



HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
AGENDA

MONDAY

MARCH 7, 2011

7:00 P.M.

• 5:45 pm – FINANCE COMMITTEE MEETING

A. CONSENT AGENDA

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. February 5, 2011
- b. February 7, 2011

3. COMMUNICATIONS

- a. 2010 Tier II Chemical Inventory Report – Pine Tree Landfill
- b. Air Emission License – Pine Tree Landfill
- c. Pine Tree Landfill – Updated Opinion of Escrow Post-Closure Costs
- d. Municipal Review Committee – Quarterly Cash Distribution
- e. Municipal Review Committee – Pending Penalties Related to 2010 MSW Deliveries
- f. AFSCME – Letter Requesting Collective Bargaining
- g. Maine CDC – “Turn Maine Blue” Day
- h. Chester Bigelow – Conservation Committee – New Application – Referral to Planning & Development Committee
- i. Bernie Philbrick – Citizen Committee to Review Hampden Comprehensive Plan – New Application – Referral to Planning & Development Committee

4. REPORTS

- a. Hampden Academy Status Report
- b. Communications Committee Minutes – 2/23/2011
- c. 2010 Hazardous Waste Collection Report
- d. Finance Committee Minutes – 2/7/2011

B. PUBLIC COMMENTS

C. POLICY AGENDA

1. PUBLIC HEARINGS

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

2. NOMINATIONS – APPOINTMENTS – ELECTION

3. UNFINISHED BUSINESS

- a. Hamlin Marine – Finance Committee Recommendation for Land Swap
- b. 2012 Plow Truck Bid Results – Finance Committee Recommendation
- c. Zoning Ordinance Text Amendment for Medical Marijuana Dispensary and Cultivation Facilities and Methadone Clinics – Introduction for Public Hearing
- d. Request to Repeal 2010 Comprehensive Plan

4. NEW BUSINESS

- a. Acceptance of Forfeited Property – Public Safety

D. COMMITTEE REPORTS

E. MANAGER'S REPORT

F. COUNCILORS' COMMENTS

G. ADJOURNMENT

Town Council Strategic Planning Workshop Minutes
2/5/2011

Attending:

Mayor Matthew Arnett	Councilor William Shakespeare
Councilor Thomas Brann	Councilor Kristen Hornbrook
Councilor Jean Lawlis	Town Manager Sue Lessard
Councilor Andre Cushing	Walt Cupples - Facilitator
Councilor Janet Hughes	Deb Cupples – Facilitator
Michelle Blosser	Al Valcourt
Linda Valcourt	Mark Cormier
Annette Cormier	Jack Forbush
Kristin Forbush	Roscoe Witham
Rich Armstrong	Ed Armstrong
Don Pelletier	Roger Goode
Jim Kiser	Bruce Trundy
Sally Leete	Paul Philbrick
Cindy Philbrick	Joe Goudreau
Paula Goudreau	Dan Wiswell
Cash Webb	Scott Carter
Lisa Carter	

The meeting was opened by the Mayor. He introduced the Facilitators, Deb and Walt Cupples who outlined the norms of expected behavior for the session.

Those were posted as:

- Open sharing of ideas
- All ideas are valuable
- Stay on task
- Straw polls to 'see where we are'
- No binding decision-making/voting
- Have some fun
- Have to be done by 2 p.m.
- Part of an ongoing process

The Mayor then recognized the group of citizens who were attended the meeting. Primary concerns of the group, as stated, centered around the 2010 Comprehensive Plan, its process, and in particular, a land use map that is part of the plan. The Mayor invited attendees to introduce themselves and state their concerns. All concerns were listed on newsprint posted around the room. Those concerns, verbatim from the list posted on the wall are as follows:

1. Have seen Proposed Land Use Map and are concerned.
2. How beaver flowage affects my rights over my land?

3. It is our land – we want to retain the rights to our land – including passing it on to our kids.
4. Our land will be worthless if the Comprehensive Plan goes through.
5. How can land be redistricted without landowners input?
6. What restrictions of Hampden Rifle and Pistol Club on its property?
7. Constitutionality can't be taken lightly.
8. Concern with Randall Arendt's role.
9. We allow the community to use our property for Fire Dept. training may be other land owner's usage in community.
10. Suggest we have a meeting just for this issue.
11. What about land in Tree Growth?
12. Consider not implementing the new map without input from landowners.
13. In 1941 Japan "Awoke Sleeping Giant" – that has happened now in Hampden.
14. How many people were involved in creating current Comprehensive Plan? I was not contacted (& I own 53/43 acres).
15. Misinformation was going on in communicating with constituents.
16. Is CLUP Map a working document?
17. Dev. Of SCLU: Doesn't include input from residents & doesn't recognize my rights.
18. We are stewards of our land. We don't want gov't intervention.
19. My land, if this happens, will be worthless.
20. Question the "process" whereby Council adopts/votes on map without input – suggest contacting ahead of decision.
21. Suggest a great deal more input & effort.
22. Strong push for less gov't is better.
23. Reconsider getting rid of new plan – keep the old or start over.

24. Need to improve communication.
25. Would appreciate heightened level of contact when issues affect my property.
26. A lot of people made input to Shoreline Zoning & it was not acted on.
27. Oath Councilors took is to uphold people's right to own land.
28. Is lack of communication from Town Councilors to residents – need to improve – consider new ideas
29. Why can't I cut firewood on my own land?
30. I believe in property rights – we trusted you.
31. To improve communication: Twitter, Facebook, RSS feed. Cannot be just on website.
32. Can we get detailed land use items?

The Council discussed the idea of setting a special date for meeting to discuss the concerns expressed. A straw poll was taken to determine if March 1, 2011 would work for such a meeting. The majority of the Council agreed to that date in the straw poll. Also discussed was the idea of cancelling the Comprehensive Plan Implementation Committee meeting scheduled for February 16th. A straw poll indicated that the majority of the Council was in favor of that action. Final decisions on those issues will be decided at the Town Council meeting on February 7th.

The Town Manager was instructed to send out a mailer to all residents notifying them of the March 1st meeting and the subject matter involved.

After residents expressed their concerns and the straw polls were taken to help determine a 'what next' plan, the Council took a break to allow residents who wished to leave to do so.

Facilitators presented an organizational 'relationship' chart that defined the ways in which boards/groups interact. The steps are as follows:

1. Polite – the relationship between members to start
2. Why We're Here – the relationship that begins to explore the purpose of the relationship
3. Bid for Power – the way in which members seek to exert their influence
4. Constructive- the relationship that is defined when members work together for common goals

5. esprit – The relationship when members come to trust each other and the group and develop a 'one for all' approach that is highly constructive

It was explained that all groups follow this pattern of behavior – and that it is not possible to skip steps – each one is a necessary component of coming to effective group behavior. It was also explained that every time a new member is introduced to the group, the group starts over at step 1. The Council was encouraged to use this list as a touchstone when it encountered difficulty in moving forward with its decision-making process.

Next the Facilitators asked Councilors what they felt the Council needed to do as a Council going forward. The following is the list that was posted on newsprint by the Facilitators:

- Be open with each other
- Come to agreement about our role as Councilors
- Inventory where we have evolved over the past ten years
- Then identify tools to communicate
- Determine where we are going
- Explore social media communication tools – consider restrictions
- Want Community to be comfortable coming to the Council
- Should we consider a second session to complete the agenda that was not addressed?

The decision was made to continue with the meeting for the purpose of discussing the upcoming budget and for the purpose of discussing the Hamlin Marina land swap project because both are time sensitive and the Manager cannot prepare a budget without guidance from the Council and an idea of what work plan that they want for the coming year.

The Hamlin Marine discussion involved an assessment of the pluses and minuses of the Council trading land with Hamlin Marine. The two parcels in question, one owned by Hamlin and the other owned by the Town are virtually identical in appraised value. Pluses were identified as equal value, expanded riverfront access to the general public, conservation of a potential park area, retaining the boat launch, the new property is more scenic than the marina site which is covered with buildings, returns the Marina to general taxation, revenue could be generated for town use by selling/raffling boats donated to the Town by Hamlin Marine. Negatives identified included the loss of \$4300 in annual revenue from the marina lease, appearance of favoritism to a business, difficult to explain to the public, selling/raffling boats not the business of the Town.

The Council examined the pluses and minuses and the Town Manager was directed to provide information for this item for the Finance and Administration meeting on Monday, February 7th.

The next item discussed was the upcoming budget. Due to the very limited time left in the meeting, Facilitators asked each Councilor to identify budget parameters that they felt were important. The list identified is as follows:

- Maintain mil rate at or near current mil rate
- Maintain town mil rate at current mil rate – independent of school impact
- Put pressure on school to keep their budget down
- Municipal budget should show modest reduction
- Assess Town Services – see where cuts may be made
- Try and be creative in looking at service provision – i.e. trash collection, etc.
- Don't raise taxes and put pressure on school
- Maintain current level of services
- Work our hardest with the school to keep their budget down
- Maintain the town mil rate

Next Steps identified as:

- Town Manager will present budget showing different mil rate impact scenarios
- Meet with the other two SAD 22 communities to discuss joint strategy for controlling expenses
- Survey the community to see what the community wants
- Make sure that it is clear that these are preliminary discussions and nothing is set in stone
- Communicate our concerns regarding the potential increase in the School Board's budget
- Communicate to the School Administration that we need a budget figure by the first of March – this should come from the Council and not just the Manager

It was cited that the Council needs to schedule another planning session to hold discussion on the agenda items that were not addressed on 2/5/2011. A taped copy of the meeting was made and converted to DVD.

The meeting was adjourned at 2 p.m.

Respectfully submitted,

Susan Lessard
Town Manager

TOWN COUNCIL MINUTES**FEBRUARY 7, 2011**

The regularly scheduled meeting of the Hampden Town Council was held on Monday, February 7, 2011. The meeting was held at the municipal building council chambers and was called to order by Mayor Arnett at 7:05 p.m.

Attendance: Councilors: Matthew Arnett, Andre Cushing, Janet Hughes, Thomas Brann, Jean Lawlis, William Shakespeare and Kristen Hornbrook

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Town Planner Bob Osborne and Community and Economic Development Director Dean Bennett

Citizens

A. CONSENT AGENDA

Motion by Councilor Cushing, seconded by Councilor Hughes to accept the balance of the consent agenda - Unanimous vote in favor.

B. PUBLIC COMMENTS

Sally Leete of 344 Main Road North commented that when the residents left the Council strategic planning meeting on Saturday, a remark was made by a Town Council member that was very detrimental and it was heard by many. She said it was inappropriate and made the residents feel that there was a lot of contempt toward them. She said what they want to do is open up new dialogue and to rectify things to understand what is going on in the Town and to have a better relationship with the Town Council.

C. POLICY AGENDA**1. PUBLIC HEARINGS**

- a. ZONING ORDINANCE TEXT AMENDMENT re SETBACKS OF SMALL ACCESSORY STRUCTURES IN COMMERCIAL SERVICE DISTRICT – SECTION 3.3

Town Planner Bob Osborne explained that the purpose of the proposed amendment is to relax the yard setback requirements for small accessory buildings in the Commercial Service District. He

noted that this amendment came about at the request of the Hampden Mobile Home Park to allow for small accessory buildings within the park. The Planning Board has returned an "ought to pass" recommendation.

Mayor Arnett explained the procedure for the public hearing and then opened the hearing. No one spoke in favor or in opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Brann, seconded by Councilor Hughes to adopt the amendment as proposed – unanimous vote in favor.

- b. MOBILE HOME PARK ORDINANCE TEXT AMENDMENTS re REQUIRED SEPARATION BETWEEN SMALL UTILITY STRUCTURES AND MOBILE HOMES – SECTIONS 1.6; 5.13; and 6.7

Town Planner Bob Osborne explained that this is the companion piece to the Zoning Ordinance text amendment and relates to the interior aspects of the mobile home park. The amendments would relax the setback requirement between the mobile home and the accessory structures.

The public hearing was opened and no one spoke in favor or in opposition and there were no general questions or comments. The hearing was closed.

Motion by Councilor Brann, seconded by Councilor Hughes to adopt the amendment as proposed – unanimous vote in favor.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

- a. RICH ARMSTRONG – NEW APPOINTMENT – BOARD OF ASSESSMENT REVIEW – INFRASTRUCTURE COMMITTEE RECOMMENDATION

Councilor Shakespeare reported that the Infrastructure Committee had interviewed Mr. Armstrong and recommends appointment. Motion by Councilor Shakespeare, seconded by Councilor Cushing to appoint Rich Armstrong to the Board of Assessment Review – unanimous vote in favor.

3. UNFINISHED BUSINESS

- a. POWER LIFT STRETCHER BID RESULTS – INFRASTRUCTURE COMMITTEE RECOMMENDATION

Councilor Shakespeare reported that it is the recommendation of the Infrastructure Committee to accept the bid from Stryker EMS

Equipment. Motion by Councilor Shakespeare, seconded by Councilor Cushing to accept the bid from Stryker EMS Equipment in the amount of \$12,571.20. Following discussion, vote on the motion was 6 -1 (Brann); motion carried.

b. PAPER TALKS AD REQUEST

Motion by Councilor Cushing, seconded by Councilor Lawlis to remove this item from the table and refer it to the Communications Committee – Vote 6 -1 (Shakespeare).

4. NEW BUSINESS

a. BACKYARD COMPOSTING PROGRAM 2011 –
INFRASTRUCTURE COMMITTEE RECOMMENDATION

Upon recommendation of the Infrastructure Committee, Councilor Shakespeare moved to participate in the backyard composting program again this year and subsidize 50% of the cost of the composters for Hampden residents. Councilor Cushing seconded the motion and vote was unanimously in favor.

b. AUTHORIZATION TO SOLICIT BIDS – 2012 PLOW TRUCK –
INFRASTRUCTURE COMMITTEE RECOMMENDATION

It was the recommendation of the Infrastructure Committee to authorize solicitation of bids for a 2012 plow truck. Motion by Councilor Shakespeare, seconded by Councilor Cushing to authorize the Public Works Director to go out to bid for a 2012 plow truck; following discussion, vote on the motion was 6 -1 (Brann).

c. SEWER COMMITMENT – 10/1/10 to 12/31/10

Motion by Councilor Lawlis, seconded by Councilor Brann to accept and sign the commitment – unanimous vote in favor.

D. COMMITTEE REPORTS

Planning & Development – Councilor Hughes reported that last month's Planning & Development Committee meeting was cancelled due to snow. The next meeting will be at 6:00 pm on March 2nd and the BEAR program will be on the agenda.

Communications – Councilor Hornbrook reported that the Communications Committee meeting scheduled for last week was also cancelled. The meeting was rescheduled to February 23rd at 6:00 pm.

Services – Councilor Lawlis reported that the next meeting will be on February 14th. The committee will hear reports on the MSAD #22 trail proposal and the dog park.

Infrastructure – Councilor Shakespeare reported that in addition to the items already discussed this evening, at the last meeting the Public Works Director discussed the need to replace two existing F450 2-wheel drive trucks with two F350 4-wheel drive trucks in the upcoming budget.

Finance – The Town Manager reported that the Finance Committee reviewed and signed the warrants, discussed ideas related to the Hampden Academy re-use project and the Hamlin Marina land swap. The Committee endorsed the application for reappointment from Scott Luciano to the Personnel Appeals Board contingent upon an opportunity for Councilors to meet with him prior to the next Finance Committee meeting.

Mayor Arnett reported that the Council held a strategic planning session on Saturday, February 5th and a number of items came up related to the Comprehensive Plan and the comprehensive planning process. Because it was a strategic planning session, the Council agreed to take no formal or binding votes, but in light of the number and strength of conviction of people in the room, it was important to allow a fuller discussion of the issues expressed by the public in that meeting. It was agreed that at tonight's meeting the Council would consider delaying the next meeting of the Comprehensive Plan Implementation Committee which was scheduled for February 16th and consider scheduling a special meeting to discuss the concerns raised by the citizens.

Motion by Councilor Lawlis, seconded by Councilor Cushing to suspend the rules to add an item to the agenda – unanimous vote in favor.

Motion by Councilor Brann, seconded by Councilor Cushing to add to the agenda a discussion of the request to delay the next meeting of the Comprehensive Plan Implementation Committee and to address the idea of a special meeting – unanimous vote in favor.

Following considerable discussion, Councilor Brann moved and Councilor Shakespeare seconded to proceed with the Comprehensive Plan Implementation meeting on February 16th; vote on the motion was 2 in favor (Brann & Shakespeare) and 5 opposed (Lawlis, Arnett, Cushing, Hornbrook and Hughes).

Motion by Councilor Cushing, seconded by Councilor Hornbrook that a public forum on comprehensive plan implementation be held on March 1st from 6:00 pm to 9:00 pm—unanimous vote in favor.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

2nd Council Meeting of February: It was determined that there would not be a quorum on February 22nd and Councilor Cushing moved to cancel the second meeting in February. Councilor Lawlis seconded the motion and vote was 6 – 1 (Arnett).

F. COUNCILOR'S COMMENTS

Councilor Shakespeare commented that the Council received an email from a resident who was upset about the February 1st enforcement deadline at the transfer station. He explained for the public that last year the Council decided to give a 30-day grace period and January 31st is the last day to use the transfer station without the current year's sticker. Councilor Shakespeare also noted that the Council appreciates citizens' involvement in the Comp Plan and encouraged everyone to please come and be involved.

Councilor Lawlis reminded everyone that the Town's website is a wonderful resource; it has agendas and minutes, ordinances, rules and regulations, and the Comprehensive Plan and maps. There is also a page that has telephone numbers and email addresses of all the Council members.

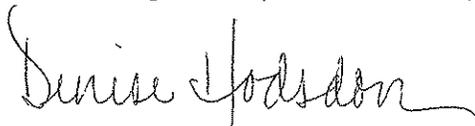
Councilor Cushing wished everyone a Happy Valentine's Day. He commented that the concept of what the Council started on Saturday was productive and he feels that it is important for Councilors to get together and inventory what has happened in the community over the last 10-15 years and reflect on that as we go forward.

Councilor Hughes commented that one of the things she heard several times at the meeting on Saturday was the term "Comprehensive Land Use Plan" and she feels that that gets misconstrued with what a comprehensive plan is. She noted that they are two totally different things and she suggested starting off the special meeting by describing what the Comprehensive Plan is all about and its components.

Councilor Hughes also suggested that the Council schedule another strategic planning session to continue with the budget discussions. By a vote of 6 – 1 (Hornbrook) a goals and objectives meeting was scheduled for Saturday, March 12th from 9:00 am to 2:00 pm in the municipal building council chambers.

G. ADJOURNMENT

The meeting was adjourned at 9:10 p.m. by Mayor Arnett without objection.



Denise Hodsdon
Town Clerk

MANAGER'S REPORT
2/07/2011

Foreclosure Date – 2009 Taxes – Liens on unpaid 2009 property taxes will mature on February 12th.

Adult Spelling Bee – I will be participating as a contestant in the Adult Spelling Bee at Weatherbee School on Friday, February 11th. This is a fundraiser for the school.

Transfer Station Decal Enforcement Deadline – We have received several calls in regard to people who are unhappy with the February 1st enforcement deadline for transfer station decals. The facility began enforcing the rule this past weekend.

Bus Evacuation Day – For anyone wondering why buses were lined up in the Town Office parking lot today – they were conducting an evacuation exercise for the school that involved their use.

Public Works Thank You – A thank you to the public works department for the yeomen's effort they have put forward during this difficult and stormy winter season thus far. They have done an exceptional job of keeping the roadways passable.

Water District Meeting Reminder – A reminder that we have a meeting with the Water District Trustees on February 28th at 6 p.m. at the Water District. The agenda supplied by the Water District was included on the consent agenda for this Council meeting.

Senior Citizens Trip – The Hampden Senior Citizens group is going on a trip on Saturday, February 12th to Portland to see the Ice Capades. The transportation for this trip is funded from the appropriation that the Council sets aside annually for local programs for Seniors.

Outside Agency Budget Items – Contributions to Outside Agencies (Eastern Area Agency on Aging, PENQUIS, Historical Society, American Folk Festival, Red Cross, Bangor STD Clinic) that were approved as part of the 2010-2011 Budget were sent out in January. We have received thank you letters from many of them.

2nd Council Meeting of February – A reminder that the second Council meeting of February will be on Tuesday, February 22nd due to the President's Day holiday on Monday February 21st.

March 1st Meeting – I have talked to staff about preparing information for the March 1, 2011 meeting being held to discuss citizen concerns in regard to the Comprehensive Plan. Gretchen is compiling the list of issues that were cited by people at the meeting to insure that staff is able to provide information and a response to each of them. From that list I will be preparing a mailer to all residents inviting people to attend the meeting on March 1st. I will send a draft of the mailer out to each of you for feedback before distributing it. I am in hopes to have that ready for distribution by the first of next week. The tapes from the meeting are being given to our media intern to convert to files that can be put on a dvd for use on a computer. Denise has already posted the new meeting date on the website and I asked Dean to notify people that the Comprehensive Plan Implementation Meeting was cancelled for February 16th.

February 8, 2011

Hampden Fire Department
Attn: Fire Chief
106 Western Avenue
Hampden, Maine 04444

RE: 2010 Tier II Chemical Inventory Report
Pine Tree Landfill

To Whom It May Concern:

Please find enclosed a copy of the 2010 Tier II Inventory Report for Pine Tree Landfill. An electronic version of the report has been submitted to the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC) as required. Diesel fuel is the only substance found at the facility that meets the reporting criteria of the Emergency Planning and Community Right-to-Know Act. Pine Tree Landfill has an updated Spill Prevention, Control and Countermeasures Plan (SPCC) located onsite, with all employees having received appropriate training to respond accordingly in the event of a diesel fuel spill.

If you should have any questions pertaining to the enclosed report, please feel free to contact me at 862-4200, extension 245.

Sincerely,



Tom Gilbert
Environmental Compliance Manager
Pine Tree Landfill

Encl.

CC: Susan Lessard, Town Manager
Toni King, Casella Waste Systems, Inc.
Wayne Boyd, PTL

Facility Name: New England Waste Services of ME, Inc. (dba Pine Tree Landfill)

FACILITY IDENTIFICATION:

New England Waste Services of ME, Inc. (dba Pine Tree Landfill)
Dept:
358 Emerson Mill Road
Hampden, ME 04444 USA
County: Penobscot
Number of employees: 12
Latitude: 44.769863
Longitude: -68.869277
Method: OT - Other
Description: PG - Plant Entrance (General)
MAILING ADDRESS: Same

IDENTIFICATION NUMBERS:

NAICS: 562212 (Solid Waste Landfill)
SIC: 4953 (REFUSE SYSTEMS)

CONTACT INFORMATION:

Boyd, Wayne
Title: Operations Mgr Contact Type 1: Owner / Operator Contact Type 2: Emergency Contact
Address: 2828 Bennoch Road, Old Town, ME, 04468 USA
Phones: Mobile - Cell: 694-5510

Gilbert, Tom
Title: Compliance Mgr. Contact Type 1: Regulatory Point of Contact Contact Type 2: Emergency Contact
Address: 2828 Bennoch Road, Alton, ME, 04468 USA
Phones: Work: 207-862-4200 Mobile - Cell: 207-852-4134
Email: tom.gilbert@casella.com

Dysart, Tim
Title: Fuel Dealer Contact Contact Type 1: Fuel Dealer Contact
Address: Cold Brook Road, Hermon, ME, 04401 USA
Phones: 24-hour: 207-342-4878

CHEMICAL DESCRIPTIONS:

All chemicals in inventory are identical to last year's submission

CHEM NAME: Diesel Fuel
CAS: 68476-34-6

- Identical to previous year
- TRADE SECRET
- Pure Mix Solid Liquid Gas EHS

PHYSICAL & HEALTH HAZARDS:

Fire Sudden Release of Pressure Reactivity Immediate (acute) Delayed (chronic)

INVENTORY:

Max Amt: 16000 pounds Max Daily Amt code: 04 (10,000 - 99,999 pounds)

Emergency and Hazardous Chemical Inventory

Specific Information by Chemical

Facility Name: New England Waste Services of ME, Inc. (dba Pine Tree Landfill)

Avg Amt: 7500 pounds Avg Daily Amt code: 03 (1,000 - 9,999 pounds)

Max quantity in largest container: 16000 pounds

No. of days on-site: 365

STORAGE CODES & STORAGE LOCATIONS:

Container Type: R Pressure: 1 Temp: 4 Location: Onsite Fuel Truck (6-months only) Amount: 16000 pounds

Container Type: A Pressure: 1 Temp: 4 Location: 500-gallon Fuel Tank Amount: 3250 pounds

CHEMICALS IN INVENTORY STATE FIELDS:

Maine requests the following:

*Mode of Shipment:

 Trucks Tank Trucks Rail Car Tank Car Pipeline Barge Other (Specify)

Specify other:

Frequency of Shipment: 24 per Year

Maximum capacity per single vessel: 16000

Max Shipment Qty (lbs): 9750

Ave Qty (lbs): 7500

Physical State in Transit: Liquid

Comments (please provide both the primary and alternate routes of travel): Rt. 1A onto 395, onto Coldbrook Road, left into Emerson mill Road, left into landfill entrance.

Carrier: Dysart's Fuel

FACILITY STATE FIELDS:

Maine requests some information located under other tabs.

Requested Contact: Carrier Information

STATE / LOCAL FEES: \$50.00

- I have attached a site plan
 I have attached a list of site coordinate abbreviations
 I have attached a description of dikes and other safeguard measures

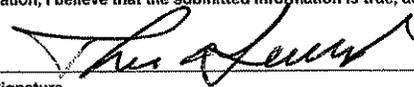
Certification (Read and sign after completing all sections)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through 2,
and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Thomas Gilbert

Name and official title of owner/operator
OR owner/operator's authorized representative

Signature



2/8/2011

Date signed

A-3-b



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

DARRYL N. BROWN
COMMISSIONER

February 18, 2011

Mr. Tom Gilbert
Environmental Compliance Manager
Pine Tree Landfill
358 Emerson Mill Road
Hampden, ME 04444

RE: Air Emission License A-850-77-7-A
for New England Waste Services of ME, Inc.

Dear Mr. Gilbert:

Enclosed please find the final air emission license for which you applied (A-850-77-7-A). This license completes the processing of the application(s) associated with the following DEP tracking number(s): 553209. Also enclosed please find an information sheet on appealing a licensing decision and a customer service questionnaire.

If you have any questions, please write or call your project manager, Ed Cousins. The main office number is (207) 287-2437.

Sincerely,

Marc Allen Robert Cone, P.E.
Bureau of Air Quality

✓cc: Town of Hampden
License File

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

PAUL R. LEPAGE
GOVERNOR

DARRYL N. BROWN
COMMISSIONER

**New England Waste Services of ME, Inc.
d/b/a Pine Tree Landfill
Penobscot County
Hampden, Maine
A-850-77-7-A**

**Departmental
Findings of Fact and Order
New Source Review
Amendment**

After review of the air emissions license amendment application, staff investigation reports and other documents in the applicant's file in the Bureau of Air Quality, pursuant to 38 M.R.S.A., Section 344 and Section 590, the Department finds the following facts:

I. REGISTRATION

A. Introduction

FACILITY	New England Waste Services of ME, Inc. d/b/a Pine Tree Landfill (PTL)
PART 70 LICENSE NUMBER	A-850-70-A-I
LICENSE TYPE	Chapter 115 Minor Modification
NAICS CODES	562212
NATURE OF BUSINESS	Solid Waste Landfill
FACILITY LOCATION	Hampden, Maine
NSR AMENDMENT ISSUANCE DATE	February 18, 2011

B. Amendment Description

Pine Tree Landfill (PTL) is a closed, secure special waste landfill that accepted a variety of solid wastes. PTL consists of a conventional landfill unit and the Secure I, Secure II, and Secure III landfill units. Various sections of the landfill are equipped with an active gas extraction system designed for the collection and destruction (through combustion) of landfill gas for the purpose of voluntarily reducing emissions of greenhouse gases and, as an additional benefit, minimizing odor. The primary combustion device is a landfill gas-to-energy (LFGTE) facility with three Jenbacher (JGS 320) engines, and a 90 MMBtu/hr utility flare available to combust gas if the collection rate exceeds the combustion capacity of the LFGTE facility (e.g., during maintenance operations at the LFGTE facility).

PTL has proposed a leachate recirculation project for the PTL which is expected to have a range of environmental benefits, such as an increased rate of waste stabilization, increased electricity production at the LFGTE facility, and reduced off-site leachate treatment. PTL proposes to modify the sulfur dioxide emission

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

limit to address air emissions associated with sulfur removal system bypass events and air emissions associated with the proposed leachate recirculation project along with a Best Available Control Technology analysis for control of SO₂ emissions from the facility's LFG combustion devices.

C. Application Classification

The application for PTL does not violate any applicable federal or state requirements and does not reduce monitoring, reporting, testing or record keeping. This application does seek to modify a Best Available Control Technology (BACT) analysis performed per New Source Review.

The modification of a major source is considered a major modification based on whether or not expected emission increases exceed the "Significant Emission Increase Levels" as defined in the Department's regulations.

The emission increases are determined by subtracting the average actual emissions of the two calendar years preceding the modification from the maximum future license allowed emissions, as follows:

Pollutant	Current Licensed Allowed (TPY)	2008/2009 Ave. Actual (TPY)	Future License (TPY)	Net Change (TPY)	Sig. Level
PM	9.1	1.2	9.1	7.9	25
PM ₁₀	9.1	1.2	9.1	7.9	15
SO ₂	25.0	25.0	64.9	39.9	40
NO _x	31.8	19.7	31.8	12.1	40
CO	175.5	86.1	175.5	89.4	100
VOC	41.4	0.5	40.4	39.9	40

Therefore, this modification is determined to be a minor modification and has been processed as such.

II. BEST PRACTICAL TREATMENT (BPT)

A. Introduction

In order to receive a license the applicant must control emissions from each unit to a level considered by the Department to represent Best Practical Treatment (BPT), as defined in 06-096 CMR 100 (as amended) of the Department regulations. Separate control requirement categories exist for new and existing equipment as well as for those sources located in designated non-attainment areas.

BPT for new sources and modifications requires a demonstration that emissions are receiving Best Available Control Technology (BACT), as defined in Chapter 100 of the Department's regulations. BACT is a top-down approach to selecting air emission controls considering economic, environmental and energy impacts.

B. Background

PTL has requested a minor modification to their license to address the proposed leachate recirculation project which is expected to increase electrical production from the three landfill gas to energy engines along with having environmental benefits including greater waste stabilization and reduced off-site leachate treatment. The leachate recirculation project is designed to deliver moisture to the waste to increase the rate of waste degradation and increase the LFG generation rate such that a sufficient volume of LFG (i.e., approximately 1,077 scfm) is delivered to meet the engines' heat input requirements to operate at full capacity. Based on pilot testing at the site, leachate recirculation has the potential to increase the LFG collection rate and/or maintain a LFG collection rate in the range of 1,000 scfm for longer than would be possible without the addition of moisture to the waste. Pilot testing also indicates that leachate recirculation will initially increase the concentration of total reduced sulfur (TRS) compounds in the LFG followed by a decreasing trend thereafter.

TRS compounds generate SO₂ when combusted, and because of the expected increase in SO₂ emissions resulting from leachate recirculation, PTL has requested this amendment to update BACT and prepared a modeling analysis to show compliance with Maine Ambient Quality Standards, and the new Federal one-hour SO₂ ambient air quality standard, as describe in Section III. PTL's current air license provides the flexibility to operate other temporary or additional TRS control equipment (e.g. SulfaTreat) for cases of scrubber downtime or temporary surges in LFG flow or TRS concentration; provided that licensed limits are met. PTL's current gas control system includes:

- LFG combustion devices:
 - A landfill gas-to-energy (LFGTE) facility with three Jenbacher Model JGS 320 engines; and
 - A utility flare; and
- A NATCO Thiopaq[®] sulfur treatment system to remove total reduced sulfur (TRS) compounds from the LFG prior to combustion; and
- A backup dual-compartment SulfaTreat dry scrubbing system.

The LFGTE facility is the primary combustion device in the control system and the flare is the backup or auxiliary combustion device. The control devices may

operate individually or simultaneously to combust the collected LFG. The combustion devices have previously been determined to meet BACT by the Maine Department of Environmental Protection (Maine DEP) for Carbon monoxide (CO), Nitrogen oxides (NO_x), Particulate matter (PM), and Volatile organic compounds (VOC). PTL is not proposing any change to these BACT limits. The leachate recirculation project does not involve modification of the LFG combustion devices. Therefore, BACT is not triggered for these units. A new BACT determination is necessary only for SO₂ due to PTL's proposal to change the current BACT limit.

C. SO₂ BACT

Maine DEP determined through Air Emissions License Amendment, A-850-77-3-A issued October 7, 2007, that BACT for SO₂ from the LFGTE system at PTL was operation of the sulfur treatment system prior to combustion of the LFG with a TRS scrubbing efficiency of 85 percent, or to a level of 200 parts per million by volume (ppmv), whichever is less stringent, and lower if necessary to maintain SO₂ emissions from the engines to a limit of 25 tons per year (tpy).

An updated BACT analysis accompanied this minor modification request with actual operational cost data that was not available at the time that the existing operating limits were established for the sulfur treatment system. Furthermore, PTL proposed new operating limits to address air emissions of SO₂ associated with events during which LFG bypasses the sulfur treatment system (i.e., during maintenance operations on the sulfur treatment system). Also, PTL's proposed leachate recirculation program which is anticipated to affect LFG and TRS generation at the facility was also considered during the development of the proposed emission limits.

Several BACT operating scenarios were studied and are included in PTL's air license application dated September 2010. Based on capital and operating costs, BACT for SO₂ emissions, with the proposed leachate recirculation project included, requires the TRS concentration to be reduced to a level no greater than 1,000 ppmv for delivery to the LFGTE facility, or lower in order to maintain total SO₂ emissions (from the engines and flares) to less than 64.9 tpy on a 12-month rolling total basis.

D. Sulfur Dioxide Emission Rates

Sulfur dioxide (SO₂) is emitted as a result of combustion of sulfur-containing compounds (herein referred to as total reduced sulfur (TRS) compounds) in LFG. The proposed leachate recirculation program at the PTL is expected to initially

increase the concentration of TRS compounds in LFG followed by a gradual decline over time. To limit the impact of SO₂ on ambient air quality, PTL will continue to operate the existing sulfur treatment system to maintain the concentration of TRS compounds in LFG delivered to the LFGTE facility to less than or equal to 1,000 parts per million by volume (ppmv).

PTL is proposing to operate the sulfur treatment system to reduce TRS concentrations to a level of 1,000 ppmv for each engine, or lower if necessary to maintain SO₂ emissions to a combined limit of 64.9 tons per year. For periods when the sulfur treatment system and the LFGTE facility are inoperative, PTL modeled SO₂ emissions from the flare based on an uncontrolled TRS concentration of 10,000 ppmv. Ambient Air Quality Modeling (as described in Section III) is based on the rated flow rate capacity of the landfill gas collection and control system rather than the actual expected flow rate of LFG, so the modeled SO₂ emission rates are conservatively higher than the proposed SO₂ emission limit.

E. Compliance Determination Monitoring

SO₂ Emission Limit

PTL will meet BACT limits for SO₂ emissions from the engines and/or flare to not exceed 64.9 tons per year on a 12-month rolling basis (including periods of normal scrubber operation and scrubber bypass). As described below, PTL will demonstrate compliance with this emission limit based on TRS laboratory analysis of twice-per-month sampling events in which, for each sampling event, three gas samples are collected from the scrubber inlet and three gas samples collected from the scrubber outlet. Each sampling event is to be conducted on a single day at least seven days after the previous sampling event. Although PTL operates a sulfur removal process, 06-096 CMR 106 is not applicable to Pine Tree Landfill.

Compliance Demonstration – Annual 64.9 Tons/Year SO₂ Emission Limit

(i) Periods of Normal Scrubber Operation

- For periods of normal scrubber operation, the average of the TRS concentrations measured at the scrubber outlet during the twice per month sampling events shall determine the average outlet TRS concentration for that month;
- The average LFG flow rate measured on the twice per month TRS sampling dates shall determine the LFG flow rate for that month; and

- The monthly SO₂ emission rate for periods of normal scrubber operation shall be calculated based on the average TRS outlet concentration and the average LFG flow rate (as defined in the two previous bullet items), and the recorded duration of normal scrubber operation for the month.

(ii) Periods of Scrubber Bypass

- For periods of scrubber bypass, the average of the TRS concentrations measured at the scrubber inlet during the twice per month sampling events shall determine the average inlet TRS concentration for that month;
- The LFG flow measured during scrubber bypass shall determine the LFG flow rate for that month; and
- The monthly SO₂ emission rate for periods of scrubber bypass shall be calculated based on the average TRS inlet concentration and the average LFG flow rate (as defined in the two previous bullet items).

The sum of the monthly SO₂ emissions calculated (i) for periods of normal scrubber operation and (ii) for periods of scrubber bypass shall determine the facility's total monthly SO₂ emissions. The 12-month rolling total SO₂ emissions shall be compared to the tons-per-year emission limit to assess compliance. The average of the results for the samples collected at each location, in conjunction with the average hourly total gas flow rate that day, will be used to determine the lbs/hour of SO₂ emissions from the engines and flare and the ppm of SO₂ in the gas stream before and after control.

Periodic monitoring of the TRS control equipment includes H₂S concentrations before and after the equipment. PTL will continue to operate an H₂S analyzer and/or the colorimetric tubes to provide sufficient information for use as operational tools, but are not sufficiently accurate for compliance determinations. Therefore, PTL will continue to monitor H₂S concentrations twice per day at the scrubber inlet and outlet with an H₂S analyzer or colorimetric tubes, and shall use the results to assess whether LFG is to be directed to the engines, or only to the flare.

If monthly laboratory testing of TRS demonstrates that the concentration at the inlet to the scrubber (i.e., untreated TRS concentration) has remained less than 1,000 ppmv for greater than 12 continuous months, PTL may submit a request to the Department to discontinue scrubbing.

F. Incorporation into the Part 70 Air Emission License

The requirements in this 06-096 CMR 115 New Source Review amendment shall apply to the facility upon amendment issuance. Per Part 70 Air Emission License

Regulations, 06-096 CMR 140 (as amended), Section 2(J)(2)(d), for a modification that has undergone NSR requirements or been processed through 06-096 CMR 115, the source must then apply for an amendment to the Part 70 license within one year of commencing the proposed operations as provided in 40 CFR Part 70.5.

G. Annual Emissions

PTL shall be restricted to the following annual emissions from the gas to energy engines and flare, based on a 12 month rolling total:

Total Licensed Annual Emission for the Facility
Tons/year
(used to calculate the annual license fee)

	PM	PM ₁₀	SO ₂	NO _x	CO	VOC
Engines and Flare	9.1	9.1	64.9	31.8	175.5	40.4
Total TPY	9.1	9.1	64.9	31.8	175.5	40.4

III. AMBIENT AIR QUALITY ANALYSIS

A. Overview

A refined modeling analysis was performed to show that emissions from PTL, in conjunction with other sources, will not cause or contribute to violations of Maine and National Ambient Air Quality Standards (MAAQS, NAAQS) for SO₂, PM₁₀, NO₂ or CO or to Class II increments for SO₂, PM₁₀ or NO₂.

Since the current licensing action for PTL represents a minor modification to an existing major source, it has been determined by MEDEP-BAQ that an assessment of Class I Air Quality Related Values (AQRVs) is not required.

B. Model Inputs

The AERMOD-PRIME refined model was used to address standards and increments in all areas. The modeling analysis accounted for the potential of building wake and cavity effects on emissions from all modeled stacks that are below their calculated formula GEP stack heights.

All modeling was performed in accordance with all applicable requirements of the Maine Department of Environmental Protection, Bureau of Air Quality (MEDEP-BAQ) and the United States Environmental Protection Agency (USEPA).

A valid 5-year hourly off-site meteorological database was used in the AERMOD-PRIME refined modeling analysis. Wind data was collected at a height of 10 meters at the Bangor National Weather Service (NWS) meteorological monitoring site during the 5-year period 2000-2004. All missing data were interpolated or coded as missing, per EPA guidance. Hourly cloud cover and ceiling height data, collected at the Caribou NWS site, were used to determine stability.

The surface meteorological data was combined with concurrent hourly cloud cover and upper-air data obtained from the Caribou National Weather Service (NWS). Missing cloud cover and/or upper-air data values were interpolated or coded as missing, per EPA guidance.

All necessary representative micrometeorological surface variables for inclusion into AERMET (surface roughness, Bowen ratio and albedo) were calculated using AERSURFACE from procedures recommended by USEPA.

Point-source parameters, used in the modeling for PTL are listed in Table III-1.

TABLE III-1 : Point Source Stack Parameters

Facility/Stack	Stack Base Elevation (m)	Stack Height (m)	GEP Stack Height (m)	Stack Diameter (m)	UTM Easting NAD27 (km)	UTM Northing NAD27 (km)
CURRENT/PROPOSED						
IV. Pine Tree Landfill						
• Stack #1	43.28	17.07	19.05	0.36	510.922	4957.062
• Stack #2	43.28	17.07	19.05	0.36	510.922	4957.058
• Stack #3	43.28	17.07	19.05	0.36	510.921	4957.054
• Flare	42.67	19.36*	19.66	0.30	510.925	4957.009
1987 BASELINE						
Pine Tree Landfill						
PTL had no emissions sources in the 1987 baseline year, no credit to be taken.						
1977 BASELINE						
Pine Tree Landfill						
PTL had no emissions sources in the 1977 baseline year, no credit to be taken.						

* = Effective release height, calculated per USEPA guidance

Emission parameters for MAAQS, NAAQS and increment modeling are listed in Table III-2. The emission parameters for PTL are based on the maximum license allowed (worst-case) operating configuration, which accounts for the operation of three electrical generating engines and the flare. For the purposes of determining PM₁₀ and NO₂ impacts, all PM and NO_x emissions were conservatively assumed to convert to PM₁₀ and NO₂, respectively.

TABLE III-2 : Stack Emission Parameters

Facility/Stack	Averaging Periods	SO ₂ (g/s)	PM ₁₀ (g/s)	NO ₂ (g/s)	CO (g/s)	Stack Temp (K)	Stack Velocity (m/s)
MAXIMUM LICENSE ALLOWED							
Pine Tree Landfill							
• Stack #1	All	0.44	0.06	0.24	1.12	785.37	14.30
• Stack #2	All	0.44	0.06	0.24	1.12	785.37	14.30
• Stack #3	All	0.44	0.06	0.24	1.12	785.37	14.30
• Flare	All	2.37	0.12	0.29	2.69	1273.15	20.00
BASELINE – 1987							
Pine Tree Landfill							
PTL had no emissions sources in the 1987 baseline year, no credit to be taken.							
BASELINE – 1977							
Pine Tree Landfill							
PTL had no emissions sources in the 1977 baseline year, no credit to be taken.							

C. Single Source Modeling Impacts

AERMOD-PRIME refined modeling, using 5 years of sequential meteorological data, was performed for the worst-case operating scenario, which accounts for the simultaneous operation of all three electrical generating engines and the flare.

The modeling results for PTL alone are shown in Tables III-3. Maximum predicted impacts that exceed their respective significance level are indicated in boldface type. No further modeling was required for pollutant/terrain combinations that did not exceed their respective significance levels.

TABLE III-3 : Maximum AERMOD-PRIME Impacts from PTL Alone

Pollutant	Averaging Period	Max Impact (µg/m ³)	Receptor UTM E (km)	Receptor UTM N (km)	Receptor Elevation (m)	Class II Significance Level (µg/m ³)
SO ₂	1-hour	279.75¹	-	-	-	10²
	3-hour	135.93	511.020	4956.980	41.45	25
	24-hour	81.93	511.000	4956.990	41.45	5
	Annual	11.18	511.020	4956.980	41.45	1

PM ₁₀	24-hour	11.17	511.000	4956.990	41.45	5
	Annual	1.52	511.020	4956.980	41.45	1
NO ₂	1-hour	101.01¹	-	-	-	10³
	Annual	6.09	511.020	4956.980	41.45	1
CO	1-hour	470.88	510.614	4956.978	77.51	2000
	8-hour	275.42	511.020	4956.970	41.45	500

¹ Value based on the average of HIH (high-1st-high) concentrations for each of the five years of meteorological data, regardless of receptor location, per NESCAUM guidance.

² Interim Significant Impact Level (SIL) adopted by Maine

³ Interim Significant Impact Level (SIL) adopted by NESCAUM states

D. Combined Source Modeling Impacts

For predicted modeled impacts from PTL alone that exceeded significance levels, as indicated in boldface type in Table III-3, other sources not explicitly included in the modeling analysis must be accounted for by using representative background concentrations for the area.

Background concentrations, listed in Table III-4, are derived from representative rural background data for use in the Eastern Maine region.

TABLE III-4 : Background Concentrations

Pollutant	Averaging Period	Background Concentration (µg/m ³)
SO ₂	1-hour	47 ¹
	3-hour	18 ²
	24-hour	11 ²
	Annual	1 ²
PM ₁₀	24-hour	42 ³
	Annual	10 ³
NO ₂	1-hour	47 ⁴
	Annual	3 ⁴

Notes:

¹ Village Green Site - Rumford

² MacFarland Hill Site - Acadia National Park

³ Background site - Baileyville

⁴ MicMac Site - Presque Isle

MEDEP examined other area sources whose impacts would be significant in or near PTL's significant impact area. Due to the applicant's location, extent of the significant impact area and nearby source's emissions, MEDEP has determined that no other sources would be considered for combined source modeling.

For pollutant averaging periods that exceeded significance levels, the maximum modeled impacts for all sources were added with conservative rural background concentrations to demonstrate compliance with MAAQS and NAAQS, as shown in

Table III-5. Because impacts for all pollutants using this method meet MAAQS and NAAQS, no further modeling analyses need to be performed.

TABLE III-5 : Maximum Combined Source Impacts

Pollutant	Averaging Period	Max Impact ($\mu\text{g}/\text{m}^3$)	Receptor UTM E (km)	Receptor UTM N (km)	Receptor Elevation (m)	Back-Ground ($\mu\text{g}/\text{m}^3$)	Max Total Impact ($\mu\text{g}/\text{m}^3$)	MAAQS/NAAQS ($\mu\text{g}/\text{m}^3$)
SO ₂	1-hour	146.73	-	-	-	47	193.73	196
	3-hour	135.93	511.020	4956.980	41.45	18	153.93	1150
	24-hour	81.93	511.000	4956.990	41.45	11	92.93	230
	Annual	11.18	511.020	4956.980	41.45	1	12.18	57
PM ₁₀	24-hour	11.17	511.000	4956.990	41.45	42	53.17	150
	Annual	1.52	511.020	4956.980	41.45	10	11.52	40
NO ₂	1-hour	78.42	-	-	-	47	125.42	188
	Annual	6.09	511.020	4956.980	41.45	3	9.09	100

E. Increment

The AERMOD-PRIME refined model was used to predict PTL's maximum Class II increment impacts in all areas.

Results of the single-source Class II increment analysis are shown in Tables III-6. All modeled maximum increment impacts were below all increment standards. Because all predicted increment impacts meet increment standards, no further Class II SO₂, PM₁₀ and NO₂ increment modeling for PTL needed to be performed.

TABLE IV-6 : Class II Increment Consumption

Pollutant	Averaging Period	Max Impact ($\mu\text{g}/\text{m}^3$)	Receptor UTM E (km)	Receptor UTM N (km)	Receptor Elevation (m)	Class II Increment ($\mu\text{g}/\text{m}^3$)
SO ₂	3-hour	135.93	511.020	4956.980	41.45	512
	24-hour	81.93	511.000	4956.990	41.45	91
	Annual	11.18	511.020	4956.980	41.45	20
PM ₁₀	24-hour	11.17	511.000	4956.990	41.45	30
	Annual	1.52	511.020	4956.980	41.45	17
NO ₂	Annual	6.09	511.020	4956.980	41.45	25

Federal guidance and 06-096 CMR 115 require that any major new source or major source undergoing a major modification provide additional analyses of impacts that would occur as a direct result of the general, commercial, residential, industrial and mobile-source growth associated with the construction and operation of that source. Since this licensing action represents a minor modification to an existing major source, no additional analyses were required.

F. Class I Impacts

Since the current licensing action for PTL represents a minor modification to an existing major source, it has been determined by MEDEP-BAQ that an assessment of Class I Air Quality Related Values (AQRVs) is not required.

G. Summary

In summary, it has been demonstrated that PTL in its proposed configuration will not cause or contribute to a violation of any MAAQS or NAAQS for SO₂, PM₁₀, NO₂ or CO; or any SO₂, PM₁₀ or NO₂ averaging period Class II increment standards.

ORDER

Based on the above Findings and subject to conditions listed below, the Department concludes that the emissions from this source:

- will receive Best Practical Treatment,
- will not violate applicable emission standards,
- will not violate applicable ambient air quality standards in conjunction with emissions from other sources.

The Department hereby grants Air Emission License A-850-77-7-A pursuant to the preconstruction licensing requirements of 06-096 CMR 115 and subject to the standard and special conditions below.

Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

- (1) PTL may develop the proposed leachate recirculation project, which is expected to increase electrical production from the three landfill gas to energy engines and provide greater waste stabilization and reduced off-site leachate treatment.
- (2) The following shall replace Condition (5) of New Source Review Amendment A-850-77-3-A:
 - (5) PTL shall not exceed the following emission limits on a 12 month rolling total basis [06-096 CMR 115, BACT]:

Pollutant	Ton/year
PM	9.1
PM ₁₀	9.1
SO ₂	64.9
NO _x	31.8
CO	175.5
VOC	40.4

(3) The following shall replace Condition (6) of New Source Review Amendment A-850-77-3-A:

(6) SO₂ Emissions

- A. SO₂ emissions from Flare #3 and the Landfill Gas-Fired Engines combined shall not exceed 64.9 tons per year on a 12-month rolling basis (including periods of normal scrubber operation and scrubber bypass). On a short term basis, combined SO₂ emissions from the engines shall not exceed 10.5 lb/hr except for periods of maintenance and unavoidable malfunction (as described in 38 M.R.S.A. §349.9) of the TRS control equipment. [06-096 CMR 115, BACT]
- B. PTL shall install and operate TRS control equipment as necessary on the landfill gas to achieve (on a 12-month rolling average basis) an outlet concentration of 1000 ppm and to control emissions of SO₂ to the emission limits in Condition (6)(A). Any change in the type or configuration of the TRS control equipment used must be submitted to the Department prior to use. Compliance testing of any alternative control equipment shall be performed within 60 days of beginning operation. If alternative control equipment is used, PTL shall notify the compliance inspector at least 7 days prior to any TRS compliance testing. [06-096 CMR 115, BACT]
- C. Compliance with the SO₂ lb/hr limit and the TRS control equipment efficiency requirement shall be based on sampling of the landfill gas entering and exiting the TRS control equipment three times on one day twice per month (i.e, three samples at the inlet to the scrubber and three samples at the scrubber outlet) using a test method approved by the Department. PTL shall record the gas flow rate on the days of sampling. There shall be no fewer than seven days between sampling events (unless laboratory scheduling issues or problems with sampling occurs that require a different frequency to accomplish two sampling events in one month). The average of the six inlet samples and six outlet samples shall determine

New England Waste Services of ME, Inc.
d/b/a Pine Tree Landfill
Penobscot County
Hampden, Maine
A-850-77-7-A

14

Departmental
Findings of Fact and Order
New Source Review
Amendment

the result for that month. It will be assumed that all remaining sulfur in the landfill gas is converted to SO₂ and emissions calculated accordingly. Compliance with the SO₂ lb/hr limit and the control efficiency requirement or alternative ppm limit shall be based on a 12-month rolling average. [06-096 CMR 115, BACT]

DONE AND DATED IN AUGUSTA, MAINE THIS 18th DAY OF FEBRUARY, 2011.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:


DARRYL N. BROWN, COMMISSIONER

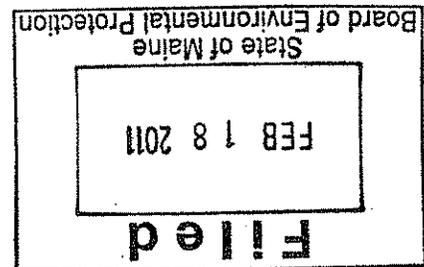
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: September 17, 2010

Date of application acceptance: October 1, 2010

Date filed with the Board of Environmental Protection:

This Order prepared by Ed Cousins, Bureau of Air Quality





DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, *see* 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

February 15, 2011

Clifton Eliason
Bureau of Hazardous Materials and Solid Waste
Department of Environmental Protection
State House Station 17
Augusta, Maine 04333

Re: Pine Tree Landfill
Updated Opinion of Escrow Post-Closure Costs

Dear Mr. Eliason:

Enclosed is the 2011 Pine Tree Landfill Secure III Annual Calculation of Fund Contribution as required by Article 5(d) of the 1999 DEP Trust. The post-closure costs have been recalculated (rather than adjusted for inflation) as the basis for the Annual Fund Contribution.

If you have any questions concerning this report, please feel free to contact me at 862-4200, extension 245.

Sincerely,



Tom Gilbert
Environmental Compliance Manager
Pine Tree Landfill

Encl.

cc: Susan Lessard, Town of Hampden
Cyndi Darling, DEP
Toni King, Casella
Don Meagher, Casella
Wayne Boyd, PTL



Sevee & Maher Engineers, Inc.

ENVIRONMENTAL • CIVIL • GEOTECHNICAL • WATER • COMPLIANCE

February 10, 2011

91002.06
20110207tg.doc

Tom Gilbert, Environmental Compliance Manager
Pine Tree Landfill
Casella Waste Systems
358 Emerson Mill Road
Hampden, ME 04444

Subject: Update of Opinion of Escrow Post-Closure Costs
For Calendar Year 2011
Pine Tree Landfill, Hampden, Maine

Dear Tom:

As requested, Sevee & Maher Engineers, Inc. (SME) has updated our opinion of escrow post-closure costs for the Pine Tree Landfill (PTL) in Hampden, Maine for the calendar year 2011. Historically, our opinion of escrow costs have included both closure costs to place a final cover over areas of PTL which have been constructed but have not received final cover as of the end of the calendar year, and 30 year post closure monitoring and maintenance costs. This year's escrow costs only includes post closure costs since the last phased of final cover construction (i.e., Phase VIII-C Stages 1 and 2) was completed in 2010.

Our opinion of escrow post-closure monitoring and maintenance costs for the 30 year post closure period \$8,476,346 as summarized in Table 1. These costs include leachate collection transport and disposal, post closure water quality and methane gas monitoring, landfill inspections, active gas system operation and maintenance, general site maintenance, and professional services. The overall post-closure costs assume a 30-year post-closure period based on 2011 dollars. Assumptions used to develop costs for each item on Table 1 are summarized on the table.

If you have any questions on our opinion of costs presented in this letter, please feel free to contact us.

Very truly yours,

SEVEE & MAHER ENGINEERS, INC.

Michael S. Booth, P.E.
Project Engineer
(cont'd)

Attachments

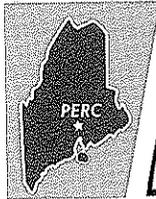
Table 1 Opinion of Post-Closure Monitoring and Maintenance Costs for
Site-Wide Closure for Calendar Year 2011

cc: Wayne Boyd, PTL
 Toni King, Casella

TABLE 1
OPINION OF POST-CLOSURE MONITORING AND MAINTENANCE COSTS for 2011
SITE WIDE CLOSURE

ITEM	OPINION OF YEARLY COSTS	TOTAL COST FOR 30 YEAR PERIOD	ASSUMPTIONS
Leachate Collection, Transport and Disposal			
			Cost to treat leachate \$0.0081 per gallon
A. Secure I	\$472	\$14,157	58,258 gallons per year (gpy) based on 2010 data
B. Secure II	\$13,535	\$406,053	1,671,000 gpy based on 2010 data reduced 40% for corrective actions to occur in April of 2010
C. Secure III Phase I-V	\$1,877	\$56,321	231,775 gpy, assumes 1.22 inches of leachate collected per year
D. Secure III Expansion Phases VI, VII, VIII-A	\$11,168	\$335,050	1,378,807 gpy, assumes 1.22 inches of leachate collected per year
E. Perimeter Drain	\$26,658	\$799,753	3,291,163 gpy based on 2010 data
F. Extraction Wells	\$28,920	\$867,607	3,570,398 gpy based on 2010 pumping data.
G. Electrical to run 8 pump stations	\$6,124	\$183,733	Assumes 15 Hp pumps rated at 180 gpm running 1200 hours per year
Harmon Sewer Fee	\$9,000	\$180,000	Assume \$5000 per year payment to Harmon & \$6000 every other year to clean sewer
H. Annual Leachate Testing	\$2,500	\$75,000	
Total Leachate Collection, Transport & Treatment Costs		\$2,917,673	
Post Closure Water Quality & Methane Gas Monitoring			
A.1 Collect Samples From 12 Wells & 4 Surface Waters 7 Leachate, 3 Residential Samples for 3 Rounds/Year & Methane Measurements from Wells 2 Times per Year Residential 3 Times per year Collect Field Parameters only from 7 wells 3 times	\$37,000	\$185,000	Assumes 2 rounds detect, monitor para, 1 round extended list for year 1-5
Samples for 2 Rounds/Year & Methane Measurements From Wells 1 Times per Year Residential 2 Times Collect. Field Parameters Only From 7 wells two times	\$24,800	\$124,000	Assumes 2 rounds, one detect, monitor para, & one round extended list for years 6-10
A.3 Collect Samples From 12 Wells & 4 Surface Waters, 2 Leachate samples and 3 Residential for 1 Round/Year & Methane Measurements From Wells 1 Time per Year	\$12,400	\$248,000	Assumes one round extended list for years 11-30
B.1 Analyses of 30 samples 3 Times per Year, & Five leachate samples once per year	\$25,800	\$129,000	Assumes 12 wells, 4 surface, 7 leachate samples, 3 Residential & 4 QA/QC
B.2 Analyses of 25 Sample 2 Times per Year	\$16,100	\$80,500	Assumes 12 wells, 4 surface, 2 leachate samples, 3 residential, & 4 QA/QC
B.3 Analyses of 25 Sample 1 Times per Year	\$10,400	\$208,000	Assumes 12 wells, 4 surface, 2 leachate samples, 3 residential & 4 QA/QC
C. Compile Data and Submit to MDEP	\$4,000	\$120,000	Assumes submitted data to MDEP after each sample round
D. Complete Detail Review of GW Data at year 5 to Reduce Sampling	\$10,000	\$10,000	
E. Perimeter Gas Probe Monitoring	\$3,800	\$114,000	Assume measurement of gas probes 4 time per year
Subtotal Yearly Cost Years 1-5		\$70,600	\$363,000
Subtotal Yearly Cost Years 6-10		\$48,700	\$243,500
Subtotal Yearly Cost Years 11-30		\$30,600	\$612,000
Subtotal Total		\$1,218,500	
Landfill Inspection			
A. Monthly Site Walk Over & Report Generation	\$12,600	\$378,000	Assumes 14 hr per month @ \$75/hr
Active Landfill Gas Extraction System			
A. Equipment Replacement	\$10,000	\$300,000	General equipment replacement including well heads, condensate pumps etc.
B. Flare Maintenance	\$6,000	\$180,000	Replacement of flare parts such as flame arrestor etc.
C. Electrical and Blower Maintenance	\$10,000	\$300,000	Routing inspection and maintenance on blower system
D. System Operations and Inspection	\$5,000	\$150,000	General system operations & maintenance
E. Well Tuning	\$10,000	\$300,000	Well tuning one per month
F. Compliance Monitoring	\$5,000	\$150,000	Collection of air monitoring samples
G. Methane scan	\$1,900	\$57,000	Assumes methane scan 2 times per year first two years annually after @ \$1000 per scan
H. Electrical	\$18,322	\$549,672	Electrical costs to run blower for average flow of 750 scfm.
I. H2S monitoring media	\$3,250	\$97,500	Media of onsite methane monitors
Total		\$2,084,172	
Landfill Maintenance			
A. Cover Maintenance Include Annual Mowing & Erosion Repair	\$12,000	\$360,000	Assumes man & equip 6 days/year
B.1 Pump Stations Inspections	\$10,400	\$312,000	Assumes 4 hr week @ \$50 per hour
B.2 Pump Replacement	\$16,000	\$480,000	Assumes replace pumps in leach & leak systems every 5 years
C. General Site Maintenance	\$5,000	\$150,000	Assumes snow plowing 20 storm per year @250 per storm
D. Leachate Line Cleaning	\$12,500	\$375,000	Assumes twice per years 1-5, then one per year 6-10 then every other years 11-30 @ \$15,000 per cleaning
Subtotal		\$55,900	\$1,677,000
Professional Services			
A. Engineering Services	\$4,000	\$120,000	General Services
B. Settlement and Stability Monitoring	\$2,700	\$81,000	Prepare yearly report
Subtotal		\$6,700	\$201,000
TOTAL		\$8,476,346	

■ 40 Harlow Street
■ Bangor, ME 04401-5102



MRC

Municipal Review Committee, Inc.

800-339-6389
207-942-6389 ■ Voice
207-942-3548 ■ Fax
glouder@emdc.org ■ E-mail

February 10, 2011

Dear MRC Member Community:

The MRC Board of Directors is pleased to provide the enclosed check for the quarterly cash distribution return to Amending Charter Municipalities and new Charter Municipalities for the First Quarter of 2011. The payment is based on tipping fees, plant performance and asset activity in the Fourth Quarter of 2010.

Consistent with MRC Board-approved policies and Transaction Guidelines, a total distribution amount of \$1,179,531.64 to the Amending Charter Municipalities was approved to meet the system-wide target value of \$45.00 per ton, which is tipping fees less cash distributions. The tipping fee for the Fourth Quarter was \$73.00 per ton. Therefore, on average as a group, the Amending Charter Municipalities need a cash distribution of \$1,179,531.64 in order to achieve the \$45.00 per ton target value. This total amount is the product of \$28.00 per ton and 42,126.13 tons of solid waste delivered by all Amending Charter Municipalities in the Fourth Quarter of 2010. New Charter Municipalities also received funds from Performance Credits for Fourth Quarter equal to tons delivered multiplied by the difference between the tipping fee of \$73.00 per ton and the new Charter Municipality target value of \$54.00 per ton.

This cash distribution to Amending Charter Municipalities was generated from Performance Credits in the amount of \$829,638.95, \$253,554.21 in Net Cash Flow received as a result of PERC ownership interests and \$96,338.48 from Custody Account prior balance. Funds from Performance Credits in the amount of \$87,998.50 were distributed to new Charter Municipalities.

The MRC Board of Directors thanks all MRC members for their efforts and contributions in support of the MRC mission of an environmentally safe, long-term solid waste disposal solution at a reasonable and affordable cost.

Sincerely yours,

Gregory A. Louder
Executive Director

40 Harlow Street
Bangor, ME 04401-5102



MRC

Municipal Review Committee, Inc.

800-339-6389
207-942-6389 Voice
207-942-3548 Fax
glouder@emdc.org E-mail

MEMORANDUM

TO: MRC Membership
FROM: Greg Louder 
DATE: February 11, 2011
RE: Pending Penalties Resulting from 2010 MSW Deliveries below GAT

This memorandum is to provide a status report regarding potential penalty assessments to those MRC members whose actual deliveries to PERC in 2010 were less than Guaranteed Annual Tonnage (GAT). Attached is a spreadsheet which shows details of a potential GAT shortfall applicable to some of the Charter Municipalities.

The Charter Municipalities as group delivered 186,857 tons to PERC in 2010, which is below the effective aggregate GAT for 2010 of 188,566 tons by 1,709 tons. Forty Five (45) Charter Municipalities delivered less than their individual GAT's in 2010. The aggregate shortfall for this group was 8,726 tons. However, Eighty Eight (88) Charter Municipalities exceeded GAT exceeded their aggregate GAT by 7,007 tons. Under the group pooling provisions in the PERC Second Amended, Restated and Extended Waste Disposal Agreement(s) (the "Waste Disposal Agreements"), for purposes of calculating the penalty due, the excess tonnage delivered by communities exceeding their GAT is netted against the shortfall experienced by other communities. As a result, any penalty applied to those 45 entities delivering below GAT in 2010, would be 81% less than would have been the case without the benefit of the group pooling provisions.

An additional concern is the general decline in MSW deliveries since 2005, when the Charter Municipalities delivered 206,889 tons to PERC – more than 20,000 tons greater than MSW deliveries in 2010. While the 2010 shortfall needs resolution, MRC is also focused on finding a means to address both the 2010 shortfall and potential shortfalls in subsequent years in a fashion that supports the continuance of the MRC mission over the long term.

As the representative of the Charter Municipalities on matters arising under the Waste Disposal Agreements, the MRC is working on the following:

1. Interpreting Article V.I. and related provisions of the Waste Disposal Agreements regarding the calculation of the shortfall penalties, consideration of mitigating circumstances and identifying ways to address potential additional shortfalls in subsequent years.
2. Considering whether the MRC may act to alleviate cash flow burdens that may be imposed on Charter Municipalities that face shortfall penalties

We'll keep you apprised on the progression of our work and we may be contacting you about details of your MSW delivery circumstances. In the meanwhile, do not hesitate to contact Greg Louder at 1-800-339-6389 or 942-6389 with questions.

Municipal Review Committee, Inc.										
GAT shortfall penalty calculation, 2010										
11-Feb-11		2010	-0.9%				Pro rata			
	GAT	Actual Deliveries	Excess/Shortfall	Total Shortfall	Share of total shortfall	share of shortfall	\$ 57.53	Penalty before	Savings from	
							Penalty	GAT pooling	GAT pooling	
Equity Charters	170,489	168,134	(2,355)	(7,894)		90.5%	88,950	(454,148)	(543,098)	
New Charters	18,077	18,723	646	(832)		9.5%	9,377	(47,873)	(57,250)	
All Charters	188,566	186,857	(1,709)	(8,726)		100.0%	98,327	(502,021)	(600,347)	
	GAT	Actual Deliveries	Excess/Shortfall	Shortfall	Share of total shortfall	share of shortfall	\$ 11.27	Penalty before	Savings from	
Charter Municipality		2010					Penalty	GAT pooling	GAT pooling	
Equity Charter Municipalities										
1 Albion	1,000	1,088	88	-	0.0%	0.00%	-	-	-	
2 Alton	345	332	(13)	(13)	-3.8%	0.15%	149	763	613	
3 Atkinson	110	131	21	-	0.0%	0.00%	-	-	-	
4 Baileyville	1,200	1,739	539	-	0.0%	0.00%	-	-	-	
5 Bangor (+recycling resid)	31,000	30,724	(276)	(276)	-0.9%	3.16%	3,106	15,860	12,754	
6 Bar Harbor	4,850	4,858	8	-	0.0%	0.00%	-	-	-	
7 Blue Hill/Surry	4,000	3,959	(41)	(41)	-1.0%	0.47%	465	2,374	1,909	
8 Boothbay RRDD	4,500	4,536	36	-	0.0%	0.00%	-	-	-	
9 Bradley	500	555	55	-	0.0%	0.00%	-	-	-	
10 Brewer	7,400	6,782	(618)	(618)	-8.3%	7.08%	6,962	35,545	28,583	
11 Brooks	375	376	1	-	0.0%	0.00%	-	-	-	
12 Brownville	650	663	13	-	0.0%	0.00%	-	-	-	
13 Bucksport	1,850	1,888	38	-	0.0%	0.00%	-	-	-	
14 Burnham	500	660	160	-	0.0%	0.00%	-	-	-	
15 Carmel	1,000	1,201	201	-	0.0%	0.00%	-	-	-	
16 Central Penobscot	2,900	2,698	(202)	(202)	-7.0%	2.32%	2,277	11,625	9,348	
17 China	1,900	1,706	(194)	(194)	-10.2%	2.22%	2,187	11,164	8,977	
18 Clifton	400	543	143	-	0.0%	0.00%	-	-	-	
19 Clinton	2,350	2,404	54	-	0.0%	0.00%	-	-	-	
20 Dedham	375	412	37	-	0.0%	0.00%	-	-	-	
21 Dover-Foxcroft	2,400	2,359	(41)	(41)	-1.7%	0.47%	460	2,347	1,887	
22 Eddington	850	982	132	-	0.0%	0.00%	-	-	-	
23 Enfield	700	823	123	-	0.0%	0.00%	-	-	-	
24 Fairfield	3,500	4,509	1,009	-	0.0%	0.00%	-	-	-	
25 Glenburn	2,000	2,300	300	-	0.0%	0.00%	-	-	-	
26 Gouldsboro	825	589	(236)	(236)	-28.6%	2.70%	2,659	13,574	10,916	
27 Greenbush	550	642	92	-	0.0%	0.00%	-	-	-	
28 Guilford	1,200	1,278	78	-	0.0%	0.00%	-	-	-	
29 Hampden	3,500	3,445	(55)	(55)	-1.6%	0.63%	619	3,160	2,541	
30 Hancock	450	466	16	-	0.0%	0.00%	-	-	-	
31 Hermon	3,500	3,670	170	-	0.0%	0.00%	-	-	-	
32 Holden	1,100	908	(192)	(192)	-17.4%	2.20%	2,159	11,025	8,866	
33 Jackson	150	193	43	-	0.0%	0.00%	-	-	-	
34 Lamoine	600	589	(11)	(11)	-1.9%	0.13%	126	641	516	
35 Lee	375	387	12	-	0.0%	0.00%	-	-	-	
36 Levant	975	1,020	45	-	0.0%	0.00%	-	-	-	
37 Lincoln	3,600	3,721	121	-	0.0%	0.00%	-	-	-	
38 Lucerne	300	337	37	-	0.0%	0.00%	-	-	-	
39 Mariaville	160	156	(4)	(4)	-2.6%	0.05%	47	239	192	
40 Mars Hill	800	985	185	-	0.0%	0.00%	-	-	-	
41 Mattawamkeag	400	354	(46)	(46)	-11.6%	0.53%	522	2,665	2,143	

Municipal Review Committee, Inc.									
GAT shortfall penalty calculation, 2010									
	11-Feb-11	2010	-0.9%			Pro rata			
		Actual	Excess/	Total	Share of	share of	\$ 57.53	Penalty before	Savings from
	GAT	Deliveries	Shortfall	Shortfall	total shortfall	shortfall	Penalty	GAT pooling	GAT pooling
Equity Charters	170,489	168,134	(2,355)	(7,894)		90.5%	88,950	(454,148)	(543,098)
New Charters	18,077	18,723	646	(832)		9.5%	9,377	(47,873)	(57,250)
All Charters	188,566	186,857	(1,709)	(8,726)		100.0%	98,327	(502,021)	(600,347)
		Actual	Excess/	Total	Share of	share of	\$ 11.27	Penalty before	Savings from
	GAT	Deliveries	Shortfall	Shortfall	total shortfall	shortfall	Penalty	GAT pooling	GAT pooling
42 Midcoast SWD	7,000	5,817	(1,183)	(1,183)	-16.9%	13.56%	13,333	68,074	54,741
43 Mid-Maine SWD	4,150	4,279	129	-	0.0%	0.00%	-	-	-
44 Milford	1,075	1,006	(69)	(69)	-6.4%	0.79%	778	3,974	3,195
45 Millinocket	2,800	2,527	(273)	(273)	-9.8%	3.13%	3,077	15,709	12,632
46 Milo	1,320	1,341	21	-	0.0%	0.00%	-	-	-
47 Monson	240	211	(29)	(29)	-11.9%	0.33%	322	1,642	1,321
48 Mt. Desert/EMR	6,736	5,879	(857)	(857)	-12.7%	9.82%	9,657	49,306	39,649
49 Newburgh	650	742	92	-	0.0%	0.00%	-	-	-
50 Old Town	4,700	4,574	(126)	(126)	-2.7%	1.44%	1,420	7,251	5,830
51 Orland	350	319	(31)	(31)	-8.8%	0.35%	345	1,762	1,417
52 Orono	4,265	3,928	(337)	(337)	-7.9%	3.86%	3,797	19,385	15,588
53 Otis	158	186	28	-	0.0%	0.00%	-	-	-
54 Palmyra	800	1,003	203	-	0.0%	0.00%	-	-	-
55 Parkman	200	201	1	-	0.0%	0.00%	-	-	-
56 Penobscot Co.	870	891	21	-	0.0%	0.00%	-	-	-
57 Pleasant River SWD	1,600	1,958	358	-	0.0%	0.00%	-	-	-
58 Plymouth	500	610	110	-	0.0%	0.00%	-	-	-
59 Reed Pit	100	103	3	-	0.0%	0.00%	-	-	-
60 Rockland	5,200	5,342	142	-	0.0%	0.00%	-	-	-
61 Sangerville	600	624	24	-	0.0%	0.00%	-	-	-
62 Searsport (+Sawyer)	1,000	524	(476)	(476)	-47.6%	5.46%	5,368	27,409	22,041
63 Stetson	835	658	(177)	(177)	-21.3%	2.03%	2,000	10,210	8,210
64 Steuben	625	582	(43)	(43)	-6.8%	0.49%	482	2,461	1,979
65 Stonington	1,000	1,063	63	-	0.0%	0.00%	-	-	-
66 Thomaston Group	3,730	4,027	297	-	0.0%	0.00%	-	-	-
67 Thorndike	275	219	(56)	(56)	-20.5%	0.65%	634	3,239	2,605
68 Troy	220	241	21	-	0.0%	0.00%	-	-	-
69 Union River SWD	400	410	10	-	0.0%	0.00%	-	-	-
70 Unity	800	877	77	-	0.0%	0.00%	-	-	-
71 Vassalboro	1,440	1,571	131	-	0.0%	0.00%	-	-	-
72 Veazie (+Truckaway)	800	687	(113)	(113)	-14.1%	1.30%	1,275	6,508	5,233
73 Verona	300	312	12	-	0.0%	0.00%	-	-	-
74 Waldoboro Group	3,460	3,183	(277)	(277)	-8.0%	3.17%	3,116	15,910	12,794
75 Waterville	9,800	8,535	(1,265)	(1,265)	-12.9%	14.50%	14,255	72,782	58,527
76 Winslow	3,400	3,200	(200)	(200)	-5.9%	2.29%	2,248	11,478	9,230
77 West Gardiner	850	885	35	-	0.0%	0.00%	-	-	-
78 Winthrop	3,100	2,647	(453)	(453)	-14.6%	5.19%	5,106	26,067	20,961
TOTAL	170,489	168,134	(2,355)	(7,894)	-1.4%	90.46%	88,950	454,148	365,197

Municipal Review Committee, Inc.										
GAT shortfall penalty calculation, 2010										
11-Feb-11		2010		-0.9%		Pro rata				
		Actual	Excess/	Total	Share of	Pro rata	\$ 57.53	Penalty before	Savings from	
GAT		Deliveries	Shortfall	Shortfall	total shortfall	share of	Penalty	GAT pooling	GAT pooling	
Equity Charters	170,489	168,134	(2,355)	(7,894)		90.5%	88,950	(454,148)	(543,098)	
New Charters	18,077	18,723	646	(832)		9.5%	9,377	(47,873)	(57,250)	
All Charters	188,566	186,857	(1,709)	(8,726)		100.0%	98,327	(502,021)	(600,347)	
		Actual				Pro rata	\$ 57.53			
Charter Municipality		Deliveries	Excess/	Share of	Share of	share of	\$ 11.27	Penalty before	Savings from	
GAT		2010	Shortfall	Shortfall	total shortfall	shortfall	Penalty	GAT pooling	GAT pooling	
New Charter Municipalities										
1	Abbot	170	161.31	(9)	(9)	-5.1%	0.10%	98	500	402
2	Bancroft	22	24.81	3	-	0.0%	0.00%	-	-	-
3	Belfast	850	1,033.36	183	-	0.0%	0.00%	-	-	-
4	Bowerbank	34	32.78	(1)	(1)	-3.6%	0.01%	14	70	56
5	Castine	270	252.33	(18)	(18)	-6.5%	0.20%	199	1,017	817
6	Cherryfield	595	564.54	(30)	(30)	-5.1%	0.35%	343	1,752	1,409
7	Chester	400	405.11	5	-	0.0%	0.00%	-	-	-
8	Cranberry Isles	130	54.21	(76)	(76)	-58.3%	0.87%	854	4,360	3,506
9	Dixmont	147	149.95	3	-	0.0%	0.00%	-	-	-
10	Drew Plt	17	22.08	5	-	0.0%	0.00%	-	-	-
11	East Millinocket	800	795.48	(5)	(5)	-0.6%	0.05%	51	260	209
12	Edinburg	38	48.06	10	-	0.0%	0.00%	-	-	-
13	Etna	450	510.99	61	-	0.0%	0.00%	-	-	-
14	Franklin	325	257.96	(67)	(67)	-20.6%	0.77%	755	3,857	3,101
15	Freedom	250	150.65	(99)	(99)	-39.7%	1.14%	1,119	5,716	4,596
16	Garland	230	262.03	32	-	0.0%	0.00%	-	-	-
17	Harrington	400	431.50	32	-	0.0%	0.00%	-	-	-
18	Haynesville	50	60.62	11	-	0.0%	0.00%	-	-	-
19	Howland	280	312.00	32	-	0.0%	0.00%	-	-	-
20	Hudson	150	151.70	2	-	0.0%	0.00%	-	-	-
21	Kenduskeag	350	391.22	41	-	0.0%	0.00%	-	-	-
22	Knox	350	363.41	13	-	0.0%	0.00%	-	-	-
23	LaGrange	300	313.44	13	-	0.0%	0.00%	-	-	-
24	Machias	1,600	2,125.44	525	-	0.0%	0.00%	-	-	-
25	Macwahoc Plt	56	66.16	10	-	0.0%	0.00%	-	-	-
26	Maxfield	45	43.10	(2)	(2)	-4.2%	0.02%	21	109	88
27	Medford	80	83.64	4	-	0.0%	0.00%	-	-	-
28	Medway	700	739.57	40	-	0.0%	0.00%	-	-	-
29	Milbridge	610	627.23	17	-	0.0%	0.00%	-	-	-
30	Montville	160	104.61	(55)	(55)	-34.6%	0.63%	624	3,187	2,562
31	N.Katahdin	1,000	1,136.97	137	-	0.0%	0.00%	-	-	-
32	Oakfield	200	227.30	27	-	0.0%	0.00%	-	-	-
33	Passadumkeag	160	184.08	24	-	0.0%	0.00%	-	-	-
35	Penobscot Town	650	573.07	(77)	(77)	-11.8%	0.88%	867	4,426	3,559
34	Piscataquis Co.	200	116.48	(84)	(84)	-41.8%	0.96%	941	4,805	3,864
36	Searsmont	150	178.99	29	-	0.0%	0.00%	-	-	-
37	Sebec	170	194.27	24	-	0.0%	0.00%	-	-	-
38	Sherman	650	759.57	110	-	0.0%	0.00%	-	-	-
39	Sorrento	75	61.83	(13)	(13)	-17.6%	0.15%	148	758	609
40	Springfield	165	168.33	3	-	0.0%	0.00%	-	-	-
41	Stockton Springs	450	463.15	13	-	0.0%	0.00%	-	-	-
42	Sullivan	158	114.90	(43)	(43)	-27.3%	0.49%	486	2,480	1,994
43	Swans Island	150	154.77	5	-	0.0%	0.00%	-	-	-
44	TCSWMO	1,450	1,472.84	23	-	0.0%	0.00%	-	-	-
45	Winn	230	232.32	2	-	0.0%	0.00%	-	-	-
46	Winter Harbor	110	148.30	38	-	0.0%	0.00%	-	-	-
47	Wiscasset	2,250	1,996.61	(253)	(253)	-11.3%	2.90%	2,855	14,578	11,722
Total		18,077	18,723	646	(832)	3.6%	9.54%	9,377	47,873	38,497



A-3-f

CERTIFIED MAIL #7008 3230 0001 6395 4463

Anthony J. Caso
Executive Director

February 8, 2011

Donene M. Williams
President

Susan Lessard, Town Manager
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Kenneth Fanjoy
Vice President

Natalie Baker
Recording Secretary

Re: AFSCME Local 1828-16 – Hampden Fire
AFSCME Local 1828-22 – Hampden PD

John G. Wagner
Treasurer

Dear Town Manager Lessard:

Frank Greco
Sgt. at Arms

In accordance with the Municipal Public Employees Labor Relations Act, Chapter 9-A, Title 26, Revisions of 1976, Section 965-1, please consider this our written request for collective bargaining for wages, rates of pay and other conditions of employment for the above-mentioned unit.

Sincerely,

Sylvie Perry / lb

Sylvie Perry
Staff Representative

sperry@afscmecouncil93.org

SP/lb

CC: Unit Chair(s)

A-3-9



Maine Center for Disease Control and Prevention
An Office of the Department of Health and Human Services

Department of Health and Human Services
Maine Center for Disease Control and Prevention
286 Water Street
11 State House Station
Augusta, Maine 04333-0011
Tel: (207) 287-8016
Fax: (207) 287-9058; TTY: 1-800-606-0215

February 16, 2011

To Whom It May Concern:

In 2009, almost 900 Mainers were diagnosed with colorectal cancer, and approximately 260 died from this disease. Many of these cases may have been prevented if the disease had only been detected earlier.

During the month of March, the Maine Center for Disease Control and Prevention, Department of Health and Human Services, would like to partner with you to *Turn Maine Blue* in honor of Colon Cancer Awareness month. Media outlets, businesses, non-profits and other organizations like yours, across the state, are invited to take part in this effort to raise awareness of colon cancer and the importance of screening.

On behalf of the Maine CDC's Colorectal Cancer Control Program, I would like to extend this invitation to you and your colleagues to *Turn Maine Blue*. Our goal is to encourage Maine organizations to participate in this socially responsible cause by illuminating prominent buildings and landmarks with the signature color for colorectal cancer awareness, blue. By illuminating your building blue, you and your employees will play an important role in helping prevent the 2nd leading cause of overall cancer death in Maine.

If helpful, below is a vendor who can supply blue gels to change the color of your building's exterior lighting to blue:

JP Gagnon, High Output, INC.
4 Warren Ave, Suite 6
Westbrook, Maine 04092
(854 - 4734)

Friday, March 4th is designated as *Dress in Blue Day* in Maine, as it is nationally. In addition to illuminating your building, you and/or your organization might also take part in this cause by:

- Wearing Blue Articles of Clothing or Accessories
- Wearing the Ribbon of Hope Pin (available through the American Cancer Society (207) 373-3722).

A representative located in your area may be in touch with you in the coming weeks to discuss the next steps in *Turning Maine Blue*. If in the meantime, if you would like more information on the *Turning Maine Blue* initiative or colon cancer awareness, please do not hesitate to contact me at andrea.fletcher@maine.gov or (207) 287-4321.

Thank you for your consideration and support of our efforts.

Sincerely,

Andrea G. Fletcher, MS
Maine Colorectal Cancer Control Program,
Maine Center for Disease Control and Prevention, DHHS



Check One: Initial Application
 Reappointment Application

A-3-h

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Bigelow Chester C. III
LAST FIRST MI

ADDRESS: 38 Hopkins Rd. Hampden 04444
STREET TOWN ZIP

MAILING ADDRESS (if different): _____

TELEPHONE: 207-355-5534 207-827-4456 Ext. 214
HOME WORK

EMAIL: chet.bigelow@gmail.com

OCCUPATION: Ecologist / Env. Scientist

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: Conservation Committee

SECOND CHOICE (OPTIONAL): Planning Board

How would your experience, education and/or occupation be a benefit to this board or committee? I was a regulatory biologist for 28 years with extensive experience in land and water resources management as well as environmental permitting

Are there any issues you feel this board or committee should address, or should continue to address? I'll wait to learn more before venturing on opinion.

3 YEAR

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

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

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY

Date Application Received: MAR 02 2011



JAMES W. SEWALL COMPANY / Since 1880

CHESTER C. BIGELOW III, PWS
Environmental Manager/Ecologist

bigch@sewall.com
207 827 4456, x214
cell: 207 355 5534
fax: 207 827 2186

136 Center Street
PO Box 433
Old Town, ME 04468
sewall.com

DATE: _____
DATE: _____
DATE APPOINTMENT EXPIRES: _____



Check One: Initial Application
 Reappointment Application

A-3-1

TOWN OF HAMPDEN APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: PHILBRICK BERNIE D
LAST FIRST MI

ADDRESS: 1206 WESTERN AVE HAMPDEN 04444
STREET TOWN ZIP

MAILING ADDRESS (if different): _____

TELEPHONE: (207) 735-3734 (207) 942-4659
HOME WORK

EMAIL: ELCOBERN@AOL.COM

OCCUPATION: ELECTRICAL

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: CITIZEN COMMITTEE TO REVIEW HAMPDEN COMPREHENSIVE PLAN

SECOND CHOICE (OPTIONAL): _____

How would your experience, education and/or occupation be a benefit to this board or committee? 20 YEARS IN CONSTRUCTION AND WORKING WITH CONTRACTS

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

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

3 YEAR

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

5 YEAR
PLANNING BOARD

FOR TOWN USE ONLY		Date Application Received: <u>MAR 02 2011</u>
COUNCIL COMMITTEE ACTION: _____	DATE: _____	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

Bi-Weekly Report: 019

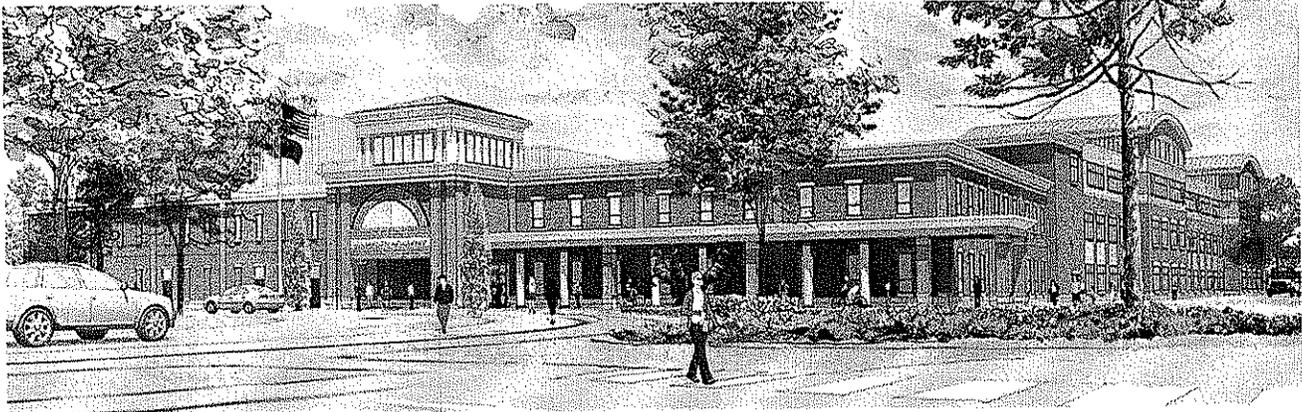
February 5, 2011 – February 18, 2011

3332.22 / Hampden Academy

Phase I General Contractor: Sargent Corporation

Phase II General Contractor: J&J Contractors, Inc.

Architect's Project Representative: Bruck Wilder



February 5, 2011 through February 18, 2011.

- Snow removal, road sanding, temporary enclosure and heating activities continue (Photo #1).
- Concrete is placed for the exterior emergency generator pad east of segment C (Phase I work, Photo #2).
- 1st floor concrete slabs on grade are prepared for, placed and finished in segments C and F (Photos #3 - #7).
- Masonry work resumes on the segment E east stairwell (Photo #8) and on the elevator shaft (Photo #9).
- Masonry work starts on the segments E and F 3rd floor Corridor 3605 north wall (Photo #10).
- Carpentry work on roof parapets, roof curbing and blocking continues (Photos #11 and #12).
- The installation of rigid insulation, cover board and EPDM membrane continues on the roofs of segments E and F (Photos #13 and #14).
- The application of spray applied fireproofing resumes in segments C, E and F (Photo #15).
- The installation of the air/vapor barrier resumes on the exterior walls of segment F.
- Framing and sheathing resumes on the segments E and F exterior walls (Photo #16).
- Hangers for piping and ductwork continue to be installed ahead of the spray applied fireproofing.
- Underground sanitary sewer pipe installation is completed, tested and backfilled in the segment C Locker Rooms and the segment F Kitchen/Servery area (Photo #17).
- The layout, fitting and welding of heat piping for the 2nd floor of segment E starts.
- The installation of floor cleanouts, trap primer feed piping, sleeves and bond outs etc. for 1st floor slab on grade areas is ongoing.
- The secondary cable routing and termination work is completed in the transformer vault (Photo #18).
- Cable routing and termination work in the Main Electrical Room continues.
- The grading and compacting of under slab crushed stone continues in segments C, E and F.
- The excavation and backfill for underground plumbing is completed in segments C and F (Photo #17).
- The drilling and piping of geothermal wells continues (Photo #19).

PROGRESS PHOTOS:

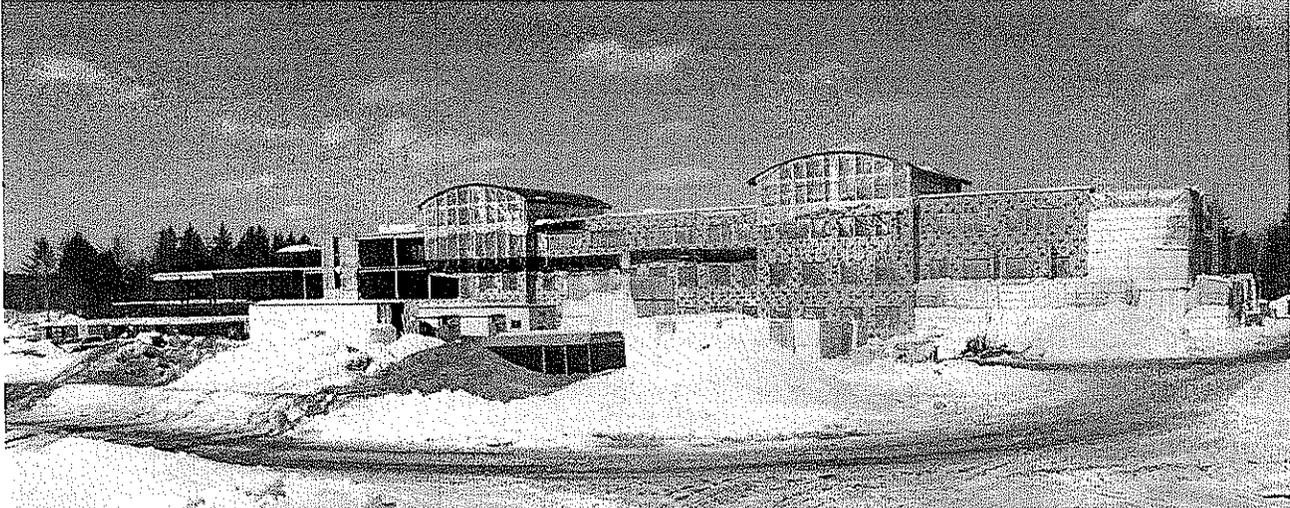


Photo #1: View northwest toward the Classroom Wing, February 11, 2011.

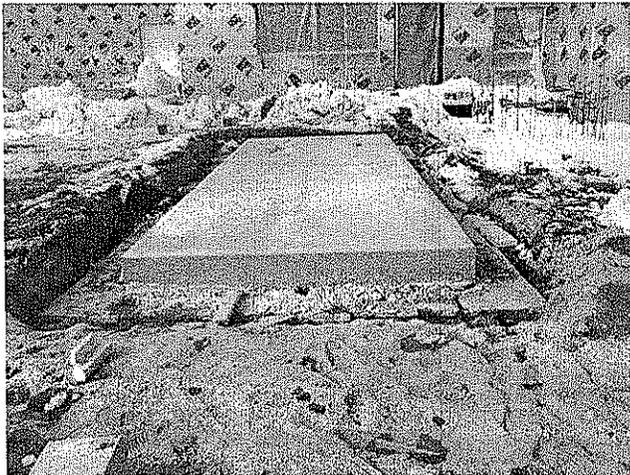


Photo #2: View west of the generator pad east of segment C. February 17, 2011.



Photo #3: View northeast on the 1st floor of building segment F, morning, February 8, 2011.



Photo #4: View northeast on the 1st floor of building segment F, afternoon, February 8, 2011.



Photo #5: View southeast on the 1st floor of building segment F, February 9, 2011.

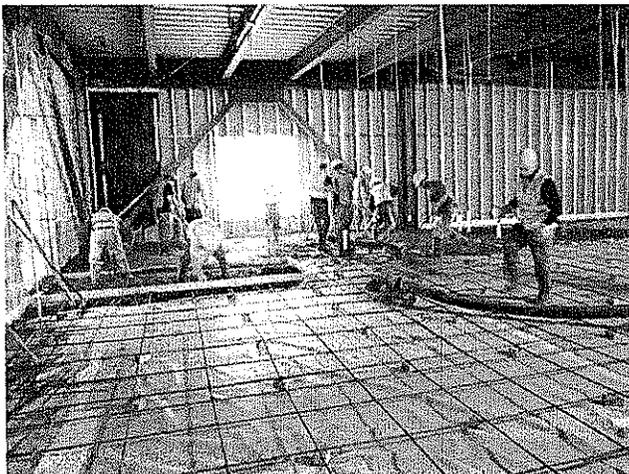


Photo #6: View north on the 1st floor of segment C, morning, February 18, 2011.

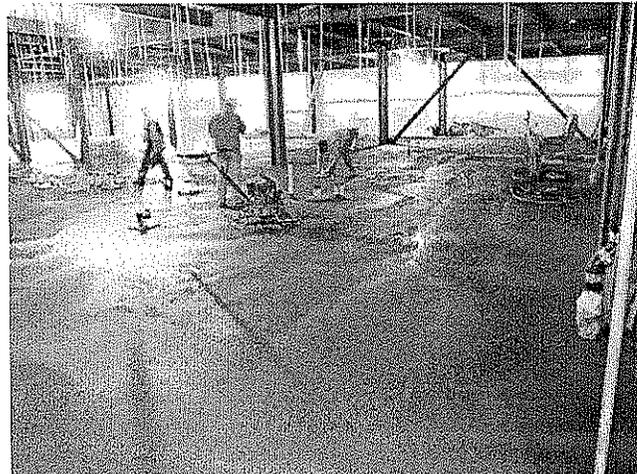


Photo #7: View southeast on the 1st floor of building segment C, afternoon, February 18, 2011.



Photo #8: View south at the top of Stairs 3550.
February 16, 2011.

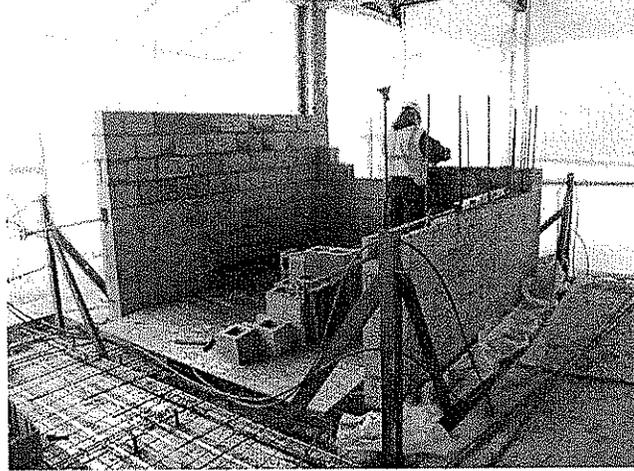


Photo #9: View northwest of the elevator shaft on the 3rd floor of segment E. February 18, 2011.

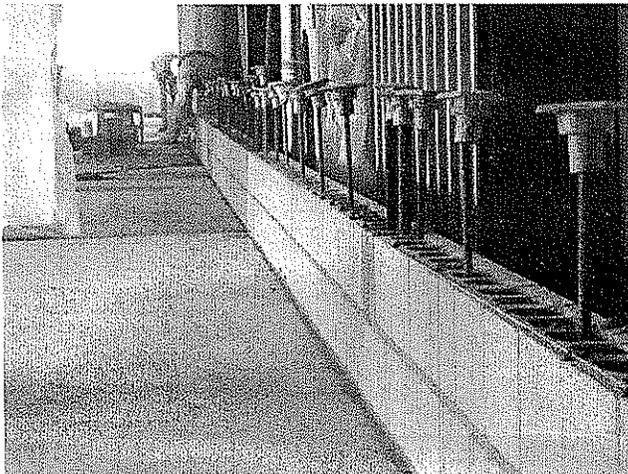


Photo #10: View west along Corridor 3605, segment F.
February 17, 2011.

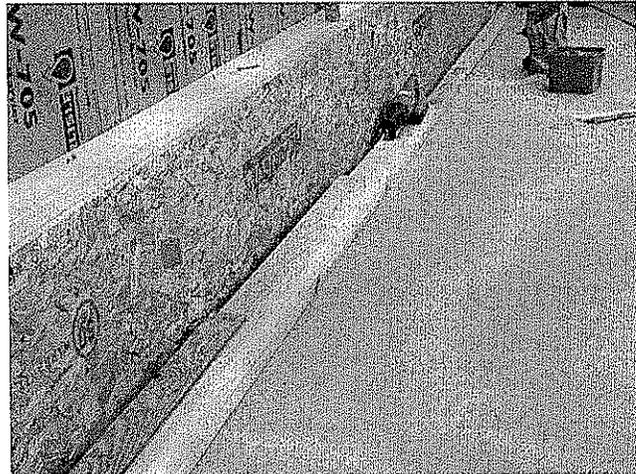


Photo #11: View southwest along the 3rd floor segment F north exterior wall. February 14, 2011.

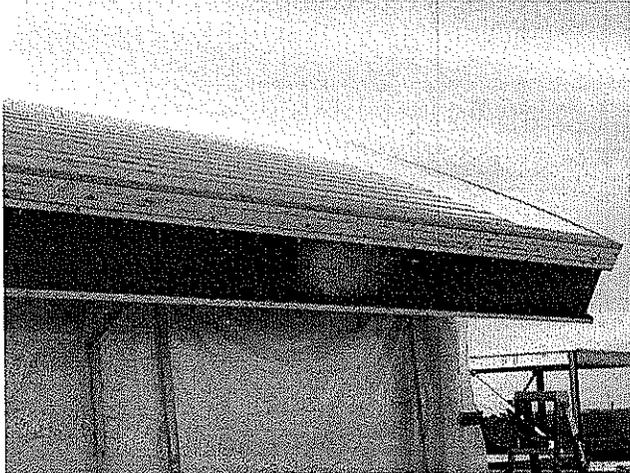


Photo #12: View northwest of the 4th floor segment E barrel roof. February 17, 2011.

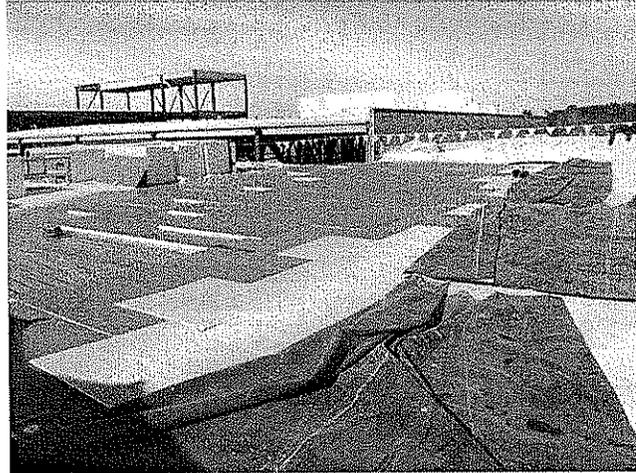


Photo #13: View northwest across the Kitchen/Servery roof. February 16, 2011.



Photo #14: View east on the 2nd floor roof of building segment F. February 17, 2011.

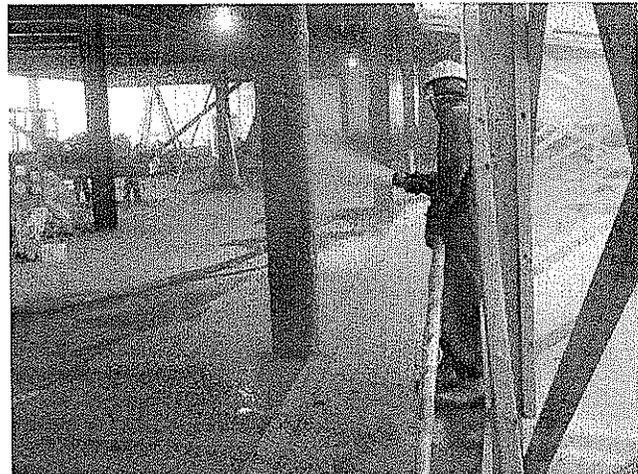


Photo #15: View west on the 3rd floor of segment F. February 11, 2011.



Photo #16: View east along the 3rd floor north elevation of segment F, February 17, 2011.

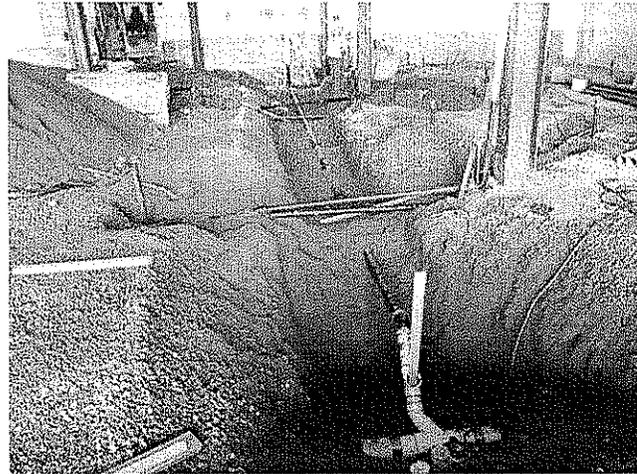


Photo #17: View west into the Kitchen/Server area. February 10, 2011.

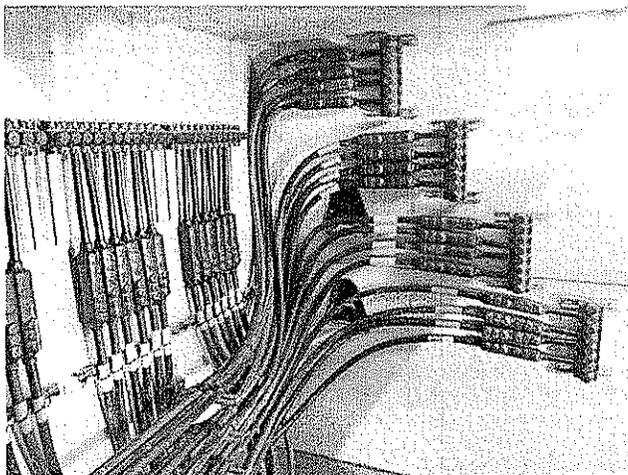


Photo #18: View south in the transformer vault. February 9, 2011.



Photo #19: View north on the geothermal bore field. February 10, 2011.

Prepared by: Bruck Wilder – Architects Project Representative

WBRC ARCHITECTS • ENGINEERS

44 Central Street
Bangor, ME 04401-5116
(207) 947-4511 phone (207) 947-4628 fax
www.wbrcae.com

cc: File 16

COMMUNICATIONS COMMITTEE MEETING MINUTES
February 23, 2011

Attending:

- Councilor Kristen Hornbrook Mark Pierce, Paper Talks Magazine
- Councilor Andre Cushing
- Mayor Matthew Arnett
- Town Manager Sue Lessard
- Town Clerk Denise Hodsdon

The meeting was opened at 6:05 p.m. by Co-Chair Councilor Hornbrook.

1. Minutes of 8/11/10 – The minutes of the meeting were reviewed and accepted on a motion by Mayor Arnett that was seconded by Councilor Shakespeare.
6. Paper Talks Ad – Mark Pierce from Paper Talks magazine attended the meeting to ask the Committee to consider purchasing an ad in the July 2011 edition of Paper Talks which features the 1976 Hampden Girls Basketball Team on its front cover. The Council had previously considered this item and a number of Councilors had expressed concern over spending funds on this item considering the difficult budget season ahead. Mayor Arnett made a motion to recommend to the full Council that the Town purchase a 1/9 page ad in Paper Talks. Councilors Hornbrook and Shakespeare expressed their support for the publication but felt unable to support such an expenditure at this time. Councilor Cushing expressed his view that an ad in such a publication supports the preservation of local historical events. After hearing from all Councilors, Mayor Arnett withdrew his motion. No action was taken on the Paper Talks Ad request but Mr. Pierce was told that this request was unlikely to be raised at the Council level again this year.
2. Broadcast equipment Upgrade – The Town Manager reported that the equipment had been paid for from the Cable Reserve Account but would be reimbursed from the Penobscot Cable Consortium. Councilor Cushing indicated that the representative from the vendor was available on Wednesday, March 2nd to do the installation and training. Town Clerk Denise Hodsdon expressed concern over the brief window available between installation and the next Council meeting that needed to be aired on 3-7-2011. It was the consensus of the group that the installation and training be done the following week to allow time between Council meetings to get any 'bugs' worked out of it.
3. Ability to Stream Live Broadcasts to the Internet – Councilor Cushing explained that once the new digital equipment was installed the Town would have the capability of allowing those without Cable television to access programming via computer. It was the consensus of those in attendance that this would be a great way to allow more people to have

- access to government meetings and programs. There is a server host fee for this and that will be discussed as part of the upcoming budget.
4. Report Results from Most Recent Cable Consortium meeting – Mayor Arnett reported that he had attended the most recent meeting and had suggested the dissolution of the consortium and the distribution of the remaining treasury to the remaining members. That idea was not supported by some Consortium members. It was his recommendation that the Town remain with the Consortium in order to preserve its 'share' of the remaining fund balance.
 5. Review Local Program Development Plans and Initiatives – Councilor Cushing gave a brief history of the development of the local Cable channel programming. In order to continue and expand on offerings, it is necessary to get more people involved as show hosts and program idea developers. It was suggested that the next newsletter include an article looking for volunteers and that the town website have a notice encouraging such volunteers as well and to encourage interested persons to attend the meetings of the Communications Committee.
 7. Links to Local Businesses on Website – The Town Manager and Town Clerk explained problems encountered with having individual business links on the Town website. Councilor Cushing informed the Committee that the Town has a link on its website to the Hampden Business Association and that they allowed members to have individual links. The topic of allowing business ads in the town newsletter as a way to defray costs was also briefly discussed. This topic will be further explored at another meeting.
 8. Public Comment – None
 9. Committee Member Comments – The next meeting of the Communications Committee will be on Thursday, March 17th from 6 – 7 p.m.

The meeting adjourned at 7:15 p.m.

Respectfully submitted,

Sue Lessard
Town Manager

Sue FYI

A-4-C

2010 Haz Waste Permit Count

	Permit	% of Total
Bangor	358	41.10%
Brewer	54	6.20%
Carmel	13	1.49%
Clifton	6	0.69%
Dedham	12	1.38%
Dixmont	2	0.23%
Eddington	4	0.46%
Etna	5	0.57%
Glenburn	54	6.20%
Hampden	21	2.41%
Hermon	70	8.04%
Holden	39	4.48%
Kenduskeag	9	1.03%
Milford	9	1.03%
Newburgh	9	1.03%
Old Town	23	2.64%
Orono	107	12.28%
Orrington	31	3.56%
Penobscot Nation	1	0.11%
Stockton Springs	8	0.92%
Veazie	32	3.67%
Winterport	4	0.46%

871

HOUSEHOLD HAZARDOUS WASTE EVENT COLLECTION RESULTS

HAZARDOUS WASTE	2008		2009		2010	
	Pounds	Gallons	Pounds	Gallons		
Aerosols	900		1200		700	lbs
Waste Paint & related materials	17250	2464	20400	2914	14,800	lbs
Waste Flammable Liquids			800	114	0	lbs
!Waste Pesticides (Liquid)	1200	171	2400	343	800	lbs
!!Waste Pesticides (Solid)	1400	200	3200	457	700	lbs
*Waste Corrosive Liq Acidic Organic	860	123	60	9	60	lbs
**Waste Corrosive Liq Acidic Inorganic			210	30	400	lbs
***Waste Corrosive Liq Basic inorganic	460	66	200	29	400	lbs
Asbestos	200		2000		60	lbs
Waste Oil	400	57	8640	1234	8400	lbs
Waste, toxic liquid corrosive inorganic					720	lbs
Waste Propane					12	lbs
Anti-freeze	1600	229	1600	229	1600	lbs
~Misc Waste Codes	280	40	310	44	133	lbs
Total	24550	3350	41020	5860	28785	lbs

UNIVERSAL WASTE

TVs	505 pcs	288 pcs	346	Ea
Comp Monitors	428 pcs	473 pcs	276	Ea
Laptops	0 pcs	2 pcs	0	
PCB Ballasts	107 pcs	14 pcs	0	
Mercury Cont Devices	31 pcs	77 pcs	28	lbs
Fluorescent Bulbs	3476 pcs	2636 pcs	9762	LF
Compact Fluorescent	0 pcs	535 pcs	0	
Total pcs	4547 pcs	4025 pcs		

Batteries	Lead Acid Sealed	0 lbs	63 lbs	0	lbs
	Ni-Cad	208 lbs	86 lbs	87	lbs
	Lithion	14 lbs	15 lbs	32	lbs
	Lead Acid Wet	34 lbs	1234 lbs	307	lbs
Assorted Electronic Equipmt.		0 lbs	8103 lbs	6926	lbs
Metal Hydrate				8	lbs
Total lbs		256 lbs	9501 lbs		

TOTAL ALL WASTE

29353 **54546**

NOTES:

! DDT, Chlordane

!! DDT, Astrazine

*Acetic Acid

**Hydrochloric acid, sulfuric acid, phosphoric acid, etc

***Sodium hydroxide, bleach, ammonia, potassium hydroxide

~Misc = propane cylinders, methyl ethyl ketone peroxide, fire extinguishers, Moth flakes, calcium hypochlorate, hydroc

Waste Flammable Liquids = gasoline/kerosene/oil

FINANCE COMMITTEE MEETING MINUTES
Monday, February 7, 2011

Attending:

- | | |
|-------------------------------|--------------------------|
| Mayor Matthew Arnett | Councilor Jean Lawlis |
| Councilor William Shakespeare | Councilor Tom Brann |
| Councilor Janet Hughes | Councilor Andre Cushing |
| Councilor Kristen Hornbrook | Town Manager Sue Lessard |

1. Minutes of 1-24-2011 – The minutes were reviewed and accepted with no corrections.
2. Review and sign warrants – The payment warrants were reviewed and signed with no questions.
3. Old Business
 - a. Hampden Academy Re-use – The Committee discussed what steps the Town might want to take in regard to the Hampden Academy re-use issue. The Mayor provided background on the legal options available to SAD #22 and the circumstances under which the property might become available to the Town if it chose to accept it as a transfer from SAD #22. Councilor Brann expressed concern over the cost to the Town of acquiring the property if the demolition of existing structures has not been done prior to the transfer. Other Councilors indicated that the Town Council should exert what pressure it could on the School Board to discourage them from the idea of creating another 'school' or 'educational use' on the Hampden Academy property once the high school moves to the new location. Councilor Cushing informed the Committee that Senator Thibodeau had introduced a bill that would require SAD#22 to hold a referendum on any plan that they developed for re-use of the property. Councilor Hughes suggested that the next edition of the newsletter contain a positive article about town ideas for reuse of the property. It was also the consensus of the committee that information should be gathered if possible from developers about what a redevelopment at that site might take.
 - b. Hamlin Marine Land Swap – The Committee discussed the idea of an even swap of parcel for parcel between Hamlin Marine and the Town for the parcel on which the marina is located and the eleven acre parcel adjacent to it that is vacant. Both are valued similarly. Motion by Councilor Hughes, seconded by Councilor Cushing to recommend to the full Council an even swap of the two

parcels that have been under discussion, evaluation, and review for the past several years. Vote 7-0. It was also the consensus of the Committee to extend the thanks of the Council to Hamlin Marine for the generous offer of boat donations going forward and to create a committee to determine how best to take advantage of those donations and how to best distribute the proceeds.

4. New Business

- a. *Scott Luciano – Application for Reappointment to Personnel Appeals Board – Motion by Councilor Shakespeare, seconded by Councilor Lawlis to recommend to the full Council that Scott Luciano be reappointed to the Personnel Appeals Board subject to meeting with interested Councilors prior to the Finance Committee meeting on 3/7/2011. Vote 7 – 0.*

5. Public Comment - None

6. Committee Member Comments

Councilor Cushing asked for thoughts concerning the Paper Talks Ad. Councilors Lawlis and Shakespeare spoke in opposition to the donation due to the tight budget constraints, Councilor Brann spoke in support of the ad and suggested that the subject should be considered by the Communications Committee prior to Council action.

The meeting was adjourned at 6:58 p.m.

Respectfully submitted,

*Susan Lessard
Town Manager*

**TOWN OF HAMPDEN
PUBLIC WORKS DEPARTMENT
2012 DIESEL TRUCK
BID SHEET**

FEBRUARY 24, 2011
10:00 AM

BIDDER	NEW TRUCK PRICE	ADD'L PLOW EQUIPMENT	EXTENDED WARRANTY	TRADE IN VALUE (2001 Freightliner)	TOTAL PRICE
FREIGHTLINER OF MAINE	73,345.00	61,826.00	3,925.00	(16,500.00)	122,596.00
DAIGLE & HOUGHTON	77,317.36	61,826.00	3,900.00	(24,000.00)	119,043.36

C-3-b

C-3-c



TO: Mayor Arnett and Hampden Town Council
FROM: Robert Osborne, Town Planner RLO
SUBJECT: Draft Zoning Ordinance Text Amendments for Medical Marijuana Dispensary, Medical Marijuana Cultivation Facilities and Methadone Clinics
DATE: March 2, 2011

Please be advised that the Hampden Planning Board held a public hearing on the draft set of amendments to the Zoning Ordinance on the subject topic (as referred by the Town Council at their December 20, 2010 meeting) on January 12, 2011 and referred the item to their Planning Board Ordinance Committee for further review. The Planning Board Ordinance Committee met on January 26, 2011 and considered both the referral language as well as additional language regarding methadone clinics. The Planning Board Ordinance Committee at their January 26, 2011 meeting voted to recommend that language to the Planning Board pending review by Attorney Russell. Tom Russell made suggestions that were incorporated into the new document containing regulations on methadone clinics as well as medical marijuana dispensaries and clinics that the Planning Board held a subsequent newly advertized public hearing on at their February 9, 2011 meeting. The Planning Board voted to recommend the attached draft ordinance amendments to the Town Council with an ought-to-pass recommendation. This now also contains language from Tom Russell, Town Attorney.

At the January public hearing there was public testimony which is detailed in the Planning Board Minutes of the January 12, 2011 meeting (attached). There was no public testimony at the February meeting. There was subsequent to the February hearing some suggestions made by Peter Frazier which are also attached.

TOWN OF HAMPDEN
Draft

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

Deletions are ~~Strikethrough~~ Additions Double Underlined

ARTICLE 3
REGULATIONS PERTAINING TO INDIVIDUAL ZONES

3.1. Industrial Park District

3.1.1. Purpose - This district is established to provide a location for fully serviced industrial development. It is intended that land within this district will be protected from encroachment of non-industrial uses, however, the district also contemplates planned business parks with a more diverse mixture of uses and development standards implemented in a closely managed context. *(Amended 2-20-01)*

3.1.2. Permitted Uses (Subject to Site Plan or Subdivision Review) – Manufacturing, compounding, assembling, packing, treatment, warehousing, wholesaling of goods and products, research and testing operations, take-out restaurant, business park, essential service, wireless telecommunications facilities (subject to *Section 4.22*), consulting operations, public or private utility service providers and their related operation, service and maintenance activities, accessory uses or buildings, and other industrial operations, but not including excavation, gravel pit and quarry activities, which conform to all performance standards in this Ordinance. *(Amended 2-20-01, 10-01-01, 12-6-04, 12-17-07)*

In addition to the permitted uses set forth above, permitted uses within a Business Park may also include the following: Office and service businesses, government and institutional uses, places of assembly such as hotel and conference center, bar in conjunction with hotel or conference center, small restaurant, sit down restaurant, retail sales not exceeding 5,000 sq. ft. gross floor area per retail business space or module, accessory uses or structures, day care facilities, essential services, buildings necessary for essential services. A master plan for a Business Park must be prepared by a State of Maine registered engineer, landscape architect, or architect, submitted, and approved by the Planning Board as part of the subdivision review and approval process. The master plan shall indicate the full build-out of the subdivision including but not limited to: building footprint, building height, impervious surface, stormwater management, architectural guidelines, traffic, and other items that the Planning Board may require. The plan shall:

1. Depict the land area designated for the Business Park use.
2. Depict the lotting of the Business Park subdivision. *(Amended 12-17-07)*
3. Establish the overall development criteria for the Business Park.
4. Propose covenants governing use and the appearance, size, and physical location of the building and other necessary site improvements. *(Amended 2-20-01, 12-6-04, 10-01-07)*

3.1.3. 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), Stockpiles (subject to Article 4.9) not accessory to excavation, gravel pit and quarry activities, living quarters for security personnel, buildings necessary for essential services, buildings greater in height than thirty-five (35) feet. (Amended 3-5-88, 6-15-92, 12-17-07)

3.1.4. Lot Dimensions

	Typical	Business Park as described in 3.1.2. only
Minimum Lot Area	- 1 acre -	- 20,000 sq. ft. -
Minimum Road Frontage	- 200 feet -	- 50 feet -
Minimum Setbacks:		
Street Yard	- 50 feet -	- 20 feet -
Other Yards	- 50 feet -	- 20 feet -
Maximum Lot Coverage	- 25 percent -	- 30 percent -
Maximum Impervious Surface	- 60 percent -	- 70 percent -

(Amended 2-20-01, 12-6-04)

3.1.5. Special District Regulations - In addition to the general regulations in *Article 4* of this Ordinance, the following specific requirements shall be applicable to the Industrial Park District:

1. When necessary to store or keep articles, goods and materials in the open, the area shall be limited to the rear two thirds of the property. Where necessary to protect the visual amenities of the Industrial Park, the planning board may require screening, as defined, around areas designed for the keeping of articles, goods, or materials where they are exposed to the public view.
2. Buildings in this district shall not be used for any of the following purposes: storage of junk, automobile wrecking, operation of a mine or quarry, rendering plant, or any business having appearance, odor, or noise characteristics detrimental to other businesses in the park, the future of the park, the neighborhood, or the Town of Hampden.
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.
4. In order to protect the integrity of the industrial park, to insure that it is developed in a manner which fits harmoniously with the surrounding environment, and to prevent erosion, the planning board may require landscaping, with lawn, trees, or shrubs, of the front setback. It may also require landscaping of a buffer strip of up to twenty (20) feet on the side and rear lot lines. In such cases, an occupancy permit shall not be issued until the landscaping is complete or until a certified check for the amount of one hundred twenty-five (125%) percent of any unfinished work is accepted by the Town Manager.
(Amended 6-15-92)

3.2. Industrial District

3.2.1. Purpose - These areas are set aside for non-service intensive industrial uses which do not require the amenities of an industrial park and which would fit into the surrounding rural area with ease. Industries needing public sewer or water are not expected to locate in these areas.

3.2.2. Permitted Uses (Subject to Site Plan Review) - Facilities for manufacturing, compounding, processing, packaging, essential service, wireless telecommunications facilities (subject to *Section 4.22*), treatment or warehousing of goods and products, wholesale distribution, take out restaurant, retail sales where such activities are part of and accessory to an industrial use, such facilities having less than five thousand (5,000) square feet of gross floor area, and accessory uses and structures. Excavation, gravel pit and quarry activities are not permitted in the district. (Amended: 10-01-01, 12-6-04, 12-17-07)

3.2.3. 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), facilities for manufacturing, compounding, processing, packaging, treatment, buildings necessary for essential services, or warehousing of goods and products, wholesale distribution, retail sales where such activities are part of and accessory to an industrial use, such facilities having more than five thousand (5,000) square feet of gross floor area. Stockpiles (subject to *Article 4.9*), but not including excavation, gravel pit and quarry activities. Accessory uses or structures, building or living quarters for security personnel. (Amended: 12-17-07)

3.2.4. Lot Dimensions

Minimum Lot Area	-	2 acres
Minimum Road Frontage	-	150 feet
Minimum Setbacks:		
Street Yard	-	50 feet
Other Yards	-	35 feet
Maximum Ground Coverage	-	25 percent
Maximum Building Height	-	35 feet

3.2.5. Special District Regulations

1. Notwithstanding the above requirements any structure which requires access to rail service shall not be required to setback from the railroad siding.
2. In order to provide for harmonious development and preserve the rural character the Planning Board may require additional buffers beyond that required in *Article 4.7.11*. (Amended 8-17-92)

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, 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)

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)*

4.7. Off-Street Parking, Loading, Drive-Thru Design and Bufferyard Requirements – The purpose of this section is to provide minimum standards and design guidelines for off-street parking, and loading areas, drive-thru businesses and bufferyards. *(Amended: 10-12-04)*

4.7.1. Parking Basic Requirement - No use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off-street parking spaces in accordance with the following parking requirements. No required parking space shall serve more than one use. Parking areas with more than five (5) parking spaces shall be so arranged that vehicles can be turned around within such area and are prevented from backing into the street.

4.7.1.1. Minimum Off-Street Parking Space Requirements. The following are the minimum number of off-street parking spaces that may be provided for each of the uses stated. *(Amended: 10-12-04)*

1. Elderly housing; one (1) space per dwelling unit plus one (1) additional space for every ten (10) dwelling units or fraction thereof.
2. Congregate care facility; one (1) space per dwelling unit.
3. All other dwellings; two (2) spaces for each dwelling unit.
4. Hotels, motels, tourist homes, rooming houses, bed and breakfast establishment; one (1) space per guest room.

5. Hospital or nursing home; one (1) space per three (3) patient beds.
6. Restaurant parking space requirement is based on the following formula:
 - A. Divide the total seats by three. Where seating is provided by bench, booth or picnic table a seat shall be considered two linear feet.
 - B. Divide the total restaurant sq. ft. floor area by 75 sq. ft.

Restaurant minimum parking spaces shall be the sum of A plus B divided by 2.
Parking shall also be provided for outdoor seating in excess of 12 outdoor seats at one parking space per three seats. *(Amended: 10-12-04)*

7. Other places of assembly such as churches, theaters, funeral homes, auction houses and galleries, where seating can be determined; one (1) space per three (3) seats or one (1) space per six (6) linear feet of bench space. Where seating cannot be determined; one (1) space per one hundred-fifty (150) sq. ft. of gross floor area.
8. Office use; one (1) space per two hundred-fifty (250) sq. ft. gross floor area.
9. Retail and service businesses; one (1) space per two hundred (200) sq. ft. gross floor area (minimum of five [5] spaces).
10. Industrial use, wholesale, warehouse, manufacturing plant; three-quarters (3/4) of a space per employee (minimum of five [5] spaces).
11. Golf course including miniature golf; one and one half (1.5) spaces per hole.
12. Marina; one (1) space per berth, ten (10) spaces per boat launching ramp.
13. Campgrounds, tenting areas, and recreational vehicle parks; one and one half (1.5) spaces per camp site.
14. Preschool facility; one (1) space per three (3) students. *(Amended: 8-22-94)*
15. Auto service; four (4) spaces per service bay (non drive thru service) Drive thru service; two (2) spaces per service bay.
16. Outdoor display and sales such as automobiles, farm equipment, heavy machinery, boats, recreational vehicles; one (1) space per five thousand (5,000) sq. ft. of display area.
17. Uses not listed in this schedule; the standard shall be determined by the planning board based on the most similar use listed or on other available adopted zoning ordinance or published sources of parking standards.
18. Notwithstanding these Minimum Off-Street Parking Space Requirements a site development established prior to the adoption of this ordinance for which a change of use is proposed shall meet parking space requirements for the new use to the maximum practical extent as determined by the Code Enforcement Officer provided that at least 75 percent of the required parking spaces are provided. This provision

shall apply to both on-site and off-site parking spaces. Determination of the number of parking spaces in parking lots where spaces are not delineated shall be based on the traditional usage of the lot. It is not the intent of this regulation to retroactively apply current parking location, setback and design standards to site developments established prior to the adoption of this ordinance. (Amended: 10-12-04)

19. For medical a marijuana dispensary, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.
20. For methadone clinic, five (5) spaces per one thousand (1,000) square feet total floor area, plus one additional space for every two (2) employees.

4.24 Performance Standards for Medical Marijuana Registered Dispensaries, Medical Marijuana Cultivation Facilities and Methadone Clinics

4.24.1 Adequacy of Building for the Subject Use. The property and building for a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking areas, and other areas outside of the building(s). A letter of compliance from the Town of Hampden Code Enforcement Officer shall be submitted to the Planning Board as part of the site plan application. The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients and the registered primary caregiver of each registered patient). Any Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), and any Methadone Clinic shall adhere to the laws of the State of Maine and the State of Maine Regulations for Licensing and Certifying Substance Abuse Treatment Programs (14-118 CMR Chapter 5), as any the same may be amended from time to time, and to Ordinances and Codes of the Town of Hampden, as the same may be amended from time to time.

4.24.2. Required Setbacks. No Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall be located within 1,000 feet of the property line upon which the Dispensary and/or Facility and or Methadone Clinic is or are located and the nearest property line of any of the following, which is or are in existence when an application for a Medical Marijuana Registered Dispensary and or Medical Marijuana Cultivation Facility and/or Methadone Clinic is made:

- 4.24.2.1. Preexisting public or private school.
- 4.24.2.2. Preexisting church or other facility for religious worship.
- 4.24.2.3. Preexisting residence or lot located in a Residential A District, Residential B District or Rural District.
- 4.24.2.4. Preexisting licensed daycare facility, or
- 4.24.2.5. Preexisting juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation or treatment center or program.
- 4.24.2.6. Preexisting athletic field, park, playground or recreation facility.

4.24.3. Maximum Number of Subject Use Within the Town of Hampden. No more than one (1) Medical Marijuana Registered Facility and/or one (1) Marijuana Cultivation Facility and/or one (1) Methadone Clinic shall be located in the Town of Hampden. If both a Medical Marijuana Registered Dispensary and a Medical Marijuana Cultivation Facility are located in Hampden, they shall be located on the same property and shall be under common ownership.

4.24.4. Hours of Operation. A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00 a.m. and 8:00 p.m. daily. A Methadone Clinic shall only be open between the hours of 6:00 a.m. and 8:00 p.m.

4.24.5. Signs and Advertising. Medical Marijuana Registered Dispensary and/or Medical Cultivation Facility and/or Methadone Clinic shall conform to the provisions of Article 4.8 Signs of this Ordinance. In addition thereto, any freestanding or sign attached to building(s) in which the Dispensary and/or Facility is located in shall clearly state that it is a Medical Marijuana Dispensary and/or Medical Cultivation Facility and/or Methadone Clinic. There shall be no signage in any window and/or door, except for the hours of operation and the presence of a security system. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers and/or methadone clinic patients.

4.24.6. Security Requirements for Subject Use. Security measures at a Medical Marijuana Registered Dispensary and /or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall include the following at a very minimum:

4.24.6.1. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week to monitor all entrances, along with the interior and exterior of the Dispensary and/or Facility and/or Clinic, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;

4.24.6.2. Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications;

4.24.6.3. A safe affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Dispensary and/or Facility, and a secure storage container for methadone and cash stored overnight in a Clinic;

4.24.6.4. Exterior lighting that illuminates all exterior walls of the licensed Dispensary and/or Facility and/or Clinic; and

4.24.6.5. Deadbolt locks on all exterior doors and locks or bars on any other access point.

All security recordings shall be preserved for thirty (30) days by the management of the

licensed Dispensary and/or Facility and/or Clinic.4.24.7. Consumption, Ingestion Or Inhalation Of Medical Marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the property of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility is prohibited; provided, however, that a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility employee who is a registered patient, as that term is defined in 22 M.R.S.A. Section 2422(12), as the same may be amended from time to time, may consume medical marijuana inside the building(s) on the licensed property, if such consumption occurs via oral consumption and not by smoking. For purposes of this subsection, the term "licensed property" shall include the lot or parcel of the land upon which the Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility are located.

4.24.8. Visibility Of Activities; Control Of Emissions; Disposal Plan for Subject Use. Visibility of activities; control of emissions; disposal plan for a Medical Marijuana Registered Facility and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall be as follows:

4.24.8.1. All activities of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.

4.24.8.2. No marijuana or paraphernalia shall be displayed or kept in a Dispensary or Facility so as to be visible from outside the building (s).

4.24.8.3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a Dispensary and/or Facility and/or Clinic must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

4.24.8.4. Any Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility shall have in place an operation plan, subject to the approval of Hampden Public Safety, for proper disposal of marijuana related byproducts.

4.24.8.5. Class II Bufferyards in accordance with Article 4.7.4 Screening/Bufferyards shall be provided along each lot line or at least along each line of the developed area of buildings and parking areas.

4.24.9. Limitations of Food Products. No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Registered Dispensary except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

4.24.10. Compliance With State and Local Law. A Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries or methadone clinics, the stricter law or regulation shall control.

ARTICLE 7
DEFINITIONS

7.1. Construction Language - In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure" and the word "dwelling" includes the word "residence", the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

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

Marijuana: Marijuana shall have the definition set forth in Title 17-A M.R.S.A. Section 1101(1) and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122, Section 1.15), as the same may be amended from time to time.

Medical Marijuana Registered Dispensary: Medical Marijuana Registered Dispensary means a not-for-profit entity as defined under Title 22 M.R.S.A. Section 2422 and registered pursuant to Title 22 M.R.S.A. Section 2428 and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the Dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. Any Medical Marijuana Registered Dispensary shall be further defined in, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

Medical Marijuana Cultivation Facility: Medical Marijuana Cultivation Facility means a building owned or operated by a not-for-profit entity registered pursuant to the laws of the State of Maine and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that is used for the cultivation or storage of marijuana for the Medical Marijuana Registered Dispensary licensed by the State of Maine for Penquis District 6. Any Marijuana Cultivation Facility shall be further defined in, and shall adhere to, the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

Methadone Clinic – Methadone Clinic is a clinic which has been established for the dispensing of methadone (Dolophine) to those who abuse heroin and other opiates. The focus of these clinics is the elimination or reduction of opiate usage by putting the patient on methadone.

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Thursday, January 13, 2011, at the Hampden Municipal Building by Acting Chairman Michael Avery.

Attendance: Planning Board Chairman Peter Weatherbee, Members Andrew Nelson, Peter Frazier, Thomas Blais, Mort Syversen.

Also in attendance: Town Planner Robert Osborne and applicants for tonight's meeting.

1. ELECTION OF OFFICERS

Member Frazier nominated **Peter Weatherbee** for Chairman. This was seconded by Member Syversen. The vote was unanimous. Chairman Weatherbee accepted the role of Chairman.

Member Frazier nominated **Michael Avery** for Secretary. This was seconded by Member Syversen. The vote was unanimous.

2. APPROVAL OF MINUTES (November 10, 2010)

Member Nelson made a motion to approve the minutes as written. This motion was seconded by Member Frazier. The vote was unanimous.

3. NEW BUSINESS

- A. Minor Subdivision – Alan Peters requests approval to modify Lot 1 of the previously approved Andrade Subdivision located at the northeast corner of Kennebec Road and Libby Lane in a Rural District. (Tax Map 5, Lot 73-B1)- Public Hearing**

Chairman Weatherbee opened the public hearing, asking to hear from the applicant.

Alan Peters asked the Board to amend lot 1 of the Andrade Subdivision. He stated that lot one is currently a three acre lot and the revision reduces the area to 2.0 acres, He stated that they are creating road frontage on Kennebec Road for his existing house lot to the rear and a potential second lot to the rear by modifying the subdivision. He indicated that the plan meets the town standards and asked the Board to approve the plan.

As no one else wished to speak Chairman Weatherbee closed the public hearing and asked for staff comments.

Town Planner Bob Osborne stated that the Andrade Subdivision was created and approved in 1985. Libby Lane is a town road (associated with the subdivision) about 400 feet in length. It came to our attention that tax map 5, lot 91 to the rear of the subject subdivision lot did not meet the frontage requirement of the Rural District on Libby Lane (because the constructed length of Libby Lane is longer than the accepted length of the street). Mr. Peters who owns both parcels seeks to amend the subject subdivision lot to provide frontage to the land to the rear. Frontage is provided as proposed for two lots to

the rear (Tax map 5, Lot 91). The subject lot (map 5 lot 73-B1), would be reduced in size and road frontage but is fully conforming as proposed. Staff recommends subdivision approval.

Member Syversen asked about access and a deeded easement.

Member Syversen made a motion that the application meets the standards governing subdivision, this motion was seconded by Member Nelson. The vote was five in favor and none against. Chairman Weatherbee asked that the Town Planner's Memo be entered into the record.

B. Zoning Ordinance Text Amendments – Town of Hampden requests amendments to regulate medical marijuana registered dispensaries and cultivation facilities including amendments to Definitions 7.2, district regulations Article 3.1 - Industrial Park, 3.2 – Industrial and 3.3 – Commercial Service Districts, Performance Standards are proposed in Article 4.24 and parking standards are proposed in Article 4.7 – Public Hearing

Chairman Weatherbee opened the public hearing. He asked for anyone speaking in favor then anyone opposed, then anyone with questions or general comments.

Shelley Blosser of Hampden asked is it a necessity that Hampden allow medical marijuana dispensary and cultivation facilities?

Bob Osborne asked Chairman Weatherbee if he could address the question. He indicated that the voters approved the referendum to allow medical marijuana and the legislature approved a statute to allow for the creation of regional facilities. The question is what happens when a company comes and says it wants to put a facility in town? Failing having medical marijuana regulations in place the code enforcement officer would have to determine if the zoning ordinance addresses the use either specifically or inclusively in the form of some category of use such as service business or medical facility. Then given that this use was not contemplated when the zoning ordinance was written in 1979 and forward no appropriate performance standards or district considerations were crafted for this use. The purpose for the town to look at this is if a request comes to the town and the legislature said it is a legal operation that we have the appropriate land use controls in place so that the people of the town can live with. Looking at downtown Hampden there are service businesses contemplated in the Village Commercial Districts and Business B District. If it were to be determined that this is a service business would Hampden citizens be comfortable with that use in close proximity to homes and schools?

Shelley Blosser asked: So you are saying outer town areas?

Bob Osborne indicated that the goal is to find some standards that aren't totally unreasonable but thoroughly consider the juxtaposition of homes and schools and churches.

Bob Osborne said that as we went through the Council Planning and Development Committee process that is what was discussed. We looked at two ordinances: South Portland and Brewer. We utilized Brewer's primarily with some elements of South Portland's as well.

Shelley Blosser asked: Are we bound by law to have one, a plan in place, if other towns already have a plan in place?

Bob Osborne said that if we do not have appropriate regulations then the existing regulations apply.

Shelley Blosser said next to Edwards (Supermarket).

Member Syversen said (when the application comes to the town) you would just wing it with the current rules. We can set up a black box now that applications must pass through but only if it is in place before they apply (for the use).

Shelley Blosser asked: Is there any way to zone it out of town?

Bob Osborne said that I put that question to Town Attorney Tom Russell and he indicated that he did not think so.

Shelley Blosser asked: Why?

Bob Osborne said that is because the legislature has passed a law that says the use is legal to do in the state of Maine. In zoning law ordinances are supposed to be crafted with a place in town for every use. Not a lot of places but some place.

Shelley Blosser asked if we can have the pertinent laws at the public hearing.

Bob Osborne indicated that this was a subject that would require time and attention and is not a five minute discussion for this hearing.

Shelley Blosser said we agreed in what we voted on the referendum as a state to have medical marijuana facilities. In what we voted does it require that each town have one?

Bob Osborne said that each region will have one initially. If South Portland gets one Westbrook will not have to worry about one initially. However, eventually a single facility will not be adequate and the legislature may come to the conclusion that more are necessary.

Shelley Blosser said that has not happened yet.

Bob Osborne said no, not yet but we are currently in a moratorium on medical marijuana pending adoption of local regulations.

Member Frazier said the legislature did not leave it up to the local communities to decide if they want methadone clinics or medical marijuana clinics. The voters for whatever reason said it is fine to have one. I think what Bob is saying is that we are developing an ordinance that may make it contained because we can't prohibit it completely. I hope we do a good job of creating an ordinance that makes it less attractive to establish the use in Hampden than some other place.

Shelley Blosser asked when does the moratorium run out?

Bob Osborne said he believed it ran out in six months. (The actual extension was for 120 days).

Shelley Blosser asked if we are having other hearings.

Bob Osborne indicated that the Planning Board will likely take this back up next month.

Sally Leete, of Hampden cited a MSNBC report that looked at San Francisco, California and the connections between medical marijuana and crime. It quoted a public official that indicated where there are drugs and money there will always be crime. Sally Leete noted that although marijuana is illegal under federal law the voters approved medical marijuana and Maine is going to have this. It brings in a whole new set of laws and guidelines. It is not something I would like to see in Hampden. She questioned that not all people in town have internet and computers and she favored an open forum for exchange of information.

Kristen Hornbrook, Hampden Town Councilor, spoke about concerns of the crime rate going up and the growing drug problem and cited data from San Francisco, California.

Councilor Hornbrook discussed that these were good issues that were raised and an emotionally charged topic and the statute could have been done differently with control by medical providers. With drug problems everywhere it boggles the mind that this got approved. Perhaps this is something that could be brought to referendum. The question: are you for or against medical marijuana in Hampden? What about Home Rule? Where does it say we must have a medical marijuana facility in Hampden? What about home rule option? What the State says and what the Town says- legally what or where does the town stand on this? It is illegal to possess marijuana under federal law. Can the Town extend the moratorium on medical marijuana? She wants to see that statute, law or case that says towns must provide a place for each use in a zoning ordinance. Perhaps through regulation the town can define a regulation that would make it extremely difficult for the use to be established here. I spoke to the town attorney and he said that the use cannot be excluded but I want to see where it says that. I want to talk more about home rule and the state and local differences and who has the final say. Perhaps there is a link between a referendum and what authority the town could have to exclude the use. My feeling is that if it is medical marijuana that it should be near a medical facility such as Brewer's treatment center. It is illegal to possess marijuana under federal law. Do we have to end the moratorium or can we extend it?

Chairman Weatherbee stated that it strikes him that some of the issues raised tonight are

better suited to the Town Council.

Bob Osborne stated that the moratorium must clearly state a reason for it and the time frame to do what was stated for a reason in the moratorium. Moratoriums are temporary.

Mr. Osborne suggested this item be referred to the Planning Board Ordinance Committee, and he will make the arrangements for the committee to meet, time and place.

A motion was made by Member Syversen to table. This was seconded by Member Frazier. The vote was five in favor and none against.

C. Zoning Ordinance Text Amendments – Town of Hampden requests amendments to reduce the required setbacks of certain small accessory structures in Article 3.3 Commercial Service District. – Public Hearing

Chairman Weatherbee opened the public hearing.

Bob Osborne stated that reduced setbacks for accessory structures already existed in the Rural District and the Residential A and B Districts. The town is seeking to apply those existing standards to the Commercial Service District as well. Hampden Mobile Home Park is in the Commercial Service District. The park would benefit from allowing accessory structures with reduced setbacks so that some of the stuff in the yards could be stored in sheds. Accessory buildings would be under 150 square feet and under 16 feet in height. The side and rear setback reduced to five feet.

As no one else wished to speak Chairman Weatherbee closed the public hearing and asked that the staff memo become part of the public record.

Member Syversen made a "ought to pass" recommendation to send this to Council. This was seconded by Member Frazier. The vote was five in favor and none against.

4. STAFF REPORT

Mr. Osborne distributed copies of the 2010 Town of Hampden Comprehensive Plan to the Board Members.

Next month's agenda is light with just the text amendment.

5. BOARD MEMBERS CONCERNS

None were stated.

6. ADJOURNMENT

The Planning Board meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Michael Avery, Secretary



Robert Osborne <planner@hampdenmaine.gov>

FW:

1 message

PETER FRAZIER <psfinmaine@msn.com>

Tue, Feb 15, 2011 at 1:52 PM

To: planner@hampdenmaine.gov

Robert:

Please pass this on to the Planning Board members.

I do not have all of their current e-mail addresses.

If you have questions, please contact me.

Peter

Peter S. Frazier

*Defender of Personal Integrity,
Freedom, and Responsibility*
psfinmaine@msn.com



ORDINANCE MARIJUANA.docx

13K

Mr. Robert Osborne
Planner
Town of Hampden

1-24-2011

Please forward my comments to the other members of the ordinance committee.

In general, I believe that the town cannot overrule the State Legislature. However, if it can, I will vote for barring methadone, marijuana, and other offensive programs from the Town.

However since we probably cannot, we must make the rule and ordinances such that they protect the law abiding citizens of the town. I recommend the following ordinances be implemented.

1. A permanent video of all store personnel, operations and patrons be kept by the Town Police Department on a real time basis at the police station. The cost of this to be borne by the store owners.
2. All patrons must have a full face video prior to buying the drug. All employees must have a full background check by the police department paid for by the store.
3. All exterior doors must be of steel strong enough to prevent entry by potential thieves. All windows must be of a construction to prevent any access from the outside. All windows and doors must have a permanent outside video maintained by the police, paid by the store.
4. Any operational unanticipated town costs, such as additional police, fire etc. must be paid for by the store.
5. Only Hampden residents and prescriptions will be honored.
6. Any marijuana found on persons not prescribed but having the marijuana come from the store will cause the store to be closed for 1 month, second offense is 6 months' closure; third offense is permanent closure.
7. A monthly audit by a registered CPA chosen by the Town Council and paid for by the store will be conducted on the growing volume, the inventory, and the sale of product to prevent "leakage, gifts or non-registered sales" of product.
8. No employee can have any police record of using, growing, selling, etc of marijuana or any other illegal drug for any reason. Further, no one with any felonies can be employed.

Peter S. Frazier

Member of the Town of Hampden
Ordinance Committee
Planning Committee

C-3-d

FARRELL, ROSENBLATT & RUSSELL

ATTORNEYS AT LAW
61 MAIN STREET
P.O. BOX 738
BANGOR, MAINE 04402-0738

ANGELA M. FARRELL
NATHANIEL M. ROSENBLATT
THOMAS A. RUSSELL
JON A. HADDOW
GREGORY P. DORR
ROGER L. HUBER

TELEPHONE (207) 990-3314
TELECOPIER (207) 941-0239
e-mail: tar@frrlegal.com

MEMORANDUM

Date: February 23, 2011
To: Susan Lessard
From: Tom Russell
Re: Comprehensive Plan Issues

Special Meeting Called for March 1, 2011

Section 211(a) of the Town Charter requires the Town Council to “meet regularly at least once in every month at such times and places as may be prescribed by rule.” The Hampden Town Council Rules designate the first and third Mondays of each month as regular council meetings, and establishes the order of business for those meetings. Section 211(a) of the Charter also provides that special meetings of the Town Council may be held on the call of the mayor or of five or more members of the Town Council.

At the Town Council meeting on February 7, 2011, the Town Council voted to hold a special meeting on March 1, 2011 from 6:00 p.m. to 9:00 p.m. Based on my viewing of a DVD of the meeting, Councilor Cushing made a motion “that the comprehensive plan implementation and a public forum on comprehensive plan implementation be held on March 1st.” The motion was seconded by Councilor Hornbrook, and was passed by unanimous vote. Therefore, a special meeting was called by the members of the Town Council. The authority to call a special meeting also includes the authority to prescribe the agenda for that meeting. In this case, the stated purpose of the special meeting is to have a public forum on the comprehensive plan implementation, and neither the motion nor the discussion thereon contemplated taking any action on the comprehensive plan itself at the special meeting.

Although Section 211(e) of the Town Charter provides that any subject may be placed on the agenda for a council meeting by a councilor, the town manager or at the request of any citizen, it is my opinion that subsection (e) pertains to a regular council meeting, not a special council meeting. Since only the mayor or five councilors may call a special meeting and establish its agenda, it does not make sense to interpret subsection (e) to mean that only one

councilor, the town manager, or one citizen may place additional matters on a special meeting agenda. In my opinion, if it takes the mayor or five members to call a special meeting, only the mayor or five councilors have the authority to add additional matters to a previously called special meeting. In addition, even for a regular meeting, Section 211(e) only requires that a subject be placed on the agenda, it does not include the right of one councilor, the town manager, or a citizen to determine the form of any motion that the Town Council must vote on. For example, the subject matter of repealing the comprehensive plan may be placed on the agenda of a regular meeting at the request of a councilor, town manager, or citizen, but an item directing the council to vote on a specified motion concerning the comprehensive plan cannot be placed on the agenda by such a request.

In any event, as discussed below, it is my opinion that the 2010 Comprehensive Plan of the Town of Hampden cannot be repealed by merely placing it on a Council meeting agenda for a vote.

Process to Consider Repeal of Comprehensive Plan

Title 30-A M.R.S. §4323 authorizes a municipality to plan for its future development and growth, and to adopt and amend local growth management programs, including comprehensive plans and implementation programs. Although municipalities are no longer required to adopt comprehensive plans and zoning ordinances comprising a local growth management program, a municipality that chooses to engage in a growth management program must adopt both a comprehensive plan and an implementation strategy. *Bragdon v. Town of Vasselboro*, 780 A.2d 299 (Me. 2001). Furthermore, a comprehensive plan is a mandatory prerequisite to a zoning ordinance, and 30-A M.R.S. §4352(2) provides that a zoning ordinance “must be pursuant to and consistent with a comprehensive plan.”

The Town of Hampden adopted its first comprehensive plan in 1963, followed by the adoption of its first zoning ordinance. The Town adopted its second comprehensive plan in 1986, and adopted its third comprehensive plan in 2001 pursuant to the so-called growth management act enacted by the Maine Legislature in 1989, as amended. In 2007, the Town Council appointed a planning committee to develop a new comprehensive plan for the Town of Hampden. As required by 30-A M.R.S. §4324, it is my understanding that the planning committee held many meetings in open, public sessions, and held a number of public hearings to solicit public input on the development of a new comprehensive plan. Section 4324(3) encourages public participation in the development of a growth management program (which includes a comprehensive plan), and requires a municipality to solicit and consider a broad range of public review and comment. Section 4324(3) also provides that the “intent of this subsection is to provide for the broad dissemination of proposals and alternatives, opportunity for written comment, open discussions, information dissemination and consideration of and response to public comments.” Once the planning committee process has been completed, the committee refers the final draft of the comprehensive plan to the legislative body (i.e., Town Council in Hampden). The comprehensive plan does not become effective until it is adopted by the legislative body. The Town Council adopted the comprehensive plan on October 4, 2010.

Section 4324(10) provides that when amending an adopted comprehensive plan, the municipality must follow the same procedures for citizen participation, public notice, and public hearing that are required for adoption of a comprehensive plan. The statute does not address the repeal of a comprehensive plan, and therefore the statute does not contain any express provisions dealing with the repeal of a comprehensive plan. In the absence of any alternative procedure in the statute to repeal a comprehensive plan, the repeal of a comprehensive plan must be subject to the same process applicable to the adoption or amendment of a comprehensive plan. I discussed this matter with Michael Stoltz of the Maine Municipal Association's Legal Department and Elizabeth Hertz, Land Use Team Manager of the Maine State Planning Office, and neither of them was aware of any repeal of an adopted comprehensive plan by a municipality. They both agreed, however, that the same process for adoption or amendment should be followed for a proposed repeal.

Furthermore, given the legislative purposes and goals of the growth management statute set forth in 30-A M.R.S. §4312, the public participation opportunities in the adoption or amendment of a comprehensive plan component of a growth management plan, and possible impacts on the public that may arise from the repeal of a comprehensive plan, the significant issue of whether to repeal a comprehensive plan should be processed in the same public manner as the adoption or amendment of a comprehensive plan. In essence, outright repeal of a comprehensive plan is the ultimate amendment of the plan. If the Town Council determines that consideration of amendments to, or repeal of, the comprehensive plan is desirable, it should refer the matter to the planning committee with some instructions on what is expected of the committee. The committee would then go through the statutory process, and develop recommendations for consideration by the Town Council.

Consequences of Repeal of 2010 Comprehensive Plan

Although the vote to adopt the 2010 Comprehensive Plan did not expressly repeal the 2001 Comprehensive Plan, it is my opinion that the 2001 Comprehensive Plan was repealed under the doctrine of repeal by implication. The Supreme Judicial Court of Maine has held on a number of occasions that when a later enactment encompasses the entire subject matter of an earlier enactment, the earlier enactment is considered to be repealed by implication. The implied repeal of an earlier enactment by a later enactment is grounded "in the reasonable inference that the legislative body could not have intended that there should be two distinct enactments on the same subject matter in force at the same time, and that the newer enactment, being the most recent expression of legislative will, must be deemed a substitute for the previous enactment." *Lewiston Firefighters Association v. City of Lewiston*, 354 A.2d 154 (Me. 1976), quoting *Knight v. Aroostook Railroad*, 67 Me 291 (1877). In this matter, it is reasonable to infer that the Town Council did not intend to have two distinct comprehensive plans in effect at the same time, so the adoption of the 2010 Comprehensive Plan repealed the 2001 Comprehensive Plan by implication.

Therefore, if the 2010 Comprehensive Plan is repealed, the Town of Hampden will no longer have in place an adopted Comprehensive Plan (I researched the issue, but could find no doctrine concerning the implied re-enactment of a prior enactment upon the repeal of the later

enactment). To re-adopt the 2001 Comprehensive Plan, the Town would need to go through the statutory comprehensive plan adoption process. The lack of a comprehensive plan would prohibit the Town from having a growth management program, and would most likely put the validity of the current Zoning Ordinance in jeopardy, as 30-A M.R.S. §4352(2) requires that a zoning ordinance must be pursuant to and consistent with a comprehensive plan. Although it does not appear that the Supreme Judicial Court of Maine has ruled on the issue, it is my opinion that the comprehensive plan requirement is an ongoing prerequisite for a zoning ordinance. I think it is highly unlikely that the Court would hold that a comprehensive plan is only a prerequisite for the enactment of a zoning ordinance, and that the repeal of the comprehensive plan after the enactment of a zoning ordinance does not have an effect on the zoning ordinance. After all, a zoning ordinance is part of the implementation strategy for the goals, policies and objectives set forth in a comprehensive plan. If the comprehensive plan is repealed, there is no longer a foundation of goals, policies and objective for the zoning ordinance to implement.

FARRELL, ROSENBLATT & RUSSELL

**ATTORNEYS AT LAW
61 MAIN STREET
P.O. BOX 738
BANGOR, MAINE 04402-0738**

ANGELA M. FARRELL
NATHANIEL M. ROSENBLATT
THOMAS A. RUSSELL
JON A. HADDOW
GREGORY P. DORR
ROGER L. HUBER

TELEPHONE (207) 990-3314
TELECOPIER (207) 941-0239
e-mail: tar@frrlegal.com

M E M O R A N D U M

Date: February 24, 2011

To: Denise Hodsdon, Town Clerk
Susan Lessard, Town Manager

From: Tom Russell

Re: Petition to Repeal Comprehensive Plan

It is my understanding that someone has inquired about using the voter petition process to repeal the 2010 Comprehensive Plan. Article IX of the Town Charter deals with the referendum and initiative authority of the voters of the Town of Hampden.

Section 901(a) grants the qualified voters of the Town the “power to require reconsideration by the council of any adopted ordinance.” If the council fails to repeal or change an ordinance upon reconsideration, the qualified voters have the power to approve or reject the ordinance by referendum at a town election, with specified exceptions.

The term “ordinance” has been defined as: (1) a statute or law adopted by a municipal government, (2) a local law or regulation, (3) a regulation enacted by a local government that has the force of law, (4) a law of local application, whose violation is an offense against the municipality enacting it, or (5) a law passed by a municipal government to establish rules and regulations affecting people or areas of a specific locality.

The 2010 Comprehensive Plan was not adopted as an ordinance, and it does not constitute an ordinance. Although a comprehensive plan establishes goals and objectives concerning various municipal issues, including land use regulation, and is required to propose an implementation strategy to implement those goals and objectives, the comprehensive plan itself is not a regulatory document, it is a visionary document. The comprehensive plan itself does not establish any regulations on the use or development of property.

In 2009, the Supreme Judicial Court of Maine (“Law Court”) had an occasion to address the nature of a comprehensive plan in the case of *Nestle Waters of North America, Inc. v. Town of Fryeburg*, 2009 ME 30, 967 A.2d 702 (Me. 2009). In that case, the Fryeburg Planning Board

granted a permit to Nestle Waters, d/b/a Poland Spring, to build a water “loadout facility”. The Board of Appeals reversed the Planning Board, and the matter was appealed to Superior Court. The Superior Court determined that a provision of the comprehensive plan that only “low impact businesses should be allowed in the rural area” constituted a review criterion that the Planning Board had not applied to the application. Therefore, the Superior Court vacated the Board of Appeals decision and remanded the matter to the Planning Board for findings on whether the project met the “low impact” standard. The Planning Board determined that the proposed facility was not a “low impact” business under the comprehensive plan, and voted to deny the application. The Board of Appeals affirmed the Planning Board’s decision, and the matter was again appealed to Superior Court, which also affirmed the Planning Board’s decision.

In the appeal of the Superior Court decision to the Law Court, Poland Spring argued that although the comprehensive plan provided an overall land management strategy and guidance for the adoption of appropriate ordinances, only the Town’s land use ordinance was regulatory. The Law Court reviewed the language of the growth management statute, and observed that one of the mandatory components of the comprehensive plan is that it contain an “implementation strategy” that includes the adoption of land use ordinances, citing 30-A M.R.S. § 4326(3). The Law Court then stated as follows: “Beyond the logical conclusion that a comprehensive plan would not need an implementation strategy if it were regulatory standing on its own, the Legislature’s description of an acceptable implementation strategy indicates that it anticipated further municipal action in order to enforce the comprehensive plan’s policies.” *Id.* at Page 708. The Law Court went on to hold that the definition of key terms of the statute reinforced its “conclusion that the comprehensive plan is just that - a plan - and the ordinances adopted pursuant to the plan are its regulatory teeth.” *Id.* at Page 709.

Since the 2010 Comprehensive Plan is not a regulatory document and does not have the force of law, it is not an ordinance, and is therefore not included within the referendum authority granted to the qualified voters under Section 901(a) of the Town Charter.¹ In addition, even if the 2010 Comprehensive Plan was an ordinance, Section 903 requires that the petition for reconsideration be filed with the town clerk within 20 days of the enactment of an ordinance. Since the Plan was adopted on October 4, 2010, the deadline under the Charter to file a petition for reconsideration with the town clerk was October 20, 2010.

¹ It should be noted that there is an inconsistency between Section 901(a) and the provisions of Section 903, entitled “Commencement of Proceedings.” While Section 901(a) only grants authority to petition for reconsideration of an ordinance, Section 903 provides that the petition shall contain or have attached thereto the full text of the “ordinance, order or resolve” sought to be reconsidered. The phrase “ordinance, order or resolve” is used in additional instances within Section 903. In my opinion, the general authority paragraph of Section 901(a) controls, as it establishes the power and authority of the qualified voters to require reconsideration of an ordinance adopted by the council, and a referendum thereon if the council fails to repeal or change the ordinance. The authority granted by Section 901(a) is not expanded by the inconsistent procedural language of Section 903. In addition, Section 901(a) calls for a referendum only if the council fails to repeal or change the ordinance, but Section 903 does not even contemplate such council action and seems to require automatic submission of the matter to a referendum vote. Although not relevant to the comprehensive plan issue, I also noticed that the initiative provisions are also inconsistent, but in reverse. Section 901(b) grants qualified voters the right to initiate proposed “ordinances, orders or resolves,” but Section 905 dealing with enactment by the initiative process only references the enactment of ordinances by initiative. At some point, I recommend that the Town Council pursue amendments to the Charter to resolve the inconsistencies in Article IX.

C-4-a

STATE OF MAINE
Penobscot, ss

SUPERIOR COURT
Criminal Action
Docket No. CR-2010-4248

STATE OF MAINE,	}	
	}	Town of Hampden
v.	}	Approval of Transfer
	}	15 M.R.S.A. § 5824(3) & 5822(4)(A)
BENJAMIN D. BOULIER,	}	
Defendant	}	
	}	
and	}	
	}	
One (1) 2002 GMC Sierra	}	
Pickup Truck,	}	
VIN: 1GTEK14W92Z345384	}	
Defendant In Rem	}	

NOW COMES the Town of Hampden, Maine, by and through its legislative body, the Hampden Town Council, and does hereby grant approval pursuant to 15 M.R.S.A. §§ 5824(3) & 5826(6) to the transfer of the Defendant In Rem, namely, One (1) 2002 CMC Sierra Pickup Truck, VIN: 1GTEK14W92Z345384, on the grounds that the Town of Hampden Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the Hampden, Maine Town Council does hereby approve of the transfer of the Defendant In Rem, namely, One (1) 2002 CMC Sierra Pickup Truck, VIN: 1GTEK14W92Z345384, pursuant to 15 M.R.S.A. §§ 5824(3) & 5826(6) by vote of the Hampden Town Council on or about

Dated: _____

Chairperson/Mayor/Councilman/Clerk
Hampden Town Council

Hampden, Maine
(impress Legislative Body Seal Here)

OFFICE OF THE DISTRICT ATTORNEY

PROSECUTORIAL DISTRICT V

R. CHRISTOPHER ALMY
District Attorney

MICHAEL P. ROBERTS
Deputy District Attorney



PISCATAQUIS COUNTY
(207) 564-2181
Fax (207) 564-6503

PENOBSCOT COUNTY
(207) 942-8552
Fax (207) 945-4748

PENOBSCOT COUNTY
97 Hammond Street - Bangor, Maine 04401-4990

February 28, 2011

Denise Hodgdon, Clerk
Town of Hampden
106 Western Avenue
Hampden, Maine 04444

Re: State of Maine v. Benjamin D. Boulier
Penobscot County Superior Court Docket No. CR-2010-4248
Criminal Forfeiture
Required Vote of Town Approval of Transfer of Forfeiture Assets

Dear Ms. Hodgdon:

Enclosed please find a draft Town of Hampden Approval of Transfer of Forfeiture Assets form for submission to the town council.

Please inform the council that:

- A. 15 M.R.S.A. § 5824(3) requires that, before any forfeitable item may be transferred to a State Agency, County or Municipality, the legislative body of that entity must publicly vote to accept the item(s) **if subsequently ordered forfeited by the Court;**
- B. Under Rules issued by the Department of the Attorney General, a public vote must be made on each forfeiture "approval" and a "continuing resolution" of approval cannot be accepted;
- C. As with all forfeitures, an approval of a transfer by the legislative body does not guarantee either that the Defendant(s) *In Rem* will in fact be forfeited or, if forfeited, that the Court will order the item transferred to the approving Department, Agency, County or Municipality. The legislative body's approval only signifies that, if the Defendant(s) *In Rem* is in fact ordered forfeited and, if the Attorney General and the Court agree to a transfer of all or part of the Defendant(s) *In Rem* to a Department, Agency, County or Municipality based

upon the “*substantial contribution*” of that Department, Agency, County or Municipality, then

that entity is in fact, willing to accept the Defendant(s) *In Rem* or portions thereof. In order to streamline what is otherwise a cumbersome forfeiture process, it is our practice to seek State, County or Municipal legislative approval in anticipation of the final order of forfeiture. However, final forfeiture is not guaranteed and both the legislative body and the law enforcement agency involved are **cautioned** that they **should not encumber** funds or property until a Final Order granting them lawful title to the property is delivered to them;

- D. Under the provisions of the Forfeiture Statute, if the legislative body fails to approve a transfer in a timely manner, any forfeited items shall be transferred to the State of Maine General Fund.

Assuming your legislative body does grant its approval, kindly see to it that the accompanying form is signed by the appropriate person and is “embossed” with the seal of that legislative body. Then, please return the **original** to me for filing, and retain a copy for your records.

My sincere thanks for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,



Brendan F. Trainor
Assistant District Attorney

PCL:p

Enclosure