



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING  
AGENDA

MONDAY

SEPTEMBER 19, 2011

7:00 P.M.

• **5:30 pm – FINANCE COMMITTEE MEETING**

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. September 12, 2011 Minutes
- b. Special Council Meeting Minutes 8-29-2011

3. COMMUNICATIONS

- a. Municipal Review Committee – Board of Directors Nomination Form
- b. Dept. of Environmental Protection – Department Order re Town of Hampden Shoreland Zoning Ordinance

4. REPORTS

- a. Infrastructure Committee Minutes – 8/22/2011
- b. Dyer Library Board of Trustees Minutes – 5/11/2011
- c. Lura Hoit Pool Board of Trustees Minutes – 7/12/2011
- d. Finance & Administration Committee Minutes – 8-15-2011
- e. Finance & Administration Committee Minutes – 8-29-2011

B. PUBLIC COMMENTS

C. POLICY AGENDA

1. PUBLIC HEARINGS

- a. Application for Renewal of Victualer's License received from Blue Sky Enterprises, LLC d/b/a Hampden Natural Foods at 281 Western Ave.
- b. Proposed Fees Ordinance Amendment – Article 8 Pool Fees

2. NOMINATIONS – APPOINTMENTS – ELECTIONS

3. UNFINISHED BUSINESS

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

- a. Hampden Academy Re-use
- b. Town Manager Search
- c. Request for Emails – Mayor Hughes
- d. Citizens Comprehensive Plan Committee – Request for Extension
- e. Pool Air Handler System – Recommendation of Services Committee and Finance Committee
- f. Acceptance of Assignment of Option to Purchase Land Adjacent to Marina
- g. Chevron/Town/Hamlin’s Marine Escrow Agreement

4. NEW BUSINESS

- a. Council Committee Assignments
- b. Certificate of Abatement – Penquis Mental Health Assoc.
- c. Application for Renewal of Outdoor Wood-burning Furnace License received from Doug and April Stanhope, 560 Western Ave.
- d. Lease Purchase Agreement for Funds for Public Works Trucks
- e. Billington, LLC Conservation Easement on Proposed Open Space – Referral from Planning & Development Committee
- f. Proposed Zoning Ordinance Text Amendment to Consider Church as a Conditional Use in the Commercial Service District – Referral to Planning Board

D. COMMITTEE REPORTS

E. MANAGER’S REPORT

F. COUNCILORS’ COMMENTS

G. ADJOURNMENT

**SPECIAL TOWN COUNCIL MEETING**  
Monday, September 12, 2011

Attending:

Mayor, Janet Hughes	Councilor Tom Brann
Councilor, Jean Lawliss	Councilor Kristen Hornbrook
Councilor William Shakespeare	Councilor Shelby Wright

1. By a majority vote of the Town Council at the August 29, 2011 Special Town Council Meeting, the Council decided it was in the best interest of the Town to proceed with hiring a firm to assist the Town Council in solicitation and selection of a new Town Manager, to replace Susan Lessard (after her recent resignation). After review of two proposals from Maine Municipal Association (MMA) and Eaton-Peabody Consulting Group, the Council felt it was necessary to interview the firms. This Special Town Council Meeting of September 12, 2011 was scheduled by Mayor Hughes for purposes of interviewing the two firms and thus expediting the process quickly.
2. Interviews were conducted by both firms. After much deliberation, it was general consensus that both firms equally would provide a good service with the good qualifications and with representatives that would fit well with the Council's needs. The strengths of both firms were discussed in detail, and the Council was generally split on which firm to hire. The Council voted to hire MMA. The vote was conducted by straw poll, with Councilors Brann, Shakespeare and Wright voting for MMA and Mayor Hughes and Councilor Lawlis voting for Eaton-Peabody Consulting Group; Councilor Hornbrook abstained. Councilor Hornbrook felt that the Town should proceed with the Town Manager search without hiring outside assistance and incurring associated costs.
3. Mayor Hughes would contact Sue Lessard and/or the consultants with the results.
4. Councilor Cushing had asked to be excused from the meeting.

The meeting was adjourned at 7:00 pm.

Janet Hughes  
Mayor

SPECIAL TOWN COUNCIL MEETING MINUTES  
August 29, 2011

Attending:

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

Town Manager Sue Lessard  
Residents

The meeting was called to order at 7:35 p.m.

1. Hampden Academy Re-Use

*The purpose of this item was to discuss two questions related to the re-use of the Hampden Academy property. These two questions were raised by the RSU 22 Re-use committee members who attended the Planning and Development Committee meeting on August 17<sup>th</sup>. At that time the Planning and Development Committee was not comfortable with answering those questions without a discussion of them by the full Town Council.*

- a. Is the Town of Hampden interested in pursuing a lease with RSU 22 for the Skehan Center gym for an annual cost of \$1 plus utilities (estimated at \$70,000 per year) and maintenance?*
- b. Is the Town of Hampden interested in acquiring the entire old Hampden Academy site if RSU offers it to the Town?*

*Mayor Hughes read a statement providing background on what had occurred thus far in the re-use process. (copy attached).*

*The Council discussed pros and cons related to both questions.*

*Motion by Councilor Brann, seconded by Councilor Lawlis to direct the Town Manager to inform the RSU 22 School Board in writing that the Town of Hampden is interested in acquisition of the Hampden Academy site if offered by RSU 22 and that the Council looks forward to more negotiation and discussion on this topic. Unanimous vote.*

*It was noted by several Councilors that this message had been conveyed to the school board previously, but it was still determined that a formal letter was necessary to insure that the Council's intent was clear.*

*Motion by Councilor Brann, seconded by Councilor Shakespeare to direct the Town Manager to inform the RSU 22 School Board in writing that the Town*

*Council is not interested in leasing the Skehan Center for recreational purposes for an annual lease cost of \$1 plus utilities and maintenance. Unanimous vote.*

*Councilors had concerns that this option had too many unknowns in terms of costs. Also cited as a concern was the fact that leases are limited by law to 4 years on such properties.*

2. Public Comment - None

3. Councilor Comment –

*Councilor Lawlis – Appreciates the efforts of the re-use committee to find revenues to offset expenses but is concerned that 4 year leases do not provide a level of security that the costs would not fall to the RSU Budget and the taxpayers.*

*Councilor Brann – Thanked Councilor Shakespeare for reporting the hole at the side of the road adjacent to the bridge on 202. The next day a crew was there from MDOT doing considerable work because it was a real safety hazard. He also agrees that a 4 year lease term is too short to be dependable as a long term financing option for costs associated with RSU 22 retaining the Hampden Academy property.*

*Councilor Cushing – Children's Day was a great event this year. Kennebec Road is due to be resurfaced in the near future. He concurs with the idea of a continued dialog with RSU 22 for re-use of Hampden academy.*

*Councilor Hornbrook – Wished that the community had had the information regarding the costs associated with the re-use of Hampden Academy before the three towns in the district were asked to vote to approve the new High School. Reported that she and her family had helped to clean up after Children's Day and that it was a good event for the Town.*

*Councilor Hughes – Reminded the Council that from earlier discussions, neither the Town of Newburgh nor the Town of Winterport was interested in RSU 22 retaining the property. They did not want costs passed on to the Towns that might result from that action.*

*The meeting was adjourned at 8:50 p.m.*

*Respectfully submitted,*

*Susan Lessard  
Town Manager*

**Special Town Council Meeting  
August 29, 2011**

Subject: Re-use options for the old Hampden Academy Facility

On August 10, I attended the SAD22 Ad Hoc Committee for Re-Use of the Old Hampden Academy. The Ad-Hoc Committee is made up of SAD 22 School Board Members. Discussion at that meeting was with regards to potential re-use of the old Hampden Academy. The current charge of the Ad-Hoc committee is to explore reuse of the school property. The buildings are anticipated to be demolished except for the 1843 building and the Skeeahan Center (known as the old gym), and possibly but not certain Wing 1 (known as the Science Building) and Wing 2 which is the corridor and immediate classrooms at the main entrance to the School. See drawing. Based on preliminary estimate of costs, the demolition of the facilities is approximately \$1.5 million. As part of demolition, this would include utility connections and renovations where necessary to bring the facilities back on line and the site back to useable condition. It is my understanding that SAD22 does not have moneys to provide the demolition, however, has preliminary approval for a \$1.5 million bond, with 0% interest over a 15 year period. Should they move forward with demolition plans or to keep the facility, the decision to secure the bond would rest with the voters of Hampden, Newburgh, and Winterport whom would be part of the continued ownership of the school under SAD22 ownership. Continued operation of the building as is...is estimated at approximately \$200,000 annually.

It is my best understanding that under State mandate, SAD 22 may re-use the old school for educational purposes or offer the facility back to the Town of Hampden, (Town). If the Town does not accept the property, SAD22 may look at other options to sell the property. The SAD22 may lease the property as an educational facility to other entities however, are limited by a 4 year lease option period. It is also my understanding that the SAD22 may request that the Town compensate to the SAD22, the maximum value of the approx. 40% of the market value of the property (less Hampden's share of SAD22). SAD 22 is currently having the property appraised.

The SAD22 Ad-Hoc Committee is exploring the potential to lease the property to two separate entities including Stillwater Academy and SPRPCE. SAD22 has offered to lease the Skeeahan Center (new gym) to the Town for a \$1 lease amount. The purpose of the Town of Hampden use would be for recreational purposes and/or recreational center. However, the Town would be required to pay for the operation of the building which has a preliminary cost estimate of \$70,000 per year, (provided by the SAD22). SAD22 has identified that there have been discussions between SAD22 and the Town of Hermon, and John Bapst who may also have interest in leasing the Skeeahan Center. If the Town of Hampden, does not desire to lease the Skeeahan Center, then the SAD22 may continue discussions with these two entities and others for potential lease options. In discussions, the SAD22 would consider the athletic fields and parking as part of lease options to the Town for recreational purposes.

The Planning & Development Committee met with the SAD 22 Ad-Hoc Committee regarding 1) the Town's interest to lease the Skeeahan Center; and 2) the Town's interest to accept the old Hampden Academy facility. The Ad-Hoc Committee will report to the full SAD22 School Board at their next meeting, with the intent of the School Board to make decisions on how to proceed with their plans for this site.

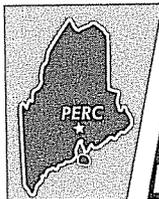
The Planning & Development Committee and the Council has been considering the options for this school for the past few years, and continued discussions by the Planning & Development Committee have led to the desire to accept this facility and return the property to the taxable land. This would allow the Town to redevelop the facility being located in the heart of our community. The Planning & Development Committee feels that the best use of the facility could be a combination of uses, ranging from commercial development to housing. The Planning & Development Committee in concert with Dean Bennett, Economic and Community Director for the Town, has entertained a conceptual plan for moving forward. It is not the intent to spend tax payers dollars to demolish the site nor do we unrealistically feel that we can make a huge profit if a profit at all. However, we feel that the property could be offered to the Development community in Maine or beyond for proposal for re-development that would fit the needs of the Community, and in a manner which would have the demolition of the buildings completed with some possible recreational amenities, as well. Taxation is the long term benefit to the community which would help pay for the resources of the school, as 67% of the resident's tax bill pays for the school. It is the intent of the Planning and Development Committee to develop the property in a manner which would not impact resident's tax bill.

The Planning & Development Committee would need to have a decision in the next two months, so that the residents would not be burdened by maintenance and operational costs of a vacant facility, and coincide with moving of the SAD22 operations to the new facility in summer of 2012.

This Special Council Meeting was called so the full Council could consider how to best proceed. First, I ask you to consider:

- 1) Potential acceptance of the old Hampden Academy
- 2) Potential use of the Skeeahan Center if SAD22 chooses to lease the facility to other educational facilities.





A-3-a

40 Harlow Street  
Bangor, ME 04401-5102

## Memorandum

To: MRC Member Communities  
From: Greg Louder, MRC Clerk   
Date: September 9, 2011  
Subject: **MRC Board of Directors Election – Candidate Nomination Form**

Please find enclosed a nomination form for candidates to serve on the MRC Board of Directors. Candidates receiving the three highest numbers of votes in the upcoming election will fill three seats whose terms expire on December 31, 2011. The three-year terms of office will run from January 1, 2012 through December 31, 2014. In addition, the candidate receiving the fourth highest number of votes will fill a vacancy in an unexpired term from January 1, 2012 to December 31, 2013. The MRC Bylaws limit the slate of candidates to the first nine nominations received. Nominees are placed on a slate of candidates for election by a vote of the MRC membership and Directors are elected to serve the membership at large. Current MRC Directors whose terms expire are eligible to be nominated.

Please complete and return the enclosed form if your municipality wishes to nominate an individual for consideration of placement on the slate of candidates. **We highly encourage you to discuss, with potential nominees, the level of Board of Directors activity described below.**

The Board of Directors meets, at a minimum, six times annually. Regular board meetings are typically four hours long. In addition to Regular board meeting attendance, there are likely to be a number of additional duties and time commitments including special meetings, sub-committee assignments and general oversight of the organization's business. The Board of Directors is a highly active decision and policy-making body for the organization.

Regular and Special board meetings are held in the greater Bangor area, with Regular meetings typically held on the 4<sup>th</sup> Wednesday in January, April, July and October from 10:00 AM to 2:00 PM. The Annual Meeting is usually held the second week of December. If potential candidates have questions concerning the Board of Directors' duties, please contact a current member of the MRC Board of Directors (contact list enclosed) or Greg Louder (800-339-6389 or 942-6389).

The deadline for submitting a nomination form is October 21, 2011. An annual election ballot depicting the final slate of candidates will be prepared and mailed to all MRC Members shortly after that time. The results of the election will be announced at the MRC Annual Meeting to be held in the second or third week of December of 2011.

Enclosures: Nomination Form  
2011 Board of Directors List

**MUNICIPAL REVIEW COMMITTEE, INC.  
2011 Election – BOARD OF DIRECTORS  
NOMINATION FORM**

Submitted by MRC Member: \_\_\_\_\_  
(Town/city/county/regional association)

Nominee Name: \_\_\_\_\_

Circle and list all that apply to Nominee for questions 1. through 3. below:

1. YES / NO - Legal Resident of MRC Member: \_\_\_\_\_

2. YES / NO - Elected or Appointed Official of MRC Member: \_\_\_\_\_

3. YES / NO – Employee of MRC Member: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_ Email: \_\_\_\_\_

**The below provided biographical information is to be provided by the nominee. The information, as provided, will accompany the voting ballot provided for the MRC membership's consideration.**

Biography:

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**REMINDER: The final slate is limited to the first nine (9) nominations received**

Please return this form by mail on or before October 21, 2011 to:  
Municipal Review Committee, Inc.  
40 Harlow Street  
Bangor, Maine 04401

Delivery via FAX is permitted at: (207) 942-3548 Attn: Greg Louder

**Municipal Review  
Committee, Inc.  
2011**

**Board of Directors**

January 2009 to December 2011

**Philip O. McCarthy**  
Town of Clinton  
780 Hinckley Road  
Clinton, Maine 04927

Voice: 426-2003  
[pcmccarthy987@roadrunner.com](mailto:pcmccarthy987@roadrunner.com)

**Robert A. Peabody, Jr.**  
Town Manager  
Town of Rockport  
PO Box 10  
Rockport, Maine 04856

Voice: 236-0806  
FAX: 236-0112  
[townmanager@town.rockport.me.us](mailto:townmanager@town.rockport.me.us)

**Sophia Wilson**  
Town Manager  
Town of Orono  
P.O. Box 130  
Orono, ME

Voice: 866-2556  
FAX: 866-5053  
[sophiew@orono.org](mailto:sophiew@orono.org)

January 2011 to December 2013

**Chip Reeves**  
Director of Public Works  
49 Park Street  
Bar Harbor, ME 04609

Voice: 288-1026  
FAX: 288-0961  
[chip@barharbormaine.gov](mailto:chip@barharbormaine.gov)

**Henry Chausse**  
Town of Machias  
25 Colonial Way  
Machias, ME 04654

Voice: 255-8292 T,Th,S,Sun  
FAX: 255-6492

**Elery Keene**  
Executive Director,  
KVCOG (retired)  
3 Pat Street  
Winslow ME 04901

Voice: 872-5231  
[no fax]  
[wekeene@me.acadia.net](mailto:wekeene@me.acadia.net)

January 2010 to December 2012

**Greg Brown – Vice President**  
City Project Engineer  
One Common Street  
Waterville, ME 04901

Voice: 680-4232  
FAX 680-4234  
[gbrown@waterville-me.gov](mailto:gbrown@waterville-me.gov)

**John Chisholm – President**  
Town of Levant  
154 Tay Road  
Levant, Me 04456-0220

Voice: 884-8421  
FAX: 285-7204

**Robert Farrar - Treasurer**  
Assistant City Manager  
City of Bangor  
73 Harlow St.  
Bangor, ME 04401

Voice: 992-4202  
FAX: 945-4445  
[robert.farrar@bangormaine.gov](mailto:robert.farrar@bangormaine.gov)

A-3-b

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

ACTING COMMISSIONER

9 September 2011

Town of Hampden  
Attn: Town Planner

Subject: APPROVAL,  
Shoreland Zoning Amendments

Dear Mr. Osborne:

The Department of Environmental Protection (Department) has reviewed the amendments to the Shoreland Zoning Ordinance. We appreciate the hard work that goes into keeping an ordinance up to date. The amendments include modification of the definition of "family" and "community living arrangement".

The Department is now issuing formal orders for approving amendments, so please find enclosed Department Order #52-2011 (Order) approving the Town of Hampden, Maine, Shoreland Zoning Ordinance, as amended on 15 August 2011, and received by the Department on 30 August 2011 (Ordinance). This Order also recognizes approval of the Official Shoreland Zoning Map as adopted on 1 March 2010.

Notwithstanding the Department's approval, the Department found additional deficiencies that should be addressed by the Town of Hampden when the Ordinance and Map are next amended, and otherwise may be addressed by the Department through rule-making in the future. These deficiencies are noted in Department Approval Letter dated 26 March 2010.

If you have questions relating to the shoreland zoning, you may reach me at 207-356-1643 or by e-mail at [stephenie.maclagan@maine.gov](mailto:stephenie.maclagan@maine.gov).

Sincerely,

Stephenie MacLagan  
Shoreland Zoning Program  
Department of Environmental Protection

enclosed: Department Order #52-2011  
cc: Town of Hampden, Attn: Town Clerk

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04679-2094  
(207) 764-0477 FAX: (207) 760-3143



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF HAMPDEN ) MANDATORY SHORELAND ZONING ACT  
PENOBSCOT COUNTY ) 38 M.R.S. §§ 435-449  
SHORELAND ZONING ORDINANCE )  
ORDER #52-2011 ) APPROVAL

Pursuant to the provisions of 38 M.R.S. §§ 435-449 (Act), and the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, 06-096 C.M.R. ch. 1000 (amended November 22, 2010) (Guidelines), the Department of Environmental Protection has considered the Town of Hampden, Maine, Shoreland Zoning Ordinance (Ordinance), as amended on August 15, 2011, and FINDS THE FOLLOWING FACTS:

1. The Act requires municipalities to establish zoning controls in areas within 250 feet of the normal high-water line of great ponds and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of the normal high-water line of streams. Such zoning standards must be consistent with or no less restrictive than those in the Guidelines, as adopted by the Board of Environmental Protection (Board).
2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendments to that ordinance, is/are effective, it must be approved by the Commissioner of the Department of Environmental Protection (Department). The Department may approve, approve with conditions, or disapprove the ordinance or amendment. If disapproved, or approved with conditions, such action must be preceded by notice to the municipality. If the Department fails to act within 45 days of its receipt of the ordinance or amendment, then the ordinance or amendment is automatically approved.
3. On March 26, 2010, the Department approved the Official Shoreland Zoning Map, as adopted on March 1, 2010 (Map).
4. The Department's review of the Ordinance determined that the Ordinance is consistent with the Act and the Guidelines.

BASED on the above Findings of Fact, the Department makes the following CONCLUSIONS:

1. The Town of Hampden has adequately met the requirements of the Act, and the Ordinance and Map are consistent with the Guidelines.

THEREFORE, the Department APPROVES Ordinance, as amended on August 15, 2011.

TOWN OF HAMPDEN  
PENOBSCOT COUNTY  
SHORELAND ZONING ORDINANCE  
ORDER #52-2011

2  
) MANDATORY SHORELAND ZONING ACT  
) 38 M.R.S. §§ 435-449  
)  
) APPROVAL

DONE AND DATED AT BANGOR, MAINE, THIS 9 DAY OF SEPTEMBER, 2011.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Edward M. Logue

FOR: Patricia Aho, Acting Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

INFRASTRUCTURE COMMITTEE MEETING MINUTES  
MONDAY, AUGUST 22, 2011

Attending:

Chairman William Shakespeare  
Mayor Janet Hughes  
Councilor Tom Brann

Town Manager Sue Lessard  
Public Works Director Chip Swan

1. Minutes of July 25, 2011 meeting – Motion by Councilor Hughes, seconded by Councilor Brann to approve with no changes. Unanimous vote.
2. Old Business
  - a. Water District – Preparation for semi-annual meeting – It was the consensus of the Committee members to ask the Water District Trustees to hold the semi-annual meeting with the Council on Monday, September 26<sup>th</sup> at 6 p.m. at the Town Office. The topics of discussion would include the current status of the district and the possibility of the Town and the District working toward a combined operation.
3. New Business
  - a. Coldbrook Road Speed Limit – The Town Manager reported that she and the Public Safety Director had met with MDOT representative Andrew Allen about a speed zone review done recently on Coldbrook Road by the MDOT at the request of the Town of Hermon. As a result of that review, the MDOT is recommending increasing the speed on Coldbrook Road from 40 to 45 mph. Since the MDOT does not notify abutters to the road, the Town Manager asked permission to send out a notice to all Coldbrook Road residents about the proposed speed increase, along with MDOT contact information in case people have questions or concerns. The Committee indicated support for that measure.
4. Public Comment - None
5. Committee Member Comment – Councilor Shakespeare asked if there had been any follow up by the Police Department on the additional information requested for the Jay's Way streetlight request. The Town Manager will check and report back to the committee.

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

Respectfully submitted,



Susan Lessard  
Town Manager

EDYTHE L. COMMUNITY LIBRARY  
BOARD OF TRUSTEES' ANNUAL MEETING  
MAY 11, 2011  
MINUTES

**Call to order:** The annual meeting of the Board of Trustees of the Edythe L. Dyer Community Library was held at the Edythe L. Dyer Community Library, Hampden, Maine on May 11, 2011. The meeting convened at 7:40 a.m., John Skehan presiding, Debbie Lozito recording secretary.

**Members present:** Debbie Lozito (ex officio), Dave Barrett, Mark Russell, Yvonne Lambert, Ruth Stearns, Cheri Condon, Richard Jenkins, John Skehan

**Members absent:** Don Desmarais, Mary Ann Bjorn, Tony Mourkas

**Approval of minutes:** Motion was made by Mark Russell to approve the minutes of the March 9, 2011 meeting. **Motion carried**

**Library reports:**

Fees and fines  
Morgan Stanley Smith Barney  
Circulation  
Director

**Unfinished Business:**

**Nominating committee** Mark Russell presented the slate for consideration

Chair: Mark Russell

Vice Chair: John Skehan

Treasurer: Dave Barrett

Ruth Stearns moved and Richard Jenkins seconded acceptance of the slate. **Motion carried unanimously.**

**Policy work:**

Dave Barrett moved and Mark Russell seconded acceptance of three revised policies (Monetary Gifts Policy, Material Gift Policy and Friends of the Library Policy) as written. The record reflects board appreciation for the work Cheri Condon has done revising and updating policies.

The next meeting is scheduled for September 14, 2011

**Adjournment:** The meeting was adjourned at 8:04 a.m.

Debbie Lozito

Recording Secretary

\_\_\_\_\_  
Date of approval

A-4-C

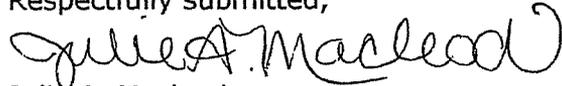
Lura Hoit Pool ~ Board Meeting Minutes ~ 7-12-11

Cedena McAvoy announced that since there was not a quorum present, the meeting could not be held. The board will meet on August 9<sup>th</sup> instead.

Those present: Cedena McAvoy, Karen Brooks, Mary Ellen Conner, Darcey Peakall and Julie Macleod. Not present: Norm Stern, John Weinmann, Greg Hawkins, David Hawkins, Pat Foley and Jim Feverston.

All agenda items will be tabled until the August meeting.

Respectfully submitted,



Julie A. Macleod



**TOWN OF HAMPDEN, MAINE**

**APPLICATION FOR VICTUALER'S LICENSE**

DATE: 8/28/11 PHONE NUMBER: 207.862.1500

NAME(S): Blue Sky Enterprises, LLC.

ADDRESS: 281 Western Ave. Hampden, ME 04444

NAME OF BUSINESS: Hampden Natural Foods

LOCATION OF BUSINESS: Same

SIGNATURE: [Signature]

\*\*\*\*\*  
(FOR TOWN USE ONLY)

\*This facility has been inspected and meets ordinance criteria.

[Signature]  
Code Enforcement Officer

[Signature]  
Fire Inspector/Building Inspector

\*All sewer user fees and personal property taxes are paid in full to date.

[Signature]  
Tax Collector

[Signature]  
Town Treasurer

\*\*\*\*\*

Please return completed form to: **Town Clerk**  
**Town of Hampden**  
**106 Western Avenue**  
**Hampden, ME 04444**

**LICENSE FEE: \$125.00** Date Received/Fee Paid: AUG 31 2011 / \$125-  
(Fee Includes Notice of Public Hearing)

ARTICLE 8  
POOL

8.1. *Susan G. Abraham Memorial Endowed Scholarship* provides the opportunity to learn to swim (see 8.9 & 8.10) to those who could not otherwise afford it. The scholarship is based on individual assessment of financial need and must be resident of Hampden, Winterport or Newburg.

8.2.	<b><i>Annual Resident Membership Fees:</i></b>		<i>New Fees</i>
8.2.1.	Family	\$255.00	
8.2.2.	Single Adult	\$155.00	
8.2.3.	Youth/Teen	\$120.00	
8.2.4.	Senior	\$145.00	

8.3.	<b><i>Six Month Resident Membership Fees:</i></b>	
8.3.1.	Family	\$155.00
8.3.2.	Single Adult	\$95.00
8.3.3.	Youth/Teen	\$75.00
8.3.4.	Senior	\$90.00

8.4.	<b><i>Three Month Resident Membership Fees:</i></b>	
8.4.1.	Family	\$95.00
8.4.2.	Single Adult	\$60.00
8.4.3.	Youth/Teen	\$50.00
8.4.4.	Senior	\$55.00

8.5.	<b><i>Annual Non-Resident Membership Fees:</i></b>	
8.5.1.	Family	\$280.00
8.5.2.	Single Adult	\$180.00
8.5.3.	Youth/Teen	\$145.00
8.5.4.	Senior	\$170.00

8.6.	<b><i>Six Month Non-Resident Membership Fees:</i></b>	
8.6.1.	Family	\$170.00
8.6.2.	Single Adult	\$110.00
8.6.3.	Youth/Teen	\$90.00
8.6.4.	Senior	\$105.00

8.7.	<b><i>Three Month Non-Resident Membership Fees:</i></b>	
8.7.1.	Family	\$105.00
8.7.2.	Single Adult	\$70.00
8.7.3.	Youth/Teen	\$60.00
8.7.4.	Senior	\$65.00

8.8.	<b><i>Daily Swim Fee during family or lap swim times</i></b>		
8.8.1.	Single Swim - Resident	\$4.00	
8.8.2.	Single Swim - Non-Resident	\$5.00	
8.8.3.	Resident 12 Use Punch Card	\$30.00	<b>New</b>
8.8.4.	Non-Resident 12 Use Punch Card	\$36.00	<b>\$42</b>

<b>8.9.</b>	<b><i>Resident Swim Lessons</i></b>		
8.9.1.	Members	\$36.00	<b>\$4.50 per class</b>
8.9.2.	Non-Members	\$44.00	<b>\$5.50 per class</b>
<b>8.10.</b>	<b><i>Non-Resident Swim Lessons</i></b>		
8.10.1.	Members	\$40.00	<b>\$6.00 per class</b>
8.10.2.	Non-Members	\$48.00	<b>\$7.00 per class</b>
<b>8.11.</b>	<b>Private Swim Lessons</b>		
8.11.1	<b>Resident Member</b>		
	<b>1 Child</b>	<b>\$15.00 per class</b>	
	<b>2 Children</b>	<b>\$20.00 per class</b>	
8.11.2	<b>Resident Non-member</b>		
	<b>1 Child</b>	<b>\$20.00 per class</b>	
	<b>2 Children</b>	<b>\$25.00 per class</b>	
8.11.3	<b>Non-resident Member</b>		
	<b>1 Child</b>	<b>\$20.00 per class</b>	
	<b>2 Children</b>	<b>\$25.00 per class</b>	
8.11.4	<b>Non-resident Non-member</b>		
	<b>1 Child</b>	<b>\$25.00 per class</b>	
	<b>2 Child</b>	<b>\$30.00 per class</b>	
<b>8.12.</b>	<b><i>Resident Adult Aqua Aerobics</i> (10 Classes):</b>		
8.11.1.	Members	\$25.00	
8.11.2.	Non-Members	\$30.00	
<b>8.13.</b>	<b><i>Non-Resident Adult Aqua Aerobics</i> (10 Classes):</b>		
8.12.1.	Members	\$30.00	
8.12.2.	Non-Members	\$35.00	
<b>8.14.</b>	<b><i>Adult Aqua Aerobics Drop Ins:</i></b>		
8.14.1.	Members	\$4.00/class	
8.14.2.	Non-Members	\$5.00/class	
<b>8.15.</b>	<b><i>Gentle Aerobics</i></b>	\$2.50/class	<b>Delete: use</b>
	<b>same fee structure as Aqua Aerobics see 8.12 &amp; 8.13</b>		
<b>8.16.</b>	<b><i>Pool Facility Rental Fees</i> (Limited Availability):</b>		
8.16.1.	Resident Pool Rental	\$70.00/hour	<b>30 total guests</b>
8.16.2.	Resident Lounge Rental	\$20.00/hour	
8.16.3.	Non-Resident Pool Rental	\$85.00	<b>30 total guests</b>
8.16.4.	Non-Resident Lounge Rental	\$25.00	
8.16.5.	<b>Additional Guests (As Required by Rules)</b>	\$15.00	
<b>8.17.</b>	<b><i>Swim Diaper</i></b>	\$1.00	

	Increase Recommendations							
							Increased Revenue Estimate	
Swim Lessons Non-Resident	Per class						for 12 months	
Member	\$ 6.00							
Non-Member	\$ 7.00						\$5,000	
	Private Lessons							
	Resident	Non - Resident						
Member	15/20	20/25						
Non-Member	20/25	25/30						
	One child/two children						\$3,400	
Discontinue Gentle Aerobic Punch Card, increase drop in fee to Aqua Exercise Prices								
see payment options							\$700	
Non- Resident Punch Card	\$ 42.00	\$3.50 per punch					\$2,200	
					TOTAL		\$11,300	

C-3-a

Town of Hampden  
106 Western Avenue  
Hampden, Maine 04444  
August 31, 2011



Phone: (207)  
Fax: (207) 861  
email: hampc

Ms. Kelly Bickmore, Chair  
RSU 22 School Board Re-use Committee  
24 Main Road North  
Hampden, ME 04444

RE: Hampden Academy Re-use

Dear Ms. Bickmore & Committee Members,

The purpose of this letter is to transmit information in response to questions asked of the Hampden Town Council Planning & Development Committee by the RSU 22 Re-use Committee at a meeting held on August 17, 2011. The questions relate to the Town Council's position on two separate issues. First, would the Council be interested in obtaining the complete property on which Hampden Academy is sited if offered by the RSU 22 School Board? Second, would the Town Council be interested in entering into a \$1 per year lease, plus utilities/maintenance costs, of the Skehan Gymnasium?

The Planning & Development Committee was not comfortable in committing the full Council without a meeting at which these specific items were discussed. A special Council meeting was scheduled for August 29<sup>th</sup> at 7:30 p.m. for this purpose. The Re-Use Committee was invited to attend that meeting, and was also asked to convey that invitation to the full RSU 22 School Board. No members of either group attended.

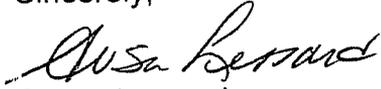
At the special Town Council Meeting on August 29, 2011, the Council took the following actions:

Motion by Councilor Brann, seconded by Councilor Lawlis to "instruct the Town Manager to notify the RSU 22 School Board, in writing, that the Hampden Town Council would be interested in accepting the full Hampden Academy property if offered by the RSU 22 School Board, and that the Town Council looks forward to more negotiation and discussion on this issue." The vote on the motion was 7 in favor and 0 opposed.

Motion by Councilor Brann, seconded by Councilor Shakespeare to "instruct the Town Manager to notify the RSU 22 School Board, in writing, that the Hampden Town Council would not be interested in leasing the Skehan Gymnasium for recreational purposes for an annual lease cost of \$1 plus utilities and maintenance." The vote on the motion was 7 in favor and 0 opposed.

It is the hope of the Council that the answers to these questions will assist the School Board with its deliberations. It has been, and continues to be, the hope of the Hampden Town Council that this property can be put to a use that increases the tax base and enhances the community center.

Sincerely,

A handwritten signature in cursive script that reads "Susan Lessard".

Susan Lessard  
Town Manager

cc. Tim Pease, Chair RSU 22 School Board  
Rick Lyons, RSU 22 Superintendent

**TOWN MANAGER**

The Town of Hampden, Maine is seeking qualified candidates for the position of Town Manager. Located in the Greater Bangor area, Hampden has a growing population of 7,256, Mayor/Town Council/Town Manager form of government, 57 FT and many PT employees, and a municipal budget of \$7.1 million.

The Council is seeking an individual with strong budget and financial management skills, experience in personnel management and labor relations, knowledge of solid waste management and economic development issues, and experience in grant preparation and administration. Candidates should possess demonstrated leadership ability, excellent written and oral communication skills, computer literacy, and the ability to work closely with the Town Council. Municipal management experience and a minimum of a Bachelors degree in Public or Business Administration are preferred, but candidates with comparable work and educational history are encouraged to apply. Salary is negotiable based on experience and training. Send cover letter and resume with salary requirements by October 17, 2011 at 5:00 p.m. by email:

[HumanResource@memun.org](mailto:HumanResource@memun.org); fax: (207) 624-0118; or by US mail to:

Director, Personnel Services & Labor Relations  
Maine Municipal Association  
60 Community Drive  
Augusta, ME 04330

Hampden is an Equal Opportunity Employer

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## PURCHASE OF SERVICE AGREEMENT

The Maine Municipal Association, hereinafter MMA, agrees to provide the Town of Hampden, hereinafter User, the following assistance in its search and selection of a Town Manager:

### I. The Maine Municipal Association agrees to:

1. Assign a staff person to work with the User in the Town Manager selection process as described herein. (David A. Barrett assigned).
2. Meet with the Town Council to conduct a needs assessment pertaining to the Town and the Town Manager position.
3. Provide a resume rating document for use by the resume review committee in reviewing resumes.
4. Develop an interview structure and rating document for use by the interview panel during the interviewing of candidates.
5. Provide a staff person to be present during the interviewing of candidates. Their function will be to provide a briefing for the interview board and to coordinate the work of the council as a non-voting member.
6. Assist in the development and placement of recruitment advertisements for the position.
7. Arrange for or conduct background investigations on up to two finalists after the interviews are concluded. These investigations will involve character reference, employment history, credit checks, and verification of educational attainment.

### II. The User Agrees:

1. To a candidate examination process which will include:
  - a) a resume rating phase
  - b) interview of top candidates
  - c) background check on up to two finalists (additional background checks will be at Town expense)

2. That the role of the MMA representative is limited to providing administrative support and advice to the Town Council.
3. MMA to handle all correspondence and direct contact with candidates.
4. To arrange for the location of interviews.

III. Both Parties agree:

1. To the tentative work calendar as discussed at the Needs Assessment meeting.
2. To the following financial arrangements:

The User will pay the Maine Municipal Association the sum of \$4,900.00 for its part in this agreement as described herein for up to five meetings. Meetings beyond the sixth will be charged at Mr. Barrett's normal billing rate, plus expenses.

3. The Town will pay for advertising costs, but all arrangements will be made by MMA. MMA will pre-pay for all advertising and then invoice the Town accordingly when the executive search is complete.
4. Care will be taken to ensure that no candidate is discriminated against based on sex, age, nationality, race, religion, color, physical handicap or any other protected class.
5. That the Mayor will serve as the primary contact person and will assist MMA with routine administrative decisions and press relations.

\_\_\_\_\_  
Janet Hughes  
Mayor  
Town of Hampden

DATE: \_\_\_\_\_

\_\_\_\_\_  
Christopher Lockwood  
Executive Director  
Maine Municipal Association

DATE: \_\_\_\_\_



C-3-d

Denise Hodsdon

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## Re: Request for item to be placed on Agenda

1 message

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Dean Bennett <economicdevelopment@hampdenmaine.gov>

Tue, Sep 13, 2011 at 7:51 AM

To: shelly hackett <smillerhack@yahoo.com>

Cc: Tom Brann <hampdendistrict2@hotmail.com>, Sue Lessard <manager@hampdenmaine.gov>, Denise Hodsdon <clerk@hampdenmaine.gov>

Shelley,

I would think that an email with an affirmative or negative indication of support for the request letter would suffice whether it is in the text or subject line. As long as there is an indication of whom it came from (email address) and their vote, it would suffice. I will request that Sue place the item as you requested on the agenda for the September 19th Council Meeting.

Thanks,  
Dean

On Mon, Sep 12, 2011 at 5:42 PM, shelly hackett <smillerhack@yahoo.com> wrote:

Dean,

Could you please put the Citizens Comprehensive Plan Committee request for an extension on the Agenda for the upcoming Town Council Meeting Sept, 19, 2011?

I will forward the emails (that record the vote) and the formal finalized letter request by Wednesday.

Also, Councilor Brann requested that all emails sent to me to vote on whether to send the request letter or not include a routing header. I use a Mac and the only routing header I see is basically Subject: To: From: Date: headers at the top of the email. Is that sufficient?

Thanks,  
Shelley

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Dean L. Bennett  
Director of Community and Economic Development  
106 Western Avenue  
Hampden, Maine 04444  
207-862-3034



Denise Hodsdon <

C-3-e

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## Items for Council Agendas

1 message

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Gretchen Heldmann <[gheldmann@hampdenmaine.gov](mailto:gheldmann@hampdenmaine.gov)>

Tue, Sep 13, 2011 at 9:46 AM

To: Denise Hodsdon <[clerk@hampdenmaine.gov](mailto:clerk@hampdenmaine.gov)>, Susan Lessard <[manager@hampdenmaine.gov](mailto:manager@hampdenmaine.gov)>

For the upcoming Finance and Council meetings on 9/19: Motion by Councilor Shakespeare to recommend to Council to spend \$13,800 (suggested from Pool Reserve) for Woodard & Curran to design pool air handler system for RFP/Q. 2nd by Councilor Brann. All voted in favor (Councilors Shakespeare, Brann, Hornbrook, Lawlis, Wright). From last night's Services Cmte mtg.

For the 2nd meeting in October, tentatively: School/Town MOU regarding trails project on town-owned land along Reeds Brook, trails to be built by school and used for school sports as well as public access.

Thank you,  
~G

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Gretchen Heldmann  
GIS/IT Specialist, Town of Hampden  
GeoLibrary Board - Chair & Municipal Representative  
<http://www.maine.gov/geolib/>  
OFFICE HOURS: Mon.-Thurs. 7:30am-6pm  
106 Western Avenue  
Hampden, ME 04444  
Phone: (207)862.4500 x142  
<http://www.hampdenmaine.gov/>

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**ASSIGNMENT AND ASSUMPTION OF OPTION**

**CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY**, a California corporation, its successors, assignees, nominees or designees (collectively, "Chevron") with a mailing address of 6001 Bollinger Canyon Road, San Ramon, CA 94583, Optionee under an Option Agreement, dated as of March 24, 2011 (the "Option") with **HAMLIN'S MARINA, HAMPDEN**, a Maine corporation ("Hamlin") with a mailing address of 100 Marina Road, Hampden, ME 04444, a memorandum of which is recorded in the Penobscot County Registry of Deeds in Book 12444, Page 98, for One Dollar (\$1.00) and other consideration paid, the receipt and sufficiency of which is acknowledged, assign the Option and the rights granted thereby to the **TOWN OF HAMPDEN**, an instrumentality of the State of Maine, with a mailing address of 106 Western Avenue, Hampden, Maine 04444, and the Town of Hampden agrees to and does hereby assume all obligations of Chevron under the Option.

*[Balance of page intentionally left blank]*

IN WITNESS WHEREOF, the undersigned has executed this instrument effective as of the 29<sup>th</sup> day of September 2011.

WITNESS

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title: Assistant Secretary  
Duly authorized

STATE OF \_\_\_\_\_

\_\_\_\_\_ COUNTY

Effective as of the 29th day of September 2011

Personally appeared the above \_\_\_\_\_, Assistant Secretary of Chevron Environmental Management Company, a California corporation, and acknowledged the above instrument to be his/her free act and deed, in his/her capacity, and the free act and deed of Chevron Environmental Management Company.

Before me,

\_\_\_\_\_  
Notary Public/Maine Attorney at Law

\_\_\_\_\_  
Print Name

My commission expires: \_\_\_\_\_

By signing below, the Town of Hampden accepts this Assignment and agrees to be bound by and assume the obligations of Chevron set forth in the Option.

IN WITNESS WHEREOF, the undersigned has executed this instrument effective as of the 29<sup>th</sup> day of September 2011.

WITNESS:

**TOWN OF HAMPDEN**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title  
Duly authorized

STATE OF MAINE

\_\_\_\_\_ COUNTY

Effective as of the 29th day of September 2011

Personally appeared the above \_\_\_\_\_,  
\_\_\_\_\_ of the Town of Hampden, Maine, and acknowledged the above  
instrument to be his/her free act and deed, in his/her capacity, and the free act and deed of the  
Town of Hampden, Maine.

Before me,

\_\_\_\_\_  
Notary Public/Maine Attorney at Law

\_\_\_\_\_  
Print Name

My commission expires: \_\_\_\_\_

By signing below, Hamlin's consents to this Assignment and Assumption of Option from Chevron to the Town.

IN WITNESS WHEREOF, the undersigned has executed this instrument effective as of the 29<sup>th</sup> day of September 2011.

WITNESS:

**HAMLIN'S MARINA, HAMPDEN**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title  
Duly authorized

STATE OF MAINE

\_\_\_\_\_ COUNTY

Effective as of the 29<sup>th</sup> day of September 2011

Personally appeared the above \_\_\_\_\_,  
\_\_\_\_\_ of Hamlin's Marina, Hampden, a Maine corporation, and  
acknowledged the above instrument to be his/her free act and deed, in his/her capacity, and the  
free act and deed of Hamlin's Marina, Hampden.

Before me,

\_\_\_\_\_  
Notary Public/Maine Attorney at Law

\_\_\_\_\_  
Print Name

My commission expires: \_\_\_\_\_

C-3-F

**OPTION AGREEMENT**  
*minus exhibits B, C, D + E*

THIS OPTION AGREEMENT (the "Agreement") is made and entered into as of March, 24, 2011, by and between **HAMLIN'S MARINA, HAMPDEN**, a Maine corporation ("Hamlin") with a mailing address of 100 Marina Road, Hampden, ME 04444 and **CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY**, a California corporation, its successors, assignees, nominees or designees (collectively, "Chevron") with a mailing address of 6001 Bollinger Canyon Road, San Ramon, CA 94583.

WHEREAS, Hamlin owns the Option Property (as hereinafter defined); and

WHEREAS, Hamlin wishes to grant to Chevron, and Chevron wishes to receive from Hamlin, an option to purchase the Option Property;

NOW THEREFORE, for one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I OPTION**

1.1 *Grant of Option.* Hamlin hereby grants to Chevron the exclusive option (the "Option") to purchase the property described on Exhibit A attached hereto and made a part hereof by this reference (the "Option Property") in exchange for the payment of one dollar (\$1.00) ("Option Consideration") to Hamlin and other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged by Hamlin.

1.2 *Expiration Date.* The Option shall expire at 12:00 midnight on March, 24, 2012, (as the same may be extended from time to time, the "Expiration Date").

1.3 *Exercise of Option.* Chevron may exercise the Option only by giving written notice thereof to Hamlin at the above address, by hand delivery, or sent by U.S. mail, overnight mail, or certified mail, return receipt requested, postmarked prior to the Expiration Date (as may be extended from time to time). Chevron may exercise the Option in whole at any time and from time to time between the Effective Date and the Expiration Date (as may be extended from time to time). The date on which Chevron deposits its notice to Hamlin in the mail shall be deemed to be the date on which the Option was exercised.

1.4 *[intentionally deleted]*

1.5 *Consequence of Exercise of Option.* If Chevron exercises the Option, Hamlin and Chevron shall perform their respective obligations set forth below in Article III.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

2.1 *Authority.* Hamlin represents and warrants that Hamlin is the sole owner of the Option Property and has good, fee simple, marketable title to the Option Property and has full authority to grant the Option. None of the Option Property is leased by Hamlin under agreements pursuant to which Hamlin is the tenant or lessee.

2.2 *Broker.* The parties warrant and represent that no broker brought about or participated in this Agreement or the transactions contemplated hereby. Chevron shall indemnify and hold Hamlin harmless against all liabilities and expenses (including, without limitation, reasonable attorneys' fees) arising from any claims for brokerage on the transactions contemplated by this Agreement based on any act of Chevron. Hamlin shall indemnify and hold Chevron harmless against all liabilities and expenses (including, without limitation, reasonable attorneys' fees) arising from any claims for brokerage on the transactions contemplated by this Agreement based on any act of Hamlin.

2.3 *Representations, Warranties and Indemnity.*

A. Hamlin represents and warrants as of this date and as of each date through and including the Closing that:

(i) Hamlin is a corporation, duly formed and validly existing under the laws of the State of Maine. Hamlin's entry into this Agreement and its obligations hereunder are within Hamlin's power and have been duly authorized by all necessary corporate action on the part of Hamlin. This Agreement and the performance hereof by Hamlin will not contravene any law, judgment, order, injunction, decree or any contractual restriction or arrangement binding on Hamlin or by which any of Hamlin's assets or properties may be affected.

(ii) No consent, approval, order or authorization of any court or other governmental entity is required to be obtained by Hamlin in connection with the execution and delivery of this Agreement or the performance hereof by Hamlin or its obligations hereunder.

(iii) There is no pending or, to the best of Hamlin's knowledge, threatened action or proceeding (including, but not limited to, any condemnation or eminent domain action or proceeding) before any court, governmental agency or arbitrator relating to or arising out of the ownership of the Option Property or any portion thereof, or which may adversely affect Hamlin's ability to perform this Agreement, or which may affect the Option Property or any portion thereof.

(iv) Hamlin has not received any written notice that the Option Property fails to be in compliance with any statutes, ordinances, rules, regulations, orders and requirements of any federal, state and local authorities and any other governmental entity having jurisdiction over the Option Property (including, without limitation, environmental, land use and zoning laws and ordinances) and Hamlin has not received any notice from any such governmental entity of any violation of any such statutes, ordinances, rules, regulations, orders and requirements.

(v) Hamlin has not received any notice of assessment for benefits or betterments which affects the Option Property and has no knowledge that any such assessment is pending or threatened.

(vi) Hamlin has no knowledge that any portion of the Option Property has ever been used as a landfill or as a dump to receive refuse or waste, and to the best of Hamlin's knowledge, except in material compliance with all applicable laws and regulations, there are and have been no Hazardous Materials (as hereinafter defined) used, generated, manufactured, disposed of, or stored in, on, under, or about the Option Property. Hamlin has no knowledge that asbestos containing materials or waste oil are on, in or under the Option Property, except in material compliance with applicable laws. As used herein, the term "Hazardous Materials" shall mean inflammables, oils, petroleum, explosives, radioactive materials and hazardous waste, including, without limitation, substances defined as "hazardous substances", "hazardous materials", "hazardous matter", or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Recovery Act, the Clean Water Act and the Resources Conservation and Recovery Act, or any similar state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law.

(vii) Hamlin has no knowledge of any underground oil storage facilities on the Option Property.

(viii) Hamlin's has no knowledge of any work having been performed or is in progress at, and no materials have been furnished to, the Option Property or any portion thereof pursuant to a contract with Hamlin, or anyone or any entity claiming by, through or under Hamlin, which may give rise to mechanic's, materialmen's or other liens against the Option Property or any portion thereof.

(ix) Hamlin agrees to make available to Chevron, within thirty (30) days after the date hereof, copies of all surveys, soils, water, engineering and environmental reports concerning the Option Property, if any, including water quality tests, in its possession or control and Hamlin further agrees to make available to Chevron, after the date hereof, any such documents which Hamlin hereafter acquires, whether generated by Hamlin or others.

B. Chevron's performance under this Agreement is conditioned upon the truth and accuracy of Hamlin's warranties and representations expressed herein as of the Closing. If Chevron determines that any representation or warranty set forth herein was not correct in all material respects when made or is not correct at the Closing, Chevron may, in its sole discretion, either (i) elect to terminate this Agreement and to recover all sums paid by Chevron hereunder, whereupon the parties shall be released from any further liability hereunder or (ii) enforce this Agreement in accordance with its terms, subject to an equitable reduction to the purchase price set forth herein, or (iii) exercise all of Chevron's available remedies at law and in equity.

C. Chevron represents and warrants as of this date and as of each date through and including the Closing that:

(i) Chevron is a corporation, duly formed and validly existing under the laws of the State of California. Chevron's entry into this Agreement and its obligations hereunder are within Chevron's power and have been duly authorized by all necessary corporate action on the part of Chevron. This Agreement and the performance hereof by Chevron will not contravene any law, judgment, order, injunction, decree or any contractual restriction or arrangement binding on Chevron or by which any of Chevron's assets or properties may be affected.

(ii) No consent, approval, order or authorization of any court or other governmental entity is required to be obtained by Chevron in connection with the execution and delivery of this Agreement or the performance hereof by Chevron.

(iii) For a period of five (5) years from the date hereof, if Chevron sells the Option Property, all proceeds in excess of \$250,000.00, less Chevron's costs associated with the transaction contemplated by this Agreement and all costs occasioned by its subsequent acquisition, ownership and disposition of the Option Property, shall be payable to Hamlin within sixty (60) days of such sale by Chevron. This provision shall not apply, and no proceeds shall be payable to Hamlin, by virtue of the subsequent sale or transfer of the Option Property to the Town of Hampden, its nominee or assign.

### ARTICLE III TRANSFER OF OPTION PROPERTY

3.1 In the event Chevron exercises the Option, the following shall apply:

A. *Payment of Purchase Price.* The purchase price (subject to adjustment as set forth below), for the Option Property shall be Two Hundred Fifty Thousand U.S. Dollars (\$250,000.00.00), payable at Closing. Together with this Agreement, Hamlin has executed and delivered a certain Commercial Mortgage Note ("Note") attached as Exhibit C and Mortgage Deed ("Mortgage") attached as Exhibit D, to Chevron. Pursuant to this Note and Mortgage Chevron has made a loan of \$250,000.00 to Hamlin. In the event Chevron, its successor, assignee, nominee or designee, exercises the Option, the forgiveness of \$250,000.00 evidenced

by the Note and secured by the Mortgage shall constitute delivery of the Purchase Price by Chevron to Hamlin, and no further sums shall be due and payable from Chevron, its successor, assignee, nominee or designee, apart from customary recording fees, and its pro-rated share of transfer taxes and real estate taxes. In this event, and upon recording of the Deed from Hamlin to Chevron, its successor, assignee, nominee or designee, the Note shall be deemed to be repaid in full and the Mortgage discharged. In the event Chevron does not exercise the Option, the Note and Mortgage shall remain in full force and affect as if this Agreement did not, nor ever, existed.

B. *Closing.* The closing of the purchase and sale of the Option Property (the "Closing") shall take place at the offices of Preti, Flaherty, Beliveau & Pachios, LLP, One City Center, Portland, Mainewithin ninety (90) days after the exercise of the Option, or at such a time and location to be agreed upon by the parties.

C. *Possession.* Hamlin shall deliver to Chevron full possession of the Option Property free and clear of all tenants, other occupants and other users of all or any portion of the Option Property, other than Chevron or its affiliates and anyone claiming by, through or under Chevron or its affiliates.

D. *Pro-rations.* Real estate taxes and other assessments on the Option Property shall be prorated between Chevron and Hamlin as of the date of the Closing. Such tax and assessment proration shall be made on the basis of the latest available tax bill for the Option Property.

Hamlin and Chevron shall pay their respective statutory share of the real property transfer tax. Chevron shall pay recording charges for the Deed. Hamlin shall pay recording charges for the recording of any title clearing documents.

Hamlin shall deliver to Chevron such affidavits and certificates, in form and substance reasonably satisfactory to Chevron and to Hamlin, as Chevron shall determine necessary, to inform Chevron of its obligation, if any, to deduct and withhold a portion of the price pursuant to 36 M.R.S. §5250-A or FIRPTA.

E. *Title, Deed.* On the day of the Closing, Hamlin shall deliver to Chevron, its successor, assignee, nominee or designee, the duly executed and acknowledged Quitclaim Deed with Covenant (the "Deed") in substantially the same form as is attached as Exhibit E, and made a part hereof, sufficient under Maine law to convey to good and marketable fee simple title to the real property (including any fixtures thereon) constituting the real property portion of the Option Property, free and clear of all liens, encumbrances and title defects of any kind whatsoever, except those described in Exhibit A hereto (the "Permitted Encumbrances"), together with the appropriate Real Estate Transfer Tax Declaration.

Hamlin hereby agrees to execute at or before the Closing affidavits required by Chevron's title insurance company in order to remove the so-called "parties in possession", "broker's lien", "mechanic's liens" exceptions to Chevron's title insurance policy; provided that such affidavits shall be limited to broker's engaged by Hamlin or mechanic's liens resulting from any person acting under a direct contract with Hamlin and the parties in possession affidavit shall take exception for Chevron, or anyone claiming by, through or under Chevron.

In the event Chevron's title company cannot, on the day of Closing, issue its title insurance policy showing title subject only to the Permitted Encumbrances, Chevron shall notify Hamlin of such fact and Hamlin shall have a reasonable time, but in no event longer than sixty (60) days, to remove the objectionable title defect. If such defect cannot be removed by Hamlin, Chevron may either (a) terminate this Agreement, in which case both parties shall be released from their obligations hereunder and all funds paid by Chevron under this Agreement shall be immediately returned to Chevron, or (b) consummate the sale of the Option Property in accordance with this Agreement with an equitable reduction in the Purchase Price. In the event this clause becomes operative, the date for Closing shall be postponed for a period not to exceed sixty-five (65) days. The foregoing notwithstanding, Hamlin agrees to remove any mortgage or other consensual lien voluntarily imposed by Hamlin and encumbering the Option Property at or before the Closing.

The premium for the title insurance policy and fee for the title examination shall be paid for by Chevron.

To enable Hamlin to make conveyances as herein provided, Hamlin may, if it so desires at the time of closing and delivery of the Deed contemplated hereunder, use such amount of the purchase money as may be necessary to clear the title of any and all liens or encumbrances, all instruments so procured to be recorded simultaneously with delivery of the Deed.

F. *Other Documents.* Hamlin and Chevron shall execute, acknowledge and deliver such other documents and items as reasonably shall be necessary in order to carry out its respective obligations hereunder.

G. *[intentionally omitted]*

H. *Hamlin's Covenants.* In addition to Hamlin's other obligations under this Agreement, from the date hereof to and including the Closing Date, Hamlin shall keep the Option Property free and clear of any and all liens and encumbrances, except for Permitted Encumbrances.

I. *Hamlin's Default.* In the event that Hamlin is in default or fails to comply with any of the terms and conditions of this Agreement, and such default is not cured within thirty (30) days after written notice thereof, Chevron shall have the right to either (a) terminate this Agreement by giving written notice of termination to Hamlin, whereupon Hamlin shall immediately return to Chevron any payments made by Chevron under this Agreement, or (b) seek enforcement of all of Chevron's remedies available to it at law and in equity, including, without limitation, specific performance of this Agreement, it being agreed that no adequate remedy at law exists. In the event Chevron prevails on its specific enforcement of this Agreement as contemplated by clause (b) of this paragraph I, Hamlin shall be liable for all of Chevron's reasonable costs and expenses, including without limitation attorneys' fees, in the enforcement of this Agreement. In addition, time for performance of any of Chevron's obligations under this Agreement shall be suspended during any time Chevron is enforcing its rights under this Agreement.

J. *Chevron's Default.* If Chevron shall be in default or fails to comply with any of the terms and conditions of this Agreement and such default is not cured within sixty (60) days after notice thereof, then, in such event, Hamlin shall have the right to terminate this Agreement by giving written notice of termination to Chevron, whereupon the Option Consideration shall become the irrevocable property of Hamlin and neither party shall have any further rights or obligations hereunder, except for any matter that expressly survives the termination of this Agreement, including but not limited to parties' rights and obligations under the Note and Mortgage.

3.2. *Recording.* On the date of this Agreement, the parties shall execute a Memorandum of Option substantially in the form attached as Exhibit B, which Memorandum may be recorded in the Penobscot County Registry of Deeds by Chevron at its expense. This Agreement shall not be recorded or made public by any party without the prior, express, written consent of the other party, which consent may be withheld for any reason whatsoever.

3.3. *Binding effect.* This Agreement shall be binding upon and inure to the benefit of the parties and their respective representatives, heirs, successors, assigns, nominees and/or designees.

3.4. *Interpretation.* This Agreement and the attached Exhibits shall be read as a single document. In the event of conflict among the documents, the terms and conditions of the Note and Mortgage shall control. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

3.5. *Governing law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.

3.6. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

3.7. *Modification.* This Agreement can only be modified by a written instrument signed by both Hamlin and Chevron.

3.8. *[intentionally deleted]*

3.9. *Assignment.* Neither party may assign this Agreement without the prior written consent of the other party, except that Chevron may assign its rights to any affiliate of Chevron or to the Town of Hampden, Maine, without the consent of Hamlin.

3.10. *Conflicts of Interest.* Conflicts of interest relating to this Agreement are strictly prohibited. Except as otherwise expressly provided herein, neither Hamlin nor any employee or agent of Hamlin shall give to or receive from any officer, director, employee or agent of Chevron any gift, entertainment or other favor of significant value, or any commission, fee or rebate. Likewise, neither Hamlin nor any employee or agent of Hamlin shall enter into any business

relationship with any officer, director, employee or agent of Chevron (or of any affiliate of Chevron), unless such person is acting for and on behalf of Chevron, without prior written notification thereof to Chevron. Any representative(s) authorized by Chevron may audit any and all records of Hamlin for the sole purpose of determining whether there has been compliance with this Section 3.10.

*3.11. Notices.* All notices, demands or other communications made pursuant to this Agreement shall be in writing and shall be either hand delivered or sent by U.S. mail, overnight mail, or certified mail, return receipt requested. Except as provided in Section 1.3, such notice shall be deemed effective upon the earlier of (a) actual receipt or (b) two days following its deposit in the United States mail, postage prepaid, and addressed as follows:

If intended to Hamlin, to:

Hamlin's Marina, Hampden  
100 Marina Road  
Hampden, ME 04444  
Attn: Daniel Higgins

With a copy to:

John R. Canders, Esq.  
Eaton Peabody  
P.O. Box 1210  
Bangor, ME 04402-1210

If intended to Chevron, to:

Chevron Environmental Management Company  
6001 Bollinger Canyon Road  
San Ramon, CA 94583  
Attn: General Manager  
Marketing Business Unit

With a copy to:

Chevron U.S.A. Inc., Law Department  
1400 Smith Street, Room 07090  
Houston, TX 77002  
Attn: Richard T. Hughes

And with a copy to:

Sigmund D. Shutz, Esq.  
Preti Flaherty  
One City Center  
Portland, Maine 04101

A party may change the address to which notices shall be sent to such party by giving written notice of such change in accordance with this Section 3.11.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Option Agreement the day and year first above written.

WITNESS

Tiffany Wood

**HAMLIN'S MARINA, HAMPDEN**

By: David A. Hamlin

Name: [Signature]

Title: President

Duly Authorized

WITNESS

\_\_\_\_\_

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Duly Authorized

A party may change the address to which notices shall be sent to such party by giving written notice of such change in accordance with this Section 3.11.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Option Agreement the day and year first above written.

WITNESS

HAMLIN'S MARINA, HAMPDEN

\_\_\_\_\_

By: \_\_\_\_\_

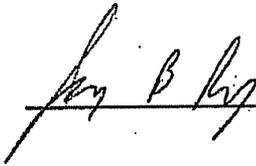
Name: \_\_\_\_\_

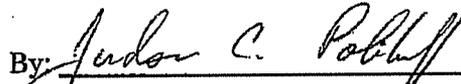
Title: \_\_\_\_\_

Duly Authorized

WITNESS

CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY

 \_\_\_\_\_

By:  \_\_\_\_\_

Name: Assic Judson C. Polikoff

Title: Assistant Secretary

Duly Authorized

## EXHIBIT A

Certain lots or parcel of land, together with the buildings and improvements thereon, situated in Hampden, County of Penobscot, State of Maine, bounded and described as follows:

### First Parcel:

Beginning at an iron bolt driven into the ground on or near the generally southerly line of the River County Road leading from Bangor to Hampden, said bolt being eighty-five (85) feet westerly of the easterly side of the main part of the Battles House, so-called, measuring on and along said road line; thence south sixty-one degrees forty-three minutes west ( $S 61^{\circ} 43' W$ ) on and by the southerly line of said River County Road as now traveled and occupied about seven hundred fifty-three and one-half ( $753 \frac{1}{2}$ ) feet to the generally westerly line of the Sterns Mill Road, so-called. Thence south eighteen degrees fifteen minutes west ( $S 18^{\circ} 15' W$ ) on and along the generally westerly line of said Sterns Mill Road, so-called, five hundred eighty-two (582) feet more or less, to high water mark of the northerly side of that part of Turtle Head Cove, lying generally westerly of said Mill Road; thence in a generally northeasterly direction across said Mill Road to a point where the generally easterly side line of said Mill Road intersects the generally northerly side line of Turtle Head Cove lying generally easterly of said Mill Road, so called; thence northeasterly on and along high water mark of said Turtle Head Cove so-called, one thousand two hundred (1,200) feet, more or less, to a point; thence north twenty-seven degrees fifty-one minutes west ( $N 27^{\circ} 51' W$ ), passing through an iron bolt driven into the ground near the top of the bank of Turtle Head Cove, so-called, and parallel with the generally easterly side of the main part of the Battles House, so-called, about two hundred seven (207) feet to the bound began at.

Excepting, however, any right of way of the public or individuals to use said Mill Road.

Subject, however, to the right of Sterns Lumber Company, its successors and assigns, to use said Mill Road as reserved in the deed from Sterns Lumber Company to Penobscot Development Company dated December 26, 1929, recorded in the Penobscot County Registry of Deeds in Volume 1040, Page 148.

### Second Parcel:

Beginning at a point on high water mark on the generally southerly shore of that part of Turtle Head Cove which lies easterly of the Sterns Mill Road, so-called, and on the generally westerly line of a parcel of land conveyed by Sterns Lumber Company to the City of Bangor by deed dated May 25, 1922 recorded in said Registry in Volume 950, Page 184; thence south forty-one degrees eleven minutes east ( $S 41^{\circ} 11' E$ ) (observed 1922) passing through a granite monument near the top of the bank of said Turtle Head Cove two hundred eighty-five and five tenths (285.5) feet to an iron bolt driven into the ground; thence south seventy-eight degrees forty-nine minutes east ( $S 78^{\circ} 49' E$ ) (observed 1922) two hundred sixteen and three tenths (216.3) feet to an iron bolt driven into the ground; thence north eighty-seven degrees thirty-nine minutes east ( $N 87^{\circ} 39' E$ ) (observed 1922) one hundred sixty-six and three tenths (166.3) feet to an iron bolt driven into the ground; thence north eighty-three degrees twenty-one minutes east (observed

1922) three hundred (300) feet to an iron bolt driven into the ground near high water mark of Penobscot River; thence southerly to Penobscot River; thence southwesterly on and by Penobscot River, as said river runs to the mouth of Turtle Head Brook, so-called, where it empties into said River; thence in a generally northeasterly direction following the generally easterly shore of said Turtle Head Brook in the generally southerly shore of that part of Turtle Head Cove that lies easterly of the Sterns Mill Road, so-called, to the point of beginning.

**Third Parcel:**

There is also conveyed all the right, title estate and interest of the developer herein in and to the shores, flats and bed of Turtle Head Brook and Turtle Head Cove or Logan lying between said River County Road and the Penobscot River whether fronting on land hereby conveyed or fronting on other land now or formerly of Penobscot Development Company or fronting on land of others; also the right to use the shores of Penobscot River between high water mark and low water mark so far as necessary to boom raft, drive and shore logs for milling purposes for a distance of approximately one thousand fifty (1,050) feet northerly of the lot hereby conveyed as reserved to Sterns Lumber Company in deed given by said Sterns Lumber Company to City of Bangor, dated May 25, 1922, recorded in said Registry in Volume 950, Page 184; also the right and privilege of using for boomage purposes the shores of a certain lot of land conveyed by one Eben Wheeldon to Samuel and Ezra Sterns by deed dated November 30, 1891, recorded in said Registry in Volume 617, Page 115, and now or formerly owned by said Sterns Lumber Company, subject to a contract of sale in which contract of sale, however, the boomage privilege was reserved. This conveyance is subject to the right of way and other easements granted to the City of Bangor by said Sterns Lumber Company by the aforesaid deed dated May 25, 1922, recorded in said Registry in Volume 950, Page 184, and subject to all the terms, limitations and conditions of said grants.

**Fourth Parcel:**

Beginning at an iron bolt driven into the ground on the westerly line of the Sterns Mill Road, so-called, three hundred thirteen and fourteen hundredths (313.14) feet southerly of an iron bolt driven into the ground at the intersection of the generally southerly line of the River County Road, leading from Bangor to Hampden, and the generally westerly line of the Sterns Mill Road, so-called, measured on said line of said Sterns Mill Road, so-called, thence westerly at an angle of ninety degrees twenty minutes (90° 20') with said line of said Sterns Mill Road, so-called; turning from north to west and on and by a line which is eight (8) feet northerly of and parallel with the northerly side of the house standing on the herein described premises, and passing through an iron bolt which is ninety-seven and seventy-seven hundredths (97.77) feet westerly of the point of beginning and continuing westerly on the same line for a total distance of one hundred thirty and nine tenths (130.9) feet to high water mark on the easterly side of Turtle Head Cove, so-called, thence southerly and southeasterly on and by high water mark of said Turtle Head Cove three hundred forty (340) feet, more or less, to the westerly line of said Sterns Mill Road, so-called; thence northerly and by the westerly line of said Sterns Mill Road, so-called, two hundred ninety-two and seven tenths (292.7) feet, more or less, to the point of beginning.

**Fifth Parcel:**

There is on record in the Penobscot County Registry of Deeds a deed from Nathan Whitman to C. E. Pratt, dated in the year 1909 and recorded in Volume 803, Page 315, referred to, and the parcel of land in said deed from Whitman to Pratt is described as follows:

A certain lot or parcel of land with the buildings thereon situate in said Hampden, bounded and described as follows, namely:

Beginning at a granite stone on the southerly side of the new County Road at the northeast line of (now or formerly) Stewart and Sons land; thence north seventy degrees east (N 70° E) by said road about thirty-seven (37) rods to a granite bound; thence south thirty-one and one-half degrees east (S 31 1/2° E) about thirty-two (32) rods to a stake and stones standing six (6) feet south sixty-four degrees west (S 64° W) from a letter "b" carved in a ledge; thence south sixty-four degrees west (S 64° W), about thirty-two rods to a granite bound in said Stewart's land; thence northwesterly by their line about thirty-seven and one-half (37 1/2) rods to point of beginning. Containing seven and one-half (7 1/2) acres, more or less.

Said last named parcel of land now or formerly was supposed to be owned by C. E. Pratt. There was conveyed by the deed from Penobscot Development Company to Cole Realty, Inc. all the right, title and interest of every name and nature said Penobscot Development Company had in and to the shore and the shore privilege lying between the generally southeasterly side line of said lot of land so described in said deed from said Whitman to said Pratt (said southeasterly side line being described in said last-named deed as measuring about thirty-two (32) rods and low water mark of Penobscot River.

Penobscot Development Company in its deed to Cole Realty, Inc. asserted that it had continuously from the dates of conveyances to it of the aforegranted premises to the date of its conveyance to Cole Realty, Inc., claimed the aforegranted premises under recorded deeds; further that it had since that time paid all the taxes assessed upon said premises and that it had since that time to the date hereof exercised exclusive ownership over the premises hereof.

This conveyance is made expressly subject to easements granted by Cole Realty, Inc. to State of Maine by deed dated June 22, 1960, recorded in Volume 1762, Page 124 of said Registry, the terms thereof being incorporated herein by reference thereto.

Excepting and reserving from this conveyance the premises described in the deed from Cole Realty, Inc. to Malcolm D. Hardy dated December 15, 1958, recorded in Volume 1658, Page 231 of said Registry, the description therein being incorporated herein by reference thereto. There is expressly granted hereby the rights as reserved by Cole Realty, Inc. in the aforesaid deed to Malcolm D. Hardy.

This conveyance is expressly subject to an easement granted by W. F. Foley Company to Bangor Hydro-Electric Company dated May 9, 1978, recorded in Volume 2861, Page 129 of said Registry.

The first through fifth parcels above-described are the same described in the sixth parcel of the

deed from Cole's Express to Cole Properties dated January 11, 1980, recorded in Volume 3054, Page 75 of said Registry.

There is excepted and reserved from the foregoing the premises conveyed by Cole Properties to City of Bangor by deed dated August 9, 1982, recorded in Volume 3314, Page 153 of said Registry.

The aforesaid conveyance to the City of Bangor recorded in Volume 3314, Page 153 is subject to certain conditions whereby upon breach of which title is to revert to Cole Properties. All of the grantor's rights by virtue of such conditions, the terms of which are incorporated herein by reference thereto, are hereby conveyed to the grantee herein, his heirs and assigns.

Sixth Parcel:

A certain parcel of land located at Turtle Head in the Town of Hampden, County of Penobscot, State of Maine, being a portion of the property now or formerly owned by the City of Bangor, commonly known as Sterns Gravel Pit, as acquired by the City by deed from the Sterns Lumber Company dated May 25, 1922, recorded in said Registry in Volume 950, Page 184, said parcel being at the generally westerly end of the land now or formerly owned by said city, and adjoining land now or formerly owned by Cole Properties. Said parcel is identified as Area "D" on the aforesaid plan recorded in Plan File D35-82 said Registry, and is more fully described as follows:

Beginning at a point on the northerly line of said land now or formerly of the City of Bangor at coordinates north 340,032.97, east 422,501.75, Maine State Coordinate System, East Zone; thence south forty-four degrees forty-six minutes forty-five seconds east (S 44° 46' 45" E) for a distance of three hundred sixty-five and twenty-eight hundredths (365.28) feet to a point on the generally southerly line now or formerly of said City; thence in a generally northwesterly direction following the westerly line of the land now or formerly of said City, south eighty-two degrees forty-four minutes fifty-eight seconds west (S 82° 44' 58" W) for a distance of thirty-one and fifty-one hundredths (31.51) feet to a point; thence north fifty-nine degrees thirty nine minutes two seconds west (N 59° 39' 02" W) for a distance of two hundred eighty-five and fifty hundredths (285.50) feet to a point; thence north nine degrees forty-one minutes fifty-eight seconds west (N 09° 41' 58" W) for a distance of one hundred twenty and seventy-three hundredths (120.73) feet to the point of beginning.

There is also conveyed any other rights which Cole Properties acquired from said City to any land lying to the west of the first-described line, as extended in a northwesterly direction to the low water line of Turtle Head Cove, and as extended in a southeasterly direction to the low water line of the Penobscot River.

There is also conveyed a right of way for use of the grantee herein, his heirs and assigns, in common with the City of Bangor herein, its successors and assigns, over the existing right of way which extends from the generally northeasterly corner of property now or formerly of the City of Bangor in a generally southerly direction across Turtle Head Brook, so-called, and thence in a generally southwesterly direction to land formerly of Cole Properties herein.

The above-described sixth parcel is the same described in the deed from the City of Bangor to Cole Properties dated August 13, 1982, recorded in Volume 3315, Page 187 of said Registry.

The aforesaid conveyance from the City of Bangor is subject to certain conditions whereby breach of which title is to revert to the City of Bangor. This conveyance of the sixth parcel is made expressly subject to such conditions, the terms of which are incorporated herein by reference thereto.

Excepting and reserving from the foregoing, the premises conveyed by deed from Galen L. Cole to Galen Cole Family Foundation, dated October 26, 1992, recorded in the Penobscot County Registry of Deeds in Volume 5200, Page 162.

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is made as of this 29<sup>th</sup> day of September 2011, by and among **HAMLIN'S MARINA, HAMPDEN**, a Maine corporation ("Hamlin") with a mailing address of 100 Marina Road, Hampden, ME 04444; **CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY**, a California corporation, its successor, assignee, nominee or designee (collectively, "Chevron") with a mailing address of 6001 Bollinger Canyon Road, San Ramon, California 94583; the **TOWN OF HAMPDEN**, an instrumentality of the State of Maine, with a mailing address of 106 Western Avenue, Hampden, Maine 04444 (the "Town"); and **PRETI FLAHERTY BELIVEAU & PACHIOS, LLP**, a Maine limited liability partnership with a mailing address of 45 Memorial Circle, P.O. Box 1058, Augusta, Maine 04332-1058 ("Escrow Agent"). Hamlin, Chevron, and the Town are each a "Party" and collectively, the "Parties".

### RECITALS

WHEREAS, Hamlin and Chevron entered into a certain Option Agreement dated March 24, 2011, a memorandum of which is recorded in the Penobscot County Registry of Deeds in Book 12444, Page 98 (the "Option");

WHEREAS, together with the Option Agreement, Hamlin has executed and delivered to Chevron a certain Commercial Mortgage Note dated March 24, 2011 ("Note") attached as Exhibit B and Mortgage Deed dated March 24, 2011, and recorded in said Registry in Book 12444, Page 101 ("Mortgage");

WHEREAS, Chevron assigned the Option to the Town, and the Town assumed all of Chevron's liabilities under the Option pursuant to an Assignment and Assumption Agreement dated as of September 29, 2011 ("Assignment");

WHEREAS, the Parties agree and acknowledge that the real property described in the Option shall be made subject to a conservation easement, the terms and conditions of which are to be reasonably acceptable to the Town, the Maine Department of Environmental Protection ("DEP"), and the initial holder thereof ("Conservation Easement"); and

WHEREAS, pursuant to a certain Consent Decree by and among DEP and Chevron, dated August 30, 2011, Chevron has agreed to pay \$270,000.00 (the "Funds") to support a therein described SEP.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### AGREEMENT

1. The above set forth Recitals are hereby incorporated by reference and made a part hereof.
2. Capitalized terms not defined herein shall have the same meaning ascribed to them in the Option Agreement, except as expressly set forth herein.
3. Deliveries (together, the "Escrow Documents")
  - a. Hamlin shall execute, acknowledge, where indicated, and deliver to the Escrow Agent, the Escrow Agreement, and the Assignment.
  - b. Chevron shall execute, acknowledge, where indicated, and deliver to the Escrow Agent, the Escrow Agreement, the Assignment, a discharge of the Mortgage reasonably acceptable to Hamlin ("Discharge"), and shall deliver the Note and the Funds in accordance with the wire instructions attached as Exhibit A.
  - c. Town shall execute, acknowledge, where indicated, and deliver to the Escrow Agent, the Escrow Agreement, and the Assignment.
  - d. The Town shall deliver to the Escrow Agent copies of progress reports submitted to the Maine Department of Environmental Protection to the attention of Andrew Flint or other person designated by the Department. The frequency of progress reports shall be bi-monthly unless otherwise agreed in writing by the Town and the Department.
4. Escrow Agent. Except as otherwise herein provided, the Escrow Agent shall act hereunder as a depository only, and shall not be a party to or bound by any agreement, or undertaking, which may be evidenced by or arise out of the escrow deposited within it hereunder.
5. Escrow Agent's Duty. Upon receipt of all fully executed Escrow Documents and Funds, the Escrow Agent shall:

- a. cause the Assignment to be recorded in the Penobscot County Registry of Deeds on or before September 29, 2011;
  - b. hold the SEP funds in escrow pending the later of:
    - i. execution and recording of (A) a deed conveying to the Town, or to the Town's assignee or designee, the property described in the Option ("Deed"); and (B) the Conservation Easement.
    - ii. Receipt of progress reports and payment requests from the Town pursuant to the SEP. Within five business days of Agent's receipt of the same, Agent shall be entitled to disburse so much of the Funds as necessary to cover the payment request. Within five business days of August 30, 2014, all SEP funds held by Escrow Agent, if any, shall be delivered to "Treasurer, State of Maine," c/o Maine Coastal and Inland Surface Oil Clean-up Fund, 17 State House Station, Augusta, Maine 04333-0017.
  - c. Hold the Discharge in escrow pending the earlier to occur: (1) the termination of the Option in which case the Discharge shall be returned to Chevron; or (2) execution and recording of the Deed and the Conservation Easement, and thereafter cause the Discharge to be recorded in the Penobscot County Registry of Deeds.
  - d. Hold the Note in escrow pending the earlier to occur: (1) the termination of the Option in which case the Note shall be returned to Chevron; or (2) execution and recording of the Discharge, and thereafter cause the Note to be delivered to Hamlin.
6. Escrow Agent's Liability. The Escrow Agent shall not be liable for any error of judgment, or for any act done or omitted to be done by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith. The Escrow Agent is authorized to act on any document believed by it to be genuine and to be signed by the proper Party or Parties, and will incur no liability in so acting.
7. Adverse Claims. In the event of any disagreement, or the presentation of adverse claims or demands in connection herewith, the Escrow Agent shall refuse to comply with any such claims or demands during the continuance of such disagreement, and shall refrain from delivering any item affected thereby, and in so doing the Escrow Agent shall not be or become liable to the undersigned, or to any other person or entity whatsoever, due to its failure to comply with any such adverse claim or demand. The Escrow Agent shall continue without liability to refrain and

refuse to act:

- a. Until all rights of the adverse claimants have been finally adjudicated by a court having jurisdiction over the Parties, and the items affected hereby, after which time the Escrow Agent shall be entitled to act in conformity with such adjudication; or
  - b. Until all differences have been adjudicated by agreement, and the Escrow Agent shall have been notified thereof, and shall have been directed in writing, signed by the undersigned and by all parties making adverse claims or demands, at which time the Escrow Agent shall be protected in acting in compliance therewith.
8. Indemnification. Notwithstanding the foregoing provisions, the Escrow Agent shall not be required to make delivery, as described herein, unless it has been indemnified against all liability for doing so in a manner which it deems satisfactory in its sole and absolute discretion. In the event the Escrow Agent incurs costs, attorneys' fees or incurs any damages whatsoever, arising out or related to its performance as Escrow Agent, the losing party to such claim or claims shall indemnify and hold harmless the Escrow Agent for all such costs, expenses, and damages whatsoever.
9. Notices. Any notice required by or under the terms of this Agreement, and any delivery pursuant to this Agreement, shall be given:

In the case of Escrow Agent to:      Preti Flaherty  
45 Memorial Circle  
P.O. Box 1058  
Augusta, ME 04332-1058  
Attn: Michael L. Lane, Esq.

In the case of Chevron to:            Chevron Environmental Management  
Company  
6001 Bollinger Canyon Road  
San Ramon, CA 94583  
Attn: General Manager  
Marketing Business Unit

With a copy to:                        Chevron U.S.A. Inc.  
Law Department  
1400 Smith Street, Room 07090  
Houston, TX 77002  
Attn: Richard T. Hughes

In the case of Hamlin to:            Hamlin's Marina, Hampden  
100 Marina Road

Hampden, ME 04444  
Attn: Daniel Higgins

With a copy to:

Eaton Peabody  
80 Exchange Street  
P.O. Box 1210  
Bangor, Maine 04401  
Attn: John R. Canders, Esq.

In the case of Town of Hamden to:

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

With a copy to:

Farrell Rosenblatt & Russell  
61 Main Street, Suite 1  
Bangor, ME 04401  
Attn: Thomas A. Russell, Esq.

or to such other addresses as the appropriate Party may hereinafter designate. All such notices and deliveries shall be sent certified mail, prepaid, or by a recognized express service and delivered to the addressee, or his or her authorized representative, or in the alternative shall be hand-delivered.

10. Governing Law. This Agreement shall be governed by and construed pursuant to the laws of the State of Maine.
11. Binding Effect. This Agreement shall be binding upon the Parties hereto and their successors and assigns.
12. Resignation of Escrow Agent. The Escrow Agent may resign at any time upon giving the Parties hereto thirty (30) days' notice to that effect. In that event the successor Escrow Agent shall be such person, firm, or corporation as Chevron shall select. It is understood and agreed that the Escrow Agent's resignation shall not be effective until a successor Escrow Agent agrees to act hereunder; *provided, however*, that in the event no successor Escrow Agent is appointed and acting hereunder within thirty (30) days of such notice, the Escrow Agent may deliver the Escrow Documents and Funds into a court of competent jurisdiction; and *provided, further*, that the Escrow Agent may appoint a successor Escrow Agent hereunder at any time so long as such successor shall accept and agree to be bound by the terms of this Escrow Agreement.
13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties. No oral statement or representations, or prior and

written agreements not contained in this Agreement shall have no force or effect.

14. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
15. Termination. This Escrow Agreement shall terminate on the earlier of (i) disbursement of the entirety of the Funds in accordance herewith; or (ii) August 30, 2014.
16. Acceptance. By signing below as a Party to this Agreement, each Party acknowledges acceptance and receipt of any deed or other instrument to which they are a Party and is delivered hereunder.

*[Signature pages follow]*

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above written.

WITNESS:

**HAMLIN'S MARINA, HAMPDEN**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title  
Duly authorized

WITNESS

\_\_\_\_\_

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY**

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title  
Duly authorized

WITNESS

\_\_\_\_\_

**TOWN OF HAMPDEN**

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title  
Duly authorized

WITNESS

**PRETI, FLAHERTY,  
BELIVEAU & PACHIOS, LLP**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name

**EXHIBIT A**

WIRE TRANSFER INSTRUCTIONS

NAME OF ACCOUNT: PRETI FLAHERTY BELIVEAU & PACHIOS  
IOLTA ACCOUNT

BANK NAME: KEYBANK, N.A.

BANK ADDRESS: ONE CANAL PLAZA  
PORTLAND, MAINE 04101  
USA

TYPE OF ACCOUNT: CHECKING

ACCOUNT NUMBER: 700427800

ABA NUMBER: 011200608

C-4-b

**CERTIFICATE OF ABATEMENT**  
36 M.R.S.A. Section 841

I, the undersigned assessor of the Town of Hampden, hereby certify to Cheryl M. Johnson, Tax Collector, that an abatement of FY 2012 property taxes which were committed to you on August 17, 2011 has been granted by me as follows:

Property Owner Penguin Mental Health Assoc.  
Property Description M1 L31A - Service Fee Pd in lieu of taxes  
Property Type: Real  Personal   
Amount of abatement granted: \$ 627.92 <sup># 67</sup>  
Reason: Service Fee in lieu of taxes

You are hereby discharged from any further obligation to collect the amount abated.

Signed: Heery J. Karter Date: 8/29/11

No: 12-01

**RE Account 67 Detail  
as of 08/29/2011**

Name: PENQUIS MENTAL HEALTH ASSOC.

Land: 43,400 As of 2012  
Building: 130,400  
Exempt 173,800  
Total: 0

Location: 1012 CARMEL RD NO  
Acreage: 2 Map/Lot: 01-0-031-A  
Book Page: B11872P215

2012-1 Period Due:

Ref1:  
Mailing  
Address: 1012 CARMEL ROAD NORTH  
HAMPDEN ME 04444

Year	Date	Reference	P C	Principal	Interest	Costs	Total	
2012-1	R			0.00	0.00	0.00	0.00	
2011-1	R	08/23/10		2,763.42	0.00	0.00	2,763.42	
		7/13/2011	DEMAND	0.00	0.00	-8.59	-8.59	
			A 3					
			Demand Fees					
		8/18/2011	pilot	2,135.50	0.00	8.59	2,144.09	
			CURINT	0.00	-17.46	0.00	-17.46	
			A P					
			Total	627.92	17.46	0.00	645.38	
2010-1	R			0.00	0.00	0.00	0.00	
2009-1	R			0.00	0.00	0.00	0.00	
2008-1	R			0.00	0.00	0.00	0.00	
2007-1	R			0.00	0.00	0.00	0.00	
2006-1	R			0.00	0.00	0.00	0.00	
2005-1	R			0.00	0.00	0.00	0.00	
2004-1	R			0.00	0.00	0.00	0.00	
2003-1	R			0.00	0.00	0.00	0.00	
Account Totals as of 08/29/2011				627.92	17.46	0.00	645.38	

*Abate*

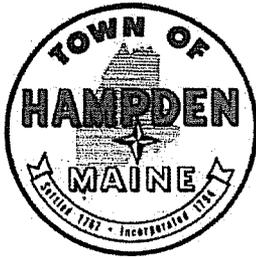
**Per Diem**

2011-1	0.1204
Total	0.1204

Exempt Codes: 47 - Benevolent/Char.

Note: Payments will be reflected as positive values and charges to the account will be represented as negative values.





TOWN OF HAMPDEN
OUTDOOR WOOD-FIRED BOILER ANNUAL
LICENSE APPLICATION

INSPECTION REQUIRED

Application Date: 09/06/11

Property Information:

Property Owner's Name: Douglas & April Stanhope

Phone #: 852-6589

Street Address: 560 Western Ave

Mailing Address: 360 Western Ave
Hampden ME 04444

Zoning District: (not permitted in Resource Protection District)

Lot Size: Acres Square Feet (3 acre min. lot size)

Outdoor Wood-fired Boiler Setback to Nearest Property Line: feet (150 ft. min.)

Distance to Nearest Residential Structure: feet (200 ft. min.)

Assessor's Tax Map: and Lot:

If this is a renewal and there have been no changes since last license was issued, please check here and sign, date and return form to Town Office. No further information is required. Last license issued:

1. Please complete plot plan (see other side) drawn to scale showing the location of the outdoor wood-fired boiler in relation to property lines and existing structures.

2. Please include installation instructions provided by Manufacturer.

- I have received a copy of the Town of Hampden Fire Prevention Code
I have received a copy of the Town of Hampden Outdoor Wood-Fired Boiler Annual Licensing Ordinance
I have received a copy of DEP Chapter 150: Control of Emissions From Outdoor Wood Boilers

I hereby agree to operate my outdoor wood-fired boiler in accordance with the Town of Hampden Fire Prevention Code and the Town of Hampden Outdoor Wood-Fired Boiler Annual Licensing Ordinance. I also acknowledge my responsibility to renew my license annually.

Owner Signature: [Signature] Date 09/06/11

Hampden Town Council Action: Approved Denied Date:

Town Clerk Signature: Date

\*This License Expires: Date

Androscoggin Bank  
C-4-d

Lease Amortization - Town of Hampden  
5 Year Lease

Annual Rate 2.71%

	Start Date	Amount	Number	Period	End Date
Lease	9/13/2011	\$ 180,734	1		
Payment	9/13/2011	\$38,105.25	5	Annual	9/13/2011

<u>Date</u>	<u>Payment</u>	<u>Interest</u>	<u>Principal</u>	<u>Balance</u>
9/13/2011	\$38,105.25		\$ 38,105.25	\$ 142,628.75
9/13/2012	\$ 38,105.25	\$ 3,865.24	\$ 34,240.01	\$ 108,388.73
9/13/2013	\$ 38,105.25	\$ 2,937.33	\$ 35,167.92	\$ 73,220.82
9/13/2014	\$ 38,105.25	\$ 1,984.28	\$ 36,120.97	\$ 37,099.85
9/13/2015	\$ 38,105.25	\$ 1,005.41	\$ 37,099.85	\$ (0.00)
<u>Totals</u>	<u>\$190,526.26</u>	<u>\$ 9,792.26</u>	<u>\$ 180,734.00</u>	

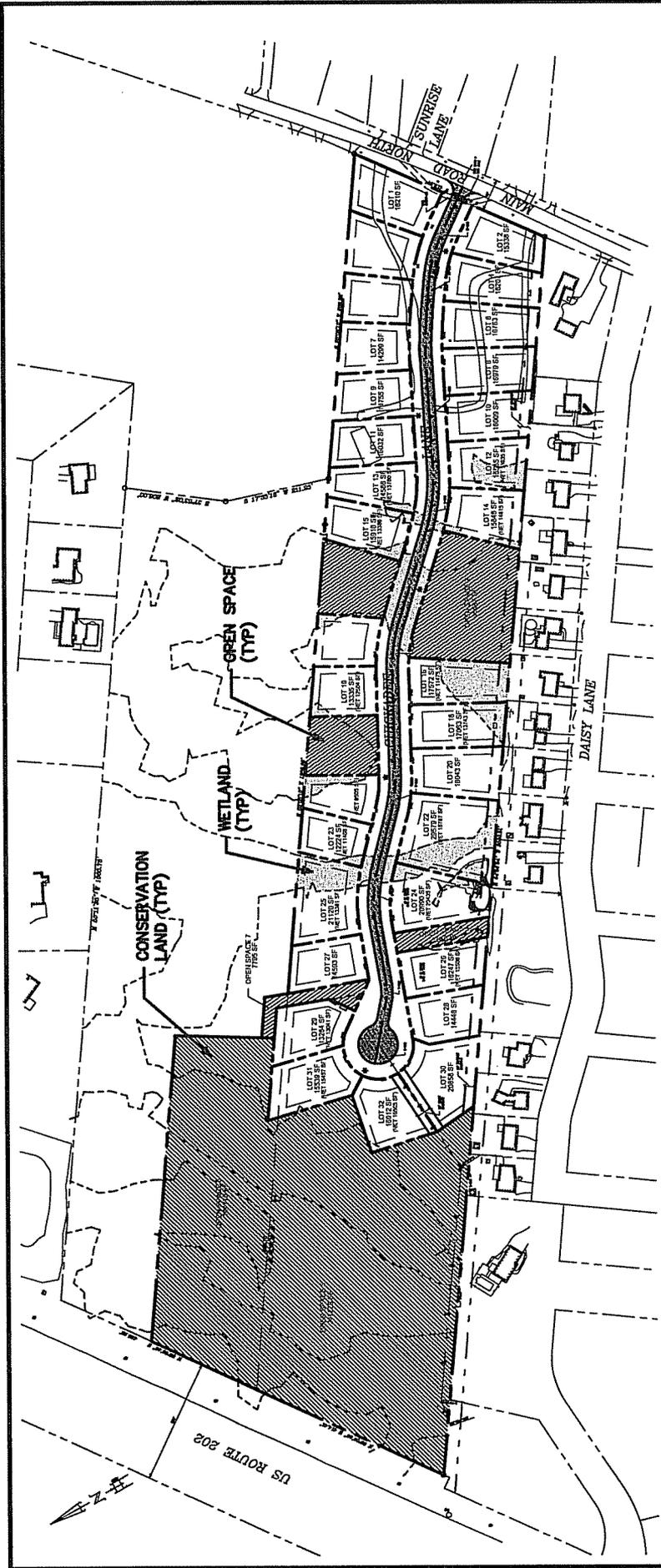
C-4-e



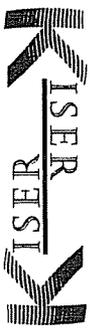
**TO:** Mayor Hughes and Hampden Town Council  
**FROM:** Robert Osborne, Town Planner *RO*  
**SUBJECT:** Billington LLC Subdivision Open Space  
**DATE:** September 12, 2011

At the August 17, 2011 Town Council Planning and Development Committee meeting there was a vote to refer this item concerning the proposed open space with conservation easements to the full Council without recommendation.

Billington LLC approached the committee to discuss the open space proposal generally and a draft conservation easement specifically on the parcel located on the old Crestwood Trailer Park site. Billington LLC is required to enter into the subject conservation easement in order to secure a wetland alteration permit and satisfy Army Corps of Engineers and Maine Department of Environmental Protection requirements. (The wetland alteration is necessitated in order to construct the proposed street). Please find attached a copy of the draft easement document, a map and the email from Attorney Tom Russell regarding his reservations about the proposed conservation easement encumbered open space.



REDUCED



KISER  
ENGINEERING & DEVELOPMENT CONSULTING  
PO BOX 282, HAMPDEN, MAINE 04444  
207-862-4700



DEVELOPER:  
BILLINGTON LLC  
BANGOR, MAINE

OPEN SPACE PLAN  
CHICKADEE CROSSING  
MAIN ROAD NORTH  
HAMPDEN, MAINE

## CONSERVATION EASEMENT

### RECITALS

BY THIS INDENTURE, made this \_\_\_\_\_, day of \_\_\_\_\_ 2011, by **Billington LLC** (hereinafter referred to as the "Grantor" which word, where the context requires, includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors, assigns, lessees, tenants and other occupiers and users) with address of 81 Park Street, Bangor, Maine, is the owner in fee simple of certain real property located in the town of Hampden, County of Penobscot, (hereinafter "Property") more particularly bounded and described in deeds recorded in the Penobscot County Registry of Deeds; book 11050, page 285 and book \_\_\_\_\_, page \_\_\_\_\_.

and;

WHEREAS, the Grantor intends to grant a Conservation Easement over a portion of the Property more particularly bounded and described as follows:

*[See Attachment A]*

(hereinafter "Easement Area"); and

WHEREAS, the **Town of Hampden**, a municipality, having a principal place of business at 106 Western Ave, Hampden, Maine (hereinafter referred to "Grantee" which word shall include all successors, assigns, agents and designees) has determined that it would be in the public interest to retain, maintain, and preserve that portion of the Property designated as the Easement Area as open space, in its natural state, and

WHEREAS, Grantor is willing, in consideration of the need to preserve the natural, scenic, aesthetic and special character of the property, and desires to conserve and protect the property as a natural habitat for birds, wildlife, plants and similar ecosystems, the Grantor hereby grants in perpetuity to the Grantee, a conservation easement/restrictive covenants (hereinafter "Easement") on the Property; and

WHEREAS, MRSA Title 33, §477 permits the creation of a conservation easement; and

WHEREAS, the Grantee agrees, by accepting this grant, to honor the intention of the Grantor as stated herein, and to preserve and protect in perpetuity the conservation values of the Property;

WHEREAS the State of Maine by and through its Department of Environmental Protection, (hereinafter referred to as the "Third Party") will receive Third Party Rights of Enforcement under this Easement

NOW THEREFORE, be it known that **Billington LLC**, does hereby grant, release and dedicate to the **Town of Hampden** a conservation easement in perpetuity over the Easement Area.

1. PURPOSE

The Easement is hereby granted exclusively for the following conservation purposes:

- a. To have the Property remain in its present natural and open condition in order for it to fulfill its present historic, scenic, vegetative, wildlife and/or hydrological functions.

2. USE LIMITATIONS

Grantor intends that this Easement will confine the use of the Easement Area in perpetuity to such activities as are consistent with the purposes of this Easement. Any activity on or use of the Easement Area inconsistent with the purposes of this Easement is prohibited. The following limitations shall apply:

- a. The Easement Area shall not be subdivided and none of the individual tracts, which together comprise the Easement Area, shall be conveyed separately from one another.
- b. The Easement Area shall be maintained in perpetuity as open space without there being conducted thereon any industrial, commercial, agricultural or forestry activities. Agricultural and forestry shall include animal husbandry, floricultural, horticultural activities, the production of plant and animal products for domestic or commercial purposes, the growing, stocking, cutting and sale of forest trees of any size capable of producing timber or other forest products and the processing and sale of products produced on the property (e.g., maple syrup).
- c. No structures, improvements or alterations, including but not limited to, a dwelling, any portion of a subsurface wastewater treatment and disposal system, mobile home, utility tower, or wireless communication facility shall be constructed, placed or introduced onto the Easement Area.
- d. No removal, filling, or other disturbances of soil nor any changes in the topography, surface or subsurface water systems, wetlands or natural habitats shall be allowed.
- e. No mining, quarrying, excavation or removal of rocks, minerals, gravel, sand, topsoil or other similar materials shall be allowed on the Easement Area.
- f. The placement of signs, billboards or other advertising materials or structures of any kind is prohibited.
- g. There shall be no use of pesticides, poisons, biocides or fertilizers, draining of wetlands, burning of marshland or disturbances or changes in the natural habitat of the premises.

- h. There shall be no manipulation or alteration of the natural watercourses, lakeshores, marshes or other water bodies, nor shall any uses of or activities upon the property be permitted which could be detrimental to water purity or to any vegetative, wildlife or hydrological function.
- i. There shall be no operation of vehicles, snowmobiles, dune buggies, motorcycles, mini-bikes, go-cars, all-terrain vehicles, or any other type of motorized vehicle upon the property.
- j. There shall be no storage or placement of equipment, natural or man-made materials or substances upon the premises.
- k. There shall be no dumping, burning, release, burial, injection, or disposal of any type of material on the Easement Area.
- l. Any other disturbances of the property except for those activities explicitly authorized by the Compensatory Mitigation Plan for Permit No. \_\_\_\_\_ issued by the Department of the Army, New England District, Army Corps of Engineers dated \_\_\_\_\_ and referenced under Section 4. Reserved Rights.

3. EXCEPTIONS

The Grantor may enter upon the Property to conduct the following activities after written application and approval from the Grantee and any other local or state agencies for which approval is required:

- a. Removal of debris, dead trees, or brush for the purpose of promoting safety and aesthetic quality.
- b. Pruning and thinning live trees and brush for the purpose of promoting safety and aesthetic quality.
- c. Planting of trees, shrubs, or other vegetation for the purpose of promoting wildlife or aesthetic quality.
- d. Grading and landscaping at the direction and approval of the Grantee and/or any other local or state boards/agencies.
- e. Install new utilities and the right to convey easements for such utilities.
- f. Maintain, repair and replace utilities and their easement areas.
- g. Construct a path not greater than 10' wide to provide for passive recreation and enjoyment of the conservation lands. The path shall be located with approval of the Grantee and other state or local agencies.
- h. Motorized vehicles shall be permitted to the path and for exempted maintenance activities provided they do not damage the soil surface or quality of the protected area.

4. RESERVED RIGHTS

It is expressly understood and agreed that this Easement does not grant or convey to members of the general public any rights of ownership, entry or use of the Property. This Easement is created solely for the protection of the Property and Grantor reserves the ownership of the fee simple estate and all rights appertaining thereto, including without limitation the right to exclude others and to use the Property for all purposes consistent with this Easement.

The Grantor reserves to itself the rights to create, restore, remediate, monitor and maintain those areas within the easement as required by the Compensatory Mitigation Plan Permit No. \_\_\_\_\_ issued by the Department of the Army, New England District, Corps of Engineers, dated \_\_\_\_\_

5. COMPLIANCE INSPECTION

The Grantor expressly authorizes the Grantee, its duly authorized designee or agent to enter upon the lands subject to this Easement for the purpose of determining compliance with the terms and conditions contained within this document.

6. MARKING OF PROPERTY

The perimeter of the Property shall at all times be plainly marked by permanent signs or by an equivalent, permanent marking system designating the area a protected area.

7. PROPERTY TRANSFERS

Grantor shall include the following notice on all deeds, mortgages, plats, or any other legal instrument used to convey any interest in the Property. Failure to comply with this paragraph does not impair the validity or enforceability of this Easement:

NOTICE: This Property is Subject To a Conservation Easement recorded in the Penobscot County Registry of Deeds; book \_\_\_\_\_, page \_\_\_\_\_.

The Grantor shall provide a 60-day advance notification to the Grantee and the Army Corps of Engineers pursuant to permit no. \_\_\_\_\_, before any action is taken to void or modify this instrument, including transfer of title to, or establishment of any other legal claims.

Grantee shall be under no obligation to maintain the Easement Area or pay any taxes or assessment thereon.

8. BENEFITS AND BURDENS

The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity. The benefits of said Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable to another qualified organization, which organization has among its purposes the conservation and preservation of the land and water areas and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

9. NOTICES

All notices, requests and other communication required or permitted to be given under this Easement shall be in writing and shall be delivered in hand or via Certified Mail, return receipt requested, to the appropriate address set forth in this Easement or at such other address as the Grantor or Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or mailed.

Said Grantor further covenants and agrees to provide a copy of the Conservation Easement by means of a notice by Certified Mail, return receipt requested, to the last known address of any person or entity who hereafter shall have any possessory interest in the subject property, including but not limited to any tenants, successors, or assigns. Failure of said Grantor to provide such notice shall not constitute any waiver of the Grantee's rights herein.

10. BREACH OF EASEMENT

- a. If a breach of this Easement, or conduct by anyone inconsistent with this easement, comes to the attention of the Grantee, it shall notify the Grantor, in writing, of such breach of conduct, delivered in hand or by Certified Mail, return receipt requested.
- b. The Grantor shall, within thirty (30) calendar days after receipt of such notice or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken under this section.
- c. If the Grantors fails to take such proper action under this preceding paragraph, the Grantee shall, as appropriate to the purposes of this deed, undertake any actions that are reasonably necessary to cure such breach or to repair any damage in the Grantor's name or to terminate such conduct. The cost thereof, including the Grantee's expenses, court costs and legal fees, shall be paid by the Grantor.

- d. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damages to the property, or to prevent action or potential action which is determined to be inconsistent with the stated purposes of this Easement, the Grantee may pursue any remedy it deems appropriate to correct such breach, without prior notice to the Grantor or without waiting for the period provided to cure to expire.
- e. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.
- f. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair Grantee's rights or remedies or be construed as waiver.

11. SEVERABILITY

If any provision of this Easement, or the application thereof to any person or circumstances, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Easement or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

12. MERGER

The Grantor and Grantee agree that it is their express intent that the provisions of the Easement set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assignee shall be deemed to eliminate the Easement, or any portion thereof, granted under the doctrine of "merger" or any other legal doctrine.

13. CONDEMNATION

- a. Whenever all or any part of the Easement Area is taken in exercise of eminent domain by a public, corporate, or other authority so as to abrogate in whole or in part the Easement conveyed hereby, the Grantor and the Grantee shall thereupon act jointly to recover the full damages from such taking, with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.
- b. The balance of the land damages recovered (including, for the purposes of this subsection, proceeds from any lawful sale, in lieu of condemnation, of the Property unencumbered by the restrictions hereunder) shall be divided between the Grantor and Grantee in proportion to the fair market value of their respective interests in that part of the Property condemned on the date of execution of this Easement. For this purpose, the Grantee's interest shall be the amount by which the fair market value of the Property immediately prior to the execution of this Easement is reduced by the use limitations imposed hereby. The values of the Grantor's and Grantee's interest

shall be determined by an appraisal prepared by a qualified appraiser at the time of condemnation.

- c. The Grantee shall use its share of the proceeds in a manner consistent with the conservation of land and natural resources.

GRANTOR hereby affirms that it is the sole owner of the property in fee simple and has the right to enter into this Conservation Easement and to grant and convey the Easement. The property is free and clear of all liens and encumbrances, including but not limited to any mortgage not subordinated to this Easement.

THE GRANTEE, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

THE GRANTOR hereby grants to the **Maine Department of Environmental Protection**, Third Party, the same inspection and compliance rights as are granted to the Grantee under this easement. However the Parties hereto intend that the Grantee shall be primarily responsible for the enforcement of this easement and that the Third Party will assume such responsibility only if the Grantee shall fail to enforce it. If the Third Party shall determine that the Grantee is failing in such enforcement, the Third Party may give notice of such failure to the Grantee and the Grantor, and if such failure is not corrected within a reasonable time thereafter, the Third Party may exercise, in its own name and for its own account, all the rights of compliance granted the Grantee under this Easement. The Third Party shall also have reasonable access to any and all records of the Grantee relevant to the Protected Property.

IN WITNESS WHEREOF, **BILLINGTON LLC** has caused this instrument to be signed in its corporate name by Stanley E. MacMillan, its President, hereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_ 2011.

WITNESS:

**BILLINGTON LLC**

\_\_\_\_\_

By: \_\_\_\_\_

Stanley E. MacMillan  
Its President  
Hereunto Duly Authorized

STATE OF MAINE  
PENOBSCOT, ss.  
, 2011

Then personally appeared the above-named Stanley E. MacMillan and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

\_\_\_\_\_  
Name: Notary Public/Attorney-at-Law

The above and foregoing Conservation Easement was authorized to be accepted by the Town of Hampden, Grantee as aforesaid, and the said Grantee does hereby accept the foregoing Conservation Easement, by and through Susan Lessard, its Manager, hereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_, 2011.

Town of Hampden

By: \_\_\_\_\_  
Susan Lessard  
Its Manager  
Hereunto Duly Authorized

STATE OF MAINE  
PENOBSCOT, ss.  
, 2011

Then personally appeared the above-named Susan Lessard and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said Town of Hampden.

Before me,

\_\_\_\_\_  
Name: Notary Public/Attorney-at-Law

**THIRD PARTY ENFORCER ACCEPTANCE**

The third party rights of enforcement granted under the above and foregoing Conservation Easement, pursuant to Title 33 M.R.S.A Section 476 et seq., were authorized to be accepted by the State of Maine Department of Environmental Protection by Teco Brown, its Director of the Bureau of Land & Water Quality, hereunto duly authorized and the said Teco Brown does hereby accept the foregoing Conservation Easement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
Its: Director, Bureau of Land & Water Quality

DRAFT

Email: Tom Russell to Bob Osborne

August 9, 2011

RE: Billington Easement Language

Bob:

Given the stated intent to convey the Easement Area to the Town of Hampden, I have even more concerns about the impact of the Conservation Easement on the Town.

Section 2 of the Conservation Easement includes a number of use limitations for the Easement Area, and Section 10 obligates the Grantor to undertake actions necessary to cure a breach of the Easement, to terminate any conduct inconsistent with the Easement, and to repair any damage to the Easement Area. Under the terms of the Easement, the term "Grantor" includes Billington LLC, and its successors and assigns. Therefore, if Billington LLC conveys the Easement Area to the Town of Hampden, the Town will become obligated to undertake the curative actions required under Section 10 of the Easement. In essence, the Town would be required to enforce the Easement against itself. Furthermore, if the Town does not undertake the curative actions required by Section 10, the last paragraph of the Easement grants DEP a third party right of enforcement, and DEP may exercise "all rights of compliance granted the Grantee (i.e., Town) under this Easement." So, if the Town acquires title to the Easement Area and does not undertake any required curative action, DEP could undertake the curative action as authorized under Section 10(c), and recover its costs from the Town. In fact, Section 12 makes it clear that if the Town becomes both the owner of the Easement Area and the holder of the Easement, the Easement is to remain in effect and will not be eliminated under the doctrine of merger.

To the best of my recollection, this proposed arrangement would be the first dedication of open space to the Town that would place affirmative obligations on the Town to enforce use limitations in, and to repair any damage to, the Easement Area, and would create the prospect that the Town could be liable to DEP for any costs incurred by DEP for the Town's failure to fulfill its curative obligations.

Tom

Email: Tom Russell to Bob Osborne  
August 3, 2011  
Billington Easement Language

Bob: Based on my review of the proposed Conservation Easement from Billington, LLC, I offer the following comments:

1. I would like to see an affirmative obligation on the Grantor to undertake the activities described in Section 3(a) and (b).
2. I recommend that the Town be provided with the option, but not the obligation, to undertake the activities described in Section 3 (a),(b),(c),(d), and (h).
3. Section 3(h) should be modified to allow for emergency vehicles.
4. Even though Section 3(g) authorizes the construction of a path by the Grantor, the Town should be aware that Section 4 provides that the general public will not have a right to use the trail.
5. The last sentence at the bottom of Page 4 should be modified to read as follows:

“Grantee shall be under no obligation to maintain the Easement Area, *to enforce any provisions of this Easement*, or pay any taxes or assessments thereon.”

6. In the second line of Section 10(c), the word “shall” should be changed to “may”. The Town should have the option to take the actions specified in Section 10(c), but I do not recommend that it assume an obligation to do so.
7. On Page 7, the paragraph beginning with the words “THE GRANTEE” should be modified to read as follows:

“THE GRANTEE, by accepting and recording this Easement, agrees, *except as otherwise provided in this Easement*, to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.”

8. I recommend that the paragraph on page 7 beginning with the words “THE GRANTOR” be modified to read as follows:

“THE GRANTOR hereby grants to the Maine Department of Environmental Protection, Third Party, the same inspection and compliance rights as are granted to the Grantee under this easement. However the Parties hereto intend that the *Grantor* shall be primarily responsible for the enforcement of this easement, *that the Grantee shall be secondarily responsible for the enforcement of this easement*, and that the Third Party will assume such responsibility only if the *Grantor and/or* Grantee shall fail to enforce it. If the Third Party shall determine that the *Grantor and* Grantee *are* failing in such enforcement, the Third Party may give notice of such failure to the Grantee and the Grantor, and if such failure

is not corrected within a reasonable time thereafter, the Third Party may exercise, in its own name and for its own account, all the rights of compliance granted the Grantee under this Easement. The Third Party shall also have reasonable access to any and all records of the Grantee relevant to the Protected Property. *Grantee shall not be responsible for any expenses, court costs or legal fees incurred by Third Party.*”

Please let me know if you have any questions or comments.

Tom

C-4-f

*Pastor Thomas Channell*

Calvary Apostolic Church  
Winterport, ME 04496

Church: |  
Cell: (207) 478-5693

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August 12, 2011

Dear Hampden Town Council,

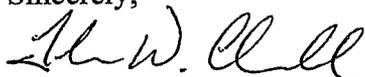
On Thursday, May 5<sup>th</sup> 2011 at approximately 10:00am a passerby noticed smoke coming from and fire within our church building located 1240 North Main Street, Winterport, Maine and called 911. Firefighters arrived shortly thereafter and began assessing the situation and realizing the severity of the fire declined to enter the building. Upon my arrival I was advised that there was a fatality and that the fire marshal along with a state medical examiner were in route. Fire stations from the surrounding area were there to assist the Winterport fire department. But after a few hours the entire building was destroyed. In the days following, I, as well as the congregation, received a great outpouring of support.

At this time we are looking forward to our future and optimistically regard these events as a new beginning. We are now taking into account all of our options in the course of rebuilding. Within the realm of possibility we have considered relocation of our church facilities to the Town of Hampden. One of the first options that came to us was the Hampden Physical Therapy building that is for sale and is located at 177 Cold Brook Road. This lot and surrounding land that we would like to obtain is zoned as a Commercial Service District which by definition of "place of assembly" excludes churches from being a permitted use.

My request is that the Hampden Town Council would consider removing the word "churches" from the definition of "place of assembly" as contained in the zoning ordinance page 109.

If you have any questions or comments please feel free to contact me. Thank you kindly for your consideration in this matter.

Sincerely,



Thomas Channell  
Pastor, Calvary Apostolic Church



**TO:** Mayor Hughes and Hampden Town Council  
**FROM:** Robert Osborne, Town Planner *RO*  
**SUBJECT:** Draft Zoning Ordinance Text Amendment to consider Church as a  
Conditional Use in the Commercial Service District  
**DATE:** September 12, 2011

At the September 7, 2011 Town Council Planning and Development Committee meeting there was a vote to refer this amendment to consider church use in the Commercial Service District as a Conditional Use to the Planning Board for public hearing. Please find attached a copy of the draft amendment to the Zoning Ordinance.

**TOWN OF HAMPDEN**  
**Draft**

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

**3.3. Commercial Service District**

**3.3.1. Purpose** - This district is intended for the location of heavy commercial uses, wholesale uses, office buildings, automotive type of uses such as sales and service, convenience stores and commercial service type of uses. In general this area is devoted to service or wholesale uses.

**3.3.2. Permitted Uses (Subject to Site Plan Review)** - Any retail or service business, hotel and motels, business or professional offices, take-out restaurant, small restaurant, sit-down restaurant, automobile service, place of assembly, outdoor recreation and accessory uses or structures. Essential service and buildings for essential service, single family dwellings in existence on the date of this amendment. *(Amended 12-6-04)*

**3.3.3. Conditional Uses (Subject to Site Plan Review)** – Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility (subject to *Article 4.24*), methadone clinic (subject to *Article 4.24*), Fast-food restaurant, outdoor dining restaurant, tavern, bar, dance hall, commercial school, church, drive-thru business, wholesale distribution, truck terminal, light industrial operations (but not including excavation, gravel pit and quarry activities) which do not exceed 10,000 square feet, such as warehousing assembly or fabrication. Functionally water-dependent uses along the Penobscot River. Any establishment which provides in excess of 5,000 square feet of outdoor display or storage of goods or equipment. Stockpiles (subject to *Article 4.9*) not accessory to excavation, gravel pit and quarry activities. *(Amended 4-7-03, 12-6-04, 12-17-07, 03-01-10, 03-07-11)*

**3.3.4. Lot Dimensions**

Minimum Lot Area	-	20,000 sq. ft.
Minimum Road Frontage	-	100 feet
Minimum Setbacks:		
Street Yard	-	40 feet
Other Yards	-	30 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

**3.3.5. Special District Regulations**

1. Where a commercial or industrial use abuts any residential use or residential district, the other yard setback shall be double where it abuts the residential property.
2. Notwithstanding the maximum building height regulations in Article 3.3.4. building height may be up to 50 feet under the following standards. Buildings in excess of 35 feet in height shall provide additional setbacks on all yards as herein stipulated: Subtract 35

feet from the proposed building height and add that difference to each yard setback requirement. *(Amended 03-01-10)*

*EXAMPLE:* A 48 foot tall building is proposed. By subtracting the base Commercial Service District maximum building height from the proposed height the following is the result  $48' - 35' = 13'$ .

Then add that amount to each yard or setback.

Setback Type		Base Setbacks:	Total Setback
Street Yard	-	40 feet	53 feet
Other Yard	-	30 feet	43 feet

3. Notwithstanding other requirements in this section any structure which requires access to rail service shall not be required to setback from the railroad siding. *(Amended 8-17-92, 10-4-93)*
4. Fast-food restaurant use shall be located on a lot having a minimum lot size of 1.5 acres, minimum frontage of 200 feet and no part of the vehicle queue shall be located within 100 feet of a residential structure. *(Amended 12-6-04)*
5. Sale or consumption of alcoholic beverages is prohibited for outdoor dining restaurant uses in conjunction with take-out restaurants and fast-food restaurants. *(Amended 12-6-04)*
6. Outdoor dining areas proposed for outdoor dining restaurant uses shall be clearly delineated on a site plan including barriers required under M.R.S.A. *Title 28-A*. Outdoor dining restaurant uses proposing outdoor consumption of alcoholic beverages shall comply with M.R.S.A. *Title 28-A: LIQUORS §1051. Licenses generally* which requires that outside areas be controlled by barriers and by signs prohibiting consumption beyond the barriers. *(Amended 12-6-04)*
7. Notwithstanding the maximum building height regulations buildings used for functionally water-dependent uses along the Penobscot River are not subject to the maximum building height standard in Article 3.3.4. or 3.3.5.2. provided the lot area for such a use is at least five acres in size. *(Amended 03-01-10)*
8. Notwithstanding the above requirements, residential use accessory structures which are not attached to a residential principal building may be located on a lot in accordance with the following:

Accessory Structures Ground Floor Area		Up to 150 Square Feet
Maximum Height	-	16 Feet
Minimum Other Yard	-	5 Feet

Once located in accordance with the foregoing requirements, said accessory structures shall not be attached to a principal building unless said structures are in compliance with the Other Yard requirement of the District. *(Amended 02-07-11)*