



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
AGENDA

MONDAY

OCTOBER 20, 2014

7:00 P.M.

• **6:00 pm – Finance & Administration Committee Meeting**

- A. PLEDGE OF ALLEGIANCE
- B. CONSENT AGENDA
 - 1. SIGNATURES
 - 2. SECRETARY'S REPORTS
 - 3. COMMUNICATIONS
 - 4. REPORTS
 - a. Finance & Administration Committee Minutes – 9/2/2014
 - b. Services Committee Meeting Minutes – 9/8/2014
- C. PUBLIC COMMENTS
- D. POLICY AGENDA
 - 1. NEWS, PRESENTATIONS & AWARDS
 - 2. PUBLIC HEARINGS
 - a. General Assistance Ordinance – Adoption of Revised Appendices A, B and C
 - b. Zoning Ordinance Text Amendment – Article 4.6 Rural Cluster Housing Open Space Exception
 - 3. NOMINATIONS – APPOINTMENTS – ELECTIONS
 - a. Warrant for Municipal Election – 11/4/2014
 - 4. UNFINISHED BUSINESS
 - a. Proposal for Feasibility Study to Expand Natural Gas into Hampden – Recommendations of Planning & Development and Finance & Administration Committees

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

- b. Possible Violation of Code of Ethics by a Town Councilor – Requested by Councilor Brann
 - 1. Executive Session pursuant to 1 MRS Sections 405(6)(A) and 405(6)(E);
 - 2. Council Action;
 - 3. Vote of Confidence - Executive Session pursuant to 1 MRS Sections 405(6)(A) and 405(6)(E);
 - 4. Council Action

- c. Possible Violation of Code of Ethics by a Town Councilor – Requested by Mayor Duprey
 - 1. Executive Session pursuant to 1 MRS Sections 405(6)(A) and 405(6)(E);
 - 2. Council Action
 - 3. Vote of Confidence - Executive Session pursuant to 1 MRS Sections 405(6)(A) and 405(6)(E);
 - 4. Council Action

- d. Possible Violation of Code of Ethics by a Town Councilor – Requested by Mayor Duprey
 - 1. Executive Session pursuant to 1 MRS Sections 405(6)(A) and 405(6)(E);
 - 2. Council Action
 - 3. Vote of Confidence - Executive Session pursuant to 1 MRS Sections 405(6)(A) and 405(6)(E);
 - 4. Council Action

5. NEW BUSINESS

- a. Exit Lighting at Skehan Center – Reserve Use – Recommendations of Services and Finance & Administration Committees

- b. Reschedule November 3rd Council Meeting

- E. COMMITTEE REPORTS
- F. MANAGER'S REPORT
- G. COUNCILORS' COMMENTS
- H. ADJOURNMENT

FINANCE & ADMINISTRATION COMMITTEE MINUTES

Tuesday, September 2, 2014

Attending:

Mayor Carol Duprey	Councilor Tom Brann
Councilor Greg Sirois	Town Manager Sue Lessard
Councilor Ivan McPike	Resident Terry McAvoy
Councilor Jean Lawlis	Councilor David Ryder (arrived during New Business)
Councilor William Shakespeare	

The meeting was opened at 6 p.m. by Mayor Duprey.

1. Meeting Minutes
 - a. August 18, 2014 – The minutes of 8/18/14 were reviewed by the Committee. No errors or omissions were noted and the minutes were approved as presented.
2. Review & Sign Warrants – Councilor Sirois questioned whether the Town provided the Public Works Director with a vehicle, which the Manager indicated the Town does not. He also questioned expenditures relative to propane tanks and the Manager explained that the town had purchased propane tanks for the Town Garage and Town Office so that it could get competitive bids for that product similar to what the Town does for diesel fuel and heating oil. The warrants were signed by Committee members.
3. Old Business
 - a. Review of Information Received from General Code – The Committee reviewed a document from General Code related to the ongoing codification of the Town's ordinances. The company requested information related to how the Town wished the codification to be done. The Committee provided the following guidance:
 1. Codification will only include actual Town Ordinances – not policies.
 2. There will be a separate section in the Code for Land Use & Development related ordinances
 3. Maps will be included in the online version of the Code but not the bound version
 4. The standard method of numbering ordinances by General Code will be used in the numbering of the Town's ordinances
 5. Italics used in two town ordinances will be removed to make them consistent in presentation to all other Town ordinances
 - b. GIS/IT Specialist Replacement Update – The Town Manager informed the Committee that advertisements had been placed and that the deadline had passed for persons to apply. There were five applicants for the job and interviews will be done during the next several weeks. The Manager will keep the Committee informed of any difficulty resulting from filling the position.
4. New Business

- a. Maine Municipal Risk Management Dividend
Property & Casualty and Worker's Compensation – The Manager presented a document from Maine Municipal Risk Management that showed that good experience in the Worker's Comp area and in limiting Property and Casualty claims had resulted in a dividend payment to the Town of \$3,112 for property and casualty and \$9,748 for Worker's compensation.
- b. Service Fees 2014/15 – The Town Manage presented the list of properties that are subject to payment of a Service Fee for the 2014/15 fiscal year as identified by the Tax Assessor. These properties are not subject to real estate tax but are subject to the Town's Service Fee's ordinance. The list of properties and amounts for 2014/15 are
 1. Penquis Mental Health \$1,964.65
 2. Community Housing of Maine \$2,105.01
 3. OHI George Street \$2126.30
 4. OHI Patterson Road \$1,628.24
 5. Medical Care Development \$5,279.94
 6. The Housing Foundation \$22,077.18

Motion by Councilor Lawlis, seconded by Councilor Sirois to recommend to the council that the Service Fees list for 2014/15 be approved as presented. Unanimous vote in favor.

5. Public Comment – Resident Terry McAvoy asked what the difference was between ordinances, orders and resolves. The Manager explained that resolves were generally done by the Council as statements of recognition for deserving persons/entities, but they were not subject to public hearings or an adoption process like an ordinance is. Orders are a formal way to present actions as part of a Council agenda. The Town does not currently utilize orders as part of its Council agendas.
6. Committee Member Comments – None.

The meeting was adjourned at 6:50 p.m.

Respectfully submitted,

Susan Lessard
Town Manager

SERVICES COMMITTEE MEETING MINUTES
September 8, 2014

Attending:

Councilor Jean Lawlis	Town Manager Sue Lessard
Councilor William Shakespeare	Resident Terry McAvoy
Councilor Tom Brann	Mayor Carol Duprey
Councilor Greg Sirois	

The meeting was opened at 6 p.m. by Chairman Lawlis.

1. MINUTES 8-11-2014 – Minutes of the 8-11-14 meeting were reviewed. No changes or corrections were made.
2. OLD BUSINESS
 - A. Papermill Park Update – Chairman Lawlis read an update from Volunteer Jeremy Jones regarding Papermill Park. According to Mr. Jones, the only ongoing issue noted was dog waste not being picked up by owners. Chairman Lawlis indicated that she had talked to a person who was willing to donate a dispenser and bags for pet waste for a possible dog park so she would check with that person to see if they were interested in donating for the Papermill Park site.
 - B. Parks/Trails – Maintenance, Improvements & Long Term Planning – Councilors Brann and Shakespeare and Brann presented an extensive list, including photos, of maintenance and repair deficiencies found when they met on the weekend of 9/6/14 and toured both Papermill Park and Dorothea Dix Park. Both expressed concerns over the poor condition of park facilities, lack of trash containers and poor porta-potty location at Papermill Park, lack of porta-potty at Marina Park, and unmaintained condition of porta-potty, hazard trees, dilapidated grills, peeling picnic tables, piled up brush, unmaintained gardens, and poor trail, empty information kiosk, and road conditions at Dorothea Dix Park. Councilors Brann and Shakespeare requested that this item be included on the next Council meeting agenda to allow time for a presentation of more photos and discussion of what policy the Council wishes to establish in regard to parks and trails maintenance. It was suggested that one individual should be responsible for daily checking of parks for problems, waste disposal, hazards, etc. Some concern was expressed over the potential cost of hiring an additional person or expanding facilities. It was the consensus of the Committee to refer this item to the Council on 9/6/14 for policy direction.
3. NEW BUSINESS
 - A. Candidate Forum – The Town Manager presented information to the Committee that due to the large number of candidates for both School Board and Town Council there would be two Candidate Forums on separate dates. In addition, questions would be provided to all candidates prior to the sessions, the forums will be filmed and rebroadcast, and the same moderator, Annie Gabbianelli, which had done past forums, would be asked to moderate the two for this year.
4. PUBLIC COMMENTS – None

5. COMMITTEE MEMBER COMMENTS – None

Motion by Councilor Sirois, seconded by Councilor Shakespeare to adjourn at 7:25 p.m.
Unanimous vote in favor.

Respectfully submitted,

Susan Lessard
Town Manager

D-2-a

GENERAL ASSISTANCE ORDINANCE APPENDICES A 2014-2015

The Municipality of Hampden adopts the MMA Model Ordinance GA Appendices A for the period of July 1, 2014 June 30, 2015. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the _____ (day) of _____ (month) 2014 (year) by the municipal officers:

(Print Name)

(Signature)

GENERAL ASSISTANCE ORDINANCE
APPENDICES B and C
2014-2015

The Municipality of Hampden adopts the MMA Model Ordinance GA Appendices B and C for the period of October 1, 2014 September 30, 2015. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the _____ (day) of _____ (month) 2014 (year) by the municipal officers:

(Print Name)

(Signature)

GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendix A* are effective from **July 1, 2014 to June 30, 2015**. The maximums found in *Appendices B, C, D, E, and F* are effective from **October 1, 2014 to September 30, 2015**.

APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	1	2	3	4	5	6
	\$603	\$725	\$874	\$1096	\$1261	

NOTE: For each additional person add \$69 per month.

(The applicable figures from Appendix A, *once adopted*, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	45.12	194
2	83.02	357
3	118.84	511
4	150.93	649
5	179.30	771
6	215.12	925
7	237.67	1,022
8	271.86	1,169

NOTE: For each additional person add \$146 per month.

APPENDIX C - HOUSING MAXIMUMS

Number of Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	\$ 101	\$ 432	\$ 126	\$ 543
1	\$ 120	\$ 518	\$ 153	\$ 657
2	\$ 145	\$ 625	\$ 185	\$ 796
3	\$ 184	\$ 790	\$ 233	\$ 1,004
4	\$ 210	\$ 904	\$ 268	\$ 1,154

(The applicable figures from Appendix C, *once adopted*, should be inserted here.)

FOR MUNICIPAL USE ONLY

D-2-b



TO: Hampden Town Council
FROM: Robert Osborne, Town Planner *RO*
SUBJECT: Zoning Ordinance Text Amendment, Article 4.6 Rural Cluster Housing Open Space Exception
DATE: September 29, 2014

At the September 10, 2014 meeting the Planning Board held a public hearing on the subject amendment. No member of the general public spoke on the item. The Planning Board voted unanimously to return an "ought-to-pass" recommendation to the Town Council for the attached amendment to the Rural Cluster Housing provisions.

TOWN OF HAMPDEN
Draft

The Town of Hampden Hereby Ordains
Proposed Amendments to the Zoning Ordinance

Additions are Double Underlined

Deletions are ~~Strikethrough~~

4.6. Rural Cluster Housing - In order to promote the health and general welfare of the community and to preserve and make available open space for recreation and conservation, the Planning Board may grant a developer permission to vary lot size requirements in districts in which cluster development is allowed, thus leaving a substantial area free of building lots to become permanent open space. This section shall apply to the Rural District. The cluster provision for Residential A and Residential B are contained in *Article 3.7.6 and 3.8.7* respectively.

(Amended: 06-03-91, 05-04-92)

4.6.1. Minimum Size - A cluster proposal shall not be considered unless the land area involved is at least ten (10) times the minimum lot size in the district for which it is being proposed.

4.6.2. Uses Allowed - No use shall be allowed in a cluster subdivision which is not allowed in the district for which it is being proposed with one exception: The planning board may allow dwellings with four (4) dwelling units in the Rural District in cluster subdivisions provided that such allowance shall not increase the maximum number of dwelling units allowed as determined by *Article 4.6.3* of the Ordinance.

4.6.3. Maximum Number of Dwelling Units Allowed - The maximum number of dwelling units permitted on a particular parcel of land shall be determined with reference to *Article 3* of this Ordinance and the following:

1. Subtract fifteen (15%) percent of the gross acreage of the tract (for streets) to obtain the net acreage of the tract.
2. Determine the maximum number of dwelling units allowed in the district in which the cluster is being proposed based on the net acreage of the parcel. The maximum number of dwelling units is determined by reference to *Article 3*. In the rural district the maximum number of dwelling units shall be based on three (3) dwelling units for two (2) acres of land.
3. The gross acreage of the tract shall include only land that is not encumbered with easements or other restrictions which prevent the full use of the area. Open space, set aside as required under 4.6.5, which is not otherwise encumbered with easements or restrictions, shall be considered part of the gross acreage of the tract.
4. An example for the Rural District of the calculation necessary to determine the maximum number of dwelling units is as follows: Parcel size: 20 acres (less) - 15% for streets - net acreage 17 acres. 17 acres (divided by 2 acres per lot) = 8.5 lots + 3 units per lot = 25.5 or 26 units, 2 acre lots. These twenty-six (26) units can be either one, two, three, or four unit buildings.

4.6.4. Density Bonus - For excellence in site design or for dedication of more than thirty (30%) percent of the gross area of the tract to permanent open space, the planning board may award up to ten (10%) percent more dwelling units than allowed under *Article 4.6.3* above.

4.6.5. Open Space - The land area not allocated to building lots and street shall be permanently and legally preserved as open space. At least twenty (20%) percent of the gross area of the development shall be so dedicated. These areas shall be in locations designated as open space or green belts in the Comprehensive Plan or, where the subdivider proposed open space in other areas, such proposals shall be subject to the approval of the planning board.

Exception: No open space dedication is required in Minor Subdivisions (four lots or less) in the Rural District if the total aggregate area of the proposed lots exceeds the minimum lot area required in the Zoning Ordinance by at least 10 percent. This exception shall also apply to further division of lots in previously approved subdivisions.

Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation.

1. *Maintenance of Open Space* - The developer shall make provision for the permanent maintenance of open space areas. The planning board shall approve such provision when it is satisfied that the provision, proposed by the developer, will result in the open space continuing as such and being properly maintained. No building permit shall be issued until the approval of the Planning Board has been given regarding the maintenance of open space. The developer shall either:
 - a. Dedicate such open space to public use if the town or another public agency has indicated it will accept such dedication;
 - b. Retain ownership and responsibility for maintenance of such open space;
 - c. or Provide for and establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either, a non-profit homeowners corporation or a community open space trust.
2. *Rules Governing Home-Owners Associations or Open Space Trusts* - If a homeowners association or open space trust is formed, it shall be governed according to the following regulations:
 - a. The organization shall be formed by the developer and be operating, with financial subsidization by the developer if necessary, before the sale of any lots within the development.
 - b. Membership in the organization is mandatory for all purchasers of homes therein and their successors.
 - c. The organization shall be responsible for maintenance of common open space and property. It shall also be responsible for insurance and taxes on common open space and property.
 - d. The members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with procedures established by them.
 - e. The organization shall have or hire adequate staff to administer common facilities and maintain the common open space.

4.6.6. Single Family Cluster Subdivision - Lot Requirements In cluster subdivisions or sections of cluster subdivisions made up of single family residences, individual lots shall meet the following requirements with regard to area, width, setback, etc:

1. *Minimum lot area* - One-quarter (1/4) the minimum lot area required in the district for which the cluster is proposed. In no case, however, to be less than 8,000 square feet.
2. *Minimum lot frontage* - 66 feet
3. *Maximum lot coverage* - 35%
4. *Minimum side yard setback* - 10 feet
5. *Minimum street yard setback* - 10 feet
6. *Minimum rear yard setback* - 25 feet

All of the above dimensions may be increased (decreased in the case of #3) by the planning board if they feel it is necessary to insure good site design. The objective of reducing them from the dimensions normally required is to allow flexibility in the development of the site. The flexibility thus allowed should result in more creative patterns of land utilization and savings in land development costs over those possible under conventional subdivision patterns.

4.6.7. Multi-Family Cluster Subdivision

4.6.7.1. *Requirements* - In cluster subdivisions or sections of cluster subdivisions made up of multi-family residences, the following requirements with regard to lot design shall apply:

1. *Maximum density of dwelling units.* - 16 units per acre
Subject to the other provisions of this Ordinance, especially *Article 4.6.3*,
2. *Minimum building setback:* - 40 feet.
3. *Minimum distance between buildings:*
 - a. Where both facing walls contain a window or windows; such distance shall be no less than one and one half (1-1/2') feet for each foot of height of the higher facing wall above the lowest adjacent ground elevation.
 - b. Where only one of the facing walls contains a window or windows; such distance shall be no less than one foot for each foot of height of the facing wall with no windows, above the lowest adjacent ground elevation.
 - c. Where neither of the facing walls contains a window or windows; such distance shall be no less than twenty (20') feet.
 - d. Between corners of two (2) buildings where no exterior wall of one building lies such that it can be intersected by a line drawn perpendicular to any exterior wall of the other building, other than such a line that results from co-linear exterior walls: ten (10') feet.
4. *Minimum side yard* - 20 feet
5. *Minimum parking* - 2 spaces per dwelling unit
6. *Maximum building height* - 35 feet

4.6.7.2. *Maintenance of Common Property* - In cases where common property or facilities exist such as elevators, stairwells, heating units, etc., the developer shall make provision for their

continual ownership and maintenance either through a homeowners association or by retaining ownership and responsibility for maintenance himself. In the case of a homeowners association, the rules governing homeowners associations as stated in *Article 4.6.5.2* of this Ordinance shall apply.

4.6.8. This multi-family cluster subdivision provision will be allowed only in the case of land development. Land subdivision without subsequent development of housing units by the developer does not qualify as cluster subdivision.

4.6.9. All pertinent sections of this Ordinance or any other ordinance of the Town of Hampden shall apply to cluster subdivisions with the exception of those regulations specifically waived in the cluster section of this Ordinance.

**WARRANT FOR MUNICIPAL ELECTION
TOWN OF HAMPDEN, MAINE
NOVEMBER 4, 2014**

COUNTY OF PENOBSCOT, SS.

TO: Devon Patterson, a resident of Hampden.

You are hereby required in the name of the State of Maine to notice the voters of Hampden, Maine.

You are hereby notified that the Municipal Election in the municipality will be held at the Municipal Building Community Room, on Tuesday, following the first Monday of November, same being the fourth day of said month in the year of our Lord two thousand fourteen for the purpose of effecting the election to the following offices:

- Town Councilor – Districts 1, 2, 3 and 4 (3-year term)**
- RSU #22 Board of Directors – (3 for 3-year term)**
- RSU #22 Board of Directors – (to fill Unexpired Term to November 2015)**
- Trustee Hampden Water District – (1 for 5-year term)**

Also to determine the following Referendum Questions:

ARTICLE 1. Shall the Charter amendment reprinted below be approved?

[] Yes [] No

The Town of Hampden hereby ordains that the following amendment to the Town Charter be enacted:

Deletions in ~~strikeout~~
Additions underlined

Sec. 211 Procedure

(d) Voting - The ayes and nays of any vote taken by the town council shall be entered in the record of the proceedings of the council by the Town Clerk, or designee. ~~Five~~ Four members of the council shall constitute a quorum, but a smaller number may meet from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council shall be binding or valid unless adopted by the majority vote of those present.

Effective Date: This Charter Amendment shall take effect upon adoption by the voters.

Summary: The current quorum provision requires a super majority of 5 members of the 7 member Town Council for a quorum to conduct business. There have been a number of times when the Town Council was unable to hold a council meeting due to a lack of the presence of 5 members. This amendment would reduce the quorum requirement to a simple majority. This amendment will not have an effect on the number of votes required for council action, as Section 211(d) requires a majority vote of the councilors present at the meeting. For both a meeting with 4 members present and a meeting with 5 members present, the majority vote required would be 3 votes.

ARTICLE 2. Shall the Charter amendment reprinted below be approved?

[] Yes [] No

The Town of Hampden hereby ordains that the following amendment to the Town Charter be enacted:

Deletions in ~~strikeout~~
Additions underlined

Sec. 901 General Authority

- (a) *Referendum.* The qualified voters of the town shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal or change an ordinance so reconsidered, to approve or reject it by referendum at a ~~town~~ an election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriations of money, levy taxes, or salaries of officers or employees.
- (b) *Initiative.* The qualified voters shall have the power to propose ordinances, ~~resolves~~ or orders to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at an election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of officials or employees.

Sec. 903 Commencement of Referendum Proceedings - Any 5 registered voters may begin referendum proceedings by a request in writing, to the town clerk for the appropriate petition blanks. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the ordinance, ~~order or resolve~~ sought to be reconsidered. The petition shall be signed only by registered voters of the town and each voter's signature shall be followed by that person's printed name and street address.

WARRANT FOR MUNICIPAL ELECTION
TOWN OF HAMPDEN, MAINE
NOVEMBER 4, 2014

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Each paper of the petition, when filed, shall have attached to it an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance sought to be reconsidered.

If within 20 days after the enactment of any such ordinance, ~~order or resolve~~, the appropriate petition signed by not less than 10% of the registered voters of the town is filed with the town clerk requesting its reference to a referendum, the town council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall order the question of adopting such ordinance, ~~order or resolve~~ submitted to a referendum vote to be held at the next scheduled election, or in the case of no election being scheduled within 6 months of the date of said public hearing, the council may order a special election to be held for that purpose, unless such ordinance shall be repealed by the council prior to the call for said election. Pending action by the voters of the town, the referred ordinance, ~~order or resolve~~ shall be suspended from going into operation until it has received a vote of the majority of the voters voting on said question.

Sec. 905 Enactment of Ordinances by Initiative - Ordinances may be enacted by the following initiative procedure:

Any 5 registered voters may begin initiative proceedings by request in writing to the town clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. The petition shall be signed only by registered voters of the town and each voter's signature shall be followed by that person's printed name and street address.

Each paper of the petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that the circulator personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed ordinance.

Upon receipt by the town clerk of the appropriate petition signed by not less than 10% of the registered voters of the town, the town council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the town clerk, and shall order the question of adopting such ordinance submitted to a vote to be held at the next scheduled election, or in the case of no election being scheduled within six months of the date of said public hearing, the council may order a special election to be held for that purpose, unless such ordinance shall be enacted by the council prior to the call for said town election. Such ordinance shall be enacted and take effect when a majority of those voting thereon shall have voted in the affirmative.

Effective Date: This Charter Amendment shall take effect upon adoption by the voters.

Summary: The purposes of the amendments are to correct inconsistencies in the provisions dealing with referenda and initiatives, and to require the printed names and street addresses of the persons signing a petition to enable the Town Clerk to verify their status as a registered voter in Hampden.

ARTICLE 3. Shall the Charter amendment reprinted below be approved?

Yes No

The Town of Hampden hereby ordains that the following amendment to the Town Charter be enacted:

Deletions in ~~strikeout~~
Additions underlined

Sec. 1002 *Activities Prohibited* - No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of religion, age, sex, sexual orientation, marital status, race, color, ancestry, national origin, physical or mental ~~handicap~~ disability.

Effective Date: This Charter Amendment shall take effect upon adoption by the voters.

Summary: The purpose of this amendment is to make Section 1002 consistent with the Maine Human Rights Act.

ARTICLE 4. Shall the Charter amendment reprinted below be approved?

Yes No

The Town of Hampden hereby ordains that the following amendment to the Town Charter be enacted:

Deletions in ~~strikeout~~
Additions underlined

Sec. 1003 *Charter Amendment or Revision*

~~(4)~~ Proposal of Amendment or Revision. Amendments or revisions to this charter may be framed and proposed: initiated by the town council or by petition of the voters of the town in accordance with the applicable requirements and procedures set forth in Title 30-A M.R.S. Sections 2101 through 2105, as may be amended or replaced from time to time.

~~(a) In the manner provided by state law, or~~

WARRANT FOR MUNICIPAL ELECTION
TOWN OF HAMPDEN, MAINE
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- ~~(b) By ordinance of the town council containing the full text of the proposed amendment and effective upon adoption, or~~
- ~~(c) By the registered voters of the town, or~~
- ~~(d) By report of a charter commission created by ordinance.~~

~~Proposal of an amendment by the registered voters of the town shall be by petition containing the full text of the proposed amendment and shall be governed by the same procedures and requirements prescribed in Article IX for initiative petitions until such time as a final determination as to the sufficiency of the petitions is made. The petition must be signed by registered voters of the town equal in number to at least 10% of the total number of registered voters.~~

~~(2) *Election.* Upon passage of an ordinance, or upon receipt of a petition finally determined sufficient, or upon receipt of the report of a charter commission, proposing an amendment pursuant to subsection 1, the town council shall submit the proposed amendment to the voters of the town at an election. Such election shall be announced by a public notice that will include a brief summary of the change(s) and location(s) where the complete text is available for inspection by the general public and shall be published in one or more newspapers of general circulation in the town at least 30 days prior to the date of the election. The election shall be held at the next regular municipal election. **(Amended: November 2, 2004)**~~

~~(3) *Adoption of Amendment.* If a majority of the qualified voters of the town voting upon a proposed charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after its adoption by the voters.~~

~~(4) (2) The town council is hereby authorized to correct typographical errors and misspelled words within the text of the charter for the purpose of accuracy in its phraseology except that there shall be no additions to or deletions from the subject matter of the charter other than by ordinance as prescribed by Section 212. **(Amended: 12/5/1977)**~~

Effective Date: This Charter Amendment shall take effect upon adoption by the voters.

Summary: In 1969, the Constitution of Maine was amended to add Article VIII, Part Second, Section 1, which granted municipalities home rule authority to alter or amend their charters. Section 1 also provided that the State Legislature shall prescribe the procedure by which the municipalities may so act. Some of the existing provisions of Section 1003 of the Town Charter are inconsistent with the procedure prescribed by the Legislature in Title 30-A M.R.S. Sections 2101 through 2105. The purpose of the proposed amendments is to bring the Town Charter into conformity with the provisions prescribed by the Legislature.

WARRANT FOR MUNICIPAL ELECTION
TOWN OF HAMPDEN, MAINE
NOVEMBER 4, 2014
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The Polls shall be opened at 8:00 a.m. and closed at 8:00 p.m. The Registrar of Voters will hold office while the Polls are open at the Polling Place to correct any error in or change a name on the voting list, to accept the registration of any person eligible to vote and to accept new enrollments. A person who is not registered to vote may not vote in any Election.

Pursuant to Title 21-A, Section 759(7), absentee ballots will be processed at the following times:

- November 3, 2014 (Day **Before** Election Day – Continuously beginning at 9:00 am, or immediately following a requested inspection; and
- November 4, 2014 – 9:00 am; 11:00 am; 1:00 pm; 3:00 pm; 5:00 pm and 8:00 pm

Dated at Hampden, Maine this 20th day of October, 2014.

Majority of Municipal Officers of Hampden, Maine

A True Copy:
ATTESTED: _____
Town Clerk of Hampden, Maine

Date: _____

A. Natural Gas Study: Woodard@Curran
Jim Wilson/Tom Eschner

CEDD requested from Woodard and Curran a proposal outlining the necessary approach to determining a more accurate estimate of costs associated with the installation of natural gas into the "Triangle" of Hampden. Jim Wilson and Tom Eschner suggested a study be conducted that would include preliminary engineering and cost estimating. A scope of services would include; a plan for pipeline location; evaluation of demand usage; and an economic evaluation. Woodard and Curran proposed a fee for service of \$ 9,900.

Committee Action: Forward to the Finance Committee for review and funding determination. (Vote: 6-0)

September 17, 2014



Dean Bennett, Director of Community and Economic Development
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Re: Town of Hampden, ME: Natural Gas Feasibility Study Proposal

Dear Dean:

Thank you for asking for our assistance with further evaluating the possibility of extending natural gas service into Hampden. We are pleased to provide this proposal to further investigate the likely costs to extend the pipeline into the community and to better understand the economics of such a pursuit.

Scope of Services: Preliminary engineering and cost estimate

Conceptual Plan Woodard & Curran will work with you to create a conceptual plan for the new pipeline route. We understand you have already discussed your ideas with representatives of Bangor Natural Gas (BNG), including a proposed pipeline route. We will work with you to create a scale drawing on a USGS topographic base plan so that the horizontal and vertical location of the pipeline can be further evaluated. We will also provide an independent opinion on whether the pipeline route discussed with BNG is likely to present difficulties with permitting or construction, as well as suggest potential alternatives that may alleviate the concerns.

Evaluate Demand Usage Based on the location of the pipeline, we will estimate the likely demand use for the area surrounding the pipeline route. The estimate will be based on current residences and businesses along the proposed route, as well as estimates of future demand to serve new development that is stimulated by the presence of the natural gas supply. We understand that BNG has developed an opinion on the demand usage and that they feel the project is not economically viable for them. The purpose of our work will be to provide an independent opinion on the potential to market the natural gas if provided so that we can estimate the simple payback on the investment of a pipeline extension. For this assessment we assume the Town of Hampden will provide a summary of existing square footage and building types along the route, and known or anticipated development near the pipeline.

Economic Evaluation We will prepare a budgetary opinion of probable cost for the project as depicted on the conceptual plan. This will include assumption on the size of the pipeline based on the estimated demand usage, typical valve requirements and service connections. We understand that BNG has provided an estimate of \$800 thousand to \$1 Million and it is our mission to provide a more detailed analysis suitable for comparison to the likely demand use benefits. It is assumed that the pipeline route may pass through private property which means that property purchases, easements and legal work may be necessary to secure the rights to proceed with the project. Our opinion of cost will include allowances for establishing rights of way based on previous experience.

We will compare the demand usage against the budgetary opinion of cost to understand a simple payback for the investment should you or BNG proceed with the project. From our findings, we will suggest options for how the project might be successful including de-averaging of gas rates, public/private partnerships with BNG, municipally operated systems.



Reporting We will consolidate all the data gathered in the steps described above into a letter report of findings and we would be available to present our findings to the Hamden Town Council, BNG or other interested stakeholders as you see fit.

The recommended fee for the services as described above is \$9,900. This includes presentation of our findings at one public meeting. Additional public presentations or meetings with stakeholders would be at an additional cost of \$500/meeting. If you agree to this scope and fee, please sign a copy of this letter and return it to me to act as our authorization to proceed and we will perform the work in accordance with our general services terms & conditions on file with the Town.

We could begin this work within two weeks of your acceptance of our scope and we should be able to deliver a draft letter report for your review 4-6 weeks afterward.

If you have any questions or comments or if we can better tailor our scope of services to your needs, please call. Otherwise, thank you for this opportunity to provide this proposal. We look forward to working with you and continuing to serve the Town of Hampden.

Sincerely,

WOODARD & CURRAN

A handwritten signature in cursive script, appearing to read "James D. Wilson".

James D. Wilson, P.E.
Senior Vice President

A handwritten signature in cursive script, appearing to read "Thomas R. Eschner".

Thomas R. Eschner, P.E.
Senior Vice President

JDW/TRE/eah

PN: 228466.00

AUTHORIZATION TO PROCEED

TOWN OF HAMPDEN

Signature Date

The Town of Hampden hereby ordains:

TOWN OF HAMPDEN
Code of Ethics

Section 1. Declaration of Policy.

The proper operation of democratic government requires that Town Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors and their appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors and all members and associate members of any Board or Committee appointed by the Town Council. This Code of Ethics is not intended to deny Council members, nor Board or Committee members, their constitutional rights nor violate their civil rights.

Section 2. Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated.

Business: Any corporation, partnership, individual, sole proprietorship, joint venture, or any other legally recognized entity, organized for the purposes of making profit.

Censure: A judgment or resolution condemning a person for misconduct.

Confidential Information: Any information, whether oral, written, digital or electronic, which comes to the attention of, or is available to, a Town Official only because of his or her position with the Town and which is not a matter of public record. Information received or discussed during an executive session called pursuant to 1 M.R.S. §405 shall be considered confidential information, and shall not be disclosed to any third party unless permitted by affirmative vote of the body which held the executive session.

Council Appointee: Any sworn member or associate member of any board or committee appointed by the Town Council, including but not limited to appointed Board members, Committee members, and Commission members.

Financial Interest: a direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of stock.

Immediate Family – Spouse, children, parents, brothers, and sisters. This includes family members related by marriage and adoption.

Special Interest: A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution, or the

approval, approval with conditions or denial of any application by the Town Council or Council Appointees, and which interest is not shared by the general public.

Town Councilor: Sworn member of the Hampden Town Council

Town Employee: Any individual working for, on a permanent or temporary basis, and drawing a salary, wages or stipend from the Town of Hampden. The term "Town Employee" shall not include consultants or professional personnel providing services to the Town as independent contractors under a written professional services contract or other similar engagement.

Town Official: A member of the Town Council or a member of any appointed committee, board or commission of the Town Council.

Sec 3. Standards of Conduct.

The purpose of this Code of Ethics is to establish standards of conduct for all Town Councilors and Council Appointees by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Hampden.

3.1 Statutory Standards: There are certain provisions of the general statutes of the State of Maine, which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all Town Councilors or Council Appointees whenever applicable, as if more fully set forth herein, to wit:

- 17 MRSA §3104 Conflicts of Interest; Purchases by the State
- 17-A MRSA §456 Tampering with Public Records or Information
- 17-A MRSA §602 Bribery in Office with Political Matters
- 17-A MRSA §603 Improper Influence
- 17-A MRSA §604 Improper Compensation for Past Action
- 17-A MRSA §605 Improper Gifts to Public Servants
- 17-A MRSA §606 Improper Compensation for Services
- 17-A MRSA §607 Purchase of Public Office
- 17-A MRSA §608 Official Oppression
- 17-A MRSA §609 Misuse of Information
- 17-A MRSA §903 Misuse of Entrusted Property
- 21-A MRSA §504 Persons Ineligible to Serve
- 30-A MRSA §2605 Conflicts of Interest
- 30-A MRSA §5122 Interest of Public Officials, Trustees of Employees

3.2 Disclosure of Confidential Information: No Town Councilor or Council Appointee shall, without proper legal authorization, disclose confidential information concerning the property, employees or applicants for employment, government or affairs of the

Town, nor shall he or she use such information to advance the financial or private interest of him or herself or others. Information received and discussed during an executive session of the Hampden Town Council or any Town Board, Committee, or Commission pursuant to 1 M.R.S. §405 shall be considered within the constraints of this subsection, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.3 Gifts and Favors: No Town Councilor or Council Appointee shall solicit or accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor or Council Appointee: 1) solicit or accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties or 2) solicit or grant in the discharge of his or her official duties any improper favor, service or thing of value. The foregoing is not intended to prohibit normal social practices where gifts from friends, associates, and relatives are appropriate for certain occasions.

3.4 Use of Town Property: No Town Councilor or Council Appointee shall use, or permit the use of, any Town-owned property including, but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established for the public at large.

3.5 Conflicts of Interest.

A. Deliberation and Vote Prohibited

1. No Town Councilor or Council Appointee shall participate directly or indirectly by means of deliberation, voting, approval or disapproval, or recommendation, or otherwise take part in the decision making process, on any agenda item before the body of which he or she is a member if he or she, or a member of his or her immediate family, has a financial or special interest, other than that possessed by the public generally, in such purchase, award, or approval, held by:
 - a. The Town Councilor or Council Appointee, or a member of their immediate family; or
 - b. A business in which the Town Councilor or Council Appointee, or a member of their immediate family, serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
 - c. Any other person or business with whom the Town Councilor, or Council Appointee, or a member of their immediate family, are in

business or are negotiating, or have an arrangement concerning future employment.

2. No Town Councilor or Council Appointee shall participate directly or indirectly by means of deliberation, approval or disapproval, or recommendation of an application, purchase, contract, or other legal matter, or in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, where said applicant or employee is:

a. A member of their immediate family; or

b. A person with whom either the Town Councilor or Council Appointee, or his or her immediate family, are in business.

B. Disclosure of Conflict. Any Town Councilor or Council Appointee who believes he or she, or a member of his or her immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before the body on which he or she serves shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the Town Council, Committee, Board, or Commission at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the Town Councilor or Council Appointee is present. Additionally, any Town Councilor or Council Appointee who believes that any fellow Town Councilor or Council Appointee, or a member of such fellow Town Councilor's or Council Appointee's immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure.

C. Determination of Conflict. In the event that a conflict has been raised relative to an individual Town Councilor or Council Appointee, and disclosure has been made as described above, such individual's fellow Town Councilors or Council Appointees shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Town Councilor or Council Appointee present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Councilor's or Appointee's alleged conflict of interest.

1. All votes of conflicts of interest questions shall be recorded. A majority vote shall determine the question; but a vote by Boards, Committees, and

Commissions may later be reviewed by Town Council upon the Town Council's consideration of the same agenda item.

2. Upon determination that a conflict of interest in fact exists, the Town Councilor or Council Appointee concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.
3. In lieu of the vote required by this subsection, the Town Council, upon motion and by majority vote may refer the conflict of interest question to the Town Attorney for a legal opinion, or may table its consideration of the relevant agenda item. In the event a majority of the Town Council, Board, or Commission concerned, or Committee thereof, shall require disclosure of further information not immediately available, or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

D. Avoidance of Appearance of Conflict: To avoid the appearance of a violation of this Section, once any individual Town Councilor, committee member, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflicts of interest questions relating to the agenda item concerned have been determined as provided in Subsection C above, said individual shall immediately remove him or herself from the meeting room or to the area of the room occupied by the general public. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual councilor, committee member, board member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by other members and the right to abstain from voting on the item has been granted.

E. Personal Interest. Nothing herein shall be construed to prohibit any Town Councilor or Council Appointee from representing his or her own personal interest by appearing before his or her collective body on any such agenda item, as long as the representation occurs in the area of the meeting room occupied by applicants or members of the general public.

F. Disclosure Statement. By no later than January 15th of each year, or within fifteen (15) days of being sworn in for a Town Councilor elected at a special election to fill a vacancy, every Town Councilor shall file a completed disclosure form with the Town Clerk. Within thirty (30) days after his or her appointment, every Council Appointee shall file a completed disclosure form with the Town Clerk. Such forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

1. The name of each person or entity whether incorporated or not, doing business with the Town in an amount in excess of \$1000 during the preceding calendar year from which such disclosing party or member of his

immediate family has received money or other thing of value in an amount in excess of \$1000 during the preceding fiscal year, including, but not limited to campaign contributions, where applicable.

2. The name of each entity, whether incorporated or not, doing business with the Town in an amount in excess of \$1000 for the preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1000 , including, but not limited to, the ownership of shares of stock.
3. The name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board which does business or may potentially do business with the Town. For such entity, such disclosing party shall provide the following information:
 - a. A brief description of the purpose of each board and/or office;
 - b. A short summary of such disclosing party's or family member's duties relative to any such board and/or office;
 - c. The term of service on each such board and/or office; and
 - d. Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this section "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.

4. Every Town Councilor or Council Appointee shall amend his or her annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each amendment shall be made within fifteen days following the occurrence which requires the amendment.
5. The Town Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the Town Council/Board/Committee of each disclosing party within thirty days of filing.
6. For the purposes of this Ordinance, a list prepared by the Treasurer of those persons or entities doing business with the Town in an amount in excess of \$1000 for the preceding year shall be determinative for purposes of reporting under this section. Income from and financial investments in, policies of insurance, and deposits from accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less

than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered a financial interest within the meaning of this section.

Sec 4. Political Activities.

No Town Employee, Town Councilor or Council Appointee shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties of the Town. In conjunction therewith, no Town Councilor or Council Appointee may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election for public office, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from Town Employees for political purposes. No Town Councilor or Council Appointee may distribute handbills or pamphlets while he or she is performing official functions or duties on behalf of the Town, unless such distribution has been authorized by the body of which he or she is a member. Nothing herein shall be construed to prohibit any Town Councilor or Council Appointee from participating in the political process in their private capacity as candidates for elected office or as private citizens.

Sec 5. Incompatible Employment or Office.

No Town Councilor or Council Appointee shall occupy any other office, elected or appointed, in another governmental entity when the duties of such office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this section, the occupancy of any office, elected or appointed, with any other governmental entity by any Town Councilor or Council Appointee is hereby prohibited in the following circumstances:

- A. Where the duties of the other office make it a physical impossibility to discharge the duties of the Town position; or
- B. Where one office is subordinate to the other; or
- C. Where one office carries the power of removal of the other; or
- D. Where the occupancy of both offices is prohibited by the Town Charter or by other provisions of law.

Sec 6. Violations of Ethical Standards by Councilors.

When any Councilor believes there has been a breach of the ethical standards set forth herein by another Town Councilor, he or she may ask to enter into executive session pursuant to 1 M.R.S. §405 for purposes of informal discussion of and resolution of an ethical issue. During such session, the Councilor shall specify which area(s) of this Ordinance he or she feels have been breached and by whom. After discussion among all Councilors, the Town Council shall leave executive session, and may proceed with

formal action only by majority vote of the Councilors not alleged to have breached the ethical standards.

- A. Based on information provided in said executive session, the Town Attorney shall provide the Council with an opinion on whether the cited matter(s) constitute a violation of this Ordinance.
- B. All procedures under this section shall be in accord with due process requirements, including, but not limited to, a right to notice and hearing.
- C. The Council may elect to give written warning in lieu of any other remedy or civil penalty available under this Ordinance or any other law or ordinance.

Sec 7. Ethics in Contracting.

The provisions of this Section shall apply to all persons doing business with the Town of Hampden as vendors, suppliers and contractors submitting bids or proposals in response to a Town solicitation or advertisement.

7.1 Gratuities and Kickbacks

- A. **Gratuities.** It shall be a violation of this Ordinance for any person to offer, give, or agree to give any Town Councilor or Council Appointee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or award pertaining to a Town purchase order, contract, construction contract, or professional services contract, or with respect to any solicitation, advertisement, request for bids, request for proposals, or any bid, proposal, or other response thereto.
- B. **Kickbacks.** It shall be a violation of this Ordinance for any person to solicit, offer, give, accept, or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a Town of Hampden contract for construction, procurement or professional services. To be valid, any disclosure under this paragraph must be made in writing to the Town of Hampden Town Manager prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this Ordinance to solicit, offer, give, accept, or receive any such gratuity or offer of employment in violation of applicable State or Federal Law.

7.2 Prohibition against Contingent Fees

It shall be a violation of this Ordinance for a person to be retained, or to retain a person, to solicit or secure a Town contract upon an agreement or

understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

7.3 Recovery of Value Transferred or Received in Breach of Ethical Standards.

The value of anything transferred or received in breach of the ethical standards of this Ordinance by a Town Councilor or a Council Appointee or other person may be recovered from both the Town Councilor or Council Appointee concerned and from the other person concerned.

7.4 Recovery of Kickbacks by the Town

Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the Town and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

7.5 Penalties and Sanctions

- A. In addition to the recoveries provided in Subsections 7.3 and 7.4 above, any violation of Section 7 shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this Section 7 shall be fined not less than three times the value of any improper gift or kickback paid, solicited, or received, or \$500, whichever is greater. The penalties provided in this paragraph shall be in addition to any penalties imposed under State or Federal Law.
- B. Upon conviction of a violation of this Section 7 or upon finding a violation by the Town Council or any Council Appointee following written notice and hearing, the Town Council may impose one or more of the following sanctions on the person, firm, or corporation convicted or found to be in violation:
 - i. written warnings or reprimands
 - ii. termination of contracts
 - iii. debarment or suspension of Town purchasing
- C. Termination of a contract under this Section 7.5 shall also terminate the contractor's right to receive further payment thereunder.

- D. The provisions of this Section 7 shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any Town of Hampden construction, procurement, or professional services contract with a base bid in excess of \$10,000. In the case of a professional services contract, the 'base bid price' shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Sec 8. Penalties for Town Council or Town Council Appointees.

Any Town Councilor or Council Appointee who violates a provision of this Ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 for each offense, which civil penalty shall inure to the benefit of the Town. In addition, violation of this Ordinance shall constitute cause for censure by the Town Council after notice and hearing conducted by that body.

Sec 9. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

Sec 10. Repeal of Prior Ordinance

The existing Code of Ethics Ordinance adopted on May 15, 2000 is hereby repealed in its entirety.

Sec 11. Effective Date

Pursuant to Section 213(c) of the Town Charter, the foregoing provisions shall be effective 30 days after the adoption of this Ordinance by the Town Council.

ADOPTED BY TOWN COUNCIL: May 7, 2012
Effective Date: June 6, 2012