

HAMPDEN TOWN COUNCIL
HAMPDEN MUNICIPAL BUILDING
MINUTES

MONDAY

MAY 1ST, 2017

7:00 P.M.

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

Mayor Ryder called the meeting to order at 7:00 p.m.

Attending:

Mayor Ryder

Councilor McPike

Councilor Sirois

Councilor Wilde

Councilor Marble

Councilor Cormier

Councilor McAvoy

Town Manager, Angus Jennings

Town Clerk, Paula Scott

Town Planner, Karen Cullen

CEO, Myles Block

Representative David Haggan

James P. Wadman, CPA

Jeremy Jones, resident

Clyde MacDonald, resident

Allison Berube, resident

Members of the public

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

1. SIGNATURES

2. SECRETARY'S REPORTS

- a. April 18TH, 2017 Council Meeting Minutes**

3. COMMUNICATIONS

- a. Written Testimony presented at Public Hearing on L.D. 1479 by Kelly Karter, Tax Assessor**
- b. Written Testimony presented at Public Hearing on L.D. 1226 by Barbara Geaghan, Tax Collector**
- c. Renewal Victualer's licenses – Angler's Restaurant & McLaughlin's at the Marina**
- d. MMA's 2016/2017 Property & Casualty Pool Membership Report**
- e. Hampden Historical Society's Spring 2017 Newsletter and upcoming events**
- f. Sewer bill insert regarding the May 15th sewer rate Public Hearing and information regarding sewer maintenance work**

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

4. REPORTS

- a. Finance Committee Minutes –
- b. Infrastructure Committee Minutes – 3-27-2017
- c. Planning & Development Committee Minutes – 4-5-2017
- d. Services Committee Minutes – 3-13-2017

C. PUBLIC COMMENTS – *Clyde MacDonald, of 310 Main Rd. North was recognized and inquired if the Council has been action on an extension of the Bus service. Mayor Ryder stated that there has not been action on an extension but that the Bus service will be discussed in the budget. Councilor Marble stated that it would be discussed at the May 8th Services Committee meeting. Manager Jennings asked Mr. MacDonald to state his name for the record, and again informed him that the Bus service will be a part of the agenda of the Services Committee meeting at 6:00 p.m. as well as a budget discussion at 7:00 p.m.*

D. POLICY AGENDA

1. NEWS, PRESENTATIONS & AWARDS - *None*

2. PUBLIC HEARINGS - *Proposed amendments to the Town of Hampden Zoning Ordinance –*

1. **Proposed Zoning Ordinance Amendment to Article 1, General Administration, related to conflict with other ordinances and the process for amending the Zoning Ordinance** – *Mayor Ryder opened the Public Hearing at 7:10 p.m. and explained that the purpose of this amendment was to clean up outdated language. Councilor Sirois made a motion, seconded by Councilor McAvoy, to approve the amendment to Article 1, General Administration related to conflict with other ordinances and the process for amending the Zoning Ordinance. Councilor McAvoy inquired if the Planning Board had the authority to make changes without Council input. Manager Jennings stated that they are allowed to initiate but they cannot be enacted without public hearing and vote of the Council. Mayor Ryder called Planner Cullen to the podium to explain the current process of amendment. Discussion ceased and the motion was brought to vote. Unanimous vote in favor. Public Hearing closed at 7:20 p.m.*
2. **Proposed Zoning Ordinance Amendment to Sections 3.7.4, 3.7.6, 7.2, and adding a new section 4.25 to Article 4, all related to Accessory Apartments.** – *Mayor Ryder opened the Public Hearing at 7:20 p.m. Councilor Sirois made a motion,*

*seconded by Councilor Wilde to accept the proposed Zoning Ordinance amendment to Sections 3.7.4, 3.7.6, 7.2, and adding a new section 4.25 to Article 4, all related to Accessory Apartments. Mayor Ryder called Planner Cullen to the podium to explain this proposal. She explained that currently accessory dwellings are treated like a two family dwelling and in all except Residential A district they are not limited in size or appearance. In Residential A, they are allowed only as conversions of the existing single family dwelling, subordinate to the main unit, can be no more than 50% of the square footage of the main unit, and no more than 500 square feet. This proposal will eliminate language in Residential A district that deals with single family conversions and add new language on accessory apartments that will be applicable in all zones. Accessory apartments will be allowed by a conditional use permit issued by the Planning Board. There must only be one accessory per unit, the owner must occupy one of the units, must retain the appearance of a single family dwelling, and be no more than 40% of the square footage of original structure, or no more than 800 square feet and there must be one parking space dedicated to the accessory. The Planning Board can allow deviation to accommodate handicap accessibility needs. The purpose of the amendment is to allow for families to care for those that need assistance, or to add to the housing stock for rental units while also preserving the character of the neighborhood where they are built. The Code Enforcement Officer has requested that accessory units be allowed in detached structures such as a garage. The Planning Board had concerns about them in Residential A because the zone is for low density single family types, however, in Planner Cullen's experience, allowing accessory units in detached structures is common. She stated that there are three possible routes for Council to take: One is to close the Public Hearing and act on the amendments, continue the Public Hearing to a date certain to allow staff and the Planning Board to consider testimony given tonight, or close the Public Hearing and refer back to the Planning Board for further consideration. Allison Berube of 217 Main Road North was recognized and stated that she had handed out information to the Council regarding her statements to follow. She then read from a prepared statement and asked for it to be included as part of the record. Both the handouts and her statement are attached to these minutes as **Exhibit A**. Councilors Marble and Wilde asked questions of both the Planner and Mrs. Berube, and Mayor Ryder clarified concerns that Mrs. Berube had about the notification process. Manager Jennings reiterated that the intent was to expand and provide new opportunities in Residential A. Discussion ceased and Mayor Ryder called for a vote on the*

motion and second on the floor. Councilor Sirois and Councilor McAvoy voted in favor. Councilor Wilde, Councilor McPike, Councilor Marble, Councilor Cormier and Mayor Ryder voted in opposition. Motion fails. The remainder of the Public Hearing was tabled at 7:40 p.m., to be resumed on May 15th after further review of the proposed changes. Councilor Sirois made a motion, seconded by Councilor McAvoy, to keep the Public Hearing open until May 15th, 2017. Unanimous vote in favor.

- 3. Proposed Zoning Ordinance Amendment to Sections 4.7, Off-Street Parking, Drive-Thru Design, and Buffer yard Requirements, and Section 4.8 – Mayor Ryder opened the Public Hearing at 7:43 p.m. Councilor Sirois made a motion, seconded by Councilor McAvoy, to approve the proposed amendments as written. There was no discussion or public comment and the motion was brought to vote. Unanimous vote in favor. Public Hearing closed at 7:45 p.m.**

3. NOMINATIONS – APPOINTMENTS – ELECTIONS

- a. Appointment of Bernard Kubetz to the Zoning Board of Appeals – referral from Planning & Development Committee – Councilor McPike reported that at Committee, the application of Bernard Kubetz to the Zoning Board of Appeals was discussed and recommended to Council for appointment. Councilor McPike made a motion, seconded by Councilor Sirois to appoint Bernard Kubetz to the Zoning Board of Appeals. Unanimous vote in favor.**

4. OLD BUSINESS

5. NEW BUSINESS

- a. Presentation and overview of the FY2016 Audit – James W. Wadman, CPA – CPA Wadman approached the podium and explained that he was going to focus on pages 42-47 of a 60 page audit. Manager Jennings reminded the public that the full audit was available on the Town of Hampden website. Mr. Wadman stated that the Town had closed FY16 with a surplus of \$1,015,082 which was an increase of \$388,617 over the prior year. There was a favorable revenue shift of revenues in excess of budget in the amount of \$281,573. On the expenditure side, the Town operated \$422,044 below budget. This created a favorable variance in the amount of \$703,617. Of that amount, \$315,000 was used to reduce property taxes which resulted in a net favorable increase in surplus in the amount of \$388,617. Mr. Wadman stated that the audit revealed no**

management letter comments or material weaknesses and stated that it was a positive financial year. Councilor Marble commented that he felt reassured not only as a Councilor, but as a resident and taxpayer that there is a good manager and capable staff in place handling the finances. Manager Jennings made a point of clarification for the public that the value of the surplus is comprised in part by money due to the General Fund, from the Sewer Department for instance, and that this is shown on our balance sheet as an asset, but it doesn't mean there is a million dollars sitting in a bank account. CPA Wadman concurred and further stated that in addition to actual cash and investments, there is nearly \$615,000 owed to the General Ledger from other entities, and also includes other receivables such as taxes and liens and that this is all a part of the \$1,015,082.

- b. Contract award for the Tax Exempt Revenue Obligation Bond, Interest Rate RFP and Council Resolution authorizing the sale of the Revenue Obligation Bond in the amount of \$262,936– referral from Finance & Administration Committee – Councilor Wilde made a motion to award the contract for the Tax Exempt Revenue Obligation Bond Interest Rate RFP in the amount of \$262,936. At this time, Councilor Sirois stated that he was going to recuse himself from the vote, and remove himself from Chambers. There was no opposition to this by the remaining Council. Councilor Wilde went on to further explain that several various proposals were received, but Finance Committee recommended Camden National Bank at a rate of 2.47% for 7 years. Councilor McPike seconded the motion. Councilors McPike, Wilde, Marble, Cormier and McAvoy and Mayor Ryder voted in favor. Councilor Sirois abstained. Motion carries.**
- c. Council referral of proposed amendments to the Fees Ordinance to Public Hearing on May 15th, 2017 – Councilor Wilde made a motion to refer the proposed amendments to the Fees Ordinance to Public Hearing for May 15th. Councilor Sirois seconded the motion. Unanimous vote in favor.**
- d. Request for authorization for the expenditure of \$277.00 out of the Recreation Reserve Account (3-767-00) for the purpose of paying Bangor Daily News for advertising for the Pool Site Design, Engineering and Permitting RFP – referral from Finance & Administration Committee – Councilor Wilde made a motion, seconded by Councilor Sirois, to authorize the expenditure of \$277.00 out of Recreation Reserve Account 3-767-00 to pay Bangor Daily News for advertising for the Pool Site RFP. Unanimous vote in favor.**
- e. Request for authorization for the expenditure of \$251.31 out of the Municipal Building Reserve Account (3-702-00) for the purpose of paying Hampden Electric for lighting repairs – referral from**

Finance & Administration Committee – Councilor Wilde made a motion, seconded by Councilor McPike, to authorize the expenditure of \$251.31 out of Municipal Building Reserve for the purpose of paying Hampden Electric for lighting repairs. Unanimous vote in favor.

- f. **Request for authorization for the expenditure of \$1,756.15 out of the IT Reserve Account (3-711-00) for the purpose of purchasing three Windows Tablet Computers for the Fire Department and Ambulance – referral from Finance & Administration Committee – Councilor Wilde made a motion, seconded by Councilor McPike, to authorize the expenditure of \$1,176.15 out of IT Reserve Account 3-711-00 for the purpose of purchasing three Windows tablet computers for the Fire Department and Ambulance. Unanimous vote in favor.**
- g. **Request for authorization for the expenditure of \$1,325.00 from the Personnel Reserve Account (3-733-00) for the purpose of offsetting costs associated with payroll expenses for a temporary part-time worker - referral from Finance & Administration Committee – Councilor Wilde deferred to Councilor Jennings to give a brief explanation. Manager Jennings stated that an employee recently received a medical diagnosis that would require time away from work and that this expenditure would allow for a temporary part time employee to fill in. Councilor Wilde made a motion, seconded by Councilor McAvoy to authorize the expenditure of \$1,325.00 from the Personnel Reserve Account for the purpose of offsetting costs associated with payroll expenses for a temporary part time worker. Unanimous vote in favor.**
- h. **Liquor License renewal – McLaughlin’s at the Marina – Councilor McPike made a motion, seconded by Councilor Wilde, to approve the liquor license renewal for McLaughlin’s at the Marina. Unanimous vote in favor.**
- i. **Manager’s presentation of the proposed FY18 Municipal Budget – Attached as Exhibit B**

At the conclusion of the Manager’s presentation, Mayor Ryder recognized Jeremy Jones of the Partridge Road who urged Council to make the following list, goals for the budget process:

- 1.) To be fiscally responsible*
- 2.) To protect the taxpayer*
- 3.) To maintain financial solvency*
- 4.) To maintain the community*
- 5.) To pay the bills*
- 6.) To not add more unnecessary bills*

Mr. Jones further stated that the budget needs to be honest, straightforward and transparent and needs and wants need to be

separated and the Council needs to be mindful of how it spends other people's money.

E. COMMITTEE REPORTS

Finance & Administration – Councilor Wilde explained that all the monetary requests that were approved tonight were first discussed in Committee, and that CPA Wadman had also made a larger presentation and discussion during Committee

Services Committee – Councilor Marble reported that the next meeting will be May 8th and they will be discussing budget items, including the Bus.

Planning & Development – Councilor McPike reported that the last meeting was the 19th, and members discussed the recent market study. They discussed a possible grant opportunity for the waterfront but decided not to pursue that at this time, and also discussed the Planning Board Ordinance Committee

Infrastructure – Councilor Sirois reported that at their last meeting, the Committee reviewed the street light petitions, and continued to discuss scope of services with Drummond regarding the post closure monitoring. Members were updated on the sewer costs associated with the MDOT replacement of the Grist Mill Bridge. Members reviewed recent correspondence with the Post Master regarding mail box placement on Mayo Road, which denied approval to move the mailboxes to the other side of the road. Members discussed holding off on the street light conversion for at least a year, the MOU regarding public water on Coldbrook Road, and focused on urban compact areas, were updated on the status of advertising for part time temporary help in Public Works, and discussed several potential grants.

F. MANAGER'S REPORT – *Manager Jennings just reminded the public that the first budget work session was going to be held this coming Wednesday, at 7:00 p.m.*

G. COUNCILORS' COMMENTS

Councilor Sirois – no comment

Councilor McPike – no comment

Councilor Wilde – no comment

Councilor Cormier – no comment

Councilor McAvoy – Is happy to report that spring is finally here and reminded everyone to shop local and buy American.

Mayor Ryder – no comment

H. ADJOURNMENT – *Councilor Sirois made a motion, seconded by Councilor Marble to adjourn at 8:50 p.m.*

Respectfully Submitted,



Paula A. Scott, CCM
Town Clerk

EXHIBIT A

My name is Allison Berube. I would like to discuss tonight the proposal to change the zoning ordinances in the town of Hampden. I have moved to Hampden when I was 10 years old. After becoming a physical therapist out of state my husband and I were lucky enough to be able to move back to Hampden to raise our 2 children.

I recently stopped by the Town office in order to find out whether a current single family could be converted into a two family unit. At that time I was told about the proposed changes to the zoning ordinance which would essentially eliminate the current zoning which allows for conversion of an existing home into a two family unit. If I am correct this proposed change not only affects Residential A zoning but the entire town of Hampden regardless of the zone.

I also became aware of the very restrictive proposals which include that all two family conversions would be eliminated in favor of what is called an **accessory apartment**. These accessory apartments would only allow for apartments up to **800 square feet and only allowing 1 bedroom**.

I was given a copy of the proposed changes and I was struck by section 4.25.1 The purpose of the accessory apartment section is to:

The first purported purpose is to allow families to help the homeowner to be able to stay in their home.

As a physical therapist I am in favor of aging in place. I also have firsthand knowledge of what it really takes to help a person to age in place and be allowed to die in the comfort of their own home. I along with over 8 family members and 2 paid employees helped both my mother and my father to stay in their home until the day they died. In my father's case this meant that we provided 24/7 around the clock care for my father for over a year. No one person can do all that it takes to help a terminally ill person to stay at home. My parents' home was large enough for us to literally rotate in and out of the house week after week. It was large enough so that loved ones could come and say goodbye. It was large enough so that my parents could have their grandchildren spend time with them. I am here tonight because having the ability to retro-fit or convert a home can literally mean the difference between a terminally ill person being able to stay in their home or having to go into a nursing home or hospital to die.

The second purpose of this proposed zoning change was to provide a source of income, companionship, security and services in order for them to remain in their home and neighborhood. Again a very necessary goal; as Maine is the oldest state in the country. In fact I was told that one of the zoning board members recently had to resign and move out of state to take care of her aging father. Many older folks and people with handicaps need support but do not require a person to live within their own personal space. Having the option of a second family unit allows for this stated purpose.

The third purported purpose of this zoning change is to provide much needed rental stock to meet the needs of smaller households both young and old.

It is this purpose that I feel the new ordinance does not address and in fact directly restricts. By erasing the current zoning which allows for two family units in favor of only accessory apartments limited to 800 square feet and 1 bedroom this zoning is in fact discriminating against a protected class according to the Fair Housing Act, based on familial status. Specifically by restricting all apartments to 1 bedroom you are in fact restricting families with children from obtaining a rental apartment in Hampden.

Also by restricting the apartment to no more than 800 square feet instead of only restricting it to less than 40% of the residence square footage this zoning is again effectively discriminating against families with children.

I would like to share my family's personal experience. After spending 3 years in Portland attending Maine law my daughter and her husband moved back to her home town of Hampden. She is an attorney and he is a professional. They currently rent a 2 bedroom apartment in Hampden. In this past year they have had one child and are expecting a second. They are looking for a home so that they can stay in Hampden where my husband is able to provide child care for our grandchildren. My husband has been retired for 15 years and we hope to downsize and perhaps even live in a two family home with our children and grandchildren.

This proposed zoning change would mean that we could not live within Hampden and hope to have a reasonably sized apartment for me and my husband while helping our children buy a home in Hampden.

As a young professional couple with soon 2 children a rental apartment would help them to own a home and live in Hampden. There are many young families who would benefit from having a two family home that allow for owner occupancy as well as income from a second unit. There are many large and often historic homes that are expensive to preserve and maintain and allowing a reasonably sized apartment would help young families to become lifelong residents of Hampden.

Another example is my niece who also spent part of her younger years here in Hampden. She is in her 30's, single, no children and is a Human Resources director. She purchased a two unit home in Hampden so she could put down roots while having the income from the second unit to help pay the mortgage.

The fourth proposed purpose of this zoning change is to protect the character of a neighborhood, protect stability, and maintain property values by requiring owner occupancy. This seems like a reasonable purpose.

My question is what is the character of Hampden? AS someone who grew up in Hampden, went to Hampden schools, moved away, moved back, raised my family, headed the Veteran's Monument committee, founded the Flag project, as the Hampden Kiwanis citizen of the year I worry about what a few people may consider the character of Hampden. Is the character of Hampden that we do not want families who have children; to live in Hampden unless they can afford to buy a single family home? Is the character of Hampden to be that older lifelong citizens will be forced out?

This proposed zoning is wrong, narrow minded, short sighted, based on fear and discrimination and should not be passed as proposed.

So to summarize the parts of the zoning change that I oppose it is first the elimination of the right to convert a single family home into a two family home as it stands now in favor of the very restrictive ACCESORY apartment option.

I suggest that the 800 square foot restriction on size be changed to "not to exceed 40% of the square footage of the main house. "

AND eliminate the restriction of only 1 bedroom.

At the very least this proposed ordinance change should be tabled and sent back to the planning board for further consideration and an effort should be made to more widely advertise these changes to the current residents of the town.

I would also like my testimony here tonight to be entered in full into the minutes.

Are there any questions?

Thank you for your time.

Submitted by:

Dr. Allison Berube

217 Main Road N.

Hampden, Me

Two Handouts titled:

1. Fact Sheet: Fair Housing, Zoning & Land Use; available online at: FHCWM.org
2. Page 11 of A Primer on Fair Housing Law, Published by John Marshall Law School , Fair Housing Legal Support Center and Clinic

FACT SHEET: FAIR HOUSING, ZONING & LAND USE



Fair Housing Center
of West Michigan

20 Hall Street SE
Grand Rapids, MI 49507
616-451-2980 phone
616-451-2657 fax
866-389-FAIR
fhcwm.org

What is fair housing?

Fair housing is the right to choose housing free from unlawful discrimination. The federal Fair Housing Act (FHAct) and Michigan laws protect people from discrimination in housing based on the following *protected classes*: race, color, religion, sex, national origin, familial status, disability, marital status, and age. Discrimination is illegal in housing transactions such as rentals, sales, lending, and insurance. Fair Housing laws also apply to zoning and planning practices.

How does the Fair Housing Act apply to zoning and land use?

The FHAct prohibits municipalities and other local government entities from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against individuals protected by fair housing law, whether intentionally or by discriminatory effect. Discriminatory effect can be established by showing that an action, such as a zoning decision, while facially neutral, has either an adverse impact on a particular minority group or harm to the community generally by the perpetuation of segregation.

The FHAct prohibits discrimination in a *dwelling* which means “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof” (42 USC §3602(b)). Therefore, decisions related to the development or use of such land must comply with the FHAct’s regulations and cannot be based upon the protected class (i.e. race, religion, disability, etc.) of the residents or prospective residents. The FHAct also requires municipalities and local governments to make *reasonable accommodations* to zoning and land use rules, policies, practices and procedures as necessary to provide an individual with a disability equal housing access.

What is a reasonable accommodation?

Reasonable accommodations, as defined by the FHAct, are changes in rules, policies, or practices that are necessary to afford persons or groups of persons with disabilities equal opportunity to use and enjoy housing. The FHAct requires municipalities to make reasonable accommodations in land use and zoning policies and procedures. Reasonable accommodations provide a means of requesting from the local government flexibility in the application of land use and zoning regulations, or, in some instances, even a waiver of certain restrictions or requirements.

For example: a zoning board grants an accommodation to designate a group of individuals with disabilities who intend to live together in a group or recovery home as a “family” so as to allow more unrelated adults in a single family home than normally permitted under zoning restrictions.

Approving New Housing Developments

Placement of new or rehabilitated housing for lower-income people is one of the most controversial issues communities face. If fair housing objectives are to be achieved, the goal must be to avoid high concentrations of low-income housing and to approve housing developments that will promote integration. A municipality considering a proposal from an independent housing developer or provider to provide integrated housing within the municipality’s jurisdiction must **not** deny the housing without careful consideration of the need for new integrated housing opportunities in the vicinity of the developer’s proposed project and the degree of residential segregation in that community in light of the population demographics in the overall metropolitan area.

Combatting NIMBYism

Whether the persons to be served are families with children, persons with disabilities, homeless persons, or lower-income minorities, many communities feel strongly that housing for these persons should be provided but “not in my back yard” (NIMBY). This attitude seriously affects the availability of housing for people in these groups and is one of the most difficult challenges jurisdictions encounter in promoting fair housing objectives. Discriminatory stereotypes, fears and comments about residents of prospective residents of a certain dwelling or area should not influence municipal zoning or land use decisions.

Definition of “Family” and “Single-family” Residential Zones

Single-family residential zones allow family residential use by right, i.e., without any conditional or special use permit, and are not in and of themselves discriminatory. Local governments have their own definitions of “family”, and such definitions may generally restrict the ability of groups of unrelated persons to live together as long as the restrictions are imposed on all such groups regardless of race, religion, etc. However, they may be discriminatory when they exclude group homes for persons with disabilities, or if group homes are allowed only by conditional or special use permit. Further, policies that have a ceiling of 4, or fewer, unrelated adults in a household may be considered discriminatory if they have an adverse impact on minorities, families with children or people with disabilities. Further, in Michigan, a definition of family cannot be restrictive on the basis of marital status, and cannot define family as persons “related by blood, marriage or adoption”.

Land Use Regulations

Zoning policies such as large minimum lot requirements, minimum multifamily zoning and age-restricted zoning may restrict and limit the ability for lower income families and families of color from moving into certain neighborhoods and suburbs. Such strict zoning restrictions limit the affordability and number of rental multifamily housing opportunities and should be carefully considered in light of fair housing laws.

Suggested Fair Housing Strategies

Adopt a Reasonable Accommodation Policy

This will provide a written procedure, especially for developers of housing for persons with disabilities, to follow when requesting reasonable accommodations in zoning and land use decisions in addition to guidelines for the Planning Commission to follow when considering requests.

Adopt an Inclusionary Zoning Policy

Inclusionary zoning promotes mixed-income development and results in many benefits for communities, particularly the creation of affordable places to live in desirable neighborhoods. Neighborhoods which are ethnically and economically integrated provide greater opportunity for creating a diverse work force and more diverse and vibrant communities.

Affirmatively Furthering Fair Housing

- Consider specific changes that should be made in zoning or building occupancy ordinances or regulations to foster inclusion of lower-income housing, including housing accessible to persons with disabilities and families with children in developments intended for households with higher incomes.
- Ensure that the ordinances and regulations do **not** contain special rules or restrictions for housing that only apply to individuals with physical or mental disabilities (i.e. requiring individuals with mental disabilities to show they had the capacity to live independently, or prohibiting a group of persons with mental illness from residing in an area where other groups of unrelated adults may reside)
- Consider specific changes that should be made in policies and procedures, other than those relating to zoning and building occupancy, to promote greater variation in the location of lower-income housing.

Regional Planning

For jurisdictions located in metropolitan areas, serious consideration should be given to ways they can participate in cooperative, inter-jurisdictional planning for construction of assisted housing.

and that the neighborhood will soon be virtually all black. These practices are illegal under Section 3604(e), and courts have rejected the argument that 3604(e) places an unconstitutional prior restraint on the right to free speech. *United States v. Bob Lawrence Realty, Inc.*, 474 F.2d 115 (5th Cir. 1973).

5. Racial Steering

Racial steering is where a real estate agent steers white persons to one community or area and minorities to another community or area. This practice is specifically prohibited under Section 3604(e) and was recognized as illegal by the Supreme Court in *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91 (1979), and *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982).

The Seventh Circuit Court of Appeals has held the proof of a discriminatory motive is required in a steering case. *Village of Bellwood v. Dwivedi*, 895 F.2d 1521 (7th Cir. 1990). A broker may show he was serving customer preferences so long as the broker was not encouraging those preferences. Thus, evidence that black testers were shown homes in certain neighborhoods and white testers in other neighborhoods will support but will not compel an inference of illegal steering.

6. Exclusionary Zoning

Zoning that operates to exclude a class protected under the law may be illegal. If the attack is grounded on the Constitution, the plaintiff will have the burden of proving purposeful discrimination as defined in the Supreme Court's opinion in *Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252 (1977).

However, the lower courts have required a lesser standard when the suit is filed under the Fair Housing Act. On remand, in the *Arlington Heights* case, the Seventh Circuit Court of Appeals held that a significant discriminatory effect could establish a violation of the Fair Housing Act. 558 F.2d 1283 (7th Cir. 1977), cert. denied, 434 U.S. 1025 (1978). In a leading case, *Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926, 937 (2d Cir.), aff'd per curiam, 488 U.S. 15 (1988), the Court held that exclusionary zoning could violate the Fair Housing Act either by a showing that it had a disparate impact on a protected class or by showing that it perpetuated segregation in the community. Although the Supreme Court has never squarely ruled on the issue, virtually every federal court of appeals has applied some aspect of the impact test to exclusionary zoning. HUD has recently adopted a regulation accepting the disparate impact theory and setting a national standard for defining a disparate impact. 78 Fed. Reg. 11460 (Feb. 15, 2013).

The "Not in My Back Yard" (NIMBY) factor is an unfortunate reality. With the adoption of the 1988 amendments, group homes for the disabled received protection under the Fair Housing Act. Although one court of appeals has held that zoning against persons with disabilities is to be reviewed according to the more deferential rational basis standard used in equal protection cases, *Familystyle of St. Paul v. City of St. Paul*, 923 F.2d 91 (8th Cir. 1991), the Act itself does not distinguish between persons with disabilities and other classes protected by the Act, and the same standard of review should be applied to all classes under the Fair Housing Act. In *Familystyle*, the Court of Appeals upheld an ordinance that required the dispersal of group homes, but other courts have held that such laws unfairly single out group homes for persons with disabilities and unlawfully impose special restrictions on them not applicable to other housing in the community. *Larkin v. Michigan*, 89 F.3d 289 (6th Cir. 1996).

EXHIBIT B

Proposed FY18 Budget, Sewer Budget and Capital Program Hampden Town Council

Monday, May 1, 2017



Overview of Presentation

- Longer term budget and financial trends
- Budget process to date
- Proposed FY18 Budget:
 - Town Expense Budget
 - Town Revenue Projections
 - Sewer Budget
 - Capital Program (5-year) and Reserve Budget
- Budget work sessions begin Wednesday!



FY17 Budget Changes from Prior Years

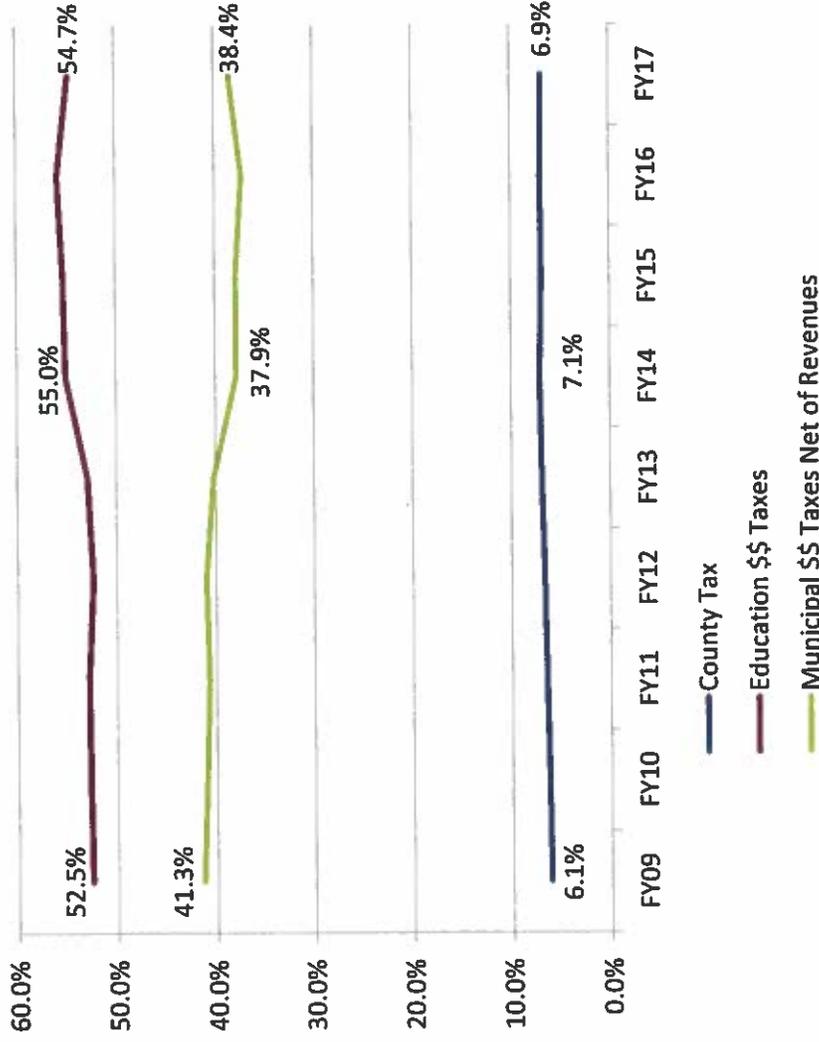
- Recent years drew from Fund Balance:
 - FY16 \$200,000
 - FY15 \$500,000
 - FY14 \$550,000
 - FY13 \$661,350
 - FY12 \$455,000
 - FY11 \$332,500
- FY17 budget did not rely on any draw from Unassigned Fund Balance or from Reserves in order to meet revenue targets
- Recurring cost items previously paid from HCB were included in expense budget
 - Debt service: \$108,097 (offset by \$95,569 debt service paid off in FY16)
 - Stormwater management
 - Decorations: Veterans Day, Christmas Lights
- However, FY17 did include some one-time revenues (i.e. Env. Trust)



Budget Trends: FY09-FY17

- Greater percentage of property tax dollars to RSU-22 and County
- Municipal percentage of property tax revenue steadily decreasing – though did increase in FY17

Taxpayer Funded Expense Trends, Hampden, RSU-22 and County

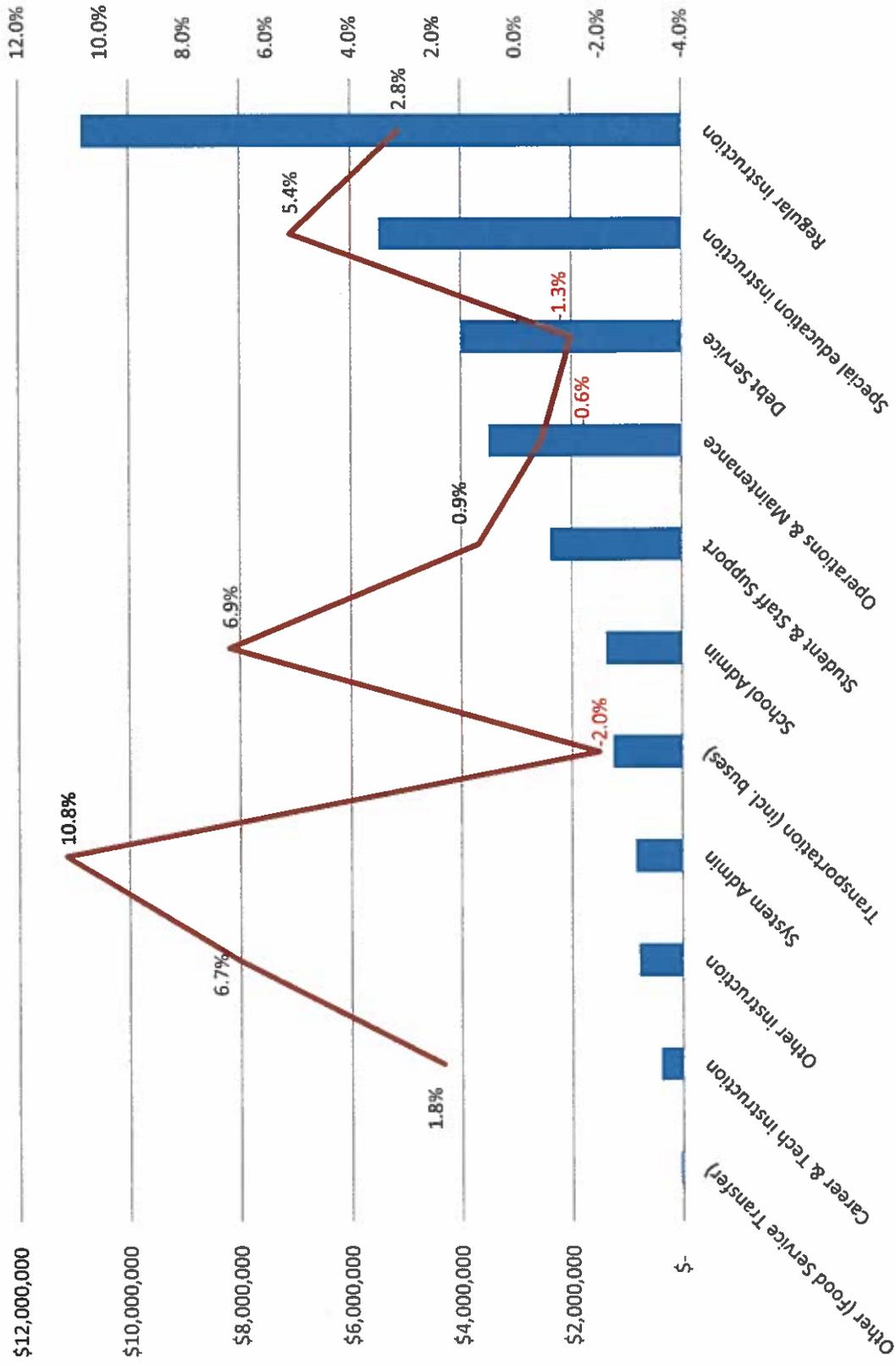


- FY09 to FY17
 - Town +3.4%
 - RSU +25.6%



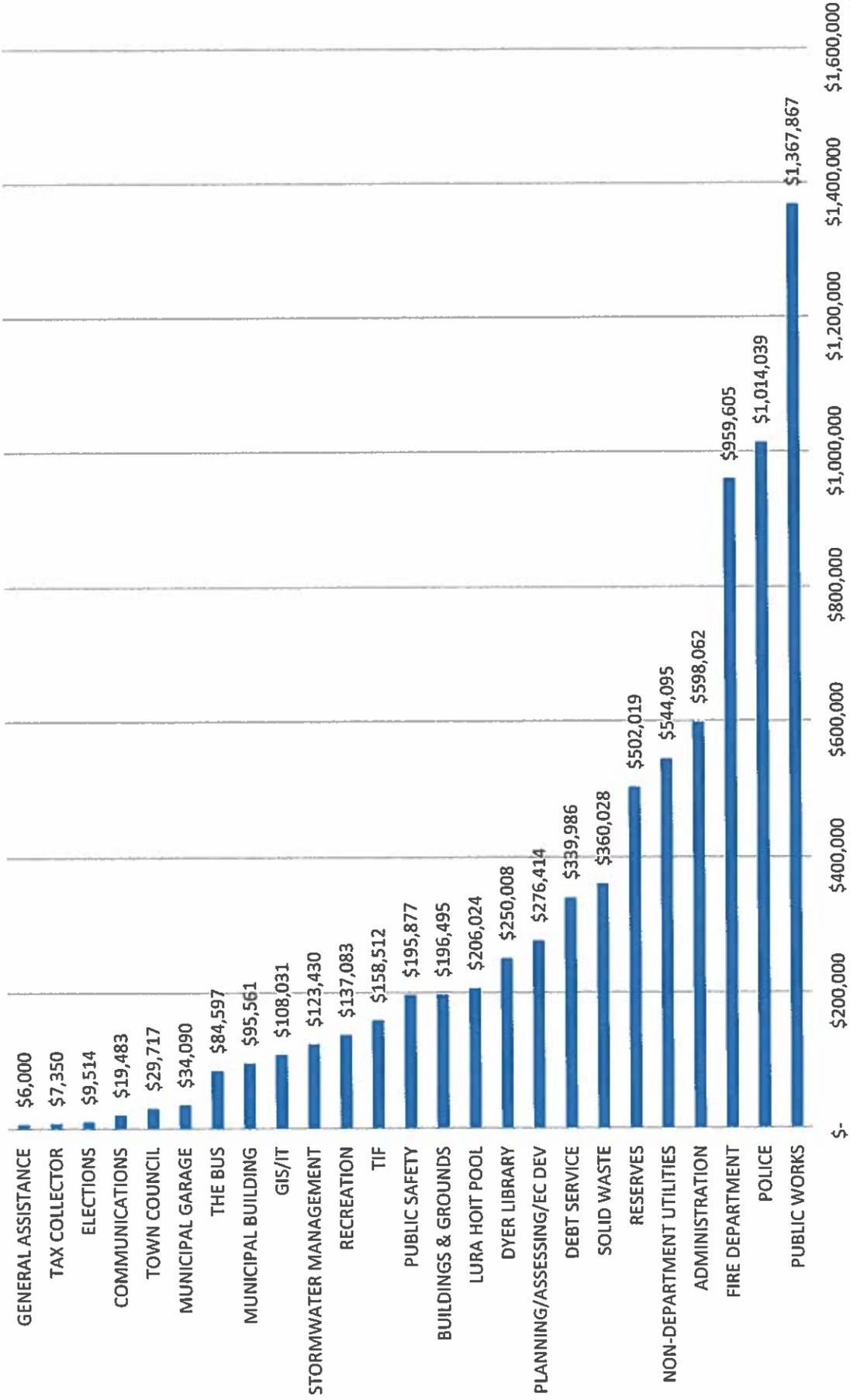
RSU-22 Budget Change Drivers

Proposed RSU-22 FY18 Budget and Per Category Change



APPROVED BUDGET, TOWN ONLY FY17

Town of Hampden



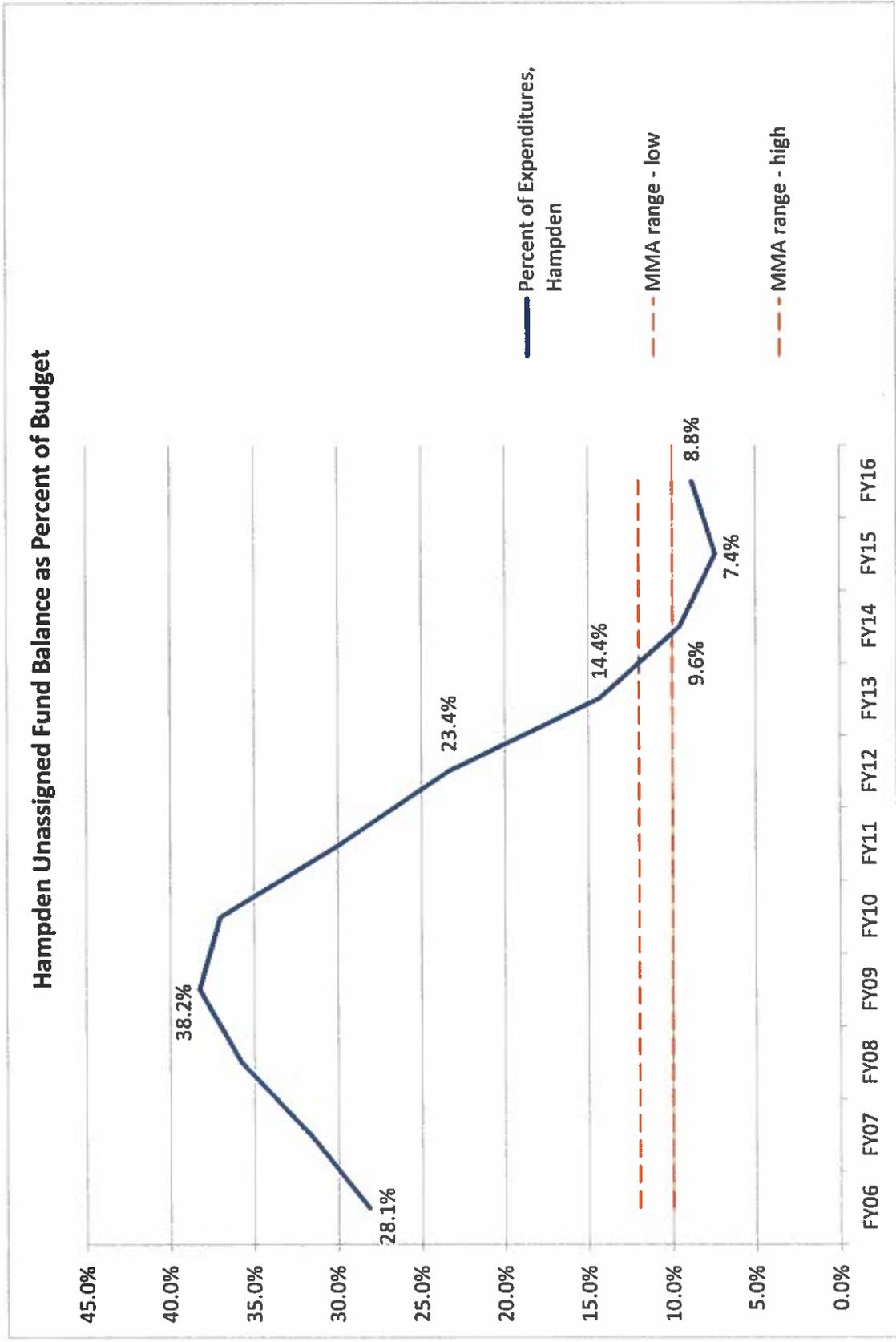
Town Budget: Top Costs

- Looking just at municipal budget, total compensation is largest expense (65%)
 - (Includes salaries, wages, health insurance, retirement, FICA/Medicare, Worker's Comp, Group Insurance, Life Insurance and Dental Insurance)
- Utilities/Fuel second largest expense (10%)
 - (Includes hydrant rental, fuel, electricity, telephone, internet costs, water and sewer)
- Reserve funds and Debt Service (5% each)
- Solid Waste (4%)
- Remaining costs (~16%)
- Not factoring offsetting fees/revs



Due to FY16 Spending Below Budget, Unassigned Fund Balance Increased

Fund Balance Increased in FY16 Audit



Based on YTD (and Budgeting), Fund Balance Projected to Increase Again in FY17



Town Manager Proposed FY18 Budget									
Dept/Div: 01-10 GENERAL GOVT / MUNICIPAL BUILDING	2016		2017	2017	2017	FY18	Change	Notes	
	Budget	Actual							
SUPPLIES					81.9%				
10-01 OFFICE	2,400.00	801.47	1,600.00	429.66	26.9%	\$ 1,400	(\$2,000)		
Cleaning supplies, paper products.									
UTILITIES									
15-01 TELEPHONE	945.00	732.32	1,045.00	568.08	54.4%	\$ 840	(\$2,051)		
Dedicated phone line required for elevator.									
15-05 ELECTRICITY	39,000.00	50,109.41	46,000.00	41,160.42	89.5%	\$ 51,451	\$5,451	Verification ongoing	
15-10 FUEL	15,972.00	17,974.40	16,439.00	13,753.29	83.7%	\$ 17,192	\$753	Verification ongoing	
Est. based on 9909 gallons avg. usage past 2 years.									
15-15 WATER	3,900.00	3,895.84	3,900.00	2,921.88	74.9%	\$ 3,900	\$0		
15-20 SEWER	0.00	164.64	1,168.00	1,071.40	91.7%	\$ 1,686	\$518		
MAINTENANCE/REPAIRS									
20-10 EQUIP. SERVICE CONTRACTS	5,500.00	3,211.53	5,531.00	3,922.98	70.9%	\$ 5,713	\$182		
Annual elevator inspection fee (\$115); Maine Fire Protections Annual Insp. Fee (\$600); Elevator Maintenance (\$198.35x12); Mechanical Svcs. Annual Contract (\$2,618).									
20-35 BUILDING MAINTENANCE									
Pest Control (\$78x12); Cleaning Svc. (\$800x12); HVAC (\$500x12); Backflow inspections (\$150); Flag replacements (\$300); Boiler licensing (240); Floor strip/wax (\$1,600); Fire alarm test/cleaning (\$728); Pest-spring service (\$360); bldg maintenance.									
	18,790.00	19,828.62	19,878.00	13,808.88	69.5%	\$ 23,014	\$3,136	Adds for service calls (\$2000), new lobby entry mat (\$1100)	
MUNICIPAL BUILDING	86,507.00	96,718.23	95,561.00	77,636.59	81.2%	\$ 105,195	\$9,634		

FY18 Budget Process

- Feb. 18: Town Council/Manager Goal Setting
- March-April: Department Heads proposed budgets to Town Manager; County, RSU-22
- May 1: Town Manager Budget proposed to Town Council
- May: Budget working meetings
- May 15: Sewer Rate Public Hearing (7 PM)
- June 5: Town Council (ant.) referral of budget
- June 19: FY18 Budget Public Hearing



Changes from Prior Years

- Sewer Budget includes proposed revenues and costs, and proposed Capital Program
- Sewer Fund was self-supporting in FY17 – but based on ~7 year Interfund Transfer payback
- Also, new Sewer capital obligations have been taken on since June 2016
- Expenses that were previously paid from Host Community Benefit account are budgeted in FY18 (and were in FY17)



Changes to “Enterprise” Budgeting

- Recreation and Pool Departments are both proposed with standard budgeting – not “enterprise / quasi-enterprise.”
- This affects the “expense side” of the budget, but also brings the projected Rec and Pool revenues onto the “revenue” side of the budget
- The proposed expenses increase the apparent cost of these programs – but true costs must also take into account Revenues



Proposed Staffing Changes

- Administrative position currently split 75% / 25% between DPW and Administration is proposed at 100% in DPW. (Administration would take over Payroll, and Ambulance Billing/Collections).
- DPW proposing Town Engineer (Asst. Director); and dedicated Sewer personnel
- Propose to restore 3rd full-time Rec position (unfilled since fall 2014)
- Both Police and Fire proposing addition (not reflected in proposed budget)



Factors affecting FY18 Costs

- Budgeting for 12% increase in health care costs (based on est. 10-15% mid-year increase)
- Budgeting 3% increase in insurance, dental
- RSU-22 (Town share) proposed to increase \$257,065 (4.1%)
- County Tax will increase by \$42,165 (5.3%)
- Have not locked in pricing for heating oil, propane and diesel; still evaluating best options, as well as for electricity rates



Cost/Operational Factors for FY18

Impact of change from PERC to MRC for MSW

- Contingency budgeting if MRC not up and running on time (1/4 of year)
- Loss of PERC rebates, fourth quarter FY18 (\$65,000 in budgeted revenue FY17)
- Need to enforce Solid Waste Flow Control Ordinance

3.6 Compliance By Haulers. To the extent that Joining Member contracts with independent hauler or haulers to deliver MSW to the Facility, Joining Member shall be responsible for ensuring that all such haulers comply with the delivery requirements set forth in this Agreement including, but not limited to, the requirement that all MSW generated within the borders of Joining Member the collection and disposal of which is under its control be delivered to the Facility or to the Back-up Facility as contemplated by Section 6.2(d).



Budget Cost Factors for FY18: Sewer

- Incorporating sewer debt service into revised sewer rates
 - Loan (\$258,810) closed Jan. 2017 will add \$40,543 to FY18 debt service
 - Loan (\$300,000) to be issued spring 2017 projected to add ~\$34k to FY18 debt service
- Potential need for Nov. 2017 referendum regarding debt authorization for sewer (Grist Mill bridge, at least)
- Sewer rate public hearing on May 15



Changes in State Policy

- Though still well below past years, Municipal Revenue Sharing increased somewhat from FY17 (\$377 to \$393k)
- Change to Homestead Act will increase exemption from \$15k to \$20k (with State reimbursement from 50% to 62.5%) (working with Assessor to estimate Hampden impact)



Additional Revenues Proposed

- Projected use of Environmental Trust revenues to offset budgeted stormwater management expenses
- One-time revenues (\$109k) available in Mayo Road bond will offset FY18 debt service
- Projected increase in excise taxes (\$110k)
- Proposed use of Reserve funds to offset budgeted expenses (\$26k)
- Proposed Fund Balance appropriation (\$200k)



Estimated Mil Rate Impact

- Too soon to say
- Mil rate won't be established until tax commitment (August 2017)
- And, it is certain that the budget proposed tonight will change as a result of the several Council budget work sessions in May
- Additional clarity may also result from the continuing RSU-22 Budget process, and projections of State Aid to Education

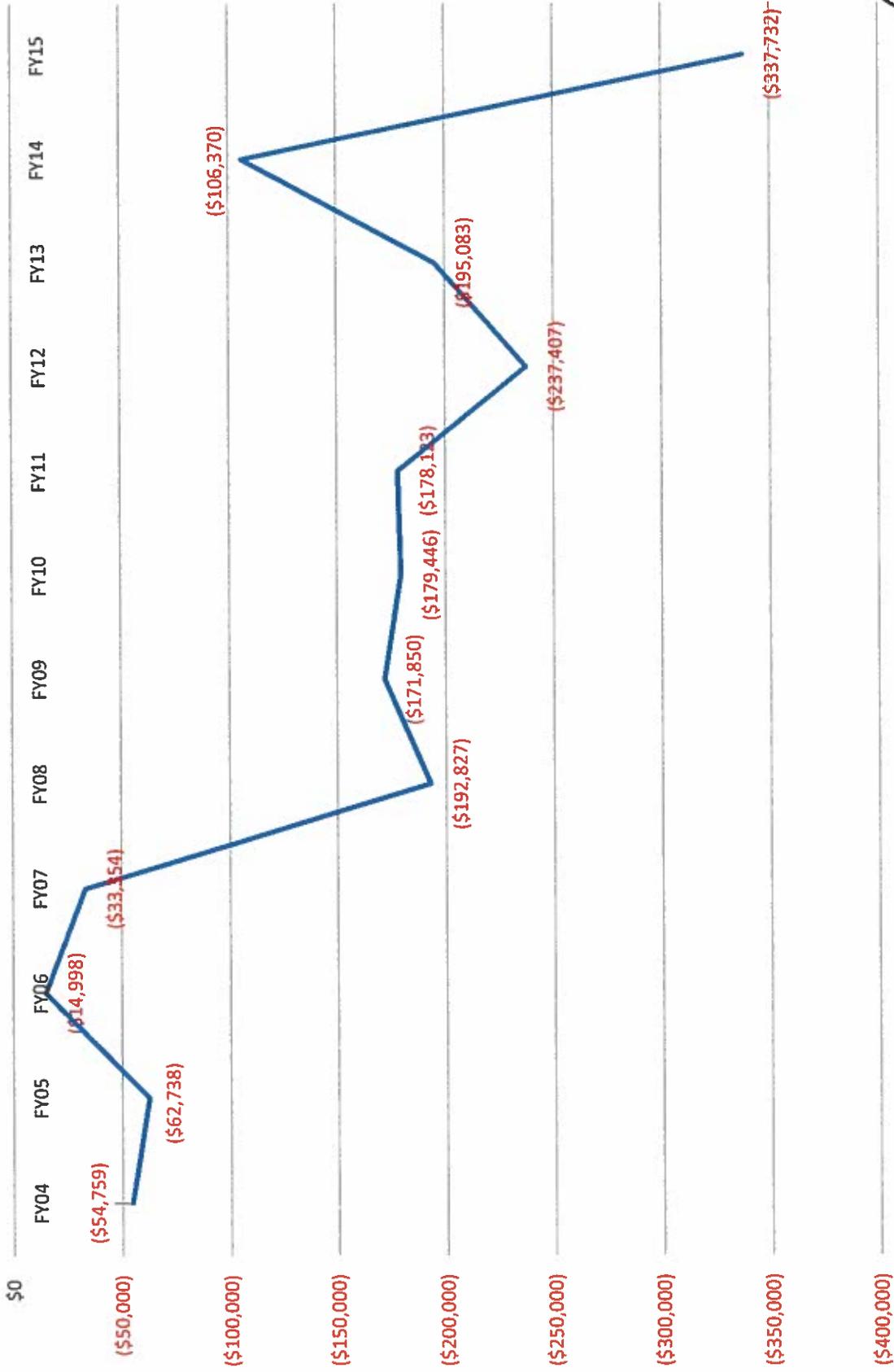


FY18 Budget

CONTINUING IMPACT OF SEWER

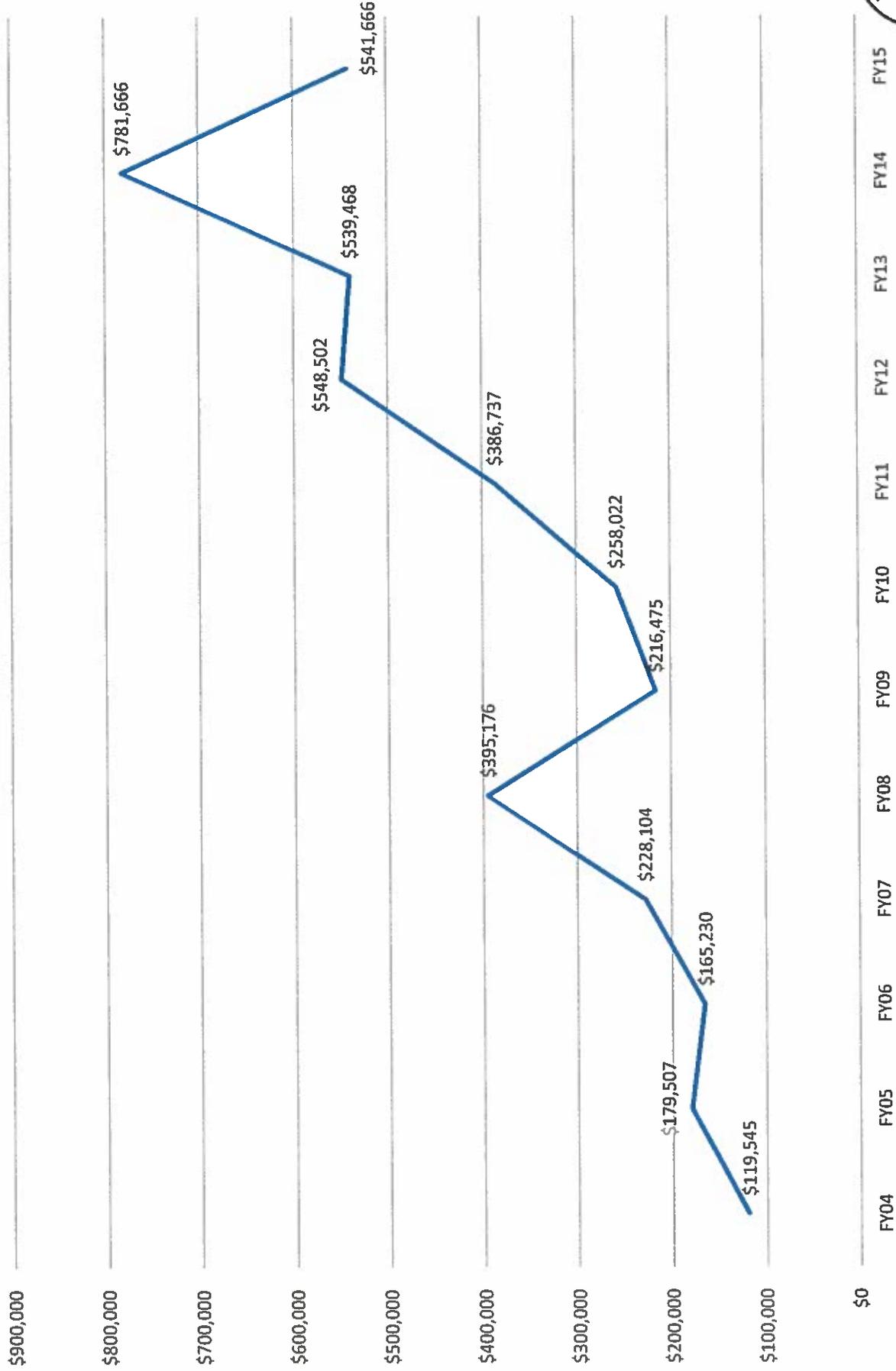


Sewer Net Income (Loss) Before Contributions and Transfers, FY04-FY15 Town of Hampden



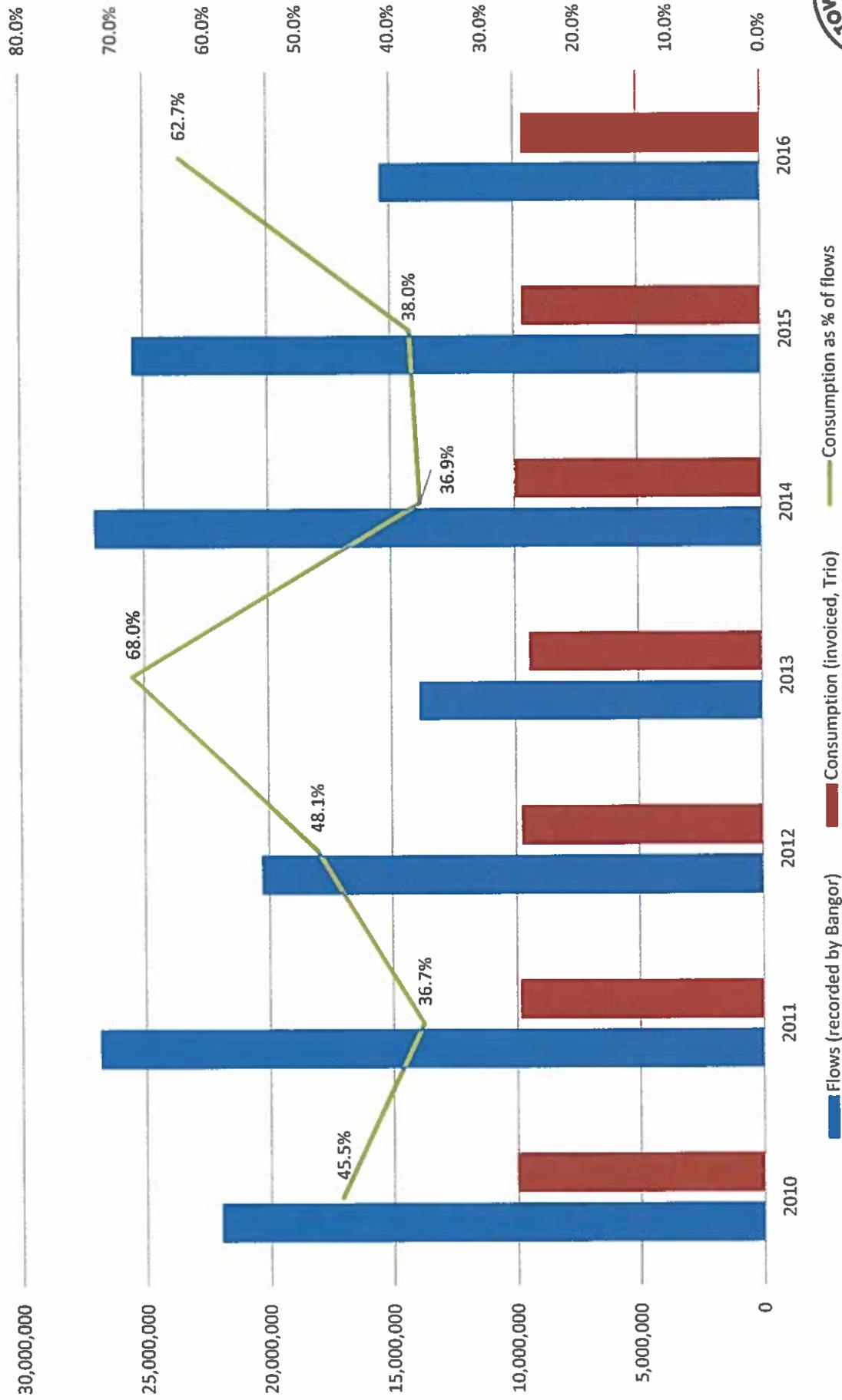
Source: Town of Hampden Audits (Exhibits E, F, G), FY04 to FY15

Sewer Due to Other Funds, FY04 to FY15



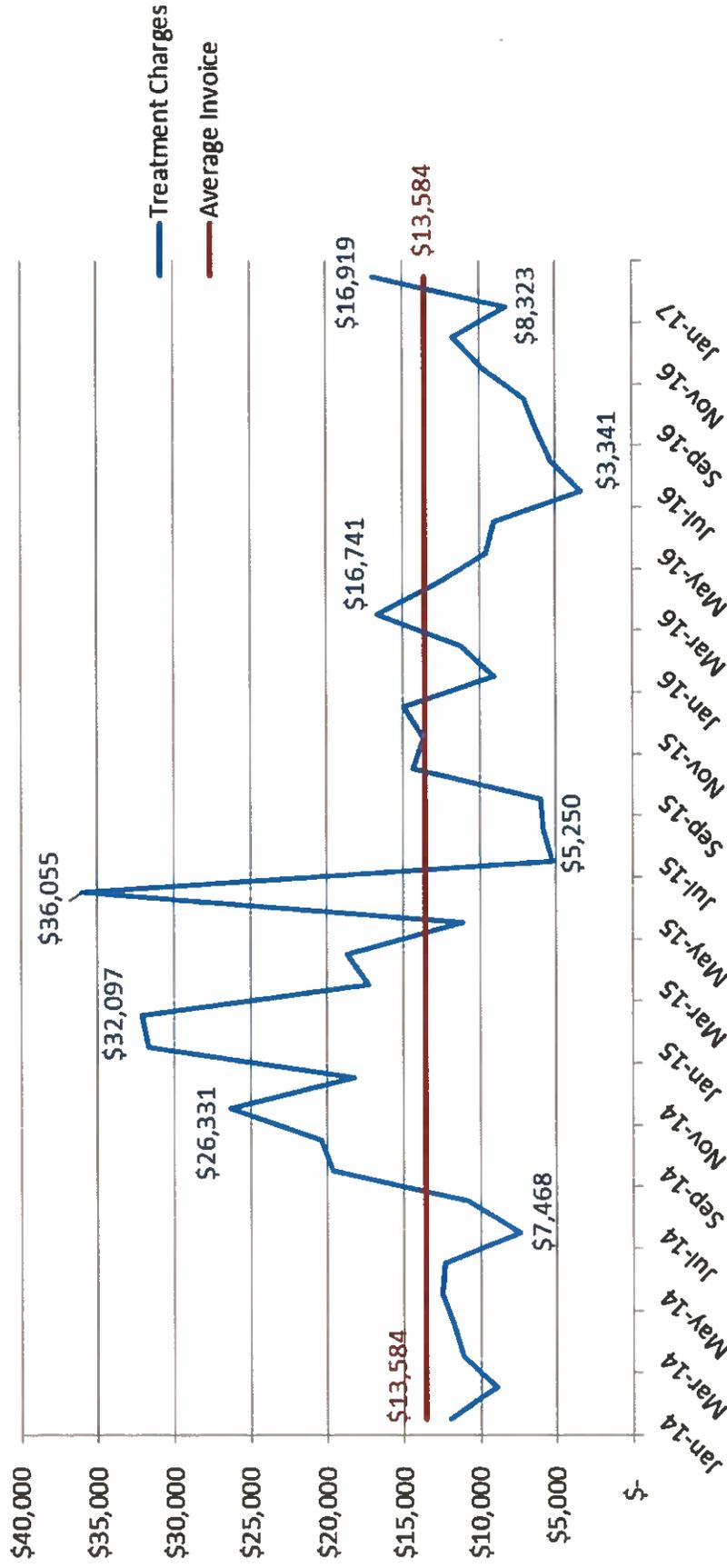
Source: Town of Hampden Audits, FY04 to FY15

Sewer Billing Relative to Total Recorded Flows (Town Line), 2010 to 2016 Town of Hampden



Changing Treatment Costs create budgeting challenge

**Bangor Sewer Treatment Charges to Hampden
Jan 2014 to Feb 2017**



Sewer: Summary Points

- Getting to the bottom of wide range of recorded flows is a top priority: now underway
- Addressing problem will rely on continued sound financial management of sewer
- Regardless of findings, Inflow & Infiltration (I/I) known to be a significant problem
- Also, resources need to be devoted to sewer O&M, and pursuing grant funding
- Pursuing grant funds (due June 2)



Conclusions

- Tonight is the formal kick-off of the Budget process
- The Council will conduct (at least) six budget work sessions in May, in addition to the sewer rate public hearing
- Public involvement is encouraged!!
- All Budget materials are online at www.hampdenmaine.gov/budget
- And/or, stop by the Town Office

