all districts, except on properties used for residential purposes.

a. “Changeable sign” means an on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally, or mechanically altered by the complete substitution or replacement of one display by another on each side.

b. “Display” means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.

c. “Message” mean a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.

- d. "Sign assembly" means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.
- e. "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.
- f. The display on each side of a changeable sign:
 - i. May be changed no more than once every 10 seconds;
 - ii. Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing, display continuous streaming of information, video animation or blending;
 - iii. May consist of alphabetic or numeric text on a plain or colored background and may include graphic, pictorial or photographic images.

4.8.3. Permitted Signs Not Requiring a Permit – The following on-premises signs shall be permitted in all districts without a permit:

1. *Real estate signs* - The following signs relating to the sale, rental or lease of a premises may be displayed on the premises of a premises which is available for sale, rent or lease.
 - a. A single freestanding sign, not over five (5) square feet in area.
 - b. A single wall sign not over three (3) square feet in area.All such signs shall be removed when PURPOSE IS FULFILLED.
2. *Posting signs* - Signs relating to trespassing and hunting.
3. *Residential identification signs* - A single sign denoting the name and/or address of the occupants of residential premises, such sign shall not exceed four (4) square feet in area.
 - a. Or one sign naming the premises where located. Such sign shall not exceed six (6) square feet if it is a wall sign, or four (4) square feet if it is a freestanding sign. (Examples: Twin Oaks, Fox Fire, Kinsley House, etc.).
4. *Tradesman signs* - A single sign, placed on the premises where construction, repair, or renovation is in progress, which denotes the architect, engineer, contractor, and/or funding source for the work in progress. Such sign shall not exceed sixteen (16) sq.ft. in

area and shall be removed when the work is completed. Federal and state government-mandated signs are exempt.

5. *Traffic signs* - Signs providing traffic and directional information to the public.
6. *Home occupation sign* - In place of the sign allowed in *Article 4.8.3.3.* above, approved home occupations may display a single sign, not over four (4) sq.ft. in area, relating to the home occupation.
7. *For sale signs* - In addition to the sign allowed in *Article 4.8.3.3.* above, residential users may display a single temporary sign, not over four (4) sq.ft. in area, relating to goods or services for sale on the premises, if such sale does not constitute either a business, a home occupation, or a yard sale. Examples of sales falling under this provision are the sale of a used vehicle, the sale of a used appliance, or other occasional sales.
8. *Temporary event signs* - Temporary signs announcing public and semi-public occasional events, ~~political campaigns, candidates, etc.~~ Such signs shall be displayed not more than two (2) weeks before the event and shall be removed within one (1) week after the event. Signs established more than two weeks prior to the announced event shall be deemed unlawful and are subject to removal under *Article 4.8.10.2.*
9. *Political Signs* – Signs bearing political messages relating to an election, primary or referendum may be placed per 23 MRSA §1913-A and Maine DOT Department Regulations as follows:
 - a. May be erected on private property outside the Right of Way limits of public ways at any time prior to an election, primary or referendum, limited in size to a maximum surface area of 50 square feet;
 - b. May be erected within the Right of Way limits of public ways no sooner than six (6) weeks prior to an election, primary or referendum and must be removed no later than one (1) week following that date of the election, primary or referendum. Provided, however, that political signs may not be located within the right-of-way limits of any Controlled Access Highway (Route 202 from I-395 to Western Avenue) or within any right-of-way limit of the Interstate Highway System.

10. Personal Signs-Signs bearing political, religious, ideological or personal messages by the owner(s) or occupant(s) of a property, limited in size to a maximum surface area of 50 square feet.

11. Prohibited Practices-Signs allowed by this Section 4.8.3 shall be subject to the following:

- a. Shall not be erected or maintained on any traffic control signs or devices, public utility poles or fixtures, upon any trees or painted or drawn upon rocks or other natural features;
- b. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device, such as a stop sign;
- c. Political signs may be displayed to view to all public ways except that such signs may not be erected within 660 ft. of the nearest edge of the Interstate Highway System in such a manner that the message may be read from the Interstate Highway. No political signs may be located at the interstate interchanges.

4.8.4. Permitted Signs With a Permit - The following on-premises signs shall be permitted in all districts with a permit:

1. *Housing project sign* - A single sign not over thirty-two (32) sq.ft. describing a multi-family housing project or a subdivision.
2. *Subdivision sign* - A single sign not over thirty-two (32) sq.ft. describing a subdivision.
3. *Non-residential principal building or use sign* - A single sign not over sixteen (16) sq. ft. describing a non-residential principal building or use on the premises.

4.8.5. Signs in the Rural District - In the Rural District the following on-premises signs shall be considered accessory to the principal use of the premises on which they are located:

1. *Farm product signs* - A maximum of two (2) signs describing farm products raised or produced on the premises. The maximum sign size shall not exceed sixteen (16) sq.ft.

4.8.6. Signs In Residential Districts - In the Residential A and Residential B Districts the following on-premises signs shall be considered accessory to the principal use of the premises on which they are located:

1. *Housing project or subdivision sign* - A maximum of two (2) signs whose combined area shall not exceed thirty-two (32) square feet, describing a multi-family housing project or a subdivision on the premises.
2. *Non-residential sign* - A maximum of two (2) signs whose combined area shall not exceed sixteen (16) square feet, describing a non-residential principal building of less than 5,000 square feet gross floor area or use on the premises.
3. *Non-residential sign for larger site developments* - A maximum of one sign located at each street entrance whose area shall not exceed sixteen (16) square feet and describing a non-residential principal building or buildings in excess of 5,000 square feet gross floor area or use. Additional signage shall be permitted on the interior of such site developments provided that each individual sign has a maximum size of sixteen (16) square feet and is set back a minimum of 30 feet from all property lines.
4. *Prohibited signs* - Notwithstanding the provisions of this section roof signs and internally illuminated signs are prohibited in the residential districts.
5. *Scoreboards* - Notwithstanding the provisions of this section scoreboards are permitted in the residential districts and are not subject to the preceding regulations including size. The content of a scoreboard shall be generally limited to the score, period, time, and other information pertinent to the sporting activity, the name of the school and team. Scoreboards may contain limited product advertising provided it is not back-lighted and is limited to 10 sq. ft.

4.8.7. Signs in the Commercial Districts

1. *Signs in the Business District and Rural Business District* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Business District and the Rural Business District:
 - a. One (1) freestanding sign, not to exceed thirty-six (36) square feet.

- b. Wall signs not to exceed one and one-half (1-1/2) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed one hundred fifty (150) square feet.
 - c. One (1) projecting or roof sign not to exceed thirty-six (36) square feet in area.
2. *Signs in the Business B District* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Business B District provided total signage does not exceed 250 square feet in area.
- a. One (1) freestanding sign, not to exceed fifty (50) square feet in area.
 - b. Wall signs not to exceed two square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed two hundred (200) square feet.
 - c. Projecting signs not to exceed (25) square feet in area.
3. *Signs in the Commercial Service District* - The following on-premises signs, identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Commercial Service District:
- a. One (1) freestanding sign, not to exceed thirty-six (36) square feet.
 - b. Wall signs not to exceed two (2) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed two hundred (200) square feet.
 - c. One (1) projecting, or roof sign not to exceed seventy-two (72) square feet in area.
 - d. Industrial Parks, as defined, may erect one industrial park sign per entrance. Such sign shall not exceed fifty (50) square feet.
4. *Signs in the Interchange District* - The following on-premises signs, identifying on-premises business names, uses or goods sold or services rendered, shall be allowed for uses in the interchange District:
- a. One (1) freestanding, projecting, or roof sign not to exceed one hundred fifty (150) square feet in area.
 - b. Wall signs not to exceed four (4) square feet of area for every running foot of building frontage. The aggregate area of all wall signs on the premises shall not exceed four hundred (400) square feet.

- c. Industrial parks, as defined, may erect one (1) industrial park sign per entrance. Such sign shall not exceed fifty (50) square feet.
5. *Signs in the Village Commercial and Village Commercial II Districts* - Two (2) of the following on-premises sign options identifying on-premises business names, uses or goods sold or services rendered shall be allowed for uses in the Village Commercial Districts provided total signage does not exceed 30 square feet in area.
 - a. One (1) freestanding sign not to exceed twenty-four (24) square feet in area and fifteen (15') feet in height.
 - b. Wall signs not to exceed twelve (12) square feet in area.
 - c. Projecting signs not to exceed (12) square feet in area.
 - d. *Prohibited signs* - No roof signs shall be permitted in the Village Commercial District.
 - e. *Shopping center signs* - Shopping Center Signs shall be allowed in conformance with *Article 4.8.7.7*, provided the sign does not exceeds twenty (20') feet in height.
6. *Fuel sales* - In addition to signs allowed under *Article 4.8.7* of the Ordinance, uses selling gasoline or diesel fuel may display one on-premises sign not to exceed sixteen (16) square feet in area, advertising the price of said gasoline or diesel fuel.
7. *Signs in shopping centers* – In lieu of signs allowed under *Article 4.8.7* of the Ordinance, Shopping centers, as defined, each tenant within the shopping center may have a projecting or roof sign (where permitted) not to exceed thirty-six (36) square feet. Additionally each tenant within the shopping center shall be allowed wall signs not to exceed thirty (30) square feet. Notwithstanding the foregoing limitation on wall signage the wall signs may be increased to fifty (50) sq. ft. if both the exterior wall of the tenant space is 50 feet or more from the street frontage and if that tenant has a floor area of at least 10,000 sq. ft. Shopping centers shall not have individual freestanding signs for each tenant, but instead shall have one common freestanding sign identifying the shopping center and the tenants therein. The overall size of the freestanding shopping center sign shall not exceed sixty (60) sq. ft. The shopping center freestanding sign may include a place name for the shopping center located at the top of the sign not to exceed twelve (12) sq. ft. in area and shall include tenant identification not to exceed forty-eight (48) sq.

ft. in area. No one tenant's sign content shall exceed twenty-four (24) sq. ft. of the shopping center sign's area and shall not be less than six (6) sq. ft. unless the space demands on the sign requires it. The tenant area of the shopping center sign may either be utilized by identifying the name of the tenant's premises (such as Smith's Pet Shop) or by categorically identifying what the tenant's use is (such as bakery or florist). Additional signage shall be permitted on the interior of such shopping centers to provide building identification and serve onsite pedestrian and vehicular movements provided that each individual sign has a maximum size of sixteen (16) square feet and is set back a minimum of 20 feet from all property lines.

4.8.8. Signs in the Industrial Districts – The following on-premises signs, identifying on-premises business or industrial uses, shall be allowed on conforming uses in the Industrial District, the Industrial Park District, and the Industrial 2 District:

1. One freestanding, projecting or roof sign not to exceed one hundred (100) square feet in area;
2. Wall signs, not to exceed four (4) square feet of area for every running foot of building frontage. The aggregate area of all wall, signs on the premises shall not exceed four hundred (400) square feet;
3. Industrial Parks, as defined, may erect one Industrial Park sign per entrance. Such sign shall not exceed fifty (50) square feet.

4.8.9. Maintenance of Signs - All signs shall be properly maintained and kept. Any sign which advertises a business, product, activity, or campaign which is no longer operative or extant shall be removed by the owner, agent, or person having the beneficial use of the structure or lot upon which such sign may be found, within ten (10) days after written notification from the town manager or Code Enforcement Officer~~Official~~. Upon failure to comply with such notice, the Code Enforcement Officer~~Official~~ or Town Manager is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or lot to which the sign is attached.

4.8.10. Removal of Unlawful Signs

4.8.10.1. Removal of Unlawful On-premises Signs.

1. Notice to remove - The owner of a sign which was or is unlawfully erected or maintained either prior to or after the effective date of this ordinance shall be in violation of this ordinance until the sign is removed. The owner of the sign shall remove the sign within 30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the Code Enforcement Officer~~Official~~. If the identity of such owner is not known or reasonably ascertainable by the Code Enforcement Officer~~Official~~, such notice may instead be sent to the owner of the land on which the sign is placed. ~~All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.~~
2. Code Enforcement Officer~~Official~~ to remove sign - If the owner fails to remove the sign as required, the Code Enforcement Officer~~Official~~ shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.
3. Procedure for notice, hearing, appeal. The procedure for notice, hearing and appeal is as follows.
 - a. The Code Enforcement Officer~~Official~~ shall send to the sign owner notice by certified mail, return receipt requested, that a sign is to be removed. Such notice shall be a final order if not appealed under Article 4.8.10.4.B. If the identity of such owner is not known or reasonably ascertainable by the Code Enforcement Officer~~Official~~, such notice may instead be sent to the owner of the land on which the sign is placed.
 - b. The person owning or controlling the sign may, within 30 days of his receipt of the notice to remove, appeal the order of removal to the Board of Appeals pursuant to Article 6 of this ordinance. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court.

4.8.10.2. Removal of Unlawful Off-premise Signs.

1. Notice to remove- Because of the difficulty to identify those individuals that own, erect or established off-premise signs, the Code Enforcement Officer shall contact the subject of the sign or their local representatives. The subject of the sign or their local representative shall remove the sign within 48 hours of receipt of a notice to remove, sent by certified mail, return receipt requested, by the Code Enforcement Officer~~Official~~. If the identity of such owner is not known or reasonably ascertainable by the Code Enforcement Officer~~Official~~, such notice may instead be sent to the owner of the land on which the sign is placed. ~~All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.~~
2. Code Enforcement Officer~~Official~~ to remove sign - If the owner fails to remove the sign as required, the Code Enforcement Officer~~Official~~ shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.

4.8.10.3. Removal of signs from Right of Ways. Notwithstanding the notice to remove provisions of this Article the Code Enforcement Officer, Public Works Director and Public Safety Director shall have the authority to immediately remove signs located in public right-of-ways that are deemed to constitute a traffic hazard or impede snow removal. In such cases notification of the removal of the sign may be after the fact. Notice of removal shall be sent by certified mail, return receipt requested, by the Code Enforcement Officer~~Official~~. All removed signs shall be held at the Transfer Station for a period of 30 days before they are disposed of.

--
Myles M. Block
Code Enforcement Officer
Firefighter/Paramedic

Find Us on Facebook! 

Hampden Public Safety
Police - Fire - EMS - Code Enforcement
106 Western Avenue
Hampden, ME 04444
207-862-4500/4000 x 218
codeenforcement@hampdenmaine.gov

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On Mon, May 11, 2015 at 2:28 PM, Thomas A. Russell <tar@frlegal.com> wrote:

Myles: Please find attached a pdf redlined version and a clean version of the sign amendments with my proposed revisions. Under our newer tracking software, sometimes funky things happen when somebody else opens the marked up document in word. That is why I sent the redlined version in pdf format. Please note that under proposed Section 4.8.2.9(f)(i), dealing with changeable signs, the proposed draft permits changing the display once every 2 minutes. Title 23 M.R.S. 1914(11-A)(B)(1), enacted by the legislature in 2013, provides that the display may be changed no more than once every 20 minutes. I do not know whether 2 minutes was a typographical error, or whether the Committee decided that 2 minutes was appropriate. The statute does authorize a municipality to adopt a different time frame, but if it does so it must so notify DOT in writing of that ordinance. I also added a Section 4.8.3.10 concerning on-premises personal signs. The evolving case law on regulating signs is providing that private citizens have a free speech right to personal expression on their own property. In a similar vein, I also revised Section 4.8.2.6 to provide that the nuisance must arise from the operation or illumination of the sign, so that it is clear that the nuisance cannot be related to the message on the sign. I believe the other revisions are self-explanatory. If you have any questions or comments, please contact me. Tom Russell

D-5-e

Kiwanis
Hampden, Maine

December 16, 2015

Hampden Town Council

Poker Tournaments are one of the three major fund raisers for the Hampden Kiwanis Club. Attached please find a copy of the application to the State of Maine for the Kiwanis Club to hold poker tournaments on the 10 designated dates for the year 2016. As part of this application, municipal officers must indicate consent by signing under section 13 on the back of the application from. Thank you for your consideration.

Respectfully Submitted,



Keith Ociepka
Hampden Kiwanis
Tournament Chairman



**STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE STATE POLICE
SPECIAL INVESTIGATIONS UNIT
164 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0164
(207) 624-7210**

Application for a License to Operate Beano/Bingo or a Game of Chance

****The Special Investigations Unit must receive this application at least eight days before Beano or a Game of Chance may begin****

- For what license are you applying (please check one): **BEANO** **OR** **GAME OF CHANCE**
IF YOU CHECKED GAMES OF CHANCE:
- Organization Name: Hampden Kiwanis Name of Game: No-Limit - Holdem
 Organization Number: 1594 Number of Games: 1
 Federal Tax ID # (EIN): 01-6018699 Open to Public? Yes No
 Business Address: 55 Main Rd N. Hampden, Me
 Mailing Address: P.O. Box 498 Hampden, Me 04444 Phone: _____
- Current Officers:

NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES
<u>Dennis Whitcomb Pres.</u>	<u>28 Kennard Rd Newburgh, Me</u>	<u>04451</u>	<u>356-7569</u>	<u>9/30/16</u>
<u>David Jordan V Pres.</u>	<u>20 Blue Hill West Bangor, Me</u>	<u>04401</u>	<u>944-7434</u>	<u>9/30/16</u>
<u>John Torrance III Sec</u>	<u>47 Pleasant St Hampden, Me</u>	<u>04444</u>	<u>867-4106</u>	<u>9/30/16</u>
<u>Joseph Dowling Treas</u>	<u>Western Ave Hampden, Me</u>	<u>04444</u>	<u>659-0437</u>	<u>9/30/16</u>
- Location where Beano/Bingo or Game of Chance is to be conducted:
Hampden Kiwanis Civic Center 55 Main Rd N. Hampden 04444
BUILDING ADDRESS CITY/ZIP
- Person responsible for operation of Beano or Games of Chance:
Keith Ociepka 207 356-9949 Both
NAME DAYTIME PHONE & EVENING PHONE
 Name & Address where Licenses will be sent: Keith Ociepka 104 Main Trail Hampden, Me 04444
 E-Mail Address: kociepka@roadrunner.com
- Circle the days of the week you expect to operate: Mon Tue Wed Thu Fri Sat Sun
 What are the hours of operation? 11:00 AM until Complete approx 4:00 PM
- For Tournaments and Beano Only:
 What time do the doors open? 10:30 AM What time does the game start? 11:00 AM
- Dates to be licensed – Please specify weeks (Monday through Sunday) or full months. You may apply in advance for up to 6 months of licenses for Beano and 12 months for Games of Chance. See back of this form for rates.

<u>01/09/2016</u>	<u>05/14/2016</u>	<u>09/10/2016</u>
<u>02/13/2016</u>	<u>06/11/2016</u>	<u>10/8/2016</u>
<u>03/12/2016</u>	<u>—</u>	<u>11/12/2016</u>
<u>04/09/2016</u>	<u>—</u>	<u>12/10/2016</u>

9. Does the organization own all the equipment used in operating this amusement? Yes No

If "NO", please explain the circumstances under which the equipment was acquired:

10. Has any current officer of this organization or association ever been convicted of or have any charges currently pending for violating the gambling or lottery laws of the United States or the State of Maine? Yes No

If "YES" give the person's name, address, and date and place of conviction or date and location of pending charge:

11. If the Applicant is a Fair Association, attach a list of the names and home addresses of the persons operating or assisting in the licensed activity. Please write your organization name and number on the list.

APPLICANT SIGNATURE

12. The applicant agrees to obey the laws of the State of Maine and the United States and the rules and regulations governing Beano or Game of Chance promulgated by the Chief of the State Police. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: Keith L. Obiepk Age 18 or older: Yes No

Name: Keith L. Obiepk Title: Tournament Chairman Date: 12/16/2015
(Please print - must be duly authorized officer of this organization - title is required)

BLANKET LETTER

13. The following consent must be completed by the municipal officers of the city or town where the Beano/Bingo or Game of Chance will take place unless a separate "Blanket Letter of Approval" is filed with the Chief of the State Police.

- Check here if you have previously filed a "Blanket Letter of Approval" with us, which is still valid
- Check here if you have attached a "Blanket Letter of Approval".

CONSENT

The undersigned being municipal officers of the City/Town of Hampden hereby certify that we consent to this application for a license to operate Beano/Bingo or a Game of Chance in accordance with the provisions of 17 M.R.S.A. Chapter 13-A (Beano) or Chapter 62 (Games of Chance) and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operating of Beano/Bingo or Games of Chance.

Name: _____ Date: _____
Name: _____ Date: _____

FEEES

Beano/Bingo: \$5.00/Special Per Game License; \$12/Week; \$36/Month; \$400/Year

Game of Chance: \$15/Week; \$60/Month; \$700/Year Video Poker: \$15/Week or \$60/Month Card / Cribbage: \$30 Per Calendar Year

Tournament Game (up to 100 players): \$75.00/Per Tournament; \$200.00/Month (Two Tournaments per Month); \$1,500/Year (Two Tournaments per Month)

Make check payable to Treasurer, State of Maine

Return the signed and completed application to: Department of Public Safety