



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING  
AGENDA

MONDAY

MARCH 19<sup>TH</sup>, 2018

7:00 P.M.

**6:00 p.m. – Finance & Administration Committee**

- A. PLEDGE OF ALLEGIANCE
- B. CONSENT AGENDA
  - 1. SIGNATURES
  - 2. SECRETARY'S REPORTS
    - a. March 5<sup>th</sup>, 2018
  - 3. COMMUNICATIONS
    - a. Notice and application from Maine Revenue Services regarding ratio declaration & reimbursement for the Homestead Exemption
    - b. Notice of Eastern Maine Community College's Annual Dinner to be held April 26<sup>th</sup>, 2018
    - c. Information on an upcoming course regarding harassment in the workplace to be held April 13, 2018
    - d. MRC memo regarding funds received from the Put Option buyback agreement
    - e. Renewal Victualer's licenses approved – Best Western, Dysarts Service, Pizza Gourmet, R & K Variety
    - f. Candyland Family Dance to be held March 24, 2018 at the Skehan Center
  - 4. REPORTS
    - a. Finance Committee Minutes – February 20<sup>th</sup>, 2018
    - b. Infrastructure Committee Minutes – None
    - c. Planning & Development Committee Minutes – February 14<sup>th</sup>, 2018
    - d. Services Committee Minutes – February 12<sup>th</sup>, 2018
    - e. Recreation Committee Minutes – November 21, 2017
- C. PUBLIC COMMENTS

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

## D. POLICY AGENDA

## 1. NEWS, PRESENTATIONS &amp; AWARDS

## 2. PUBLIC HEARINGS

- a. Consideration of the proposed amendments to the Hampden Business Park Covenants pursuant to Article VI of the Covenants – *referral from Planning & Development Committee*
- b. Consideration of the proposed Ordinance authorizing the appropriation and borrowing of funds to finance the repair and replacement of portions of Hampden's Sewer Collection System – *continued from March 5<sup>th</sup>, 2018*

## 3. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. Appointment of Chief Rogers as acting Town Manager during the week of April 16<sup>th</sup>
- b. Update on the status of rank choice voting

## 4. OLD BUSINESS

## 5. NEW BUSINESS

- a. Council re-authorization of the Emergency Moratorium Ordinance Regarding Retail (Adult Use) Marijuana
- b. Council approval of the 2018 River Herring Harvest Plan and the retention of fishing rights in Municipal waters
- c. Request for authorization for the expenditure in an amount up to \$3,765 from Playgrounds Reserve account (3-768-00) for tennis court light poles – *referral from Finance & Administration Committee*
- d. Request for authorization for the expenditure of \$9,238 from Fire Camera Reserve account (3-747-00) for a thermal imaging camera – *requested by Chief Joseph Rogers*
- e. Council approval to move the Infrastructure Committee meeting to April 30<sup>th</sup> – *referral from Finance & Administration Committee*

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



HAMPDEN TOWN COUNCIL  
HAMPDEN MUNICIPAL BUILDING  
MINUTES

MONDAY

MARCH 5<sup>TH</sup>, 2018

7:00 P.M.

**6:30 p.m. – Finance & Administration Committee**

*Attending:*

*Mayor McPike  
Councilor Wilde  
Councilor Cormier  
Councilor McAvoy  
Councilor Marble  
Councilor Sirois  
Councilor Ryder*

*Town Manager Angus Jennings  
Town Clerk Paula Scott  
Chief Joe Rogers  
Sgt. Dan Stewart  
Asst. Superintendent Regan Nickels  
Rec Director Shelley Abbot  
DPW Director Sean Currier  
Kyle Corbeil of Woodard & Curran  
Jayne & Eric Jarvi  
Noreen Norton  
Chuck Lawrence, Southstreet Development  
Chip Laite, Sargent Corporation*

- A. PLEDGE OF ALLEGIANCE** – *Mayor Ryder led the Pledge of Allegiance*
- B. CONSENT AGENDA** – *Councilor Marble made a motion, seconded by Councilor McAvoy, to accept the consent agenda. Unanimous vote in favor, 7-0.*

**1. SIGNATURES**

**2. SECRETARY’S REPORTS**

- a. **February 5<sup>th</sup>, 2018**
- b. **February 20<sup>th</sup>, 2018**

**3. COMMUNUNICATIONS**

**4. REPORTS**

- a. **Finance Committee Minutes – February 5<sup>th</sup>, 2018**
- b. **Infrastructure Committee Minutes – January 29<sup>th</sup>, 2018**
- c. **Planning & Development Committee Minutes – February 7<sup>th</sup>, 2018**

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

d. **Services Committee Minutes – January 8<sup>th</sup>, 2018**C. **PUBLIC COMMENTS - None**D. **POLICY AGENDA**1. **NEWS, PRESENTATIONS & AWARDS**2. **PUBLIC HEARINGS**

- a. **Consideration of the proposed Ordinance authorizing the appropriation and borrowing of funds to finance the repair and replacement of portions of Hampden’s Sewer Collection System – referred by Council on February 20<sup>th</sup>, 2018 – Councilor McAvoy made a motion, seconded by Councilor Marble, to open the public hearing at 7:05 p.m.**

*Mayor McPike asked the members of the audience if there were any questions. There were no questions from the audience. Manager Jennings presented information on the problems with the sewer and the need to replace this infrastructure in four targeted areas: Route 1-A, the Grist Mill Bridge, Western Ave/202 to Main Rd. North, including Dewey Street, and Route 1-A South of Western Ave. The results of the CCTV testing provided the information on the state of the pipes and these areas are slated DOT project sites so it would be beneficial to do it at the same time. He stated that upon approval of the ordinance, there will be a huge public outreach campaign. Kyle Corbeil of Woodard & Curran was asked to the podium to present more information and answer questions. He spoke about the issues that were discovered in the old clay pipes, the force main in conflict with storm drain, issues with some of the laterals, decreased capacity due to prior slip lining of some of the pipes, and issues with the interceptor to the CSO holding tanks. Councilors questioned the increase in cost compared to first estimate. Kyle stated that was prepared with only a few “knowns” at that time until more information became available through the CCTV process. Manager Jennings also pointed out the importance of the fact that this is done under the method of “opinion of probable costs”. Councilor Ryder stated that the payors of the bond need to be defined; whether just the rate payers, or if some of it will be borne by tax payers because a sewer system for business growth benefits the town as a whole. There has been no recommendation out of Infrastructure yet. He also asked what will happen if next year the CCTV shows something worse. He stated that there were prior concerns with the Souadabscook Pump Station. Kyle Corbeil spoke about how communities have deferred infrastructure repair and replacement for years and it catches up. He said communities should be replacing half to two-thirds of a mile annually, but don’t and that doesn’t even include pump station work. Manager Jennings reminded*

*Council that the Western Ave to Main Rd. North is a continuation of the 2008 Capital Plan. Councilor Ryder said that the life span of the pump station was 20 years and it has been there for 30, stating that maybe we should replace the pump station rather than some of the lines. DPW Director Currier stated that tightening up the repairs on the sewer lines will help inflow and infiltration which will help the taxing the pump station. Kyle assured that there are a lot of known issues that have not been forgotten. Discussion followed regarding the need to determine the payment structure and responsibility. Councilors agreed that the best interest is to continue the public hearing to March 19<sup>th</sup> and to hold a special meeting of the Infrastructure Committee on March 14<sup>th</sup> at 6:00 p.m. to determine financing. Councilor McAvoy made a motion, seconded by Councilor Ryder, to continue the Public Hearing to March 19<sup>th</sup>. Unanimous vote in favor, 7-0.*

- b. **Consideration of the proposed Coldbrook Corners TIF (Tax Increment Financing) Development Program and Credit Enhancement Agreement – referred by Council on March 5, 2018 -**  
*At 8:05, Councilor McAvoy made a motion, seconded by Councilor Marble, to open the Public Hearing. Unanimous vote in favor, 7-0.*

*Manager Jennings approached the podium and gave a presentation on the proposed Coldbrook Corners TIF district, summarizing that this proposed District is 303 acres of undeveloped or underdeveloped commercially zoned land at the intersection of Route 202 and Coldbrook Road. A TIF District helps to attract business investment. Manager Jennings explained that the Town can enter into a Credit Enhancement Agreement with the taxpayer and can return to the taxpayer, a certain agreed upon amount of incremental tax revenue. This credit comes from the difference between the assessed value pre-development and the assessed value post-development. The revenue from this proposed District is estimated to be about \$45,000 per year for 13 years and can be used for certain eligible expenses like infrastructure and economic development. At the conclusion of Manager Jennings' presentation, Mayor McPike asked the audience if there were any public comments or questions. Hearing none, he then asked the Council if they had any questions. Councilor Marble stated that this has been discussed many times in the Planning & Development Committee and he feels the Council has a thorough understanding. There were no further comments. At 8:20, Councilor McAvoy made a motion, seconded by Councilor Marble, to close the Public Hearing. Unanimous vote in favor, 7-0. Councilor McAvoy made a motion, seconded by Councilor Ryder, to accept the Coldbrook Corners TIF Development Program and Credit Enhancement Agreement. Unanimous vote in favor, 7-0.*

### 3. NOMINATIONS – APPOINTMENTS – ELECTIONS - None

**4. OLD BUSINESS - None****5. NEW BUSINESS**

- a. **Discussion of Councilor use of Town issued iPads – request of Mayor McPike** – *Mayor McPike reminded everyone that the iPads are issued for the benefit of communications between staff and Councilors and that they are a critical part of conducting business. Councilor Wilde stated that the email accounts are Gmail accounts and can be accessed through any device. Discussion followed that accessing information from personal devices which can then subject the personal device to right to know laws. Councilor McAvoy suggested that this could be a topic to add to Council rules.*
- b. **Request for authorization to amend the FY18 Sewer Budget to increase budgeted expenses by \$73,500 to authorize the expenditure of revenues projected in FY18, but not included in the expense budget, for the purpose of supporting engineering services for sewer capital projects and support for creating a sewer Fiscal Sustainability Plan and CSO Master Plan – referral from Infrastructure Committee & Finance and Administration Committee** – *Councilor McAvoy made a motion, seconded by Councilor Ryder to authorized the FY18 budget adjustment as written. He stated that this was thoroughly discussed in Finance & Administration Committee and the recommendation was brought forward. Unanimous vote in favor, 7-0*
- c. **Request for authorization to amend the 60-79 revenue line in the FY18 budget to reflect anticipated collection of \$53,305 in unbudgeted sewer connection fees and to increase budgeted expenses by \$53,305 to authorize the expenditure of FY18 projected revenues, but not included in the expense budget, for the purpose of supporting mitigation of anticipated Fiberright/Coastal flow impacts on existing infrastructure, and engineering services for other sewer projects – referral from Infrastructure Committee and Finance & Administration Committee** – *Councilor McAvoy made a motion, seconded by Councilor Ryder, to authorize the FY18 budget adjustment as written. Unanimous vote in favor, 7-0.*
- d. **Request for the disposition of a publicly held open space area within the Hampden Business and Commerce Park, consisting of 2.62 acres located at the end of the easterly cul-de-sac at the rear of the park, which will be isolated due to proposed reconfiguration of lots 33 and 34 and a publicly held (future use) right-of-way, thereby leaving the open space area with limited**

**public benefit and no public access; for the purpose of effectuating business development. The open space area is to be combined with lot 34 and therefore will be subject to the Option Agreement between the Town of Hampden and Sargent Corporation – referral from Planning & Development Committee – Councilor Ryder explained that this was discussed in Committee. The effect is that they gained open space and we arranged the right of way. This will allow for future business development. Councilor Ryder made a motion, seconded by Councilor McAvoy to reconfigure the lots in the Business Park as written. Unanimous vote in favor, 7-0.**

- e. **Agreement with Maine Department of Transportation for the issuance of a construction over limit permit to allow overweight vehicles to travel on posted Municipal roads during construction projects numbered 02326.00 and 23318.00 – Manager Jennings explained that there are two MDOT road projects coming up and that this is a routine request to authorize construction vehicles to traverse posted roads. Councilor Marble made a motion, seconded by Councilor Sirois, to authorize the agreement. Unanimous vote in favor, 7-0. Councilor McAvoy inquired if the Town can omit Emerson Mill Road which has its own weight restriction beyond the seasonal weight limit. Manager Jennings stated that this is not time sensitive and that he can clarify the Emerson Mill Road stipulation, to be revisited on March 19<sup>th</sup>.**
- f. **Discussion on potentially adding a second School Resource Officer – requested by Councilor Sirois – Councilor Sirois stated that members of the public have inquired as to whether we should add another school resource office in light of all the recent events regarding school safety. Public Safety Director Rogers addressed the Council regarding recent conversations with the RSU for this purpose. He reminded that he had requested funding last year for another officer and that he will again request an additional officer during this budget cycle. He stated that there has been a recent conversation about this with the Superintendent, the Assistant Superintendent, Manager Jennings and himself. There is the potential for 50% of the cost of the second SRO could be borne by the RSU during the school year. It would also address gaps in the schedule for the town and would allow for more of a presence at school. He spoke about changes in law enforcement over the last 40 years and that it has evolved into more interaction with youth, that there is more to law enforcement in today's culture which borders on the social services aspect than in previous years. Sgt. Stewart, SRO addressed the Council regarding many of the issues he deals with such as safety evaluations due to what people are hearing and reporting and that these all need to be investigated. He spoke of truancy issues, self-defense trainings, traffic issues in the parking lots, suicide awareness, working with the school nurse and school counselors to help kids who are in compromising situations, and**

*a mixture of things that are not what some would consider typical law enforcement. A huge piece of community policing is to gain the trust of the kids so they will tell what they hear and what they know. Councilor McAvoy asked how many incidents there are that are actual concerns for safety. Sgt. Stewart replied that much of what he responds to is confidential, but that a huge concern is cyber bullying which is something that has kids coming to him on a weekly basis. Assistant Superintendent Regan Nickels was recognized and thanked the Council for reaching out to the RSU for consideration of this partnership idea, stating that safety has come to the forefront as a priority. The RSU has monthly safety meetings and they have started to evaluate this to determine how best to develop a position or a program that will meet three goals: education, relationship development and presence and partnership. Questions followed from Councilor McAvoy about how much of an actual safety concern there is. Mrs. Nickels responded that the topic of safety has broad definitions. Discussion followed regarding modern police practices, school intervention and social services. Topic to be discussed at future budget meetings*

#### **E. COMMITTEE REPORTS**

*Planning & Development Committee – Councilor Ryder reported that the Committee was updated on zoning changes, discussed the combining of lots 33 & 34 of the Business Park as acted on tonight. The meeting for March 7<sup>th</sup> has been cancelled.*

*Services Committee – Councilor Marble reported that the next meeting will be March 12<sup>th</sup> at 6:00 p.m.*

*Infrastructure Committee – Councilor Cormier reported that at the meeting held on Feb. 26<sup>th</sup>, Committee members were updated on the CSO, and the Capital Program. Members discussed possibly contracting out public works functions. Committee was updated on the status of the new float at the marina.*

*Finance & Administration – Councilor McAvoy reported that items voted on tonight recommended by Committee were discussed at the last meeting.*

#### **F. MANAGER'S REPORT – None**

#### **G. CLERK'S COMMENTS - None**

#### **H. COUNCILORS' COMMENTS**

*Councilor Ryder – Stated it was nice to watch the Hampden Academy basketball games on tv. He said that one of the greatest 'take-aways' from watching was noticing how many coaches there were who used to be students of H. A.*

*Councilor Sirois – No comment*

*Councilor Marble – Congratulated the Robotics team, and gave kudos to Shelley Abbott and the Recreation Committee. He read a statement, attached to the minutes as Exhibit A.*

*Councilor Wilde – No comment*

*Councilor Cormier – No comment*

*Councilor McAvoy – Agreed with Councilor Marble's statement in the aspect of participation. He encouraged everyone to shop local and buy American and wished Hampden goodnight.*

*Mayor McPike – Stated that he can appreciate how much law enforcement has changed and thanked our Department.*

- I. ADJOURNMENT** – *With no other business to conduct, the meeting adjourned at 9:00 p.m.*

*Respectfully Submitted,*



*Paula A. Scott, CCM  
Town Clerk*

Robotics Tim State Champs

Exhibit A

Mod to Rec Committee

Comments March 5

We have several major issues coming right up including the public's decision on borrowing for sewer repairs and infrastructure, the budget for fiscal 19, and the transition from Angus Jennings to a new town manager by July.

Considering this work, I've reflected on what I appreciate and also what has frustrated me about this Council of which I'm a member. The things I value include

- The relationships I have with some of my fellow councilors
- The caliber and dedication of our Town staff
- The increasing number of Town residents whom I've gotten to know, their appreciation for the Town, and their hopes for their children and our collective future

In contrast to the perspective of these residents, too often it seems to me that the discussions in Council are short sighted, based on bad history and distrust, and dominated by narrow agendas.

Some discussions are framed or set up in such a way that real give and take is next to impossible. These remind me of the classic set up question, "How long has it been since you stopped beating your wife?" Rather than aimed at solving problems or finding answers, many statements are focused on hammering a singular point of view rather than establishing and contributing to a dialogue. And just because a citizen or another Councilor has a different point of view, it is not grounds for disrespect.

As we undertake the recruitment of our next Town Manager our focus should be on our future and the health of this community. We need to encourage and celebrate different points of view and new ideas. However it has happened, we are presently stuck in rigid positions and stubborn disagreements, and this status will not attract the best possible candidates.

What we all continue to need is more involvement from the public. We need to hear from you when you disagree with a statement or a vote or other action, but we also to hear from you when you think we're doing the right thing. We need to hear from you as we work on the Town budget, and I ask the public to pay attention to our votes and the policy positions they represent.

Last November, 3 of the 4 elections for district representation on the council went unopposed. This fall will see an election for the 3 at-large seats. With due respect to the incumbents, I think the Town would be well served by competitive races and some new folks on this Council. We would all benefit from some new energy.

Thank you

Statement of Councilor Marble



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
MAINE REVENUE SERVICES  
PO BOX 9106  
AUGUSTA, MAINE  
04332-9106

B-3-a

ADMINISTRATIVE & FINANCIAL SERVICES

ALEC PORTEOUS  
COMMISSIONER

RECEIVED

MAR 05 2018

MAINE REVENUE SERVICES

JEROME D. GERARD  
EXECUTIVE DIRECTOR

TOWN OF HAMPDEN ASSESSING DEPT.

Dear Assessor(s):

Public Law 2005 Chapter 2 (LD 1) provides a property tax exemption of up to the *just value* of \$20,000 for each Maine Resident's homestead. To qualify, applicants must have owned a homestead in Maine for a minimum of 12 months prior to April 1, 2018 and declare the homestead they owned on April 1st of the current tax year to be their permanent place of residence. The application for exemption must be filed with the municipal assessor where the homestead is located by April 1, 2018. **Homeowners who qualified for the exemption in 2017 and whose homestead status has not changed for 2018 need not reapply.**

Maine Revenue Services is required to estimate the amount of property tax exempted under the Homestead Exemption Program for municipalities granting exemption to qualifying residents and by **August 1** certify 75% of the estimated amount to the State of Maine Treasurer. Municipal Assessors must complete and return the attached application to Maine Revenue Services by June 1, 2018 in order for this 75% reimbursement to be calculated. The remainder or 25% of the property tax exempted will be determined upon timely receipt of their Municipal Valuation Return and payment made by July 31, 2019.

#### IMPORTANT REMINDERS

- ✓ The value of homestead exemptions must be included in the total municipal valuation used to determine the municipal tax rate. The municipal tax rate as finally determined may be applied to only the taxable portion of each homestead qualified.
- ✓ The homestead exemption amount must be adjusted by the municipality's certified ratio which is the same ratio used to adjust all properties and exemptions. This is the ratio you report on your Municipal Valuation Return.
- ✓ Homestead exemptions granted must be identified in the municipal valuation book. Tax bills must indicate the assessed value of a homestead before and after the homestead exemption has been applied.

If you have any questions or need additional application forms, feel free to call me at (207) 624-5604. My email address is [Linda.R.Lucas@maine.gov](mailto:Linda.R.Lucas@maine.gov).

Linda Lucas,  
Principal Appraiser, CMA  
Property Tax Division

**RATIO DECLARATION & REIMBURSEMENT APPLICATION**

**Municipality of: HAMPDEN**  
**Developed Parcel Ratio: 96%**

**County of: PENOBSBOT**  
**Filing Deadline: June 1, 2018**

**SECTION A: DECLARATION OF CERTIFIED RATIO**

Municipal assessors are required to annually report the ratio or percentage of just value upon which local assessments are based (**36 MRSA §383**) Assessors must multiply the amount of the Homestead Exemption by the ratio certified pursuant to **§383** to determine the proper amount of exemption to be granted. The ratio certified by local assessors should reasonably agree with the overall assessment ratio for developed parcels (**residential property**) determined by Maine Revenue Services in its annual audit conducted for the purpose of determining the State Valuation. Of the following boxes, please check the **one** box which is most appropriate for your municipality for the **2018** tax year:

We will use the developed parcel ratio determined by Maine Revenue Services of **96%** as our declared certified ratio. The developed parcel ratio is a direct finding and final result of Maine Revenue Services' audit of **2016** local valuations for residential property as stated in the **2018 State Valuation**.

We will use the Municipality's **declared 2018 certified ratio** to adjust the amount of local homestead exemption. The certified ratio declared is within 10% of the developed parcel ratio (**between 86% and 106%**) last determined by Maine Revenue Services; **or**

We hereby petition to use a ratio that varies by more than 10% from the developed parcel ratio last determined by Maine Revenue Services for the following reason: (**Note: No requests for a variance in ratio will be granted unless accompanied by documentation supporting the proposed change. Ratios certified outside the allowable 10% will default to the Developed Parcel Ratio.**)

- A total revaluation is to be implemented for the 2018 tax year (**proof required**)
- A partial revaluation is to be implemented for the 2018 tax year (**proof required**)
- More current sales information is available which justifies a higher ratio (**proof required**)
- Other \_\_\_\_\_

**SECTION B: HOMESTEAD PROPERTY TAX EXEMPTION INFORMATION**

1. The total number of homestead exemptions granted (actual or estimated) # \_\_\_\_\_
2. We plan to use the following **Certified Ratio** to adjust the full *just value* exemptions: % \_\_\_\_\_ (see Section A above)
3. The 2018 municipal tax rate is \_\_\_\_\_ mils. (**NOTE: If the local tax commitment is not final for 2018, use the 2017 local tax rate or an estimated rate...whichever is more accurate.**)

**SECTION C: ASSESSOR(S) SIGNATURES**

We, the assessors, do state that the that the information contained on this document is, to the best knowledge and belief of this office, reported correctly, accurately and in accordance with the requirements of the law.

\_\_\_\_\_/\_\_\_\_\_ Date \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone# \_\_\_\_\_

**PLEASE COMPLETE AND RETURN TO:**  
fax 287-6396  
PHONE 624-5604  
EMAIL linda.r.lucas@maine.gov

**MAINE REVENUE SERVICES**  
**PROPERTY TAX DIVISION ATTN: LINDA LUCAS**  
**PO BOX 9106,**  
**AUGUSTA ME 04332-9106**



B-3-6

Angus Jennings <townmanager@hampdenmaine.gov>

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**Save the Date!**

1 message

Adam, Terri <tadam@emcc.edu>

Fri, Mar 2, 2018 at 4:45 PM

*Save the Date*  
Eastern Maine Community College  
**ANNUAL DINNER**  
THURSDAY, APRIL 26, 2018

Eastern Maine  
Community College

Terri Adam, Foundation Assistant

Eastern Maine  
Community College *Foundation*

354 Hogan Road

Bangor, ME 04401

207.974.4691 phone

207.974.4888 fax

[tadam@emcc.edu](mailto:tadam@emcc.edu)

# Harassment in the Workplace: How to Avoid Lawsuits and Promote a Culture of Respect

## Date and Location

Augusta - Friday, April 13, 2018  
Maine Municipal Association  
60 Community Drive, Augusta 04330

## Time

8:30 am - 9:00 am      Registration  
9:00 am - 3:30 pm      Class

## Instructors

Alyssa Tibbets, Attorney  
Jensen Baird Gardner & Henry  
Sara Hellstedt & Ann Freeman, Attorneys  
Bernstein Shur  
Mark Franco, Attorney  
Drummond Woodsum  
Amy Sneirson, Executive Director  
Maine Human Rights Commission  
Roberta de Araujo, Attorney  
Johnson Webbert & Young  
Clara Porter, Director  
Prevention. Action. Change

## Fee

\$65.00 – MLGHRA Members  
\$75.00 – Non-Members

**NOTE:** This fee includes refreshments, lunch and handout materials.

## Registration Information

To register, please fill out the attached form and mail it with your payment to MLGHRA, 60 Community Drive, Augusta, ME 04330, or fax your registration to (207) 624-0128. You may also register online at <http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>.

**Maine Local Government Human Resources Association (MLGHRA) would like to thank MMA Risk Management Services for their support of this training program.**

## Membership

Interested in joining MLGHRA for only \$25.00/yr.? Visit our website at [www.mlghra.org](http://www.mlghra.org) or call (800) 452-8786 for membership information and application.

## Agenda

8:30-9:00 am  
9:00-10:15 am

### Registration

### Defining Unlawful Harassment and Discrimination: What is Unlawful and What is Just Inappropriate

This session will provide an overview of the relevant laws and move into some harder to discern examples (role play, case studies). It will also explore the difference between unlawful harassment and inappropriate workplace behavior.  
Presenter: Alyssa Tibbetts, Esq

10:15-10:30 am  
10:30-11:45 am

### BREAK

### From the Playground to the Workplace: How Bullying Behavior Impacts Morale and Productivity

It is one of the most common complaints in many organizations - the general "harassment" or "hostile work environment" complaint, seemingly untethered to any protected class status or unlawful activity. While school yard bullies eventually graduate to the workforce, sometimes their personalities and social behaviors fail to evolve. This presentation will address how to recognize and address workplace aggression and influence, and how to ensure all your employee can play nice in the sandbox.  
Presenters: Sara Hellstedt, Esq and Ann Freeman, Esq

11:45-12:30 pm

### LUNCH

12:30-1:45 pm

### Tales from the Commission: Lessons Learned from the MHRC and EEOC

Presenters: Mark Franco, Esq, Amy Snieron and Roberta de Araujo, Esq

1:45-2:00 pm  
2:00-3:15 pm

### BREAK

### Meaningful Action and Positive Intervention: Tools to Help Employees and Supervisors to Recognize and Report Early Indicators of Inappropriate Behavior and Conduct

When claims of harassment or workplace bullying are made, rarely do they come as a surprise to co-workers who often have observed or heard about behavior or incidents. This presentation will provide you with an understanding of the bystander effect, diffusion of responsibility, and willful blindness as well as how to intervene, diffuse and report inappropriate workplace behavior before it becomes pervasive and egregious.

Presenter: Clara Porter

## Questions/Cancellations

Cancellation notification must be given in writing at least 3 business days before the session begins. Any cancellation received within that 3-day window will be charged the full registration fee. All cancellations are subject to a \$10 administrative fee for processing. Please go to <http://www.memun.org/TrainingResources/WorkshopsTraining/Cancellations.aspx> to cancel. If you have any questions please contact the Educational Services Office at (800) 452-8786 or (207) 623-8428.

## Storm Policy

If there is inclement weather, a decision to postpone will be made by 5:00 pm the day prior to the workshop. MLGHRA encourages all registrants to check the MMA website at [www.memun.org](http://www.memun.org) or call the training hotline at (207) 624-0117 before departing for any MLGHRA sponsored events to ensure that the event schedule has not changed.

B-3-d

■ 395 State Street  
■ Ellsworth, ME 04605  
■ [www.mrcmaine.org](http://www.mrcmaine.org)



866-254-3507  
207-664-1700 ■ Voice  
207-664-2099 ■ Fax  
[glounder@mrcmaine.org](mailto:glounder@mrcmaine.org) ■ E-Mail

## MEMORANDUM

TO: Equity Charter Municipalities  
FROM: Greg Louder, Executive Director, MRC  
RE: Put Option Payments  
DATE: 2 March 2018

A handwritten signature in black ink, appearing to read 'G. Louder', is written over the 'FROM' line of the memorandum.

The MRC is pleased to inform you that the sale of the ownership interests of the Equity Charter Municipalities closed on February 28, 2018. Please find enclosed a check for your share of the \$1,500,000 Put Option Value. A list of the amounts being sent the Equity Charter Municipalities is provided as Schedule 2.

These funds represent a one-time payment in accordance with the terms of the buyback agreement, known as the Put Option, which were agreed upon by the MRC and PERC as part of a larger settlement agreement.

Feel free to contact Greg Louder at 664-1700 with any questions.

Schedule 2			
Value of the Put Option for each Equity Charter Municipality			
Equity Charter Municipality	Payment	Equity Charter Municipality	Payment
Albion	6,770.79	Midcoast SWD	72,443.15
Alton	3,160.70	Mid-Maine SWD	42,862.85
Atkinson	981.76	Milford	10,519.17
Baileyville	11,058.60	Millinocket	27,395.42
Bangor	254,149.36	Milo	11,559.48
Bar Harbor	49,880.61	Monson	1,909.28
Blue Hill	20,669.64	Mt. Desert	16,502.29
Boothbay RRDD	42,450.02	Newburg	4,721.33
Bradley	4,013.22	Old Town	45,409.95
Brewer	75,601.20	Orland	4,672.14
Brooks	2,114.17	Orono	38,919.28
Brownville	6,772.14	Otis	1,961.41
Bucksport	23,891.71	Owls Head	8,586.13
Burnham	4,866.33	Palmyra	5,622.22
Carmel	7,866.99	Parkman	1,511.03
Central Penobscot	13,141.32	Penobscot Co.	7,812.97
China	17,165.95	Pleasant River SWD	11,840.36
Clifton	2,790.36	Plymouth	4,474.01
Clinton	22,989.00	Reed Pt	855.22
Cushing	5,475.50	Rockland	49,990.22
Dedham	3,839.72	Sangerville	4,155.04
Dover-Foxcroft	17,426.73	Searsport	12,198.12
Eddington	8,170.61	Stetson	3,208.25
Enfield	6,862.65	S. Thomaston	6,615.40
Fairfield	24,012.14	Steuben	4,497.81
Friendship	4,110.08	Stonington	7,599.27
Glenburn	14,696.02	Surry	10,330.93
Gouldsboro	7,331.26	SW Harbor	19,928.94
Greenbush	4,752.07	Thomaston	17,180.94
Guilford	12,436.56	Thorndike	2,545.81
Hampden	29,838.67	Tremont	9,254.60
Hancock	5,303.20	Trenton	10,753.22
Hermon	-	Troy	1,981.87
Holden	8,083.92	Union River SWD	2,874.35
Jackson	951.32	Unity	6,649.48
Lamoine	4,879.32	Vassalboro	13,514.13
Lee	3,556.55	Veazie	6,829.03
Levant	7,643.23	Verona	2,619.39
Lincoln	35,238.02	Waldoboro	18,110.41
Lucerne	1,964.82	Waterville	89,136.67
Mariaville	1,125.88	Winslow	27,589.79
Mars Hill	8,880.25	West Gardiner	10,923.66
Mattawamkeag	3,743.15	Winthrop	27,095.79
			1,475,816.35

Town of Hampden  
106 Western Avenue  
Hampden, Maine 04444



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

March 14, 2018

Best Western White House Inn  
Attn: Peggy  
155 Littlefield Ave.  
Hampden, Me. 04444

RE: Victualer's license for Filibuster Lounge

Dear Sir/Madam:

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

Please call if you have any questions.

Sincerely,

Paula A. Scott, CCM  
Town Clerk

Enclosure

**VICTUALER'S LICENSE CERTIFICATE**

No. 18-02

**MUNICIPALITY OF HAMPDEN, MAINE**

To all whom these presents may concern: Date: March 14, 2018

**KNOW YE**, that Best Western Whitehouse Inn,  
doing business as Filibuster Lounge has been duly  
licensed as a Victualer at 155 Littlefield Ave in the  
Municipality of Hampden by said Municipality until 03/15, 2019, and has  
paid to the Municipal Treasurer the fee of One hundred Dollars (\$100.00).

  
Authorized Municipal Officer **COFFEE ENFORCEMENT OFFICER**

Town of Hampden  
106 Western Avenue  
Hampden, Maine 04444



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

March 14, 2018

Dysart's Service  
PO Box 1689  
Bangor, Me. 04401

RE: Victualer's license for Dysart's Travel Stop

Dear Sir/Madam:

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

Please call if you have any questions.

Sincerely,

Paula A. Scott, CCM  
Town Clerk

Enclosur

**VICTUALER'S LICENSE CERTIFICATE**

No. 18-03

**MUNICIPALITY OF HAMPDEN, MAINE**

To all whom these presents may concern: Date: March 14, 2018

**KNOW YE**, that Dysarts Service,  
doing business as Dysarts Travel Stop has been duly  
licensed as a Victualer at 366 Coldbrook Rd in the  
Municipality of Hampden by said Municipality until 03/15, 2019, and has  
paid to the Municipal Treasurer the fee of One hundred Dollars (\$100.00).

Authorized Municipal Officer

**CODE ENFORCEMENT OFFICER**

Town of Hampden  
106 Western Avenue  
Hampden, Maine 04444



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

March 14, 2018

Brian & Cynthia Carlisle  
Pizza Gourmet  
60 Main Road North Suite A  
Hampden, Me. 04444

RE: Victualer's license for Pizza Gourmet

Dear Sir/Madam:

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

Please call if you have any questions.

Sincerely,

Paula A. Scott, CCM  
Town Clerk

Enclosure

**VICTUALER'S LICENSE CERTIFICATE**

No. 18-04

**MUNICIPALITY OF HAMPDEN, MAINE**

To all whom these presents may concern: Date: March 14, 2018

**KNOW YE**, that Brian & Cynthia Carlisle

doing business as Pizza Gourmet has been duly

licensed as a Victualer at 60 Main Rd. North Ste.A in the

Municipality of Hampden by said Municipality until 03/15, 2019, and has

paid to the Municipal Treasurer the fee of One hundred Dollars (\$100.00).

Authorized Municipal Officer

**CODE ENFORCEMENT OFFICER**

Town of Hampden  
106 Western Avenue  
Hampden, Maine 04444



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

March 14, 2018

Kathy Smith  
575 Main St.  
Bradley, Me. 04411

RE: Victualer's license for R & K Variety

Dear Sir/Madam:

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

Please call if you have any questions.

Sincerely,

Paula A. Scott, CCM  
Town Clerk

Enclosure

**VICTUALER'S LICENSE CERTIFICATE**

No. 18-05 **MUNICIPALITY OF HAMPDEN, MAINE**

To all whom these presents may concern: Date: March 14, 2018

**KNOW YE**, that Kathy Smith,  
doing business as R & K Variety has been duly  
licensed as a Victualer at 573 Main Rd North in the  
Municipality of Hampden by said Municipality until 03/15, 2019, and has  
paid to the Municipal Treasurer the fee of One hundred Dollars (\$100.00).

Authorized Municipal Officer

CODE ENFORCEMENT OFFICER

**FINANCE & ADMINISTRATION COMMITTEE MEETING**Tuesday, February 20<sup>th</sup>, 2018**MINUTES**

Hampden Town Office

*Attending:*

*Councilor, Terry McAvoy Chair*  
*Mayor Ivan McPike*  
*Councilor Mark Cormier*  
*Councilor Stephen Wilde*  
*Councilor Dennis Marble*

*Town Manager Angus Jennings*  
*Town Clerk Paula Scott*  
*Code Enforcement Officer Myles Block*  
*Rec Director Shelley Abbott*

*Chairman McAvoy called the meeting to order at 6 p.m.*

**1. Meeting Minutes**

- a. February 5<sup>th</sup>, 2018** – *Motion by Councilor Marble seconded by Mayor McPike to approve the minutes. Approved 5-0.*

**2. Review & Sign Warrants** – *Warrants were reviewed and signed.*

**3. Old Business** – *None.*

**4. New Business**

- a. Recommend to Council to refer to Public Hearing the proposed Ordinance authorizing the appropriation and borrowing of funds to finance the repair and replacement of portions of Hampden's sewer collection system** – *Manager Jennings presented a series of slides regarding the proposed ordinance to authorize borrowing for sewer capital projects. He explained that we are working with information received recently from the CCTV evaluation of the sewer system, and that the engineer's estimated cost of the Route 1A portion of the work had increased in recent days as they've advanced their work. He said the engineer would be present for the public hearing and available to answer any technical questions the Councilors or members of the public may have. Manager Jennings said that if borrowing authorization is provided to cover all proposed projects, this would not compel the Town to proceed with all projects at the same time; debt could be issued for one or two projects, with the third project proceeding a year or two later, if that is found to be preferred. There was discussion of whether it would make sense to divide the proposed borrowing authorization into two separate questions, but the Committee recommended keeping it as one question. There was a motion by Chairman McAvoy seconded by*

*Councilor Marble to refer to Council consideration of referring the proposed ordinance to public hearing. Motion passed 5-0.*

- b. Recommend to Council to rescind the vote of October 3, 2016 to authorize cutting, stumping and grinding and site preparation at the Lura Hoit Pool site but to retain authorization for permitting for additional parking, potential recreational facilities, and associated infrastructure – referral from Services Committee – Motion by Chairman McAvoy seconded by Councilor Marble to refer to Council a recommendation to rescind the vote of October 3, 2016 to authorize cutting, stumping and grinding and site preparation at the Lura Hoit Pool site but to retain authorization for permitting for additional parking, potential recreational facilities, and associated infrastructure. Mayor McPike said he assumed that if this passes it would mean that new authorization would be needed in the future if or when the Council favors moving forward with any of the activities in the October 2016 motion but rescinded here, and Manager Jennings said yes. The motion passed 4-1 with Councilor Cormier opposed. Councilor**
- c. Recommend to Council to proceed with the issuance of an RFP to seek pricing for engineering and permitting (DEP and local) for work on Lura Hoit Pool and Municipal Building Site – referral from Services Committee – Motion by Chairman McAvoy seconded by Councilor Marble to refer to Council a recommendation to proceed with the issuance of an RFP to seek pricing for engineering and permitting (DEP and local) for work on Lura Hoit Pool and Municipal Building Site. Mayor McPike asked couldn't the Town Manager issue an RFP anyway? Manager Jennings said yes, that Council authorization is not needed to issue an RFP, but due to the sensitivity of this issue he is seeking authorization to ensure that at least a majority of Councilors is open to awarding a contract, since he doesn't want to waste personnel time nor responding vendors' time on a purchasing effort if there isn't interest to proceed. The motion failed 2-3 with Councilors McAvoy, Cormier and Wilde opposed.**
- d. Recommend to Council to authorize the appropriation of \$7,500 from the Personnel Reserve (3-733-00) for costs associated with the town manager search – Motion by Chairman McAvoy to recommend to Council to authorize the appropriation of \$7,500 from the Personnel Reserve (3-733-00) for costs associated with the town manager search. Councilor Wilde asked if this was more money than the Town had paid to the prior search consultant when Manager Jennings was hired. Manager Jennings said that the amount paid to Eaton Peabody at that time was about \$6,520, and that he had understood from prior Committee direction that the Council favored**

*working with Rudman Winchell if the cost was comparable, given Rudman Winchell's familiarity with the Town and its present issues. There was an amended motion by Mayor McPike to recommend to Council to authorize the appropriation of up to \$10,000 from the Personnel Reserve for costs associated with the town manager search, in order to also support advertisement of the position in publications like the BDN and Portland Press Herald that would be more likely to be viewed by private sector managers, and to provide for out-of-pocket expenses for lodging in the event any of the finalists are traveling from a distance. Councilor Marble seconded Mayor McPike's amended motion and the motion passed 5-0.*

- e. Adherence to Town Council Rules** – *requested by Councilor Wilde – Councilor Wilde raised questions about whether the Council Rules are current, and whether the Councilors can be relied upon to adhere to the adopted rules. He noted that some discussion seems to be getting away from showing respect. He said that he would be fine with going through the issues in a future discussion. Chairman McAvoy said that it would be helpful to have guidelines for conflict resolution; he also said the notion of needing to tell people how to act is foreign to him. Manager Jennings said that the Town Clerk has been working on potential revisions to the Council Rules to clarify them in certain respects, and that this would be included on a future agenda.*
- f. Town Manager's report on priorities identified at the February 10th Goals & Objectives Session** – *Manager Jennings is still working on this so the item was tabled.*
- g. Discussion of Emera TIF terms** – *Manager Jennings presented the chart illustrating projected financial impact of the approved terms of the Emera TIF Credit Enhancement Agreement. Due to the increase in agreed reimbursement beginning in Year 6 (FY21), the Town would lose about \$71,000 in tax revenue; however, he said that estimate is based on current assessed values, and that under the terms of the agreement Emera is required to relocate its headquarters to Hampden by July 1, 2019, so assessed values (and tax revenues) would increase. He expressed concern about the Town potentially needing to address a sudden drop in revenues, and said that if the Committee shares this concern he would recommend starting a discussion with Emera sooner rather than later since it could take a while to modify the terms – even if both parties agree to do so – because of the requirement for a new local public hearing and new approvals from the State DECD.*

*It was suggested that the increased reimbursement percentage in Year 6 may have been a material part of the deal, and part of why Emera agreed to relocate its headquarters to Hampden, and it was acknowledged that today's staff and Councilors don't have direct knowledge of why this was negotiated at the time. Mayor McPike said he would not be in favor of proposing to change the terms of a deal the Town had agreed to, and that we'll see new revenue when the headquarters is moved here. Councilor Cormier said he sees no harm in asking, and that all Emera would have to say is no. Councilor Marble stated that perhaps the focus to open discussion should be as a bridge because the town is hiring a new manager. Manager Jennings agreed and said it would be good for the new manager to understand the rational of those terms.*

**h. Town Manager vacation schedule** – *Manager Jennings said he'll need to take some time off between now and the end of his tenure in June, and that he'll make efforts to minimize impact on Council and Committee meetings. The Councilors agreed this was acceptable, and did not see a reason to consider rescheduling or canceling future meetings at this time.*

**5. Public Comment** – *None.*

**6. Committee Member Comments** – *None.*

**7. Adjournment**

*There being no further business, the meeting was adjourned at 6:50 PM.*

Respectfully submitted –  
Angus Jennings, Town Manager



Town of Hampden  
**Planning and Development Committee**  
 Wednesday February 14, 2018, 6:00 pm  
 Municipal Building Council Chambers  
**Minutes**

Attending:

Committee/Council

David Ryder - Chair  
 Dennis Marble  
 Terry McAvoy  
 Mark Cormier  
 Ivan McPike  
 Stephen Wilde

Staff

Angus Jennings, Town Manager  
 Myles Block, Code Enforcement Officer  
 Karen Cullen, Town Planner

Public

Jim Kiser

Chairman Ryder called the meeting to order at 6:00 pm.

Note, the meeting was started in Council Chambers and recessed to the conference room at 6:30 since the Planning Board had their regular meeting scheduled for 7:00. Agenda items were taken out of order.

1. Minutes for the January 17, 2018 meeting – **Motion** to approve as submitted made by Councilor Marble; second by Councilor McAvoy; carried 5/0/0.
2. Committee Applications: None
3. Updates:
  - a. MRC/Fiberight: CEO Block said construction on the building is continuing, no issues to report this week.
  - b. Staff Report:
    - i. Handed out copies of the March issue of the Down East Magazine which includes the advertorial we did with Bangor; the four page spread came out quite well.
    - ii. Planner Cullen showed the Doing Business section of the town's website, noting there are some corrections to be made yet but the result is a better illustration of what Hampden has to offer than the previous material was.
    - iii. Planner Cullen led a discussion on the Shoreland Zoning Map; the main points were that there appear to be inconsistencies between the current map and the state guidelines, and the amount of work necessary to get our map into compliance with the state mandated shoreland protection areas exceeds staff resources to get it done in a timely manner. The consensus of the committee was to hire a consultant to do the necessary work to produce a new shoreland layer that maps the areas mandated by the state.

- iv. Jim Kiser was present to discuss the potential for having a map amendment done for a couple of properties where he believes the current map is incorrect. Planner Cullen noted our current ordinance has no provisions for how to process such requests, it simply states the ordinance (and map) can be amended by majority vote of the Town Council, and within 30 days must be submitted to DEP for review and approval. After discussion, Chairman Ryder said he would sponsor a map amendment if the applicant (Jim Kiser in this case) provided all the information to Planner Cullen and CEO Block for review, and possible third party review too. Councilor McAvoy asked what happens if the two consultant recommendations are different.

4. Old Business:

- c. Hampden Business Park Covenants. Manager Jennings led a discussion to review the draft amendments to the covenants as prepared by consultant Noel Musson. After discussion the following additional changes were recommended:
  - Recital 2: delete the last sentence of the second paragraph regarding where the design review provisions apply;
  - Section 4.8, parking areas, loading areas, and driveways: delete the section in its entirety since they are adequately covered in the zoning ordinance;
  - Section 4.9, storage areas: delete the section in its entirety since these provisions are adequately covered in the zoning ordinance amendments;
  - Section 4.10, lighting: delete the section in its entirety since these provisions are adequately covered in the zoning ordinance amendments.

**Motion** by Mayor McPike to refer the proposed amendments to the Declaration of Covenants, Conditions, and Restrictions for the Hampden Business and Commerce Park to Town Council, second by Councilor McAvoy; carried 6/0/0.

5. New Business:

- a. LD 1565, Bill to amend 30-A MRSA §5222 and §5224 regarding Tax Increment Financing eligibility. Councilor Marble said his understanding is that this bill is dead, but if it had passed it would have been a real problem for Hampden.

6. Zoning Considerations/Discussion:

- a. Planner Cullen gave a presentation of the proposed use table and briefly mentioned other proposed amendments to the zoning ordinance that have resulted from the work on the use table. She noted the use table replaces the lists in the current Article 3 which organizes the districts in such a way that if someone wants to open a new business in town, they have a hard time figuring out where they can do it. The table format makes it very easy to see which districts each use is allowed in, as well as all the uses that are allowed in a particular district. She added that the dimensional table, which is being discussed by the Planning Board tonight, will also make it easy for people to focus their real estate search on properties that meet the requirements for the use they are planning to establish.

- b. Planner Cullen gave the quarterly report on adult use (recreational or retail) marijuana. She noted the activities done at the local level: prohibited retail sales and social clubs via zoning amendments which became effective Dec. 20, 2017; the proposed zoning amendments include cultivation, product manufacture, and testing as prohibited uses in the use table, with the intention of making further amendments to these three uses after the state completes their work; and Town Council has adopted an emergency moratorium on cultivation, product manufacture, and testing, which per the Town Charter is good for 60 days but can be extended in 60 day increments until it is no longer needed because our zoning ordinance has been amended. Planner Cullen noted the activities at the state level: they have yet to amend the Act, they have not enacted an extension of their moratorium, and they are continuing work on the amendments to the Act in committee. She also noted the state is now looking at the medical marijuana laws and may amend those in an attempt to close some loopholes and level the playing field.

7. Citizen Initiatives: None.
8. Public Comments: None.
9. Committee Member Comments: None.
10. Adjournment: The meeting was adjourned at 7:40 pm.

*Respectfully submitted by  
Karen Cullen, Town Planner*

## SERVICES COMMITTEE MEETING

Monday, February 12, 2018

### MINUTES

Attending:

*Councilor Dennis Marble, Chair  
Mayor Ivan McPike  
Councilor Terry McAvoy  
Councilor Mark Cormier  
Councilor David Ryder  
Councilor Stephen Wilde  
Councilor Greg Sirois*

*Town Manager Angus Jennings  
Shelley Abbott, Rec Director  
Steve Brown, Rec Committee  
Jane Jarvi, Rec Committee  
Town Attorney John Hamer  
Resident Allison Berube*

*Chairman Marble called the meeting to order at 6 p.m. by pretending to bang a gavel.*

#### 1. MINUTES

- a. **January 8, 2018** – *Motion by Councilor Sirois seconded by Councilor McAvoy to approve the meeting minutes as written. Approved 6-0.*

#### 2. COMMITTEE APPLICATIONS – None.

*Chairman Marble took up Item 3.c first, and there were no objections.*

#### 3. OLD BUSINESS

- c. **Update on process to engage consultant for engineering and permitting (DEP and local) for work on Lura Hoit Pool and Municipal Building Site** – *Chairman Marble introduced the topic, and noted that Manager Jennings had circulated a sign-in sheet which is voluntary, if anyone would like to be added to an email list for notice of future related discussions. Chairman Marble said he had asked the Manager to arrange for Town Attorney presence tonight due to anticipate procedural questions, and noted the presence of Atty. John Hamer from Rudman Winchell. Chairman Marble read a statement, noting that we've been at this for two years and as time has gone on during this initiative, Councilor positions (including his own) have become more rigid. We've gotten to where we're now using parliamentary moves to go at the process rather than working it out more straightforwardly. He invited each Councilor to speak to what they see as the future for that land, for recreation and parking.*

*Councilor Wilde said that he had spoken with Mayor McPike and Manager Jennings earlier in the day. He said that one thing keeps him from pushing*

*this forward to the permitting stage, which is the motion that was approved by the Council in October 2016 that approves stumping, grinding and cutting of trees. Because of that vote, he said that, upon permitting, nothing would require this to come back to Council to approve any kind of site work. He said one thing he cannot approve is having a potential to see tree cutting, leaving that area empty without a plan in place and without public input. He said he's been saying that for two years and isn't going to change his opinion on that.*

*Chairman Marble asked what do you see happening on the site? Councilor Wilde said it's not about what he sees, he represents constituents from District 1. He has heard opinions on both sides of the issue from constituents. He said it would be wonderful to have parking there to serve what's on the site. He said if the Town wants to also have additional field space there, with proper drainage and potentially a concessions stand, that's fantastic. He said we need to go through the DEP process so the runoff is taken care of. He said he can't get to that place where he wants to be while that October 2016 vote creates an opening. He said the issue of clearing the land, cutting the trees and stumping the property has been brought up many times, whether we could do it with permitting, without permitting. He said that bids were received from people who could do it at no financial cost, which could happen without coming back to the Council. He said he can't put his name on something that could become a catastrophic event for the Town, by which he means an uprising of people saying what the heck are you doing, where are the plans?*

*Councilor McAvoy said he sees an upgraded entrance and exit on the site, three lanes, on the right side of the entrance drive a community center and library all in one building where the pool sits now. There's extra parking, there's no 50,000 sq. ft. building footprint, no additional fields. Instead, upgrade the fields that are there. He said that's his vision.*

*Mayor McPike said he would like to see the site upgraded with more recreational fields.*

*Councilor Sirois said we need to resurface and redo the current fields, and build new fields, and that new fields will be needed during a transition when current fields are being upgraded. He said everyone he's talked to in this town is strongly supportive of providing the infrastructure to serve the children of this town. He thinks what we have now and what we don't have is embarrassing, and clarified that this is not a reflection on the Recreation Director and Recreation Department. He said this is a community based on families and young children. He said that, before Danny Lafayette made the Skehan Center available, we had to borrow and beg for use of RSU-22 facilities. He said we need facilities that can be expanded to*

*support other outdoor sports. He said facilities are inadequate to the point that Hampden kids are going to Bangor to join their travel teams and use their facilities. He said we never have anything in Hampden such as tournaments because we don't have the facilities to support it, so Hampden families are trucking their kids to the southern part of the state.*

*Councilor Ryder said he thinks everyone knows where he has stood since he instigated this whole thing. He said it's been blown out of proportion and that this started off as a long-range plan, and he never intended this would be done today or tomorrow. The intent was to find a piece of land that could have parking, get it designed. He envisions that we could do some fundraising, and that this would be a community event, but that's all gone by the wayside. He said if it takes five years, it takes five years, if it takes ten, it takes ten. He said he wasn't in a hurry, he just wanted a plan for the future. He said that how and when we get there is up to everyone else but his vision hasn't changed.*

*Councilor Cormier said we had a referendum on an RSU-22 turf field. He said we should have a referendum on this before we spend another dime. He doesn't think we should do something because five or six or seven people want to have it.*

*Councilor Wilde said in his discussion earlier in the day we'd talked about how to get to a referendum, and that we'd need some actual numbers to put to voters. Manager Jennings said that he sees two options of the Council wants to pursue a referendum: a non-binding question could be put to voters either without a number, or with a number. He said this could be proposed as a binding referendum as a debt authorization, but that we're a ways away from that. He said a non-binding question could be proposed with a number, but it requires time and expense to do so and, if borrowing was needed in the future, a separate referendum would be needed to authorize borrowing. He said he thinks if you're asking the voters to consider something you need to give them some clear picture of what you're asking them.*

*Councilor Wilde said we talked today about how do we get this from one point to another. He said that the way to get his vote is to take away the prospect of cutting all this wood without the voters approval. He said that as soon as it goes to referendum and voters say they support this that he's all in for it because the voters would have spoken. He said he is not willing to support it if the trees could be cut without going through the proper process. He said the vote in October 2016 gave the Council the approval to spend money on that site, which was authorizing cutting, stumping, grinding, permitting, and site preparation for the purpose of additional recreational fields and parking. He said we're not even at that point yet, we don't even know what the public wants. He said that motion*

*needs to be rescinded before he can support this. He said if that's done, you've got my support.*

*Chairman Marble said he agreed with Councilor McAvoy's comment about the road entrance, and agreed to some degree about the library. He does not agree with eliminating the pool. He said that before he would think about specifics on fields, he'd like to look at our position with the RSU, and have real discussions of current and future capacity and needs, in terms of scheduling but maybe even developing a new field together. He said he sees an opportunity to work with the RSU in ways we haven't before. He said he sees plenty of ways to address Councilor Wilde's concern.*

*Councilor Sirois said we cannot go to the public with an open ended question. He said that misinformation on project costs has been spread in the past, talking about \$25 to \$30 million dollars of cost and lots of additional staff needed to run a facility. He said unless we have something solid that people can't lie about we shouldn't bring it to the public.*

*Mayor McPike said isn't DEP authorization needed to cut and stump? Councilor Ryder said it would be needed to stump, because that would open the soil up for erosion; Manager Jennings agreed. Councilor Ryder said there wouldn't be any point in cutting the trees without stumping, and that it couldn't happen without going through DEP. Mayor McPike said that what had been voted on in 2016 couldn't happen without DEP permitting anyway. Councilor Wilde said that, if DEP permits were issued, it would be possible for the cutting and stumping to go forward without going to referendum. Councilor Ryder said about the idea of going to referendum that his whole approach from the start was to do this without spending tons of money, and that going to the voters with a big cost number was the furthest thing from his mind. He said we haven't even looked at options to raise contributions or donations of labor or materials.*

*Councilor McAvoy said that he agrees with Councilor Ryder, and if we could have stuck with Councilor Ryder's vision this could have been ok, but we did not. He said the five options presented didn't resemble what Councilor Ryder or what he had in mind. It went from zero to 500 just like that. He said if we could just stick with the parking that would be one thing, but a 50,000 sq. ft. building footprint showed up on the plans. He said that was never talked about, and he objects to it. Chairman Marble said he thought the intent of that was to give people concept possibilities.*

*Councilor Sirois asked didn't we already vote on pursuing DEP permitting? Manager Jennings said that there was a 5-1 vote in October to seek pricing from Woodard & Curran, pursuant to their contract which provided that it could be extended to the next phase of work, for taking the parking-only plan through permitting. Their proposed price of \$51,000 was turned*

*down by the Finance Committee. Then in December, by a 3-2 vote, the Committee directed to seek pricing for the full build option. Manager Jennings then prepared an RFP on that basis and brought it back to the Committee in January. Another vote was taken in January that was 3-3 so did not pass. Councilor Sirois said so we did already approve this? Manager Jennings said the Town Attorney was here because of the question of the January vote being substantially similar to the December vote. He referred to an opinion the Town requested from MMA legal [included in the meeting packet] which said that unless the January vote specifically rescinded the December vote, that the December vote stands. He said the Town Attorney agrees with that, but has advised that because the January vote recommended against issuing the RFP, that if we are going to issue the RFP he recommended to get another vote. Manager Jennings said he'd be much more comfortable proceeding once it is clear that there are four or more Councilors who support that. Councilor Sirois said so we're going to vote again.*

*Chairman Marble said the goal had been to issue an RFP to try to get a better price. He called for public comments.*

*Resident Allison Berube said she likes the idea of cooperating with RSU-22, and asked wasn't the Woodard & Curran proposal for parking and stormwater? Manager Jennings said yes, but that their estimate of work required (and cost) did take into account the potential for future site work, related to stormwater and grading relative to pipeline depth, etc.*

*Ms. Berube said that this site has a lot of constraints and that there must be a better location. Councilor Ryder said that early in the process we'd looked at other land. There were wetlands issues, sites were located too far out of town, there were significant acquisition costs. We looked at the L.L. Bean parcel and there were wetlands issues. We looked at the Sargent land on Coldbrook Road but it's commercially zoned. All of that looking, and ruling out other location options, is how we ended up here. Ms. Berube wondered if we should reconsider those other sites, saying that this site doesn't offer a lot of usable land. She asked about the total acreage of the Kiwanis and VFW sites. Rec Committee member Nancy Fenders said that the VFW baseball fields get a ton of use, and Councilor Ryder noted that a lot of drainage flows across those sites. Ms. Berube said how do we best use what we already own, and are we maximizing use of the VFW site.*

*Chairman Marble asked about scheduling use of fields between RSU-22 and the Town. Rec Director Abbott said that the schools are using the fields from early to late evening, and there are different understandings about who gets access to what facilities and in what order of priority.*

*Rec Committee member Jason Sharpe said he is in favor of restoring use of the third field on the site, and having enough parking to use that field. There has been talk about adding a middle school soccer program but there is no space for it. He said he thinks engineering could be done at a lower cost. Chairman Marble asked if the primary limitation on use of the third field was parking and safety, and Mr. Sharpe said yes.*

*Atty. Hamer said that the Council's vote of October 3, 2016 stands, noting that it is "stale" but it exists. He said the Council can address that vote if it chooses. He agrees with the MMA legal opinion [that was included in the meeting packet]. He said that prior Council votes are great but that the Council can take action to change course. Councilor Ryder noted that the Council would have to take this action. Councilor Wilde said we need to close that loophole. Atty. Hamer said that if the Councilor's intent on the RFP is directly tied to rescinding or modifying the 2016 vote, the Council could make issuance of an RFP contingent on the Council taking action to modify the October 2016 vote. He said this would need a motion to recommend to Council to modify that vote, and a second motion to proceed contingent on the Council taking that action.*

*Councilor McAvoy said that in his mind the Services Committee's October 2017 action came to resolution when the cost proposal for site engineering for the parking-only plan was turned down by the Finance Committee. He asked if what we're voting on tonight is different than what was voted in this past fall. Chairman Marble said that he saw the Council's rejection of the Woodard & Curran proposal as a statement that the Council wanted to see if better pricing could be available. Councilor McAvoy said that the direction now is toward permitting a larger buildout. Chairman Marble said that it makes more sense to seek pricing for the whole site, noting that the Council can act later to reduce the scope. He said we're trying to be fair to the Council the public and the professionals we're trying to engage.*

*Councilor Wilde noted that he was not at the December meeting [at which that action was recommended] because he was in the hospital. He said that's when the fields came back into the discussion, and that it just boils down to that piece, right there, that gives the Council the express ability to cut the trees. He said that's got to come out.*

*Councilor Ryder said do we all agree that if we eliminate cutting, stumping and grinding out of that clause, is everyone ok with that? Councilor Wilde said if we eliminate that, and if it has to come back to Council after permitting, he would be ok with that. Councilor Ryder asked if everyone was good with that and no one objected. He said there would need to be a discussion after the permitting, which would be needed anyway. Chairman Marble said that Atty. Hamer can help us with the wording and Councilor Wilde said it's great the attorney is here. Mayor McPike asked Atty. Hamer*

*whether if the Council eliminate that authority from the October 2016 vote would that mean we couldn't do that? Atty. Hamer said a motion to recommend to Council to rescind authorization to cut and stump as provided in the October 3, 2016 meeting would bring us back to stage one. He said that wouldn't mean the Council couldn't approve a new authorization, but that prior authorization would be closed. Councilor Sirois said so we couldn't do it? Atty. Hamer said you couldn't do it until the Council voted again to say you could do it.*

*Councilor Wilde said this would allow permitting and engineering to move forward without having a loophole that allows you to cut everything without further discussion. Chairman Marble asked if this could be combined into one motion? Manager Jennings said if we seek pricing, the Council could award a bid for a scope that is less than what is advertised if that is what it chooses; all of the Town's bid documents provide the Council the right to award a contract in whole or in part. He said he had tried earlier in January to prepare an RFP that invited vendors to provide one price for just the parking and one price to do the whole thing but it got to be so confusing. He said that, putting himself in the shoes of prospective bidders, he didn't feel there was a way to do so that was clear and that this would have created confusion for bidders, and that he thinks we owe it to prospective bidders to be clear about what the Council is seeking to do so they can give us a price. He said if the prices come in, the Council at that time could negotiate with the lead bidder, saying we like your proposal and approach, but scale back to a reduced scope if that was the majority will of the Council.*

*Councilor McAvoy said wouldn't that same reduced scope need to be made available to any other bidder? Manager Jennings said the Council reserves the right to negotiate with the first ranked bidder, and if terms are not agreed it could proceed to the second ranked bidder. Atty. Hamer said you could do it that way, or you could issue a second bid document at that point based on a reduced scope.*

*Chairman Marble called for a motion. Councilor Wilde made a motion to engage a consultant. Councilor Ryder said you want to eliminate the cutting, stumping and grinding first, right? Councilor Wilde made a motion to rescind the authorization from October 3, 2016 for stumping and grinding at Lura Hoit. Atty. Hamer said the Committee can't rescind because it's not the Council, it would need to refer a recommendation that the Council rescind. Councilor Wilde offered a modified motion to refer to Council a rescinding of authorization of stumping and grinding from October 3, 2016. Councilor McAvoy seconded the motion. Chairman Marble asked if there was further discussion, and there was not. The motion was passed 6-1 with Councilor Sirois opposed.*

*Councilor Sirois offered a motion to refer to Council a recommendation to engage a consultant in engineering and permitting for DEP and local permitting at Lura Hoit Pool. Councilor Wilde seconded the motion.*

*Mayor McPike asked for clarification since there was discussion he couldn't quite hear. Manager Jennings said there was a question of whether the motion was contingent upon Council approval of the previous recommendation. He said that was up to the person making the motion, that was not part of Councilor Sirois motion but the motion was in order. Chairman Marble asked if there was further discussion, and Councilor Ryder said as long as Councilor Wilde feels confident that he doesn't need that in there. Chairman Marble said he expects the Council will approve both actions, and Manager Jennings said he would list them in that order on the Council agenda. Councilor Wilde said the two separate motions address everything that he has concerns about. He said he can't speak for others on the Council but that his concerns have been addressed.*

*Chairman Marble called for other comments or questions, there were none, and he called for a vote. The motion was passed 5-2 with Councilors Cormier and McAvoy opposed.*

- a. Update on Kiwanis Civic Center, and anticipated proposal to extend term of modified lease for FY19 –** *Manager Jennings provided an informational update, noting that based on a conversation with its President Curt Slininger he expected the Kiwanis Club to request an extension of the current lease terms, although no request has been made. Mr. Slininger met with Manager Jennings recently and informed him that this would be put to the Club to review. Manager Jennings said that, if a request is made and if the Council approves it, a decision will need to be made about whether expenses would continue to be paid from the Host Community Benefit account or if this would be added as a line item in the expense budget.*

*Manager Jennings noted that no Committee action is requested tonight, but he wanted to keep the Committee updated. Mayor McPike asked if Kiwanis could inform us of what other groups use the facility and how often; Manager Jennings said yes. [A related memo on this topic is attached to these minutes]. Councilor McAvoy asked whether future costs would be paid from the Outside Agencies section of the Town budget; Manager Jennings said that this would be up to the Council in its approval of the Town budget.*

- b. Update from February 6 meeting of the Penobscot Cable Consortium regarding regional efforts to secure updated Cable Franchise Agreement with Spectrum –** *Manager Jennings provided an update on the recent meeting and reported that the Consortium's next meeting will*

*take place on March 20<sup>th</sup> at Eastern Maine Development Corporation, and that Spectrum is expected to be represented at the meeting.*

**4. NEW BUSINESS** – *None.*

**5. PUBLIC AND STAFF COMMENTS** – *None.*

**6. COMMITTEE MEMBER COMMENTS** – *Councilor McAvoy said that he thought Chairman Marble did a good job chairing tonight's meeting.*

*There being no further business, there was a motion and second approved by unanimous consent and the meeting adjourned at 7:02 PM.*

*Respectfully submitted –  
Angus Jennings, Town Manager*

Attendance:

Recreation Committee: Steven Brown, Jim Dyer, Nancy Fenders, Jane Jarvi, Frank Pergolizzi, Jason Sharpe, Stephanie Shayne.

Recreation Department: Shelley Abbott, Director: Jill McLaughlin, Assistant Director, Evan Kingsbury, Team Sports

Town Manager: Angus Jennings

- I. Meeting was called to order at 6:30 pm.
- II. Agenda approved
- III. Public Comment: none
- IV. Approval of Minutes: approved for May 22, 2017 and June 12, 2017.
- V. Directors Update: participation has increased across the board
  - a. Summer Review: summer camp was full except July 4<sup>th</sup> week (normal): other programming offered: soccer skills, tennis, basketball skills
  - b. Fall: numbers are steady: programming included field hockey, robotics, soccer, flag football, Halloween party had 125 participants even with reschedule due to weather. New; was fencing and yoga.
  - c. Winter: schedule is full including a Hogwarts shopping day and a New Year's Eve function. Expansion due to new, full-time employee.
- VI. Unfinished Business
  - a. Western Avenue Recreation Area Work: Services Committee and the Town Council have both supported and not supported continuation of plan development for the Western Avenue Recreation Area. Recreation Committee unanimously agreed to request clarification from the Council as the funds have been budgeted to pursue design and permitting. Additional site development funding was discussed including host community benefit fund, trail grants, reserve accounts, and a bond.
  - b. Town Audit: FY 2017 audit should be complete early 2018. 2017 is the last year for the Enterprise Fund. The Council will vote to roll over these funds to the Recreation Reserve fund.
  - c. Scholarship Update: the fund continues to grow through donations made during registration. The balance is \$1055 (\$700 seed from TLS). Two scholarships have been awarded, one denied due to applicant applying after they had registered and requested a reimbursement.
  - d. Seacoast United Partnership: Soccer Club in Brewer: they provided 4 summer skills clinics, will continue in the fall including coach training. They may coordinate a winter futsal league.
- VII. New Business
  - a. Bronco Travel: merged grades 3 and 4, 54 boys 30+girls. Focus on skills and fundamental development
  - b. Emailed articles re: Time article on the business of youth sports and sexual harassment from fans. Discussion ensued.
- VIII. Committee Comments: encourage participants in recreation to attend council and services committee meetings.
- IX. Next Meeting: TBD
- X. Meeting adjourned at 7:45 pm.

Respectfully submitted:

Jane Jarvi, Secretary



Town of Hampden  
Land & Building Services

Memorandum

To: Planning & Development Committee  
From: Karen M. Cullen, AICP, Town Planner *KMC*  
Date: February 2, 2018  
RE: Hampden Business Park Covenants

The proposed amendments to the Hampden Business Park Covenants are provided in strikethrough/underline format on the following pages. Noel Musson and town staff discussed the proposed changes and Noel's draft was sent to Town Attorney Ed Bearor, who added his edits. Finally, I have added a few comments on items that could be eliminated since they are in the proposed zoning amendments. Note that if we did eliminate those, there could be a gap of a few months when there would be no provisions for those items between the date of the revised covenants and the date the zoning amendments become effective. I believe that is a small risk, but it could be eliminated if the covenants retain those provisions until after the zoning amendments are adopted, and then the covenants could be amended again to eliminate the redundancy.

After the P&D Committee reviews these changes, we will send the draft to the owners and occupants within the business park in accordance with Article VI of the Covenants.

Staff respectfully requests that the Committee refer the proposed amendments to Town Council for public hearing to be held at the March 19, 2018 Council meeting.

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE HAMPDEN BUSINESS AND COMMERCE PARK**

This Second Amended and Restated Declaration is made this \_\_\_\_ day of ~~September~~March, 20185 by the Town of Hampden, a municipality situated in Penobscot County, Maine:

**BACKGROUND:**

- A. A Declaration of Covenants, Conditions, and Restrictions for the Hampden Business and Commerce Park dated October 7, 2002 was recorded in the Penobscot County Registry of Deeds on December 17, 2002 in Book 8503, Page 78.
- B. By Certificate of Amendments dated January 23, 2008, recorded in the Penobscot County Registry of Deeds on January 28, 2008 in Book 11274, Page 328, the Town of Hampden amended Section 4.2 and Section 4.4 of the original Declaration.
- C. On November 17, 2014, the Hampden Town Council adopted additional amendments to the original Declaration pursuant to Article VI, Section 6.1 of the Declaration.
- D. This Amended and Restated Declaration ~~is~~was issued for the purpose of restating the original Declaration, as amended through November 14, 2014, and ~~shall apply applied prospectively~~ from November 14, 2014 until the date of effect of the Second Amended and Restated Declaration.
- D-E. ~~This Second Amended and Restated Declaration is issued for the purpose of restating the Amended and Restated Declaration, as amended through September 17, 2015, and shall apply prospectively from March \_\_\_\_, 2018.~~

**RECITALS:**

1. The Town of Hampden is the owner of that certain real property in the Town of Hampden, County of Penobscot, State of Maine, shown on a Final Subdivision Plan entitled Hampden Business and Commerce Park and recorded in the Penobscot County Registry of Deeds in Map File Nos. 2001-70 and 2001-71, as amended by the Final Subdivision Plan - Amendment No. 1 recorded in said Registry in Map File Nos. 2002-89 and 2002-90, Final Subdivision Plan, Amendment 2 (addition of Business Court and Commerce Court) on June 20, 2007, recorded in said Registry in Map File No. 2007-112 and Final Subdivision Plan Amendment 3 (Reconfiguration of Carey Circle) on September 10, 2014, recorded in said Registry in Map File Nos. 2014-60 and 2014-61. (Amended 11/17/14)
2. The Hampden Business and Commerce Park is being developed as a master planned Business and Commerce Park. It is the Town of Hampden's desire and intention to subject the real property in said Business and Commerce Park to certain covenants, conditions, and restrictions which are deemed

to be real covenants which run with the land, for the benefit of the property, the Town of Hampden, and the owners or occupants of lots in the Hampden Business and Commerce Park. It is intended that said covenants, conditions and restrictions shall bind and benefit not only said Town of Hampden, and the owners and/or the occupants, but also their respective successors, heirs, and assigns and that all lots in Hampden Business and Commerce Park shall be owned, held, used, sold, transferred, leased, and conveyed subject to the covenants, conditions, and restrictions set forth in this Declaration.

It is the intention of the Town of Hampden to further a plan of subdivision by means of the covenants, conditions, and restrictions set forth in this Declaration. Said covenants, conditions, and restrictions are intended to be common to all of the lots in the Hampden Business and Commerce Park, and any other land which the Town might wish to add in the future, and to enhance and protect the value, desirability, and attractiveness of all such lots to their mutual benefit except where otherwise noted. ~~The design review provisions in Article IV are limited to Phase 1 as defined, and do not apply to the East Phase or West Phase of the subdivision.~~ (Amended 11/17/14)

3. It is also the intention of the Town of Hampden to enhance the value of the property, to increase the job base and job diversity in the community, and to increase the Town's tax base by undertaking construction and management of the Business and Commerce Park and through the use of this Declaration. Limitations on use, preference for certain uses over other uses, a limitation on non-taxable uses, construction and appearance standards, and many other standards in this Declaration are designed toward these ends.

## ARTICLE I DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this article shall, as used in this Declaration, have the meanings herein set forth:

Declarant. The Town of Hampden, acting through its Town Council except as otherwise specified, and its successors and assigns.

Declaration. This Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Hampden Business and Commerce Park as it may from time to time be amended or supplemented.

Design Review Board. (Deleted 11/17/14)

Final Subdivision Plan - Subdivision Plan. The term Final Subdivision Plan or subdivision plan shall mean the Final Subdivision Plan approved by the Hampden Planning Board, on file at the Penobscot County Registry of Deeds in Map File Nos. 2001-70 and 2001-71, as amended by the: (1) Final Subdivision Plan - Amendment No. 1 recorded in said Registry in Map File Nos. 2002-89 and 2002-90, (2) Final Subdivision Plan, Amendment 2 (addition of Business Court and Commerce Court) on June 20, 2007, recorded in said Registry in Map File No. 2007-112, ~~and~~ (3) Final Subdivision Plan Amendment 3 (Reconfiguration of

Carey Circle) on September 10, 2014, recorded in said Registry in Map File Nos. 2014-60 and 2014-61, and (4) Final Subdivision Plan Amendment 4 (Sheet 2 of 2 only; reconfiguration of lots 33 and 34, elimination of trail easement across lot 28) on \_\_\_\_\_, 2018, recorded in said Registry Map File No. 2018-\_\_\_\_\_. (Amended 11/17/14).

Hampden Business and Commerce Park. The term "Hampden Business and Commerce Park" shall be synonymous with the term "subject property" and shall mean all of the real property now or hereafter made subject to this declaration, including but not limited to the property shown on the Final Subdivision Plan.

Improvement - Improvements. The term "improvement" or "improvements" shall include buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, storage facilities, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, hedges, windbreaks; plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures, installations, and landscaping of every type and kind, whether above or below the land surface.

Lot. The term "lot" shall mean any lot or other tract or parcel of land located within the subject property as shown on the Final Subdivision Plan. This definition does not preclude establishing improvements across interior lot lines of lots held in common ownership. (Amended 11/17/14)

Low Impact Outdoor Recreation. The term "low impact outdoor recreation" shall mean outdoor recreation, nature observation and study which is dispersed, traditional non-commercial outdoor activities that do not generally rely on buildings or spectator facilities, and may include hiking, bird watching, picnicking, cross-country skiing, snowmobiling, snow-shoeing, bicycling, horseback riding, primitive non-commercial camping, and outdoor education, including scientific and archeological research and observation.

Master Plan. The Hampden Business and Commerce Park master plan approved by the Town of Hampden Planning Board developed by WBRC Architects- Engineers dated April 27, 2001, a copy of which is on file at the Town Clerk's Office in Hampden, Maine. The plan shall include items identified on the Final Subdivision Plan as amended.

Occupant. A person or entity that is in possession of and is occupying or using any improvements located on a lot. The term includes, but is not limited to, an owner, lessee, optionee, or party in possession.

Owner. A person or entity that holds title to a lot as evidenced by records recorded in the Penobscot County Registry of Deeds.

Phase. This term shall represent certain lots within the Hampden Business and Commerce Park Subdivision and further identified on the Amendment 3 Final Subdivision Plan:

Phase 1. Phase 1 is lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 18 within the Hampden Business and Commerce Park Subdivision.

Phase, East. East Phase is lots 33, 34, 35, 36 and 37 within the Hampden Business and Commerce Park Subdivision.

Phase, West. West Phase is lots 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 within the Hampden Business and Commerce Park Subdivision. (Amended 11/17/14)

Record-Recorded-Recordation. The terms shall mean, with respect to any document, the recordation of said document in the Registry of Deeds of the County of Penobscot, State of Maine.

Sign. Any structure, devise, or contrivance, electric or non-electric, upon or within which any poster, bill, bulletin, printing, lettering, painting, devise, or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, posted, otherwise fastened or affixed.

Street. Any public or private way as shown on the Final Subdivision Plan.

Subject Property. Synonymous with the term "Hampden Business and Commerce Park", or any lot therein, and shall mean all of the real property now or hereafter made subject to this Declaration.

Substantial Completion. The date at which the building can be fully utilized for its intended purpose.

Visible from Neighboring Property and/or Street R/O/W. The term "visible from neighboring property and/or Street R/O/W" shall mean, with respect to any object on the lot, that as determined by the ~~Design Review Board~~ Code Enforcement Officer, such object is or would be visible from a point measured six (6) feet above the grade at the property line of any adjacent lot or street right of way, except that objects greater than 35 feet above grade are exempt from this definition.

Other Definitions. Any term not defined herein shall have its customary dictionary definition.

## **ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION**

### **2.1 GENERAL DECLARATION**

Declarant hereby declares that all of that real property located in the Town of Hampden, County of Penobscot, State of Maine, as shown on the following plans:

Final Subdivision Plan entitled Hampden Business and Commerce Park recorded in the Penobscot County Registry of Deeds in Map Files No. 2001-70 and 2001-71, as amended by Final

Subdivision Plan -Amendment No. 1 recorded in said Registry of Deeds in Map File Nos. 2002-89 and 2002-90;

Final Subdivision Plan, Amendment 2 (addition of Business Court and Commerce Court) on June 20, 2007, recorded in said Registry in Map File No.2007-112; ~~and~~

Final Subdivision Plan Amendment 3 (Reconfiguration of Carey Circle) on September 10, 2014, recorded ~~is-in~~ said Registry in Map File Nos. 2014-60 and 2014-61. (Amended 11/17/14); ~~and~~

Final Subdivision Plan Amendment 4 (Sheet 2 of 2 only; reconfiguration of lots 33 and 34, elimination of trail easement across lot 28) on \_\_\_\_\_, 2018, recorded in said Registry Map File No. 2018-\_\_\_\_\_.

shall be sold, held, conveyed, encumbered, leased, rented, used, occupied, improved, maintained or transferred in whole or in part, subject to the limitations, restrictions, conditions, covenants, liens and provisions set forth in this Declaration, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, and sale of said real property and are established for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subject property and every part thereof. All of said limitations, restrictions, conditions, covenants, liens and provisions of this Declaration shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest therein or any part thereof.

## **2.2 ADDITION OF OTHER REALTY**

Declarant may, but shall have no obligation to, add at any time or from time to time additional land to the scheme of this Declaration. The addition of additional land to the scheme of this Declaration shall be made and evidenced by filing in the Penobscot County Registry of Deeds a supplementary Declaration with respect to the additional land to be added. Declarant reserves the right to so amend ~~and supplement or repeal~~ this Declaration or any portion thereof pursuant to the procedures in Article VI, without the consent of any party who may have any right, title, or interest to the subject property. Upon addition of additional land to the scheme of this Declaration, said additional land shall be and become subject to this Declaration.

## **ARTICLE III CONSTRUCTION OF IMPROVEMENTS**

### **3.1 APPROVAL OF PLANS REQUIRED (~~Deleted ==/==/2018~~)**

~~The provisions of the Declaration of Covenants, Conditions, and Restrictions for the Hampden Business and Commerce Park outlined in Section 3.1 through 3.4 shall only apply to Phase 1, and do not apply to East Phase and West Phase as defined. No exterior improvements shall be commenced, erected, placed, altered, maintained, or permitted to remain on any lot, nor shall any addition,~~

~~change or alteration of any improvements be made, until final plans and specifications shall have been submitted to and approved in writing by the Hampden Planning Board.—Such final plans and specifications shall be submitted in accordance with Zoning Ordinance Article 4.1 Site Plan Review, as may be amended or replaced from time to time. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Planning Board or Town Planner, but shall in any event include those items listed in III.1.a and III.1.b of this paragraph. The Planning Board must make a positive finding that the standards contained herein are satisfied in addition to the standards contained in Article 4.1 Site Plan Review, as may be amended or replaced from time to time. (Amended 11/17/14)~~

~~A site development plan or plans shall include the nature, grading scheme, shape, composition, and location of all structures (including proposed front, rear, and side setback lines and all stream and wetland buffers), and all structures within three hundred (300) feet of any property line, and the number and location of all parking spaces and driveways, landscaping, buildings, lighting and signage accessory buildings, fences, storage areas, trash collection, antennas, and:~~

~~III.1.a.—A plan showing all landscaping elements for the particular lot, including botanical/common name, size, condition, and "hard" landscape elements, and;~~

~~III.1.b.—Building exterior elevations of each facade showing dimensions, all building windows and doors, materials, and exterior color scheme and any external mechanical systems, and;~~

~~III.1.c. (Deleted 11/17/14)~~

~~III.1.d. (Deleted 11/17/14)~~

~~III.1.e. (Deleted 11/17/14)~~

### **3.2 BASIS FOR APPROVAL (Deleted ==/==/2018)**

~~Approval shall be based, among other things, upon adequacy of site dimensions, adequacy of structural design, conformity and harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning, or other roof-top installations, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration, and in reasonably close conformance with the approved Hampden Business Park master plan, as amended, and the final subdivision plan.~~

~~Plans that provide for metal-clad buildings will be approved only on the condition that such buildings are designed and built in accordance with the requirements of Section 4.4. (Amended 11/17/14)~~

~~Plans for plantings and landscape improvements will be approved only on the condition that materials, placement, and form are designed and built in accordance with the Landscaping Plans for the Hampden Business and Commerce Park. (Amended 11/17/14)~~

~~Declarant shall not arbitrarily or unreasonably withhold its approval of any plans and specifications. Except as otherwise provided in this Declaration, Declarant, by and through the Hampden Planning Board, shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:~~

- ~~1. Failure to comply with any of the limitations, restrictions, conditions, and covenants set forth in this Declaration;~~
- ~~2. Failure to include information in such plans and specifications as may have been reasonably requested by the Planning Board;~~
- ~~3. Failure to reasonably comply with the Hampden Business and Commerce Park Master Plan;~~
- ~~4. Objection to the exterior design, the appearance of materials, or materials employed in any proposed structure;~~
- ~~5. Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other lots, or other property in the vicinity of the subject property;~~
- ~~6. Objection to the locations of any proposed structure with reference to other lots, or other property in the vicinity;~~
- ~~7. Objection to the grading or landscaping or parking plan for any lot;~~
- ~~8. Objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any structure;~~
- ~~9. Any other matter that, in the judgment of the Planning Board, would render the proposed improvements or use inharmonious with the general plan for improvement of the subject property or with improvements located upon other lots or other property in the vicinity.~~

~~———— (Amended 11/17/14)~~

### **3.3 ACTION** ~~(Deleted ==/==/2018)~~

~~Declarant, by and through the Planning Board, may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same subject to specific conditions, or it may deny approval. Upon approval or conditional approval by Declarant of any plans and specifications submitted, a copy of such plans and specifications, or the revised plans, together with any conditions, shall be deposited for permanent record with Declarant, and a copy of such plans and specifications, bearing such approval together with any conditions, shall be returned to the applicant submitting the same. If the Declarant fails to act within 10 business days from the date the plan is deemed complete, the plan is deemed denied. A time extension may be granted in writing by the applicant. (Amended 11/17/14)~~

### **3.4 APPEAL** ~~(Deleted 11/17/14)~~

### ~~3.5 PROCEEDING WITH WORK (Deleted ==/=/2018)~~

~~Upon receipt of approval from Declarant pursuant to Section 3.3 the Planning Board, the applicant, shall, as soon as practicable, satisfy any and all conditions of such approval and shall diligently proceed with the commencement of and shall diligently and continuously pursue the completion of all approved excavation and construction. In all cases, work shall commence within one (1) year from the date of approval, and if work is not so commenced, approval shall be deemed revoked unless Declarant, pursuant to written request made and received prior to the expiration of said one (1) year period, extends the period of time within which work must be commenced.~~

### 3.6 COMPLETION OF WORK

Any improvement commenced pursuant hereto shall be substantially completed within two (2) years from the date of ~~regulatory Declarant's~~ approval ~~by the Planning Board pursuant to Section 3.3~~, except that if such substantial completion is rendered ~~impossible~~infeasible, or unless work upon the proposed improvements would impose a great hardship upon the ~~owner or occupant applicant to whom Declarant's approval is given~~, due to strike, fire, national emergency, natural disaster, or other supervening force beyond the control of the ~~owner or occupant applicant~~, Declarant may, upon written request made and received prior to the expiration of the two (2) year period, extend the period of time within which work must be completed. Failure to comply with this section shall constitute a breach of this Declaration and subject the party in breach to the enforcement procedures set forth in Article VII. Nothing in this paragraph shall be deemed to extend any construction start or completion date required by the ~~Planning Board~~, Zoning Ordinance or other ordinance or regulation, or condition of permit.

All disturbed areas on any Lot must be revegetated in accordance with good erosion practice methods within three (3) months if disturbed during the growing season and within nine (9) months if disturbed during the non-growing season.

All revegetation must be completely established within one year from the time of disturbance.

If all elements of the approved plans and specifications are not substantially completed in accordance with the terms and conditions of this Declaration or such terms and conditions as may be included in a deed of conveyance, the owner ~~shall~~may be assessed a late penalty of \$100 for each day beyond the completion deadline that the project is not substantially completed. Said late penalty shall be payable to Declarant, and the owner shall also be obligated to pay any of Declarant's reasonable costs incurred to collect the same, including reasonable attorney's fees and expenses.

~~Within sixty (60) days from substantial completion, the Owner shall submit two (2) copies of final record drawings to the Declarant Town Manager, along with a set thereof in such electronic format as may be designated by Declarant.~~

### **3.7 DECLARANT NOT LIABLE (Deleted ==/=/2018)**

~~Nothing in this Declaration shall be deemed to constitute an undertaking by the Declarant to perform any particular act with respect to the subject property, nor to assume liability or indemnify any person for any damage, loss, or prejudice suffered or claimed by any person on account of:~~

- ~~a. The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective.~~
- ~~b. The construction of any improvement, or performance of any work, whether or not pursuant to approved plans, drawings, and specifications.~~
- ~~c. The development or use of any lot within Hampden Business and Commerce Park, or enforcement or failure by the Declarant to enforce any of the covenants, conditions, or restrictions contained herein.~~

### **3.8 CONSTRUCTION WITHOUT APPROVAL**

If any improvement shall be commenced, erected, placed, or maintained upon any lot, or any new use commenced upon any lot, other than in accordance with ~~the approval by the Declarant pursuant to the provisions of this article~~ article a plan approved by the Planning Board by the Town of Hampden, such improvement shall be deemed to have been undertaken in violation of this Declaration, then upon written notice from Declarant, any such improvement shall be removed or altered so as to conform to the approval ~~by the Declarant~~, and any such use shall cease or be altered so as to conform to the approval ~~by the Declarant~~ within thirty (30) days after receipt of such notice. Thereafter, any party who remains in breach of the approval shall be subject to the enforcement procedures set forth in Article VII.

### **3.9 STARTING TIME AND REPURCHASE OPTIONS**

- a. Lots are conveyed with the intent that the owner will build thereon, and not for purposes of speculation. Conveyance of lots shall be specifically made upon the condition that commencement of construction shall begin within one year from the date of said conveyance and that substantial completion of construction, including paving of access ways, walkways and parking lots and the grading and landscaping of the surrounding grounds, shall be substantially completed within two (2) years from the date of Declarant's regulatory ~~approvals pursuant to Section 3.3~~. In the event owner shall fail to commence construction within one (~~1~~) year from the date of conveyance, the Declarant may at its option and after written notice of 30 days, declare a violation of these covenants and upon tender of the original purchase price for the lot

by Declarant to owner, the owner shall, notwithstanding any improvements to the lot, execute and deliver to the Declarant a deed conveying the subject lot to the Declarant. Owner shall have no right, remedy or recourse against the Declarant for the cost or value of any improvements, nor a cause or claim for unjust enrichment, quantum merit, or other similar relief.

- b. In the event any owner of land lying within the Hampden Business and Commerce Park shall desire to sell all or part of the land which at the time is unimproved, then the Declarant shall have the prior right and option to repurchase the unimproved premises proposed to be sold at the same price per acre paid by the Owner for said land when originally acquired from the Declarant.
- c. Prior to any sale of such premises, the owner of such lot, or the owner's successors or assigns, shall notify the Declarant in writing of intention to sell, describing the premises to be sold and the Declarant shall have sixty (60) days from the date of receipt of such notice to exercise its option, and in the absence of written notification sent by the Declarant of its election to exercise said option, such owner shall be free to sell such premises to any person and at any price deemed desirable by such owner.
- d. In the event of any repurchase by the Declarant under paragraphs a, b, and c hereof, the purchaser upon tender of the repurchase price, shall execute and deliver to the Declarant a Quitclaim Deed with Covenant to said premises conveying thereby marketable title to the same free and clear of all encumbrances, except those encumbrances contained in the original deed from Declarant.

### **3.10 RIGHTS RESERVED TO DECLARANT (Deleted ==/=/2018)**

- ~~a.—The property subject to this Declaration is also subject to the reservation to the Declarant for itself, its successors and assigns, of easements and rights of way ten (10) feet in width along all front lines of all lots and as may be shown on the final subdivision plan for all purposes relating to the installation and maintenance of utilities and/or for the installation and maintenance of drainage ways and structures. The areas encumbered by these easements are parallel, and interior to and adjacent to all lot boundaries and this reservation shall include the right of entry by men and machines. In addition, a 10' pedestrian easement is reserved along all property lines for the purposes of public pedestrian egress.~~
- ~~b.—In recognition of the fact that Declarant, or its successors and assigns, will be undertaking the work of constructing the Hampden Business and Commerce Park, nothing in this Declaration shall be understood or construed to prevent the Declarant, or its successors, assigns, employees, agents, contractors or sub-contractors, from doing whatever they may determine to be reasonably necessary or advisable for the completion of the work and the establishment of the Park, and the disposition of lots by sale, lease, or otherwise.~~

### **3.11 WETLAND DISTURBANCES**

No disturbances may occur within any delineated wetlands as shown on the "Site Grading and Erosion Control Plan" (Sheets CGJOI and CGI02), prepared by WBRC Architects/ Engineers, dated March 16, 2001, and recorded in the Penobscot County Registry of Deeds in Map Files 2002-275 and 2002-276, respectively, other than filling as specifically shown on said plan, unless said plan is amended ~~with the written approval of the Declarant, and~~ with the requisite governmental approvals. Any such amendments to said plan must be recorded in said Registry. Costs of any such amendments, including permitting, shall be the responsibility of those seeking such amendment(s).

### **3.12 BUFFER AREAS AND OPEN SPACE**

No disturbances may occur within any delineated stormwater buffer treatment areas or open space areas designated on the final subdivision plan, except for the removal of dead or dying trees or shrubs, and in accordance with the requirements of the Site Location of Development Permit or Natural Resource Protection Act Permit, as amended, unless said plan is amended with the written approval of the ~~Declarant, the Hampden Planning Board and~~ Maine Department of Environmental Protection (MDEP). Any such amendments ~~for alternative treatment methods or areas~~ must be recorded in said Registry. Costs of any such amendments, including permitting, shall be the responsibility of those seeking such amendment(s). Exceptions to this restriction include the annual maintenance or mowing of non-wooded buffers, low impact outdoor recreation and recreational trail development within open space areas retained by the Declarant, and maintenance or repair of utilities within recorded easements ~~identified on the subdivision plan~~. In the event that MDEP requires that a Declaration be recorded in the Registry of Deeds, the more strict provisions shall apply.

## **ARTICLE IV DEVELOPMENT STANDARDS**

### **4.1 GENERAL REQUIREMENTS**

All improvements shall comply in every respect with all applicable laws and ordinances of the United States, the State of Maine, and the Town of Hampden, including zoning restrictions, landscaping, and site development standards under applicable Town of Hampden ordinances.

### **4.2 ~~MINIMUM IMPERVIOUS AREA SETBACK~~ (Amended 10/15/07)**

~~Notwithstanding any lesser setback requirements under Town of Hampden zoning ordinances, no improvements of any kind, and no part thereof, shall be placed closer than permitted by Declarant to an interior property line or right-of-way, except as otherwise provided in Section 4.3.~~

~~a. — Front, side and rear setbacks — no buildings shall be placed outside the building area limit for each lot as depicted on the subdivision plan, or within 20' of a property line.~~

~~b. Building to parking setback—no less than 5' between parking spaces and principal buildings, except no less than 20' for entrance drives.~~

~~c.a. Impervious area setbacks—nNo paved areas, parking spaces, loading spaces and associated driveways and access aisles shall be placed outside the impervious area limit for each lot as depicted on the subdivision plan (as may be amended from time to time), or within 20' of the front property line or 10' of the side and rear property lines, except for entrance drives. This minimum setback requirement shall not apply to walkways, fences (subject to the requirements set forth in Section 4.7), landscaping, irrigation systems, low planters, signage, lighting, or underground utilities.~~

#### **4.3 EXCEPTIONS TO SETBACK REQUIREMENTS (Deleted ==/=/2018)**

~~The following improvements, or parts of improvements, are specifically excluded from the setback requirements set forth in Section 4.2:~~

~~a. Walkways;~~

~~b. Fences, subject to the requirements set forth in Section 4.7;~~

~~c. Landscaping and irrigation systems;~~

~~d. Low planters;~~

~~e. Business park identification signs, directional and parking signs, and signs identifying the occupant of a lot, subject to the prior written approval of Declarant, compliance with the Town of Hampden's Zoning Ordinance, and the requirements of Section 4.5 of this Declaration;~~

~~f. Lighting facilities, subject to the prior written approval of Declarant; and~~

~~g. Underground utility facilities and sewers.~~

#### **4.4 STRUCTURES AND ARCHITECTURAL STANDARDS**

~~The provisions of this section shall only apply to Phase 1 of the Park. (Amended 11/17/14)~~

~~a. All buildings and other site improvements shall be built in conformance with all applicable laws, including any building code adopted by the Town of Hampden or the State of Maine. (Amended 11/17/14)~~

~~b. Building primary facades (front face of building) visible from Route 202 and the Business & Commerce Park contained in Phase 1 of the final subdivision plan's road network shall incorporate design elements which create visual interest. These primary facing facades shall not be blank walls, but shall incorporate windows, entry treatments, variations in plane, variation in roof shapes, and other architectural features to create visual interest, and to distinguish them from simple industrial structures. Development of continuous covered porches or arcades serving multiple businesses is encouraged. Building facades shall be designed and detailed to develop a human scale, present in the appearance of commercial storefront and recognizable entry elements. For the purposes hereof, the term human scale shall mean that the building facade shall use construction products or detailing which refer to modules or scale of the human body. (Amended 11/17/14)~~

- ~~c.a. Color scheme and finish for all metal, including roofs, shall be pre-painted. Trim (window, doors, roof edge, eaves, etc.) shall be articulated by color different than the building's siding color. Generally, colors should relate to the setting (landscape). Bold hues and bright saturated colors shall be discouraged.~~
- ~~d. Buildings less than 10,000 s.f. footprint shall be proportioned such that the roof eave to ridge heights do not exceed the building facade height (ground to eave). Building footprint shall be contained within the building area limits designated on the approved final subdivision plan.~~
- ~~e. Roof slopes shall be 5"/12" minimum for buildings with footprints less than 10,000 s.f., and 1/2"/12" for others. Provided, however, that roof slopes for metal frame buildings with footprints less than 10,000 s.f. shall be a minimum of 3"/12". Roof eaves shall be projected 6" minimum beyond the exterior of all wall surfaces and trimmed, and 12" beyond for buildings having less than 10,000 s.f. footprint. (Amended 10/15/07).~~
- f. Acceptable exterior materials include:
  - 1) Finished concrete.
  - 2) Finished masonry or masonry units, such as stone, brick, structural facing tile and ceramic tile.
  - 3) "Shallow" corrugated or flat metal panels.
  - 4) Aluminum/glass curtain wall systems.
  - 5) Wood siding, to include solid wood materials such as clapboards but not including pre-manufactured panels such as T1-11.
  - 6) Architectural grade vinyl siding.
  - 7) Aluminum doors and window systems.
  - 8) Exterior insulation finish systems (EIFS).

#### **4.5 SIGNS**

~~No sign shall be permitted on any lot unless approved by Declarant in writing.~~

~~No sign shall be approved other than Only signs identifying the building or the business of the occupant of a lot, business park identification signs, informational, and vehicular control signs, signs offering the lot for sale or lease, and temporary development signs are allowed. All signs must comply with the Hampden Zoning Ordinance, and the following requirements:~~

- ~~a. Freestanding Occupancy Identification Signs shall be no more than twelve (12) feet in height above the average grade elevation of the site around the sign; shall be located on the frontage facing the Hampden Business and Commerce Park access road, no more than twenty five (25) feet nor less than eight (8) feet from the front property line; nor shall such signs be supported above the base or ground immediately beneath them by a single post. They shall be unlit, or indirectly lit by either back lighting through opaque sign facing or by spotlight. No neon, no intermittent or moveable character signs shall be permitted.~~
- ~~b. Occupant Identification Signage on a Building shall not extend above a parapet or eaves line (or obscure such building line) and shall not be erected on more than two walls of any building.~~
- ~~c.a. Deviations from these standards may be granted by the Declarant upon submission of a written request.~~

#### 4.6 LANDSCAPING

Within ninety (90) days following completion of construction each lot shall be landscaped in accordance with ~~the approved~~ plans and specifications, except when the completion of the landscaping would impose a great hardship upon the ~~applicant-owner~~ due to weather or climatic conditions. Declarant may, upon written request made and received prior to the expiration of the ninety (90) day period, extend the period of time within which work must be completed.

- a. The area of each lot between any street and any minimum setback line shall be landscaped with a combination of trees, shrubs, and other ground cover providing a buffer and transition zone from streetscape to site. All other undeveloped portions of a lot shall be landscaped in a complementary and similar manner.
- b. The perimeters of parking areas shall be landscaped with year round plant material or earth berms or a combination of both to screen said areas from view and lessen the impact on neighboring sites.

~~c. Within parking areas, parking spaces shall be broken up by landscaped islands such that for every 20 parking spaces there is one landscaped island containing at least 650 square feet, at least one deciduous tree, and planted with low shrubbery.~~

~~dc. After completion, such landscaping as is herein required shall be maintained in a sightly and well-kept condition. If, in Declarant's reasonable opinion, the required landscaping is not maintained in a sightly and well-kept condition, Declarant shall be entitled to the remedies set forth in Article VII.~~

~~e. Minimum planting sizes:~~

~~Deciduous shade trees — 2" Caliper~~

~~Coniferous trees — 5-7' Height~~

~~Deciduous shrubs — 18-24"~~

~~Coniferous shrubs — 18-24"~~

~~Planting sizes may be waived at the Declarant's discretion and approval by landscape architect.~~

~~f. (Deleted 11/17/14)~~

~~The applicant shall may be required, as a condition of Site Plan approval, to provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required pursuant to this section, which bond or security shall also guarantee plantings for a period of one (1) year after installation.~~

Landscaping shall be maintained thereafter by the property owner at a level consistent with the ~~site approved~~ plan approval. In determining the amounts of planting to be required, the Declarant shall take into account:

- ~~1) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.~~
- ~~2) Visibility of incompatible or unsightly areas from roads and/or adjoining — properties.~~
- ~~3) Shade trees and landscape strips in relation to existing and planned streets.~~

#### **4.7 FENCES**

All fences are subject to the provisions of this section.

- ~~a. A fence six feet high or less may be placed up to but not on a property line so that both sides of the fence can be erected and maintained from the property of the person erecting the fence.~~
- ~~b. A fence more than six feet high shall be considered a structure subject to normal setback requirements for the zoning district, unless otherwise approved by the Declarant during site plan review.~~
- ~~ca. A fence shall be erected so that its "good side" shall face an abutting property or roadway.~~
- ~~db. Any fence located adjacent to a publicly owned or maintained sidewalk, bike path or pedestrian way shall not be located closer than two feet to such public facility.~~
- ~~e. The Declarant reserves the right to approve the location and design of all fences, and no fence shall be constructed without written approval from the Declarant.~~

#### **4.8 PARKING AREAS, LOADING AREAS, AND DRIVEWAYS (Deleted ==/==/2018)**

~~Off-street parking adequate to accommodate the parking needs of the development and the employees and visitors thereof shall be provided for each Lot. The intent of this provision is to eliminate the need for any on-street parking. If parking requirements increase as a result of a change in the use of a lot or in the number of persons employed thereon, additional off-street parking shall be provided so as to satisfy the intent of this section. All parking areas shall conform to the following standards:~~

- ~~a. Parking areas shall be paved so as to provide dust free, all weather surfaces.~~
- ~~b. Each parking space provided shall be designated by lines painted upon the paved surface.~~
- ~~c. Provision shall be made on each site for any necessary vehicle loading, and no on-street vehicle loading shall be permitted.~~
- ~~d. Loading dock areas shall be set back, recessed, or screened to minimize visibility from neighboring properties or streets.~~
- ~~e. No more than one (1) entrance or exit driveway per Lot shall be permitted except in extraordinary circumstances approved by the Declarant, or as identified on the master plan.~~

#### **4.9 STORAGE AREAS (Deleted ==/==/2018)**

~~All storage of bulk materials, including but not limited to such things as coal, wood, pulp, raw materials shall be located completely within a building or other space adequately screened from public view, as approved by the Design Review Board. Any fences, walls or plantings used for such screening purposes shall be located not less than twenty (20) feet from any property line. Outside storage of materials, supplies, or equipment, including trucks or other motor vehicles, shall be permitted only if:~~

- ~~a. The material equipment, or objects stored outside are necessary and accessory to the activities regularly conducted on the premises;~~

- ~~b. The area devoted to outside storage is limited and does not dominate the site or appear unattractive from neighboring sites, as determined by the Design Review Board.~~
- ~~c. The area is screened on the sides and harmonizes with the architecture, landscaping, design, and appearance of neighboring structures and other surroundings, and in reasonably close conformance to the master plan; and~~
- ~~d. The area is located upon the rear portions of a lot, unless otherwise approved in writing by Declarant.~~

#### **4.10 LIGHTING (Deleted ==/==/2018)**

~~Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "downshield luminaire" type where the light source is not visible from any public highway or from adjacent properties.~~

~~Only fixtures, which are shielded, do not expose a light source, and which do not allow light to "flood" the property are permitted to be attached to buildings. All lighting must be approved in writing by Declarant.~~

~~When illumination is required for part or all of a structure, the illuminating device shall be designed, located and adjusted so as to not cast light directly on adjacent properties or roadways.~~

#### **4.11 SPECIAL PROVISIONS (Deleted ==/==/2018)**

~~In addition to the requirements of Section 4.1-4.8, site plans for development in the Hampden Business and Commerce Park shall be consistent with the requirements of this sub-section. The Hampden Business and Commerce Park is to become a pleasant commercial area in which all visual and functional elements form an integrated design plan. Route 202 connects Hampden and Bangor centers and the site lies in the path of planned recreation trails and alternative transportation links. Site plans for proposed new developments must acknowledge this basic pattern and reinforce it by defining public spaces and walkways, and by providing appropriate landscaping and features.~~  
~~Design Requirements~~

- ~~a. New buildings shall be sited to create pleasant outdoor spaces, and to create visual and pedestrian linkages between existing buildings.~~
- ~~b. Public spaces shall be created to connect to and reinforce the circulation pattern and recreation paths. These public spaces shall be designed at a human scale and furnished with appropriate features such as benches, plantings, public sculptures, bike racks, and pedestrian scaled and styled light fixtures.~~
- ~~c. Public walkways shall be created and shall be suitably landscaped and furnished with attractive pavement, plantings, pedestrian scaled and styled light fixtures, and other amenities.~~

- d. ~~The location and design of buildings, public spaces and walkways shall create pleasant and effective termini for views to and from the site.~~
- e. ~~The southerly views from this area towards the agricultural land and Penobscot River beyond are an important public resource. Prominent public vantage points for these views must be identified and the visual corridors from these vantage points to this resource must be protected and enhanced. Building envelopes have been defined which will prevent these visual corridors from being interrupted by new buildings or landscaping.~~
- f. ~~The wetlands and waterways shall be utilized as the focal point for the public open space, which shall be designed as a more natural open space rather than developed parks, plazas, or greens. The open space should be accessed by walkways and bikeways, and should be accessible from the buildings.~~

**ARTICLE V  
USES AND OPERATIONS**

**5.1 NO FURTHER SUBDIVISION OF LOTS (Deleted ==/=/2018)**

~~No lot as shown on the Final Subdivision Plan shall be subdivided without the prior approval of the Declarant and the Hampden Planning Board. No building shall be constructed, erected or placed on any lot other than shown on said Plan, or an amended subdivision plan as approved by the Planning Board and recorded in the Penobscot County Registry of Deeds.~~

**5.2 PERMITTED USES (Deleted ==/=/2018)**

~~Lots shall be used for light manufacturing, assembly, research and testing laboratories, professional and other business offices, call centers, warehouses and other acceptable uses permitted by the Town of Hampden Zoning Ordinance, provided that Declarant specifically consents to such use in writing. (Amended 11/17/14)~~

~~Such approved use shall be performed or carried out entirely within a building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to other lots or property, such as, but not limited to, vibration, sound, electro-mechanical disturbances, electromagnetic disturbances, radiation, air or water pollution, dust, or emission of odorous, toxic, or nontoxic matter (including steam). Certain activities that cannot be carried on within a building may be permitted, provided Declarant specifically consents to such activity in writing and further provided that such activity is screened so as not to be highly visible. The screening or fencing shall be attractive from neighboring property and streets. All lighting is to be shielded so as not to be directly visible from neighboring property or to cause glare on neighboring streets and properties.~~

**5.3 PROHIBITED USES**

The following operations and uses shall not be permitted on any property subject to this Declaration:

- a. Junk yards; wrecking yards; automobile graveyards; or automobile recycling business;
- b. Recycling facilities (unless accessory to the primary activities regularly conducted on the premises);
- c. Mining, drilling for, or removing oil, gas, or other hydrocarbon substances;
- d. Refining of petroleum or of its products;
- e. (Deleted 11/17/14)
- f. Commercial excavation of building or construction materials, provided that this prohibition shall not be construed to prohibit any excavation necessary in the course of approved construction pursuant to Article III;
- g. Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or other refuse;
- ~~h. Uses prohibited by federal, state, or local law, including applicable Town of Hampden Zoning Ordinance provisions; (Amended 11/17/14)~~
- ~~i.h.~~ No use shall be made of any lot or any portion thereof which would allow access to transportation or utility systems through such lot to any property not controlled by the Town of Hampden without approval of the Town of Hampden;
- ~~j.i.~~ Non-taxable uses are prohibited unless approved by the Hampden Town Council because they are generally inconsistent with the goals of Recital 4 above.

#### **5.4 NUISANCES**

No nuisances shall be permitted to exist or operate upon on any Lot so as to be offensive or detrimental to any adjacent Lot or property or to its occupants. A nuisance shall include, but not be limited to, any of the following conditions:

- a. Any use, excluding reasonable construction activity, of the Lot that emits dust, sweepings, dirt, or cinders into the atmosphere, or discharges liquid, solid wastes, or other matter into any stream, river, or other waterways that, in the opinion of the Declarant, may adversely affect the health, safety, comfort, or intended use of property by persons within the area. No waste nor any substance or materials of any kind shall be discharged into any public sewer serving the subject property or any part thereof in violation of any regulation of the Town of Hampden;
- b. The escape or discharge of any fumes, odors, gases, vapors, steam, acids, or other substances into the atmosphere, which discharge, in the opinion of Declarant, may be detrimental to the health, safety, or welfare of any person or may interfere with the comfort of persons within the area or may be harmful to property or vegetation;
- c. The radiation or discharge of intense glare or heat, or atomic, electromagnetic, microwave, ultrasonic, laser, or other radiation. Any operation producing intense glare or heat or such other radiation shall be performed only within an enclosed or screened area and then only in such manner that the glare, heat, or radiation emitted will not be discernible from any point exterior to the site or lot upon which the operation is conducted;

- d. Excessive noise. At no point outside of any lot shall the sound pressure level of any machine, device, or any combination of same, from any individual plant or operation, be offensive or detrimental to any adjacent lot or property or to its occupants, ~~as determined by the Code Enforcement Officer~~ as determined by the Design Review Board;
- e. Excessive emissions of smoke, steam, or particulate matter. Emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations;
- f. Ground vibration. Buildings and other structures shall be constructed and machinery and equipment installed and insulated on each lot so that the ground vibration inherently and recurrently generated is not perceptible without instruments at any point exterior to any lot.
- g. Trash and refuse outdoors if not contained in a proper receptacle in a refuse collection area.  
(Amended 11/17/14)

### **5.5 CONDITION OF PROPERTY**

The occupant of any lot shall at all times keep it and the buildings, improvements, and appurtenances thereon in a safe, clean, and wholesome condition and comply, ~~as at~~ its own expense, in all respects with all applicable governmental, health, fire, and safety ordinances, regulations, requirements, and directives, and the occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever that may accumulate upon such lot.

### **5.6 MAINTENANCE OF GROUNDS**

Each occupant shall be responsible for the maintenance and repair of all parking areas, driveways, walkways, and landscaping on his/her lot. Such maintenance and repair shall include, without limitation, up to the public travel way including any easements, esplanades, tree protection zone, and joint or shared parking areas. Each occupant shall be responsible for:

- a. Maintenance of all parking areas, driveways, and walkways in a clean and safe condition, including the paving and repairing or resurfacing of such areas when necessary with the type of material originally installed thereon or such substitute therefor as shall, in all respects, be equal thereto in quality, appearance, and durability, the removal of debris and waste material and the washing and sweeping of paved areas, the painting and repainting of striping markers and directional signals as required;
- b. Cleaning, maintenance, and re-lamping of any external lighting fixtures; and
- c. Performance of all necessary maintenance of all landscaping, including the trimming, watering, and fertilization of all grass, groundcover, shrubs, or trees, the removal of dead or waste materials, the replacement of any dead or diseased grass, groundcover, shrubs, or trees.

### **5.7 REMEDIES FOR FAILURE TO MAINTAIN AND REPAIR**

Each lot owner and occupant thereof shall promptly maintain and repair their premises per Article V but if owner or occupant shall fail to do so after fifteen (15) days written notice by Declarant, then the Declarant may pursue those remedies described in Article VII.

#### **5.8 REFUSE COLLECTION AREAS**

All outdoor refuse collection areas shall be screened to minimize visibility from neighboring property or streets and setback at least ten (10) feet from the Street right-of-way. No refuse collection area shall be permitted between a subdivision street and the front of a building.

#### **5.9 REPAIR OF BUILDINGS**

No building or structure upon any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

#### **5.10 PUBLIC UTILITIES**

Declarant reserves the exclusive right to approve installation of utility lines across the subject property. Declarant will consult with any Lot owner before such installation and shall attempt to accommodate Lot owner concerns. The appropriate governmental authority must approve the construction and operation of public utilities in rights-of-way dedicated to the public.

#### **5.11 UTILITY LINES AND ANTENNAS**

No sewer, drainage, or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals, including telephone, television, microwave, or radio signals, shall be constructed without approval by the Declarant. Notwithstanding the requirements of the Hampden Zoning Ordinance, no antenna or tower for the transmission or reception of telephone, television, microwave, or radio signals shall be placed on any Lot within the subject property without the consent of the Declarant, which shall not be unreasonably withheld. Nothing contained herein shall be deemed to forbid the erection or use of temporary power or telephone power or telephone facilities incidental to the construction or repair of buildings on the subject property.

#### **5.12 MECHANICAL EQUIPMENT**

All mechanical equipment, utility meters, storage tanks, air conditioning equipment, and similar items shall be screened with landscaping, ~~fencing~~, or ~~attractive~~ architectural features integrated into the structure itself, and shall not be visible from neighboring properties or street rights of way as defined in Article I.

### **5.13 MINERAL EXPLORATION**

No portion of the subject property shall be used in any manner to explore for or to remove any steam, heat, oil, or other hydrocarbons, gravel, earth, or any earth substances or other mineral of any kind, provided, however, that this shall not prevent the excavation of earth in connection with the grading or construction of improvements within the subject property.

### **5.14 OTHER OPERATIONS AND USES (Deleted ==/==/2018)**

~~Operations and uses that are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by Declarant in accordance with the procedures set forth in Article III of this Declaration. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other property subject to this Declaration or upon the occupants thereof, but shall be in the sole discretion of Declarant.~~

## **ARTICLE VI**

### **~~MODIFICATION AMENDMENT~~ AND REPEAL**

#### **6.1 ~~MODIFICATION AMENDMENT OR REPEAL~~ BY DECLARANT**

The Declarant, at its sole discretion, may ~~modify or~~ amend or repeal the provisions of this Declaration or any portion thereof, provided, however, that:

- a. Prior to any such ~~modification or~~ amendment or repeal, Declarant shall obtain the approval of any governmental agency to such ~~modification or~~ amendment or repeal where such approval is necessary;
- b. A public hearing on the proposed amendment or repeal will be held by the Town Council;
- c. No such ~~modification or~~ amendment or repeal shall be effective until the owners and occupants have been given thirty (30) days prior written notice of the proposed change, that any revisions from the advertised amendments made within the public hearing fall within the scope of the advertised amendments, and that upon approval by the Town Council a proper instrument in writing has been executed and recorded.

## **ARTICLE VII**

### **ENFORCEMENT**

#### **7.1 ABATEMENT AND SUIT**

The Declarant may enforce any breach or violation of the provisions of this Declaration in either the Superior Court of Penobscot County or the U.S. District Court, Bangor, Maine. In the event the

Declarant seeks legal redress, the Declarant may pursue, at its option, both the owner and any related or non-related occupant for money damages, specific performance or any other form of legal or equitable relief. Notice of violation or breach of any covenant, condition or restriction or provision of this Declaration shall be provided by the Declarant in writing, and upon a failure to correct or abate said violation after 30 days, Declarant may pursue such legal or equitable action. In addition to the above remedies, if such violation shall continue for more than 30 days, the Declarant may enter upon the lot where said violation or breach exists and summarily correct, abate or remove, at the expense of owner and/or occupant, any improvements, structure, thing or condition deemed by the Declarant to be in violation of or contrary to the provisions of this Declaration. No such entry by the Declarant or its agents shall be deemed a trespass, nor shall the Declarant or its agents be liable for any actions taken hereunder to remedy or remove a violation. All costs incurred by Declarant shall be levied as an assessment against the owner of the lot(s) in question. If any such assessment is not paid within thirty (30) days of an invoice therefor issued by Declarant, such assessment shall then become delinquent and shall, together with interest thereon at the rate of twelve (12) percent per annum and the cost of collection thereof (including reasonable attorney's fees) become a continuing lien on the lot(s) against which such assessment is made and shall bind such lot(s) in the hands of the owner(s), and the owner's successors and assigns, and shall also be a continuing personal obligation of the owner(s) against whom the assessment is levied. The lien of the assessment for which provision is herein made shall be subordinate to the lien of any first mortgage to a financial institution.

## **7.2 RIGHT OF ENTRY**

During reasonable hours and upon reasonable notice and subject to reasonable security requirements, Declarant, or its agents, shall have the right to enter upon and inspect any lot and the improvements thereon covered by this Declaration for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and neither Declarant nor its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

## **7.3 DEEMED TO CONSTITUTE A NUISANCE**

The result of every act or omission whereby any covenant, condition, or restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or in equity against an owner or occupant shall be applicable against every such result and may be exercised by Declarant.

## **7.4 ATTORNEY'S FEES**

In the event the Declarant initiates any legal or equitable action to enforce these covenants, and it prevails in that action, the Declarant shall be entitled to its reasonable attorney's fees. In no event

and under no circumstances shall Declarant be responsible for owner's or occupant's attorney's fees.

#### **7.5 FAILURE TO ENFORCE IS NO WAIVER**

The failure of Declarant to enforce any covenant, condition, restriction, or provision of this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter or in other cases nor to the right to enforce any other restriction.

#### **ARTICLE VIII ASSIGNMENT**

Any and all of the rights, powers, and reservations of Declarant herein contained may be assigned to any person, partnership, corporation, or association that will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned, and upon any such person, partnership, corporation, or association evidencing its consent in writing to accept such assignment and assume such duties, the assignee shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Any assignment made under this article shall be recorded in the Registry of Deeds.

#### **ARTICLE IX CONSTRUCTIVE NOTICE AND ACCEPTANCE**

Every person or entity who now or hereafter owns or occupies any portion of the subject property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and provision contained in this Declaration, regardless of whether any reference thereto is made in any document by which that person acquired an interest in the subject property.

#### **ARTICLE X WAIVER AND FAILURE TO ENFORCE**

The Declarant may after public hearing, waive one or more of the covenants, conditions, and restrictions contained in this Declaration. Neither Declarant, nor its successors or assigns, shall be liable to any owner or occupant of the subject property by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction or for the enforcement or failure to enforce any provision of this Declaration. No owner or occupant of property in the Hampden Business and Commerce Park may bring any action or suit against Declarant to recover any such damages or to seek equitable relief because of same.

#### **ARTICLE XI**

## **RUNS WITH LAND**

All covenants, conditions, restrictions, and provisions contained in this Declaration are made for the direct, mutual, and reciprocal benefit of each and every lot of the subject property; shall create mutual equitable servitudes upon each lot in favor of every other lot; shall create reciprocal rights and obligations between respective owners or occupants of all lots, their heirs, successors, and assigns; and shall, as to the owner or occupant of each lot, their heirs, successors, and assigns, operate as covenants running with the land, for the benefit of all other lots, except as herein provided otherwise.

## **ARTICLE XII RIGHTS OF MORTGAGEES**

No breach of any covenant, condition, restriction or provision herein contained, or any enforcement thereof, shall defeat or render invalid the lien of any mortgage now or hereafter granted on the subject property or a portion thereof, provided, however, that if any portion of said property is transferred under a foreclosure of any mortgage or by a deed in lieu of foreclosure, any successors and assigns shall hold any and all property so transferred subject to all of the covenants, conditions, restrictions and provisions contained in this Declaration.

## **ARTICLE XIII CAPTIONS**

The captions of articles and sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

## **ARTICLE XIV EFFECT OF INVALIDATION**

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

## **ARTICLE XV NOTICES**

Any notices required to be sent to any owner or occupant under the provisions of this Declaration shall be deemed to have been properly sent when mailed by U.S. mail, postage prepaid, to the last known address of the person as it appears in the records of the Assessor of the Town of Hampden. Owner and occupant shall notify the Assessor of any change of address.

IN WITNESS WHEREOF, the Town of Hampden has caused this Second Amended and Restated Declaration to be duly executed on its behalf as of this \_\_\_\_\_ day of September\_\_\_\_\_, 20152018.

Town of Hampden

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Angus G. Jennings  
Its Town Manager

STATE OF MAINE  
PENOBSCOT, ss.  
20152018

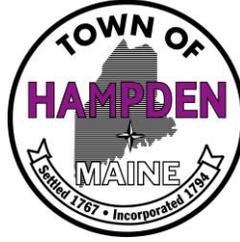
September\_\_\_\_\_,

Personally appeared the above-named Angus Jennings in his stated capacity and acknowledged the foregoing instrument to be his free act and deed in such capacity and the free act and deed of said Town of Hampden.

Before me,

\_\_\_\_\_  
Notary Public  
Printed Name: ~~DENISE R. HODSDON~~

**Town of Hampden**  
106 Western Avenue  
Hampden, Maine 04444



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

TO: Finance Committee and Town Council  
FROM: Angus Jennings, Town Manager  
DATE: March 15, 2018  
RE: Timing and financing options for Sewer Capital Projects

In support of the Councilors' consideration of the proposed ordinance to propose a ballot question to authorize sewer borrowing, I have prepared alternate scenarios in the event that one or more of the four proposed projects are removed from the ordinance:

**Sewer projects included in proposed borrowing:**

	Total
1 Grist Mill Bridge	\$ 435,400
2 Route 1A reconstruction	\$ 924,000
3 Western Ave. & Dewey St.	\$ 754,000
4 Rte 1A south of Western Ave	\$ 635,000
	<u>\$ 2,748,400</u>

**Alt. 1: strike (4)**

1 Grist Mill Bridge	\$ 435,400
2 Route 1A reconstruction	\$ 924,000
3 Western Ave. & Dewey St.	\$ 754,000
4 Rte 1A south of Western Ave	\$ -
	<u>\$ 2,113,400</u>

**Alt. 2: strike (3)**

1 Grist Mill Bridge	\$ 435,400
2 Route 1A reconstruction	\$ 924,000
3 Western Ave. & Dewey St.	\$ -
4 Rte 1A south of Western Ave	\$ 635,000
	<u>\$ 1,994,400</u>

**Alt. 3: strike (3) and (4)**

1 Grist Mill Bridge	\$ 435,400
2 Route 1A reconstruction	\$ 924,000
3 Western Ave. & Dewey St.	\$ -
4 Rte 1A south of Western Ave	\$ -
	<u>\$ 1,359,400</u>

We will have alternative versions of the proposed ordinance prepared and on-hand Monday, including redlines showing revisions from the advertised ordinance, in the event that the Council proposes revisions based on any of the above scenarios.

On the basis of the sewer system's age and condition, it is recommended that the Council pursue all of these projects in the relatively near term. The DPW Director and consulting engineer will be in attendance at both of Monday's meetings to discuss their relative importance, urgency, and the potential consequences of delay, and to respond to any questions.

My recommendation is to proceed either with the ordinance as proposed, or to proceed with Alt. 1, and to postpone seeking voter authorization of the portion of Rte. 1A south of Western Ave. However, it should be noted that this project is included in Priority Area 4 in the 2008 Sewer Priority Map (enclosed), and if the project is delayed this can be expected to increase the risk of infrastructure failure in this critical location. On the other hand, unlike the other three projects, the project timing here is not driven by MeDOT or BACTS road/bridge projects. And, I understand that proposing a larger borrowing authorization number to voters could increase the risk that the question may not pass. Because the Grist Mill Bridge and the Route 1A projects are unquestionably time sensitive, failure to secure a positive vote in June would greatly threaten – and perhaps kill – our ability to advance these projects as quickly as will be needed to coordinate the work with the highway and bridge projects.

The enclosed memo dated March 12 summarizes the options available to pay debt service on the sewer projects. Since that time I have spoken further with Maine Municipal Bond Bank. With the work we're doing toward getting a Fiscal Sustainability Plan (Asset Management Plan) underway, we should be in good shape to become eligible for SRF funds. I confirmed that the borrowing terms that I have previously presented – 20 years at 1.5% – are a reasonable and realistic basis to project debt service, assuming we continue forward to become eligible for SRF, and assuming that DEP finds the projects eligible for SRF funding (which we expect would happen).

Based on these terms, annual debt service at the different borrowing levels on the previous page would be approximately:

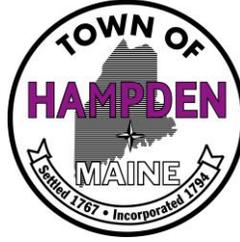
**Estimated Annual Debt Service, SRF, 20 years**

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
All projects	2,748,400	1.50%	\$ 159,573	\$ 443,059
Alt. 1	2,113,400	1.50%	\$ 122,705	\$ 340,693
Alt. 2	1,994,400	1.50%	\$ 115,795	\$ 321,510
Alt. 3	1,359,400	1.50%	\$ 78,927	\$ 219,144

If the Council sees fit to reduce the amount of the annual payback of interfund transfers below the \$100,000 budgeted in FY17 and FY18, and as a result of extinguishing debt service this year from the 1996 sewer SRF loan, I see options to incorporate any of the above scenarios within the current overall sewer budget level.

Obviously, this could change if other expense lines in the sewer budget change significantly over time. And, it should be understood that the Town will face additional sewer capital needs prior to the end of FY24, which is when the next sewer debt service will mature.

**Town of Hampden**  
 106 Western Avenue  
 Hampden, Maine 04444



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

**TO:** Infrastructure Committee  
**FROM:** Angus Jennings, Town Manager  
**DATE:** March 12, 2018  
**RE:** Financing sewer capital projects

The Town Council opened its public hearing on the proposed sewer borrowing ordinance, and will continue the hearing next Monday, March 19. A special meeting of the Infrastructure Committee was scheduled for this Wednesday to allow further discussion of potential financing options for the four proposed sewer capital projects.<sup>1</sup>

The Sewer Fund paid off one bond this year, so the FY19 Sewer debt service budget would be about \$100k below current, allowing for the addition of the same amount of annual debt service without impacting the overall sewer budget. (Current debt service obligations, sewer and general fund, are attached for reference).

If the borrowing ordinance is approved as proposed, and approved by voters, and if the entire \$2.7M in debt authorization is borrowed at once, I estimate annual debt service payments between \$165-200,000 for 20 years. I hope to further refine this estimate prior to the continued public hearing next week.

At the public hearing, several options for paying the debt service were presented:

1. \$101,000 of new debt service would replace the 1997 SRF loan payment included in the FY18 sewer budget.
2. The General Fund could, if so budgeted by the Town Council, absorb a portion of the debt service, for one or more projects deemed beneficial to the Town as a whole (as opposed to just sewer customers). A 2006 memo from the former Town Manager referred to a 2/3 (Sewer Fund) to 1/3 (General Fund) formula that had been used for sewer debt service prior to her tenure, which began in 2001. When I spoke with Manager Lessard earlier in my tenure, she advised that she was not aware that this cost split had ever been memorialized in formal policy, but that her understanding was that this was how sewer infrastructure had been financed in the 1990s.
3. The amount of repayment of interfund transfers from the General Fund could be reduced from the \$100,000 budgeted in FY17 and FY18. (The FY18 year-end interfund deficit owed by Sewer to General is projected at \$451,000).
4. The annual amount of \$60,000 paid from Sewer to General Fund, as an offset of Town employee time and resources to operate the sewer, could be reduced or eliminated.

<sup>1</sup> The four projects proposed in the borrowing ordinance are described in detail in the enclosed materials.

5. Sewer rates could be increased.
6. Once the Coldbrook Corners TIF District is approved, and development moves forward, a portion of debt service may be eligible for payment from TIF funds.

As we get closer to the end of the fiscal year, we may find that we can reduce budgeted expenses in the wastewater treatment sewer expense line item.

Over the weekend, we received invoices from the City of Bangor for wastewater treatment and pump station maintenance costs incurred since September and, 2/3 of the way through FY18, it appears that our budget for wastewater treatment costs – which was based on the monthly cost average from 2014-2017 – will exceed our actual costs. The budget covers \$163,010 in FY18 treatment costs; our spending year-to-date (for 8 out of 12 months) is \$57,419. If billing for March, April, May and June equals last year's total for the same period, this would bring annual costs to about \$117,000, which would leave about \$46,000 of budgeted but underspent funds in this expense line.

A more conservative approach would be to hold the same wastewater treatment budget in FY19 then, if actual spending is considerably less than budgeted, to use the excess revenue to make an extra payment toward reducing the interfund deficit to the General Fund.

Wednesday's special meeting of the Infrastructure Committee will be entirely devoted toward consideration of these questions.

## TOWN OF HAMPDEN

ORDINANCE AUTHORIZING APPROPRIATION AND BORROWING OF FUNDS TO FINANCE SEWER IMPROVEMENTS AND REPAIRS THROUGH THE ISSUANCE OF GENERAL OBLIGATION BONDS OR NOTES OF THE TOWN OF HAMPDEN, WHICH MAY BE CALLABLE, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$2,748,400.

The Town of Hampden hereby ordains as follows:

Section 1. That pursuant to Section 5772 of Title 30-A Maine Revised Statutes, as amended, the Charter of the Town and any other applicable authority under Maine law, the Town of Hampden is hereby authorized to borrow a principal amount not to exceed Two Million Seven Hundred and Forty-Eight Thousand and Four Hundred Dollars (\$2,748,400), said amount to be payable over a period not to exceed thirty (30) years, less the term of any Note described below, at such interest rates and on such further terms and conditions as may be approved by the Treasurer and a majority of the Town Council, the proceeds of said loan to be appropriated and used to finance sewer repairs and improvements in the Town, including but not limited to on Main Road North from Mountain View Drive southerly to Western Avenue, replacement of sewer infrastructure in and proximate to the Grist Mill Bridge, on Main Road North between Western Avenue and the Weatherbee School, and on Western Avenue between Main Road North and Route 202, all as more particularly described in memoranda from Woodard and Curran to Sean Currier, Public Works Director of the Town dated January 5, 2017 and dated February 20, 2018 (the "Projects"). Said loan is to be evidenced by a General Obligation Bond or Bonds of the Town to be executed and delivered on behalf of the Town by the Town Treasurer and countersigned by a majority at least of the Town Council in a principal amount not to exceed \$2,748,400 in the aggregate (the "Bond"). The Bond may be subject to call for redemption as determined by the Town Treasurer and a majority of the Town Council.

Section 2. That in anticipation of the receipt of the Bond proceeds, pursuant to the Charter of the Town and Section 5772 of Title 30-A of the Maine Revised Statutes, as amended, and any other applicable authority under the laws of the State of Maine, the Town of Hampden is hereby authorized to borrow from a lending institution approved by the Town Treasurer and a majority at least of the Town Council a principal amount not to exceed Two Million Seven Hundred and Forty-Eight Thousand and Four Hundred Dollars (\$2,748,400) and in evidence thereof to execute and deliver one or more General Obligation Bond Anticipation Notes (each, a "Note") of the Town for a period not to exceed one year and to bear interest at such rate and said Note to be subject to such further terms and conditions as the Town Treasurer and a majority at least of the Town Council shall approve, and said Note, together with interest thereon, to be a general obligation of the Town, and intended to be repaid from the proceeds of the Bond, said Note to be executed and delivered on behalf of the Town by the Town Treasurer and countersigned by a majority at least of the Town Council, and such Note may be refunded from time to time for a period not to exceed an aggregate of three years with proceeds to be used to provide temporary funds to accomplish the Project.

Section 3. That the Town Manager, Mayor, or other officers designated by the Town Council be and each of them hereby is authorized to execute such documents and do all things necessary or convenient in order to issue the Bond or Note and to execute and deliver such loan applications as may be necessary or appropriate to such lender or lenders as they select. The Treasurer, Mayor, or other officers designated by the Town Council are further authorized to execute any and all loan agreements, resolutions, certificates, returns and other documents as may be required by any such lender as may be selected by the Town Treasurer and approved by a majority at least of the Councilors, in such form as may be required by each such lender.

Section 4. That the Town Clerk shall distribute a copy of this ordinance to each Council member and the Town Manager, and shall file a reasonable number of copies of this ordinance in the office of the Town Clerk and shall post a copy of this ordinance together with a Notice of Public Hearing at the following public places: Municipal Building, Post Office, Dyer Library, and Hannaford, as well as such other places as may be directed by the Town Manager.

Section 5. That a Public Hearing be held at 7:00 p.m. in the Hampden Municipal Building in Hampden, Maine on March 5, 2018, for the purpose of taking testimony and comments from the public with respect to the proposed issuance of the Bond, and that notice of the public hearing be given by the Town Clerk by publishing a summary of this ordinance and a place where copies of the complete ordinance have been filed and times available for inspection in the Bangor Daily News on or before February 26, 2018, together with a notice setting forth the time and place for the public hearing, and for the consideration of the proposed ordinance by the Town Council at a meeting to be held March 5, 2018, immediately following the public hearing.

Section 6. That all actions heretofore taken by the Town Council of the Town of Hampden relating to the selling of the Town's Bond and Note authorized hereby be and they hereby are ratified, approved and confirmed.

Section 7. That pursuant to the requirements of the Internal Revenue Code of 1986, as amended, the Town designated the Bond and Note to be "qualified tax exempt obligations" of the Town.

Section 8. That the Town shall take any and all actions required under the Internal Revenue Code of 1986, as amended, to maintain the tax exempt status of the interest on the Notes and Bonds, and to maintain the status of the Bond and the Note as "qualified tax exempt obligations" of the Town; and that in connection with the Notes and Bonds, the Town Treasurer shall be authorized to execute and deliver on behalf of the Town one or more such Arbitrage and Use of Proceeds Certificates in form approved by the Town's bond counsel, and to covenant on behalf of the Town to file any information report and to pay any rebate due to the United States in connection with the issuance of the Bonds and Notes; and that the Notes and the Bonds may be subject to such further terms and conditions as may be agreed to by a majority at least of the Councilors and the Treasurer of the Town to carry into effect the full intent of this ordinance.

Section 9. That the law firm of Eaton Peabody shall act as bond counsel for the Town to advise the Town with respect to the issuance and sale of the Bond and the Note, and to prepare such documents and render such opinions as may be necessary or convenient for that purpose.

Section 10. That the Town Council and officials of the Town are hereby authorized to execute all documents and certificates, and to take all action, including affixing the seal of the Town, as may be necessary or convenient to carry out the full intent of this ordinance, and to accomplish the project and issue the Bond and the Note, including approval and signing of contracts and other agreements obligating the Town.

Section 11. That pursuant to Section 902 of the Town Charter, this ordinance shall go into effect only upon approval by the voters of the Town of Hampden. Be it further ordained that a referendum of the Town of Hampden be held to decide this question on June 12, 2018, pursuant to the Town Charter and the laws of Maine. The ballot question shall be substantially as follows:

TOWN OF HAMPDEN  
BALLOT QUESTION NO. 1

Ordinance authorizing appropriation and borrowing of funds to finance sewer improvements and repairs in the Town of Hampden through the issuance of general obligation bonds or notes of the Town of Hampden, which may be callable, in a principal amount not to exceed \$2,748,400.

Shall the above-described ordinance be adopted and the municipal officers have the authority to issue general obligations bonds or notes of the Town and accomplish the Project as described above and in the ordinance?

Yes

No

ADOPTED: Hampden Town Council, March 5, 2018.

A True Copy, Attest: \_\_\_\_\_  
Paula Scott  
Town Clerk

**Town of Hampden Debt Service Analysis, 12-21-17** **Future Debt Service Obligations**

Sewer Fund	Bond Series	Maturity Date	Principal Balance (Year-End FY17)	FY18	FY19	FY20	FY21	FY22	FY23	FY24
1996 Sewer SRF	1997 A	10/1/2017	\$ 93,448	\$ 96,217						
2006 Sewer Construction Bond	2006 C	11/1/2025	\$ 710,530	\$ 103,669	\$ 99,495	\$ 95,715	\$ 85,889	\$ 87,484	\$ 84,812	\$ 82,598
2010 Route 1A Sewer Bond SRF	2009 FS	7/29/2029	\$ 1,249,216	\$ 108,526	\$ 108,520	\$ 108,514	\$ 108,508	\$ 108,502	\$ 108,495	\$ 108,489
2014 Sewer Project	2014 A	11/1/2034	\$ 811,846	\$ 68,594	\$ 68,066	\$ 67,397	\$ 66,578	\$ 65,622	\$ 64,560	\$ 63,410
Sewer Overdue Bills (\$258,810)	Loan #44181126	1/23/2024	\$ 244,688	\$ 40,543	\$ 40,543	\$ 40,543	\$ 40,543	\$ 40,543	\$ 40,543	\$ 23,650
Sewer Bangor WWTP (\$262,936)	Camden Nat. loan	5/16/2024	\$ 262,936	\$ 41,060	\$ 41,060	\$ 41,060	\$ 41,060	\$ 41,060	\$ 41,060	\$ 41,060
			<u>\$ 3,372,663</u>	\$ 458,609	\$ 357,684	\$ 353,229	\$ 342,577	\$ 343,210	\$ 339,470	\$ 319,207
			<i>Change from prior year:</i>	\$ 60,250	\$ (100,924)	\$ (4,456)	\$ (10,651)	\$ 633	\$ (3,740)	\$ (20,263)

General Fund	Bond Series	Maturity Date	Principal Balance (Year-End FY17)	FY18	FY19	FY20	FY21	FY22	FY23	FY24
2000 Road Construction & Line Extensions (Business Park)	2000 D	11/1/2020	\$ 360,000	\$ 90,000	\$ 90,000	\$ 90,000	\$ 90,000			
2002 Fire Station	2001 D	11/1/2021	\$ 421,500	\$ 103,343	\$ 84,300	\$ 84,300	\$ 84,300	\$ 84,300		
2011 Mayo Road Bond	2010 F	11/1/2030	\$ 1,277,500	\$ 121,056	\$ 119,380	\$ 117,581	\$ 115,731	\$ 113,806	\$ 111,806	\$ 109,718
<i>Route 1A Reconstruction (\$600k principal authorized)<sup>1</sup></i>					\$ 48,318	\$ 48,318	\$ 48,318	\$ 48,318	\$ 48,318	\$ 48,318
			<u>\$ 2,059,000</u>	\$ 314,398	\$ 341,998	\$ 340,199	\$ 338,349	\$ 246,424	\$ 160,124	\$ 158,036
			<i>Change from prior year:</i>	\$ (25,587)	\$ 27,600	\$ (1,799)	\$ (1,850)	\$ (91,925)	\$ (86,300)	\$ (2,088)

*Total Debt Service Obligations:*

\$ 773,007	\$ 699,682	\$ 693,427	\$ 680,926	\$ 589,635	\$ 499,595	\$ 477,244
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<sup>1</sup> Assumed 15 year borrowing term at 2.53% interest.

Sources:

- Town of Hampden Financial Statements with Independent Auditor's Report, FY16.
- Amortization Schedules, Outstanding Sewer Fund Debt.
- Town of Hampden General Fund and Sewer Fund FY15 and FY16 budgets.
- Debt Payment Schedule for 2000 D revised to reflect reduced payments per 1/8/16 letter from Maine Municipal Bond Bank.
- Debt Payment Schedule for 2001 D revised to reflect reduced payments per 12/14/17 letter from Maine Municipal Bond Bank.
- Debt service for 2011 Mayo Road bond adjusted to reflect additional costs resulting from Federal Sequestration.



FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	FY34	FY35
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\$ 81,588 \$ 79,074 |  
 \$ 108,483 \$ 108,475 \$ 108,470 \$ 108,462 \$ 108,456 \$ 108,450 |  
 \$ 62,187 \$ 60,879 \$ 59,468 \$ 57,963 \$ 56,389 \$ 54,768 \$ 53,088 \$ 51,356 \$ 49,597 \$ 47,813 \$ 46,009 |

\$ 252,259 \$ 248,428 \$ 167,938 \$ 166,426 \$ 164,845 \$ 163,218 \$ 53,088 \$ 51,356 \$ 49,597 \$ 47,813 \$ 46,009  
 \$ (66,949) \$ (3,830) \$ (80,490) \$ (1,512) \$ (1,581) \$ (1,628) \$ (110,130) \$ (1,732) \$ (1,759) \$ (1,784) \$ (1,804)

FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32	FY33	FY34	FY35
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\$ 107,543 \$ 105,367 \$ 102,976 \$ 100,370 \$ 97,765 \$ 95,159 \$ 92,553 |  
 \$ 48,318 \$ 48,318 \$ 48,318 \$ 48,318 \$ 48,318 \$ 48,318 \$ 48,318 \$ 48,318 \$ 48,318 |  
 \$ 155,861 \$ 153,685 \$ 151,294 \$ 148,688 \$ 146,083 \$ 143,477 \$ 140,871 \$ 48,318 \$ 48,318  
 \$ (2,176) \$ (2,176) \$ (2,391) \$ (2,606) \$ (2,606) \$ (2,606) \$ (2,606) \$ (92,553) \$ -

\$ 408,119 \$ 402,113 \$ 319,232 \$ 315,114 \$ 310,928 \$ 306,694 \$ 193,959 \$ 99,674 \$ 97,915 \$ 47,813 \$ 46,009

# Public Hearing: Proposed Sewer Borrowing Authorization Ordinance

Hampden Town Council

March 5, 2018

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*Angus Jennings, Town Manager*



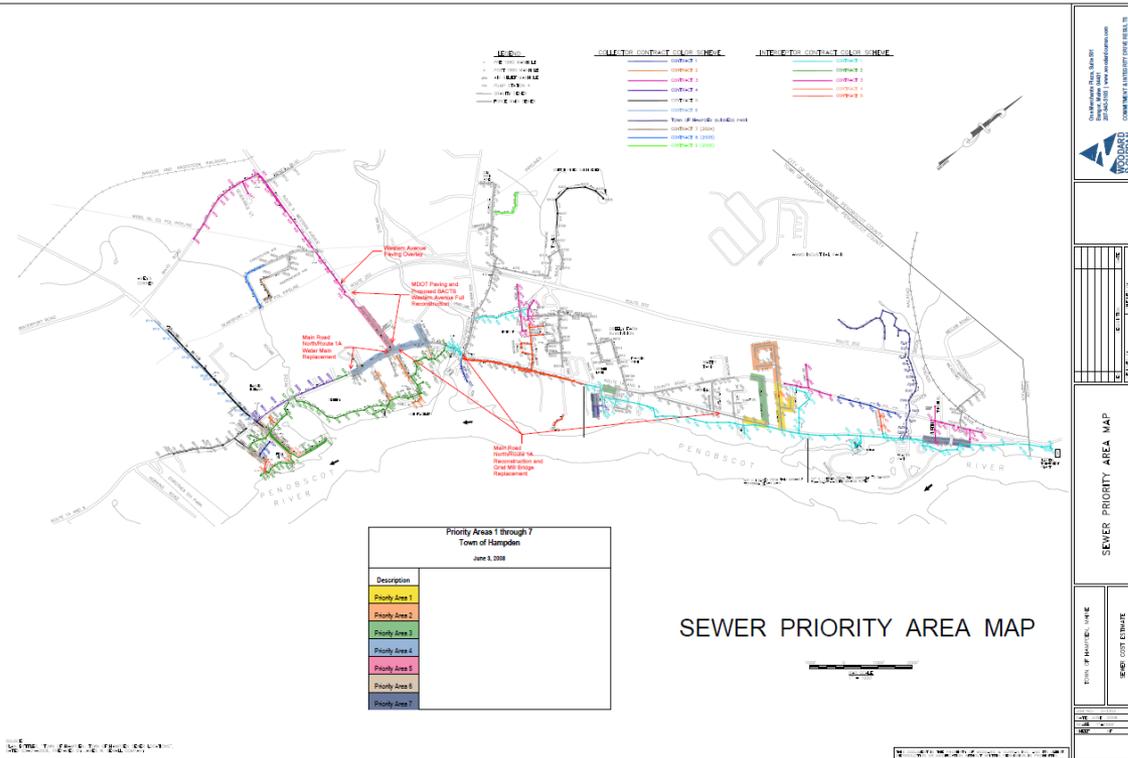
# Proposed Sewer Borrowing Ordinance

- Proposed ordinance, if approved by Council, would allow voter referendum on proposed borrowing authorization on June 12<sup>th</sup>
- Proposed ordinance includes costs for four (4) distinct sewer projects
- Project needs driven by MDOT construction, poor condition of aging infrastructure, and goal of reducing inflow & infiltration (I/I)



# Background

- 2008 Sewer Plan identified 7 sewer priority areas: poor condition, and high inflow & infiltration (I/I) rates
- 3 of the 7 projects (and part of the 4<sup>th</sup>) are complete



# CCTV Method

- Robotic pipeline CCTV inspections, footage
- Vendor applies a system for “Criticality and Risk Assessment of Collection Systems”
  - Condition Assessment uses a standardized Pipeline Assessment Certification Program to determine condition and LoF (likelihood of failure)
  - Risk Assessment determines CoF (consequence of failure)
- Results merged into Total Risk Grade



# CCTV Review

- Cost estimate for closed-circuit TV (CCTV) review of entire system estimated at \$300k
- Approved FY18 Sewer Budget included \$60k in funding for CCTV – about 1/5 of system
- Locations scheduled for MDOT projects were prioritized
- Bid process and award to Ted Berry Company in March 2017; work began FY18
- Began receiving raw data fall 2017 (ongoing)
- Results of W&C analysis received Jan. 2018



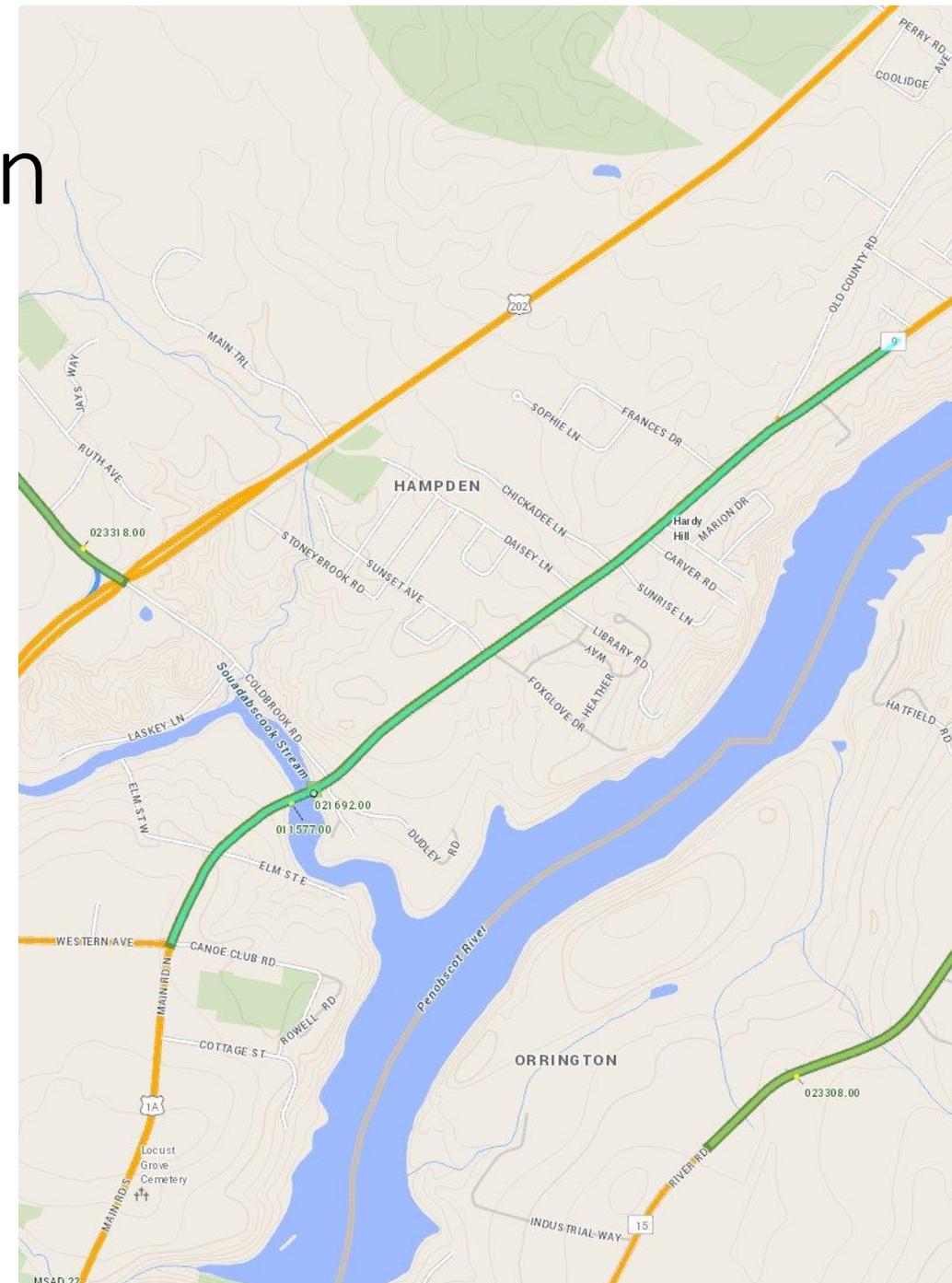
# Sewer Projects

1. Rte. 1A – Reconstruction Project Area
2. Grist Mill Bridge
3. Western Ave. – Main Road North to 202
4. Rte. 1A – south of Western Ave. intersection



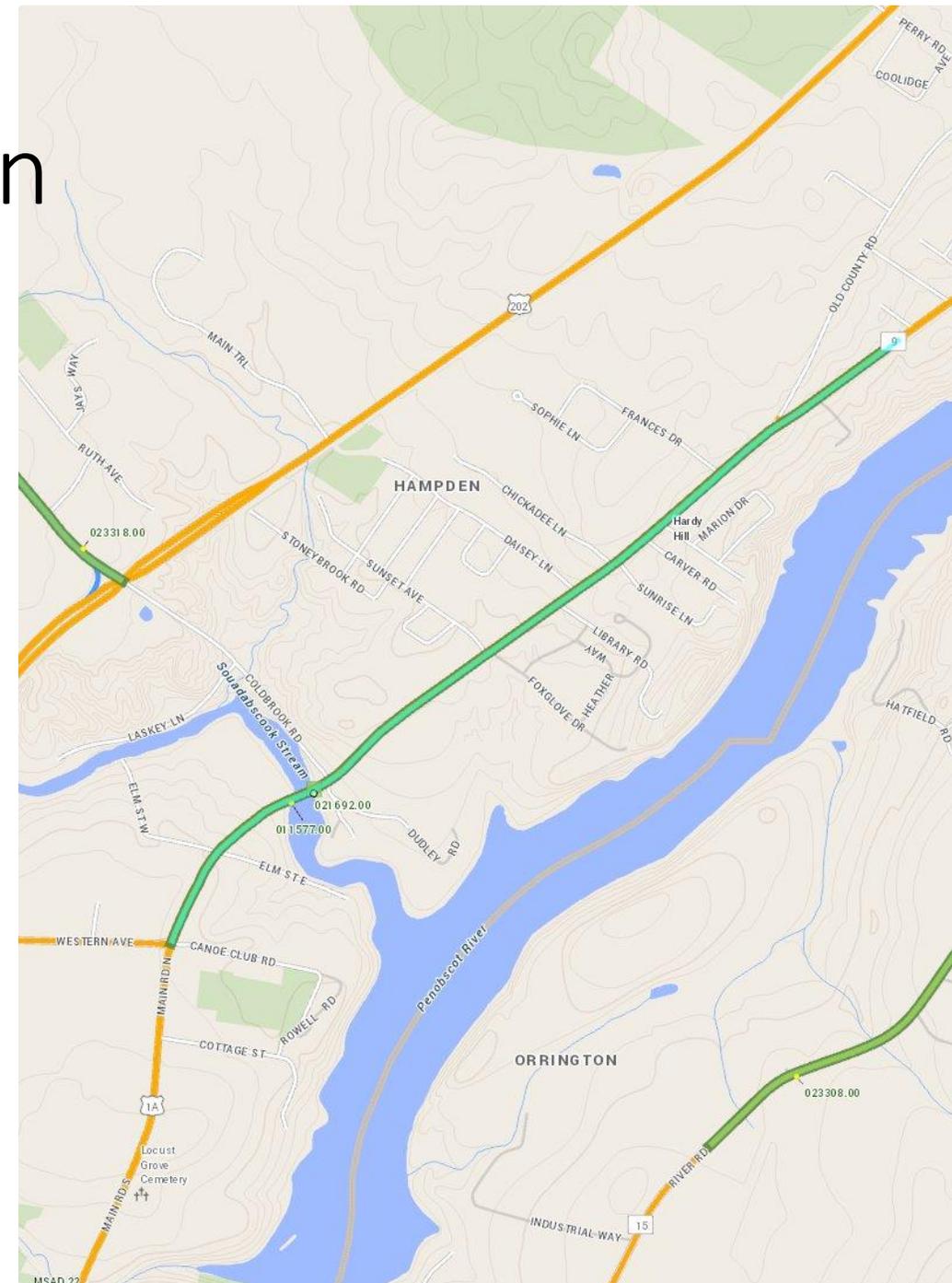
# MDOT Rt. 1A Reconstruction

- Project Scope: Full Road Reconstruction
  - Construction starting spring 2019
- Identified Project Impacts:
  - Reset all existing sewer manhole frames to new road grade
  - Possible replacement of section of forcemain piping due to grade conflict with storm drain (test pits planned to confirm)
  - Outlets from clay dam trench drain piping require extension
  - Replace single conduit between Souadabscook PS and CSO PS with duct bank
  - Sewer main between CSO tanks and overflow weir manhole requires replacement



# MDOT Rt. 1A Reconstruction

- Sewer Inspection Results
  - Primarily good condition
  - AC sewer main from Old County to Mountainview
    - Masonry block manholes
    - Asset age >50 years
    - Structural deficiencies and I/I sources identified
  - Several undersized/non-standard sewer manhole frames and covers
  - Several suspected non-PVC service laterals requiring replacement
- Recommendations
  - Replace AC sewer main and masonry block manholes
  - Replace in conjunction with MDOT project
- Preliminary Project Cost Estimate
  - \$924,000



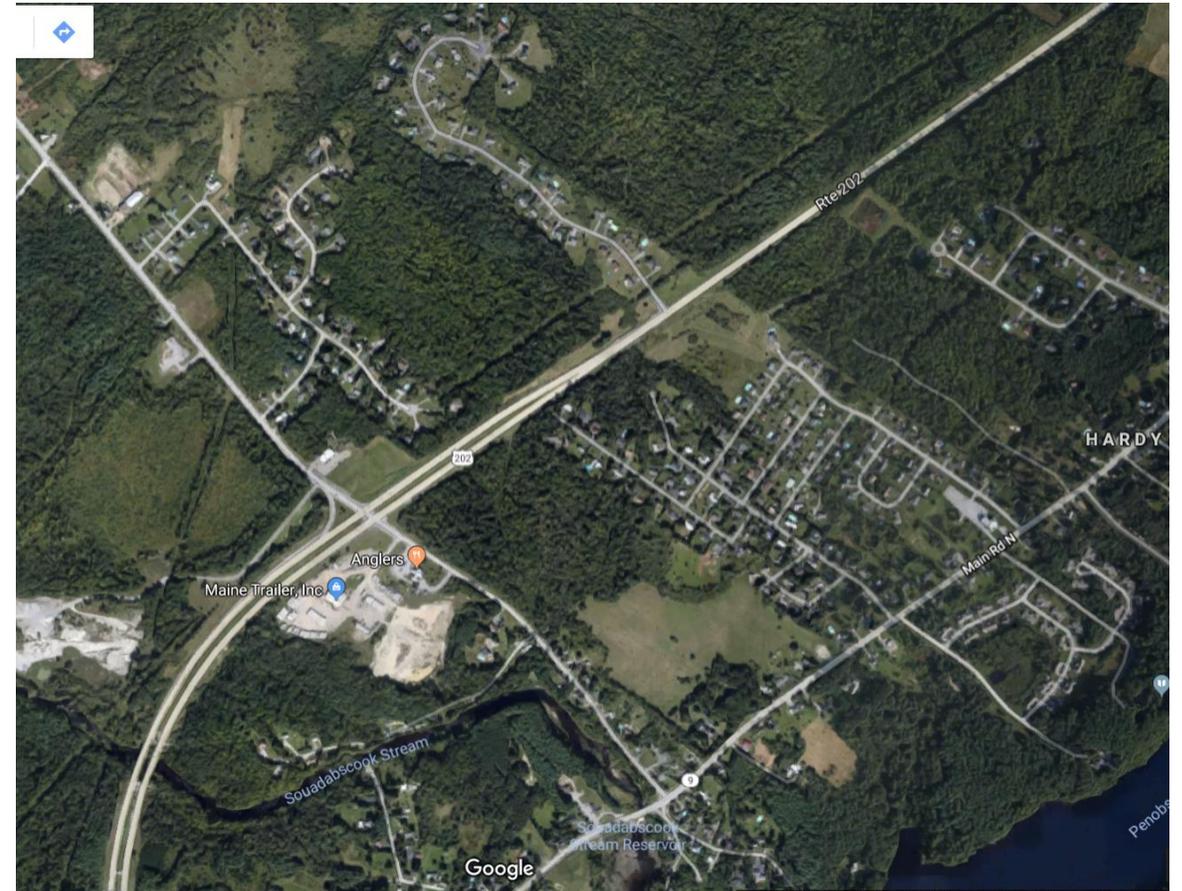
# Grist Mill Bridge Replacement

- Project Scope: Complete bridge removal and replacement
  - Construction starting spring 2019
  - Existing bridge completely removed before installing new bridge
  - Expected complete detour during construction
- Identified Project Impacts:
  - Existing gravity sewer and force main piping buried in concrete beam
  - New steel beam bridge requires pipe hanger supports and insulation system
  - Replacement of all piping necessary
  - Realignment of gravity sewer pipe and manholes upstream and downstream to Souadabscook PS
  - Temporary system during construction necessary to maintain service



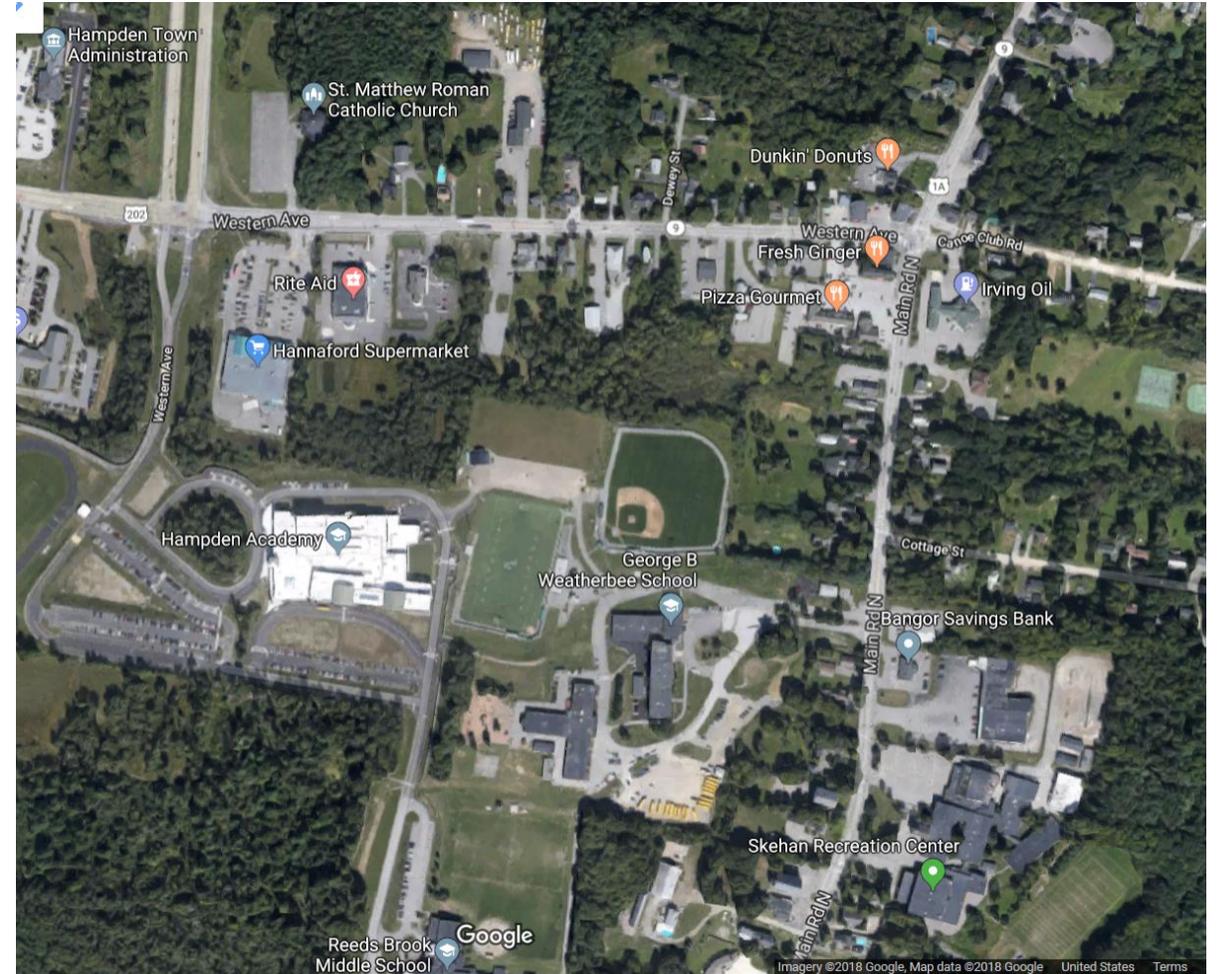
# Grist Mill Bridge Replacement

- Recommendations:
  - Install new piping with pipe hanger supports and insulation system
  - Realign gravity sewer pipe and manholes upstream and downstream to Souadabscook PS
- Preliminary Cost Estimate
  - \$435,400



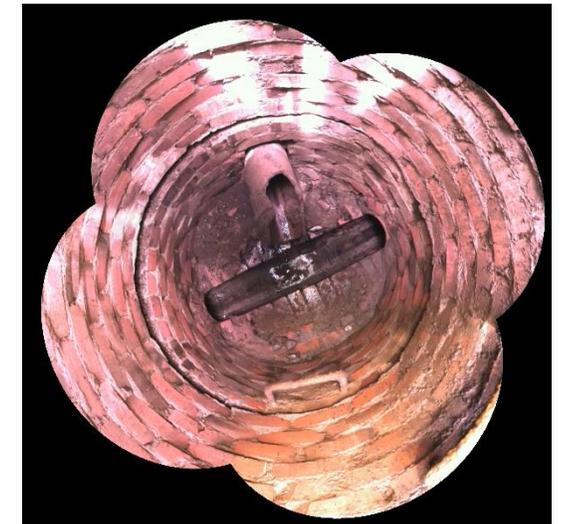
# Western Avenue and Main Road North

- Proposed BACTS road reconstruction project for Western Avenue
  - Construction proposed for 2022
- Main Road North
  - Western Ave south to Skehan Center
  - HWD water main replacement
  - Town sidewalk and pedestrian crossing projects
- Project Impacts
  - Sewer identified as part of Priority Area 4 (MRN) and all of Priority Area 5 (Western Ave)



# Western Avenue and Main Road North

- Sewer Inspection Results
  - Poor condition vitrified clay (VC) sewer main and brick manholes
  - Numerous structural deficiencies and I/I sources identified
  - Root intrusion and grease clogging
- Recommendations
  - Full replacement of existing sewer, including Dewey St.
- Preliminary Cost Estimate
  - Total \$1.4MM
    - Western Ave: \$754,000
    - Main Road North: \$635,000



# Estimated Project Costs

Project	Est. Cost	Date of Estimate
Rte. 1A Reconstruction	\$924,000	February 16, 2018
Grist Mill Bridge	\$435,400	January 5, 2017
Western Ave. & Dewey St.	\$754,000	January 26, 2018
Rte. 1A south of Western	\$635,000	January 26, 2018
<b>TOTAL:</b>	<b>\$2,748,400</b>	

- Cost estimates:
  - Based on consulting engineer Opinion of Probable Costs
  - Include contingency, engineering, and construction administration services
  - Are likely conservative (i.e. higher than actual)



# Preliminary Estimate of Debt Service

- Assuming a 20-year term, and assuming the full amount was borrowed at one time, debt service is estimated at varying interest rates:
  - 3.00% interest = \$184,000 (total interest \$927k)
  - 3.75% interest = \$197,000 (total interest \$1.18M)
  - 4.25% interest = \$210,000 (total interest \$1.45M)
- If lower interest secured (through SRF):
  - 1.5% interest = \$160,000 (total interest \$445k)



## Potential Funding Sources: Pre-Borrowing

- Proceeds from existing debt authorization (up to \$53,000)
- FY18 Sewer Revenue: would require Budget Adjustment to authorize expenditure from projected FY18 surplus (\$73,500)
- FY19 Sewer Debt Service will decrease by about \$101,000 from FY18 (due to payoff of 1996 Sewer SRF, matured 10/1/17) – so, \$101,000 of debt service could be added in FY19 without increasing Sewer Budget



# Potential Funding Sources: Debt Service

- Could revisit prior (pre-2000's) policy of splitting sewer debt service 1/3 General Fund and 2/3 Sewer Fund
- Could reduce amount of repayment of interfund transfers from General Fund (budgeted at \$100,000 in FY17 and FY18)
- Could reduce or eliminate annual payment of \$60,000 from Sewer to General Fund
- Could increase sewer rates
- Future Coldbrook Corners TIF revenues



# Potential Borrowing Sources

- Maine Municipal Bond Bank (MMBB)
  - Other than recent borrowing for overdue bills and Bangor cost-share, all prior sewer borrowing had been through MMBB
  - Borrowing term of 5 to 30 years
  - Interest rate not known; will vary based on market conditions at time of borrowing
  - Applications will be due early August 2018
  - Proceeds available early November 2018



# Potential Borrowing Sources

- State Revolving Loan Fund (SRF)
  - Sewer projects eligible for Clean Water Program
  - Borrowing term of 1 to 30 years
  - Interest rate 2% lower than MMBB's cost of funds, with minimum interest rate of 1%
  - New eligibility requirements (incl. to develop and implement a Fiscal Sustainability Plan)
  - Initial project request forms due March 30
  - Financing applications considered at any time

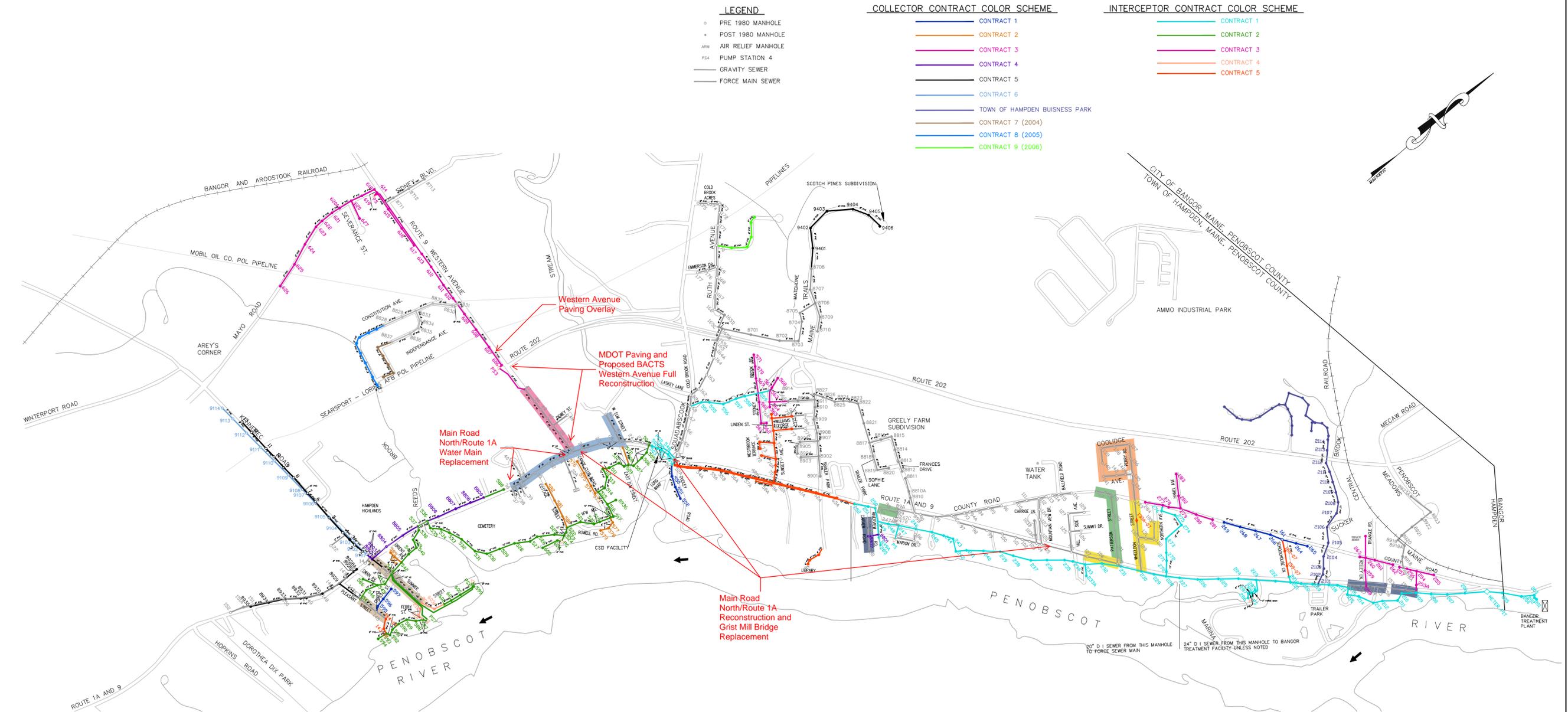


# Next Steps

- Upon Council approval of Ordinance, Town Manager will work on Treasurer's Statement and work with Town Clerk on ballot language
- Woodard & Curran will continue to work on refining budget estimates; if FY18 budget adjustment approved, can authorize work to advance engineering design this fiscal year
- **Extensive public outreach will be needed**



woodwardcurran.net\shared\Projects\213302 Hampden - Sewer Dept General Engineering Services\SEWER COST ESTIMATES\cad drawings\2007-04-09 Hampden Sewer Locations.dwg, Dec 30, 2015 - 3:03pm



- LEGEND**
- PRE 1980 MANHOLE
  - POST 1980 MANHOLE
  - ARM AIR RELIEF MANHOLE
  - PS4 PUMP STATION 4
  - GRAVITY SEWER
  - FORCE MAIN SEWER

- COLLECTOR CONTRACT COLOR SCHEME**
- CONTRACT 1
  - CONTRACT 2
  - CONTRACT 3
  - CONTRACT 4
  - CONTRACT 5
  - CONTRACT 6
  - TOWN OF HAMPDEN BUSINESS PARK
  - CONTRACT 7 (2004)
  - CONTRACT 8 (2005)
  - CONTRACT 9 (2006)

- INTERCEPTOR CONTRACT COLOR SCHEME**
- CONTRACT 1
  - CONTRACT 2
  - CONTRACT 3
  - CONTRACT 4
  - CONTRACT 5



**Priority Areas 1 through 7  
Town of Hampden  
June 3, 2008**

Description
Priority Area 1
Priority Area 2
Priority Area 3
Priority Area 4
Priority Area 5
Priority Area 6
Priority Area 7

# SEWER PRIORITY AREA MAP



One Merchants Plaza, Suite 501  
Bangor, Maine 04401  
207-945-5105 | www.woodardcurran.com

**WOODARD & CURRAN**

COMMITMENT & INTEGRITY DRIVE RESULTS

REV	DESCRIPTION	DATE

DESIGNED BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_  
2007-04-09 Hampden Sewer Locations.dwg

## SEWER PRIORITY AREA MAP

TOWN OF HAMPDEN, MAINE

SEWER COST ESTIMATE

JOB NO.: 213302  
DATE: JUNE 2008  
SCALE: 1"=1000'  
SHEET: OF

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F 207.945.5492

TOWN OF HAMPDEN  
SOUADABSCOOK SEWER PUMP STATION FORCEMAIN AND SEWER REPLACEMENT  
PRELIMINARY COST ESTIMATE  
PROJECT NO. 213302  
December 28, 2016

Preliminary Estimate							
				Steel I-beam Bridge Design		Concrete Beam Bridge Design	
No.	Description	Unit	Estimated Quantity	Unit Price	Value	Unit Price	Value
1	Administrative (5% of Subtotal)	LS	1	\$15,000.00	\$15,000.00	\$25,000.00	\$25,000.00
2	Rock Excavation*	CY	10	\$200.00	\$2,000.00	\$200.00	\$2,000.00
3	Excavation Below Normal Grade*	CY	25	\$30.00	\$750.00	\$30.00	\$750.00
4	Select Backfill*	CY	25	\$30.00	\$750.00	\$30.00	\$750.00
5	Provide 8" Class 52 Ductile Iron Forcemain	LF	335	\$100.00	\$33,500.00	\$100.00	\$33,500.00
6	Provide Forcemain Bridge Crossing	LS	1	\$80,000.00	\$80,000.00	\$180,000.00	\$180,000.00
7	Provide 12" SDR 35 Gravity Sewer Pipe	LF	50	\$140.00	\$7,000.00	\$140.00	\$7,000.00
8	Provide Gravity Sewer Bridge Crossing	LS	1	\$100,000.00	\$100,000.00	\$200,000.00	\$200,000.00
9	Provide 2" Rigid Insulation	LF	200	\$5.00	\$1,000.00	\$5.00	\$1,000.00
10	Bituminous Pavement Repair	SY	25	\$140.00	\$3,500.00	\$140.00	\$3,500.00
11	Test Pits	EA	2	\$1,000.00	\$2,000.00	\$1,000.00	\$2,000.00
12	Testing Allowance	ALLOW	1	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
13	Temporary Bypass Pumping	LS	1	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00
14	Temporary Forcemain Piping	LS	1	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
<b>CONSTRUCTION SUBTOTAL</b>					<b>\$322,500.00</b>		<b>\$532,500.00</b>
ENGINEERING, CONSTRUCTION ADMIN, PART TIME INSPECTION, CONTINGENCY (35%)					\$112,900.00		\$186,400.00
<b>TOTAL</b>					<b>\$435,400.00</b>		<b>\$718,900.00</b>



**COMMITMENT & INTEGRITY  
DRIVE RESULTS**

T 800.426.4262  
T 207.945.5105

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Bangor, Maine 04401  
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**TOWN OF HAMPDEN - SANITARY SEWER REPLACEMENT**

**ATTACHMENT 5 (REVISED)**

**MAIN ROAD NORTH - MDOT ROUTE 1A RECONSTRUCTION PROJECT**

**OPINION OF PROBABLE COST**

February 2018

Bid Item	Description	Unit	Estimated Quantity	Unit Price	Value
<b>OPINION OF PROBABLE COST</b>					
1	Administration	LS	1	\$ 65,000	\$ 65,000
2	Excavation of Unsuitable Materials	CY	50 *	\$ 50	\$ 3,000
3	Select Backfill	CY	50 *	\$ 50	\$ 3,000
4	Rock Excavation	CY	50 *	\$ 200	\$ 10,000
5	Pavement Repair - Town Roads, Driveways & Sidewalks	SY	200	\$ 80	\$ 16,000
6	Pavement Repair - State Roads, Driveways & Sidewalks	SY	200	\$ 120	\$ 24,000
7	Open Cut Main Replacement	LF	2,000	\$ 150	\$ 300,000
8	Four Foot Diameter Pre-Cast Manhole	EA	10	\$ 6,000	\$ 60,000
9	Town-furnished replacement sewer manhole frame and cover	EA	30	\$ 500	\$ 15,000
10	Adjust manhole to grade	EA	30	\$ 800	\$ 24,000
11	4" SDR 35 PVC Sewer Service Open Cut Replacement	LF	660 *	\$ 150	\$ 99,000
12	12" DR 25 C900 Pressure PVC force main	LF	200 *	\$ 175	\$ 35,000
13	Clay dam piping	LF	100 *	\$ 30	\$ 3,000
14	Electrical duct bank	LF	350	\$ 100	\$ 35,000
15	12" SDR 35 PVC Sewer Main	LF	75	\$ 175	\$ 14,000
<b>Total Estimated project cost</b>					<b>\$710,000</b>
<b>15% Contingency</b>					<b>\$107,000</b>
<b>15% Admin, Engineering &amp; Construction Services</b>					<b>\$107,000</b>
<b>Total + Contingency</b>					<b>\$924,000</b>



**COMMITMENT & INTEGRITY  
DRIVE RESULTS**

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T 207.945.5105

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Bangor, Maine 04401  
www.woodardcurran.com

**TOWN OF HAMPDEN - SANITARY SEWER REPLACEMENT**

**ATTACHMENT 3**

**WESTERN AVE - BACTS RECONSTRUCTION PROJECT**

**OPINION OF PROBABLE COST**

January 2018

Bid Item	Description	Unit	Estimated Quantity	Unit Price	Value
<b>OPINION OF PROBABLE COST</b>					
1	Administration	LS	1	\$ 28,000	\$ 28,000
2	Excavation of Unsuitable Materials	CY	50 *	\$ 50	\$ 2,500
3	Select Backfill	CY	50 *	\$ 50	\$ 2,500
4	Rock Excavation	CY	50 *	\$ 200	\$ 10,000
5	Pavement Repair - Town Roads, Driveways & Sidewalks	SY	700	\$ 80	\$ 56,000
6	Pavement Repair - State Roads, Driveways & Sidewalks	SY	1,300	\$ 120	\$ 156,000
7	Open Cut Main Replacement - Western Avenue	LF	1,370	\$ 150	\$ 205,500
8	Open Cut Main Replacement - Dewey Street	LF	400	\$ 150	\$ 60,000
9	Four Foot Diameter Pre-Cast Manhole - Western Avenue	EA	8	\$ 6,000	\$ 48,000
10	Four Foot Diameter Pre-Cast Manhole - Dewey Street	EA	1	\$ 6,000	\$ 6,000
<b>Total Estimated project cost</b>					<b>\$580,000</b>
<b>15% Contingency</b>					<b>\$87,000</b>
<b>15% Admin, Engineering &amp; Construction Admin Services</b>					<b>\$87,000</b>
<b>Total + Contingency</b>					<b>\$754,000</b>



**COMMITMENT & INTEGRITY  
DRIVE RESULTS**

T 800.426.4262  
T 207.945.5105

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**TOWN OF HAMPDEN - SANITARY SEWER REPLACEMENT**

**ATTACHMENT 4**

**MAIN ROAD NORTH - SOUTH OF WESTERN AVE (REMAINING PORTION OF PRIORITY AREA #4)**

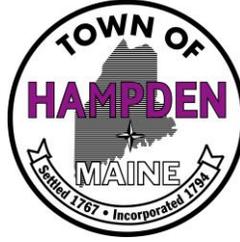
**OPINION OF PROBABLE COST**

January 2018

Bid Item	Description	Unit	Estimated Quantity	Unit Price	Value
<b>OPINION OF PROBABLE COST</b>					
1	Administration	LS	1	\$ 24,000	\$ 24,000
2	Excavation of Unsuitable Materials	CY	50 *	\$ 50	\$ 2,500
3	Select Backfill	CY	50 *	\$ 50	\$ 2,500
4	Rock Excavation	CY	50 *	\$ 200	\$ 10,000
5	Pavement Repair - Town Roads, Driveways & Sidewalks	SY	200	\$ 80	\$ 16,000
6	Pavement Repair - State Roads, Driveways & Sidewalks	SY	1,500	\$ 120	\$ 180,000
7	Asphalt Curb	LF	960	\$ 12	\$ 11,600
8	Open Cut Main Replacement	LF	1,320	\$ 150	\$ 198,000
9	Four Foot Diameter Pre-Cast Manhole	EA	7	\$ 6,000	\$ 42,000
<b>Total Estimated project cost</b>					<b>\$487,000</b>
<b>15% Contingency</b>					<b>\$74,000</b>
<b>15% Admin, Engineering &amp; Construction Services</b>					<b>\$74,000</b>
<b>Total + Contingency</b>					<b>\$635,000</b>

\* Indeterminate Quantity

**Town of Hampden**  
106 Western Avenue  
Hampden, Maine 04444



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

TO: Finance Committee and Town Council  
FROM: Angus Jennings, Town Manager  
DATE: March 15, 2018  
RE: April meeting schedule, and Designation of Acting Town Manager

---

I will be out of the office on vacation from Monday, April 16<sup>th</sup> through Sunday, April 22<sup>nd</sup>, returning to the office on Monday, April 23.

In order that I can be available to help with preparation of the April Infrastructure Committee meeting packet, I request Council approval to change the date of the regularly scheduled meeting so that it would occur on Monday, April 30<sup>th</sup> instead of Monday, April 23<sup>rd</sup>.

Pursuant to Sec. 404 of the Town Charter, I would also like to designate Public Safety Director Joe Rogers to exercise the powers and perform the duties of Town Manager during my absence. Chief Rogers has agreed to serve in this capacity, and he and I will meet prior to my departure to review active issues and anticipated responsibilities during my absence.

This schedule change and designation of Acting Town Manager are both subject to approval of the Town Council, and this letter is intended for consideration at the meeting on March 19.

cc: Chief Rogers



# TOWN OF HAMPDEN

## OATH OF OFFICER

I, Joseph Rogers do affirm that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen hereof, that I will in all respects observe the provisions of the charter and ordinances of the Town of Hampden, Maine and that I will faithfully discharge all of the duties incumbent upon me as Interim Town Manager according to the Constitution and laws of the State, so help me God.

Signature \_\_\_\_\_

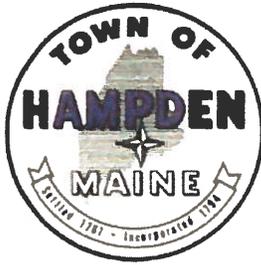
Hampden, Maine

March 19<sup>th</sup>, 2018

Subscribed to

Before me, \_\_\_\_\_

Paula A. Scott, Town Clerk

**Memorandum**

TO: Town Council  
CC: Angus Jennings, Town Manager  
FROM: Paula Scott, Town Clerk  
DATE: March 13, 2018  
RE: Ranked-choice Voting

The opponents of the act entitled "An Act to Implement Rank-choice Voting in 2021" have succeeded in obtaining, by petition, a sufficient number of signatures to force a people's veto. This has overturned the law change enacted by the Legislature to postpone implementation of the initiative, and which also means that ranked-choice voting will be employed for the June 12, 2018 Primary Election. A veto question will also go before voters in June to determine if ranked-choice voting will continue into the future.

Ranked-choice voting will affect specific contests on the ballots, including United States Senate, Governor, United States Congress, State Senate, and Representative to the Legislature. County and Municipal offices will not be affected. Because of this, the programming for the tabulators will be much more complex to accommodate both plurality contests and ranked-choice contests, which must include all possible ranking combinations.

Due to the complexity in programming, I will no longer be able to "piggy-back" my programming of local elections with the State ballots as in the past. It is possible that this will be a cost driver above what was budgeted for tabulator programming but it is too soon to know definitively. It will certainly mean that the practical aspect of segregating two tabulators for State ballots only, and two tabulators for Municipal ballots only will continue, but will require absolute stringency by election workers to adhere to that segregation. No longer will all tabulators be programmed to read all ballots.

A great deal of information is expected to be coming my way in the coming weeks. It is anticipated that there will be new procedures for counting and storing of voted ballots, as well as new procedures for retrieval of ballots or USB memory devices for central counting of the ranked-choice voting rounds after the election. The Secretary of State's office has moved the annual Elections Conference from September to May to provide as much training as possible prior to the Primary. I am required by statute to attend this training every two years, having last gone in 2016. I will be at this conference and am looking forward to learning more of the details pertaining to this new and unique process by which we will now vote.

**Town of Hampden**

**EMERGENCY MORATORIUM ORDINANCE REGARDING RETAIL  
(ADULT USE) MARIJUANA**

WHEREAS, the legislative body of the Town of Hampden (the "Municipality") makes the following findings:

- (1) The Marijuana Legalization Act (the "Act") was approved by Maine voters in November 2016 and has been codified in the Maine Revised Statutes in Title 7, chapter 417; and
- (2) The unregulated location and operation of "retail marijuana cultivation facility," "retail marijuana products manufacturing facility," and "retail marijuana testing facility" as defined in 7 M.R.S.A. chapter 417, raises legitimate and substantial questions about the impact of such facilities on the Municipality, including questions as to compatibility with existing land uses and developments in the municipality; potential adverse health and safety effects on the community; the possibility of illicit sale and use of marijuana and marijuana products to and by minors; and the possibility of unlawful use of marijuana and marijuana products; and
- (3) The Town Council has voted to amend Section 7.2 of the Zoning Ordinance to add certain definitions and modify others to effectively prohibit retail marijuana sales and retail marijuana social clubs in the Municipality, which became effective December 20, 2017; and
- (4) As a result of the foregoing issues, retail marijuana cultivation, products manufacturing, and testing facilities within the Municipality have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
- (5) The Municipality currently has no regulations governing retail marijuana cultivation, products manufacturing, and testing facilities or activities, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of such facilities or activities; and
- (6) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of retail marijuana cultivation, products manufacturing, and testing facilities or activity in the Municipality; and
- (7) The state's regulatory structure is unknown at this time as the Maine Legislature and state agencies have not enacted legislation amending the Act with the exception of several minor amendments which do not address the known deficiencies of the Act or developed final regulations governing Retail Marijuana; and
- (8) In the judgment of the Hampden Town Council, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 and Section 214 of the Hampden Town Charter requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A MRSA § 4356, be it ordained by the Municipality as follows:

**Section 1. Moratorium.** The Municipality does hereby declare a moratorium on all retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities within the municipality.

No person or organization shall engage in any retail marijuana cultivation, retail marijuana products manufacturing, or retail marijuana testing within the Municipality on or after the effective date of this Ordinance. During the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit, and/or any other permits or licenses related to retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, or retail marijuana testing facilities.

**Section 2. Pending Proceedings.** Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail marijuana cultivation facility, retail marijuana products manufacturing facility, or retail marijuana testing facility for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

**Section 3. Medical Marijuana Act.** This Ordinance will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications.

**Section 4. Personal Use of Marijuana.** This Ordinance will not limit the privileges or rights afforded by the Maine Marijuana Legalization Act to persons age 21 or older (7 M.R.S.A §2452).

**Section 5. Conflicts/Savings Clause.** Any provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

**Section 6. Violations.** If any retail marijuana cultivation activity, retail marijuana products manufacturing activity, or retail marijuana testing activity is established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights available to it pursuant to 30-A M.R.S.A. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

**Section 7. Effective Date.** This Ordinance shall become effective immediately upon its adoption and shall remain in full force and effect for a period of 60 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

- (7) Amend or repeal any ordinance previously adopted;
- (8) Amend or establish town fees; and

Acts other than those referred to in the preceding sentence may be done by ordinance, by order or by resolution. *(Amended: June 8, 1982)*

**Sec. 213 Ordinances In General**

- (a) *Form* - Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The Town of Hampden hereby ordains...." Any ordinance which repeals or amends an existing ordinance or part of the Hampden Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.
- (b) *Procedure* - An ordinance may be submitted as an agenda item by any member of the council at any regular or special meeting. Copies of the proposed ordinance are to be included with the council packet. After council discussion, the proposed ordinance may be introduced as submitted or amended for public hearing. A reasonable number of copies of said ordinance shall be filed in the town clerk's office and such other public places as the council may designate, and a notice setting out the time and place for a public hearing on same shall be published. The public hearing shall follow the publications at least seven (7) days, may be held separately or in conjunction with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have a reasonable opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or may reject it; but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a new ordinance. As soon as practicable after adoption of any ordinance, the town clerk shall publish a notice of its adoption. (11) *(Amended: June 8, 1982)*
- (c) *Effective Date* - Except as otherwise provided in this charter every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date as specified therein.
- (d) *"Publish" Defined* - As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the town; (1) the ordinance or a brief summary thereof, and (2) the place where copies of the complete text have been filed and the time when they are available for public inspection. *(Amended: June 8, 1982)*

**Sec. 214 Emergency Ordinances** - To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances; but said ordinances may not grant, renew or extend a franchise, regulate the rate charged by a public utility for its services or authorize the borrowing of money except where any emergency notes or renewals thereof are paid within twentyfour months of the adoption of said ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least all members present shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one authorizing the issuance of emergency notes shall automatically stand

repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

**Sec. 215 Authentication and Recording; Codification; and Printing**

- (a) *Authentication* - All ordinances and resolutions adopted by the council shall be authenticated by the signature of the secretary of the council and recorded in full by the town clerk in a properly indexed book kept for that purpose.
- (b) *Codification* - Within three years after adoption of this charter and at least every ten years thereafter, the council shall provide for the preparation of a general codification of all ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Maine and such codes of technical regulations and other rules and regulations as the council may specify. Any codification ordinance may be published by title. This compilation shall be known as the Hampden Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.
- (c) *Printing of Ordinances and Resolutions* - The council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Hampden Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Maine, or the codes of technical regulations and other rules and regulations included in the code.

ARTICLE III  
ADMINISTRATIVE OFFICIALS AND EMPLOYEES

**Sec. 301 Titles and Appointment** - The following officials and boards shall be appointed by a majority vote of the members of the town council: Town Manager, board of assessment review, planning board, board of appeals and other boards or officials when such appointment is required by state statute or municipal ordinance. The council may, where appropriate, and where not prohibited by law, vest in the town manager all or part of the duties of any office. *(Amended: November 6, 2007)*

The town manager shall appoint the town clerk, treasurer, tax collector, town assessor and department heads subject to the confirmation of the town council, and shall have the power to remove such appointees when necessary. The town manager shall appoint and remove when necessary all other administrative officials and town employees, except as the manager may authorize the head of a department or office and except as otherwise provided in this charter. *(Amended: November 6, 1990)*

**Sec. 302 Creation of Department** - The town council, by ordinance, may establish, change and abolish town departments, offices or agencies other than those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no functions assigned by this charter to a particular department, office or agency may be discontinued or, unless specifically provided by this charter, assigned to any other.

**Maine Revised Statutes**  
**Title 30-A: MUNICIPALITIES AND COUNTIES**  
**Chapter 187: PLANNING AND LAND USE REGULATION**

**§4356. MORATORIA**

Any moratorium adopted by a municipality on the processing or issuance of development permits or licenses must meet the following requirements. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**1. Necessity. The moratorium must be needed:**

A. To prevent a shortage or an overburden of public facilities that would otherwise occur during the effective period of the moratorium or that is reasonably foreseeable as a result of any proposed or anticipated development; or [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**2. Definite term. The moratorium must be of a definite term of not more than 180 days. The moratorium may be extended for additional 180-day periods if the municipality adopting the moratorium finds that:**

A. The problem giving rise to the need for the moratorium still exists; and [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. Reasonable progress is being made to alleviate the problem giving rise to the need for the moratorium. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**3. Extension by selectmen. In municipalities where the municipal legislative body is the town meeting, the selectmen may extend the moratorium in compliance with subsection 2 after notice and hearing.**

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**SECTION HISTORY**

1989, c. 104, §§A45,C10 (NEW) .

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*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 127th Maine Legislature and is current through October 1, 2016. The text is subject to*

D-5-6



**Memorandum**

TO: Town Council  
CC: Angus Jennings, Town Manager  
FROM: Paula Scott, Town Clerk  
DATE: March 19, 2018  
RE: River Herring/Alewife Harvest Plan

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I have spoken with Michael Brown of the Department of Marine Resources to inquire whether there have been any changes that would affect the current retention by the Town of Hampden of its Alewife and Blueback Herring harvesting rights.

There has been no determination by the Atlantic States Marine Fisheries Commission of an improvement to self-sustaining runs, therefore, upon Council approval, the Town of Hampden River Herring Harvest Plan will stay in effect. The Town of Hampden will continue to retain its fishing rights to allow for recreational fishing only and will retain the right to closure of Municipal waters to commercial harvesting.

**TOWN OF HAMPDEN**  
**RIVER HERRING HARVEST PLAN – 2018**

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**Regulations for the taking of alewives shall be as follows:**

- A minimum unobstructed opening of two feet (2') shall be maintained at all times between the riverbank and the downstream end of the weir.
- The maximum mesh size of the wire, twine, or other material used in the weir shall not exceed one inch by one inch (1" X 1").
- There shall be a 72-hour weekly closed season on alewives from sunrise each Thursday morning until sunrise the following Sunday morning. During the closed season, a minimum size unobstructed opening of three feet by three feet (3" X 3") shall be maintained in the upstream and downstream end of the trap to allow escapement of spawning river herring and other migratory fish.
- Migratory fish such as salmon, shad, or other species except alewives and blueback herring that enter the trap shall be removed and allowed to pass upstream.
- Fishing operations shall cease and all fishing gear obstructing the passage of fish shall be removed from the fishing waters not later than June 5.
- The weekly landings in pounds or bushels and value of the catch shall be made available to the Maine Department of Marine Resources and/or National Marine Fisheries Service on request by these agencies.

**ADDITIONAL REGULATIONS**  
**FOR STREAMS WITH ATLANTIC SALMON RUNS**

- The entrance to the dipping pen or trap shall be covered by bars, slats, or spacers with a maximum width of two inches (2") between said bars, slats or spacers.
- Dipping of alewives shall be confined to the dipping pen or trap.

# 2018 MAINE MARINE RECREATIONAL SPORTFISHING REGULATIONS SEA RUN FISH

If you are a recreational saltwater fisherman, a Maine law may require you to register with the **Maine Saltwater Recreational Fishing Registry**. To learn more or to register visit: [www.maine.gov/saltwater](http://www.maine.gov/saltwater) or call 207-633-9505.

*The following Maine saltwater recreational fishing regulations are current as of January 1, 2018. However, they are subject to change. Please contact our office or your local Marine Patrol Officer with questions. All minimum lengths are total length, NOT fork length. The sale of fish by recreational anglers is prohibited.*

**AMERICAN SHAD**  
(*Alosa sapidissima*)



**Method of take:** hook and line only  
**Bag limit:** a person may fish for or possess only 2 fish per day.

**ATLANTIC STURGEON**  
(*Acipenser oxyrinchus*)



It is unlawful to fish for, take or possess any sturgeon, either Atlantic or shortnose, in Maine waters. Any sturgeon incidentally caught must be released immediately, alive and uninjured.

**ATLANTIC SALMON**  
(*Salmo salar*)



It is unlawful to angle, take or possess any Atlantic salmon from all Maine waters (including coastal waters). Any salmon incidentally caught, must be released immediately, alive and uninjured. At no time should the Atlantic salmon be removed from the water.

## RIVER HERRING

**ALEWIFE**  
(*Alosa pseudoharengus*)



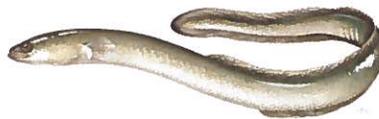
**BLUEBACK HERRING**  
(*Alosa aestivalis*)



*River herring means both species, alewife and blueback herring. Any brook, river or stream not under municipal lease is closed from 6 AM Thursday until 6 AM Sunday.*

**Method of take:** hook and line, dip net  
**Bag Limit:** 25 river herring per angler per day, personal use only

**AMERICAN EEL**  
(*Anquilla rostrata*)



**Method of take:** speargun, harpoon, trap or hook and line  
**Bag Limit:** 25 eels per angler per day, personal use only  
**Size:** minimum size 9 inches

**ATLANTIC MENHADEN**  
(*Brevoortia tyrannus*)



**Bag Limit:** 25 fish per angler per day, personal use only

## TROUT



**Size:**  
Brown/Rainbow Trout: minimum size 14 inches  
Brook Trout: minimum size 6 inches  
Landlocked Salmon: minimum size 14 inches, maximum size 25 inches  
**Bag Limit:** Unlawful to possess more than 5 fish, of which, not more than 2 may be brown trout, 2 landlocked salmon or 2 rainbow trout. All 5 may be brook trout.

**Penobscot River:** It shall be unlawful to take or possess any landlocked salmon, brown trout, or rainbow trout from tidal waters upstream and North of the Penobscot Narrows Bridge and north of the Verona Island Bridge.

**See separate rule sheets for striped bass and sea-run rainbow smelt.**



MAINE DEPARTMENT OF MARINE RESOURCES  
Marine Resources Laboratory  
PO Box 8, West Boothbay Harbor, ME 04575-0008  
Telephone (207) 633-9500 Fax (207) 633-9579



**Recreation Department-Skehan Recreation Center**

To: Hampden Town Council Services Committee  
Town Manager Angus Jennings

From: Recreation Director Shelley Abbott

CC: PW Director Sean Currier

Date: 3/7/2018

Re: Playground Reserve Account 3-768-00

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**Comments:** I am requesting authorization to use Playground reserve account number 3-768-00 for the purpose of the following items:

Replacement of 3; 35' Class 5 Poles and Electrical Light Transfer at VFW Tennis Courts (not to exceed) \$3765.00

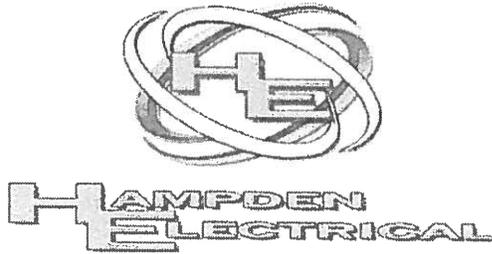
*One pole was broke in the Halloween windstorm of 2017. Funding from FEMA/insurance should cover costs to replace and reinstall fixtures and reconnect electric service-unknown if there will be any costs to fixture damages but we anticipate being able to reuse the fixtures which seem intact other than cosmetic damage*

*Other three poles are showing significant signs of rot and woodpecker damage. There are 4 poles holding 8 fixtures. It would be optimal to replace all while the company is onsite drilling the broken pole.*

*Vendor estimate for all four poles included. Service disconnection and removal of fixtures for the winter was completed in November 2017 and has been paid for.*

**Total Request from Playground Reserve Account 3-768-00 \$3765.00**

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337 Perry Rd. Suite #1. Bangor, ME 04401  
Phone: (207) 942-6255 Fax: (207) 942-5498

February 8, 2018

Hampden Recreation Department  
Attn: Shelley Abbott  
106 Western Ave.  
Hampden, ME 04444

RE: Replace wood poles at VFW Tennis Courts

Shelley,

Please accept our proposed estimate for the amount of **\$3,765.00** to perform the electrical scope of work for the above referenced project.

Our proposal Includes:

- Provide 4 new 35' Class 5 Wooden Poles to replace three existing standing poles and one currently down pole.
- Provide labor and hardware to transfer existing lighting from the existing poles onto the new poles.
- Provide Digger Truck to auger the holes for the new poles and to remove the existing poles.
- Provide bucket truck to safely transfer all wiring and lighting.

Our proposal Excludes:

- Night or weekend work.
- State of Maine Sales Tax.
- Repairs or replacement of existing light fixtures or wiring.

Sincerely,

Christopher R Carson



D-5-d

Sgt. T.D. Stewart  
Sgt. Chris Bailey  
Ofc. J.D. Burke  
Ofc. Shawn Devine  
Ofc. Wm. Miller

Sgt. Scott Webber  
Inv. Joel Small  
Ofc. Ben Eyles  
Ofc. Marc Egan  
Ofc. David Mushrall



Lt. Dan Pugsley, Jr.  
Lt. Jason Lundstrom  
FF Jared LeBarnes  
FF Shaun McNally  
FF Matt Roope  
FF Gavin Webb

Lt. Matt St.Pierre  
CHL Joe Dunton  
FF Matt Thomas  
CEO Myles Block  
FF Chris Liepold

Kandy McCullough, Office Manager

Chief Joseph L. Rogers, Director of Public Safety

POLICE

FIRE

EMS

CODE ENFORCEMENT

LOCAL HEALTH OFFICE

TO: Angus Jennings, Town Manager  
FROM: Joseph L. Rogers, Public Safety Director  
RE: Thermal Imaging Camera – Reserve Account  
DATE: March 15, 2018

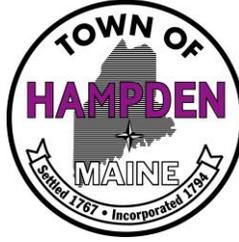
I would request that the Hampden town Council authorize the purchase of a Scott X380 Thermal Imaging Camera with drive-off detection device for \$9238.00. This funding would come from the Thermal Imaging Reserve account (3-747-00). This camera will replace a twenty-year-old camera.



Hampden		Approved FY18 Budget - RESERVES				
Allocations to Reserve Funds						
		2016	2017	FY18	FY18	Notes
		Budget	Budget	Town Mgr	Town Council	
<b>Dept: 70 RESERVES</b>				As of May 1	June 19, 2017	
55-02-70-99	Munic Bldg (3-702-00)				\$ 14,000	Public safety floor replacement; LED lighting; wall heater in garage; ADA door openers
55-10-70-99	City Bus (3-710-00)				\$ 5,850	Toward purchase of "end of life rehab" Bus (est. FY18)
55-11-70-99	Computer (3-711-00)				\$ 14,100	Plotter replacement; LCD Projectors (2); Public Safety Server; Town Office Server; Laptops (2); Networking equipment; Phone system; Ambulance laptops (2); A/C for network equipment; CCTV Surveillance system; Cruiser laptops (3).
55-17-70-99	DPW Equipment (3-717-00)				\$ 31,680	Est. first of five year payment to replace Plow Truck #20
55-19-70-99	Twn Record Reserve (3-719-00)				\$ 2,940	Town Records archival preservation (partial) (est. FY18)
55-25-70-99	Plan & Comm (3-725-00)				\$ 15,000	Eligible for use to enforce Dangerous Building statute
55-27-70-99	Economic Dev (3-727-00)				\$ 6,730	Town Center decorative banner installation
55-33-70-99	Personnel (3-733-00)				\$ 25,000	Unbudgeted personnel costs (FMLA backup; retirement/separation of service payments; etc.)
55-37-70-99	Ambulance (3-737-00)				\$ 20,000	Toward ambulance purchase (est. FY26)
55-41-70-99	Fire Truck (3-741-00)				\$ 50,000	Toward fire engine purchase (est. FY23)
55-45-70-99	Fire Building (3-745-00)				\$ 2,361	Fire garage door exhaust linkage repair (est. FY18)
55-47-70-99	Fire Camera (3-747-00)				\$ 10,000	Thermal imaging camera (est. FY18)
55-53-70-99	Police Cruiser (3-753-00)				\$ 27,000	Toward police cruiser purchase (est. FY18)
55-61-70-99	Roads/Streets (3-761-00)				\$ 67,000	Toward Sucker Brook culvert (\$50,000); Baker Road (\$12,000); install MDOT flashing ped beacon (\$5000)
55-67-70-99	Rec Area Res (3-767-00)				\$ 10,000	Toward add'l parking for Pool site
55-68-70-99	Playground (3-768-00)				\$ 5,000	Toward VFW basketball/tennis court rehab
55-71-70-99	Pool Facility (3-771-00)				\$ 5,000	Toward Pool interior painting (est. FY18)
55-73-70-99	Marina (3-773-00)				\$ 5,000	Replacement of floating dock (est. FY18)
55-75-70-99	Bldg/Grounds (3-775-00)				\$ 5,280	Pickup truck for cemetery crew to replace #52
55-77-70-99	SW/Garage (3-777-00)				\$ 90,000	Toward salt shed replacement; and contingency for "bridge waste" costs if new facility not open or time
55-78-70-99	Matching Grant (3-780-00)				\$ 40,000	
<b>RESERVES</b>		<b>\$ 330,000</b>	<b>\$ 502,019</b>	<b>\$ 509,756</b>	<b>\$ 451,941</b>	



**Town of Hampden**  
106 Western Avenue  
Hampden, Maine 04444



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

**TO:** Finance Committee and Town Council  
**FROM:** Angus Jennings, Town Manager  
**DATE:** March 15, 2018  
**RE:** April meeting schedule, and Designation of Acting Town Manager

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I will be out of the office on vacation from Monday, April 16<sup>th</sup> through Sunday, April 22<sup>nd</sup>, returning to the office on Monday, April 23.

In order that I can be available to help with preparation of the April Infrastructure Committee meeting packet, I request Council approval to change the date of the regularly scheduled meeting so that it would occur on Monday, April 30<sup>th</sup> instead of Monday, April 23<sup>rd</sup>.

Pursuant to Sec. 404 of the Town Charter, I would also like to designate Public Safety Director Joe Rogers to exercise the powers and perform the duties of Town Manager during my absence. Chief Rogers has agreed to serve in this capacity, and he and I will meet prior to my departure to review active issues and anticipated responsibilities during my absence.

This schedule change and designation of Acting Town Manager are both subject to approval of the Town Council, and this letter is intended for consideration at the meeting on March 19.

cc: Chief Rogers