

FINANCE & ADMINISTRATION COMMITTEE MEETING

Monday, February 3, 2014

5:30 p.m.

Hampden Town Office

1. Meeting Minutes
 - a. January 21, 2014
2. Review & Sign Warrants
3. Old Business
 - a. Town Council Rules – Tabled at 1/21/2014 Meeting
4. New Business
 - a. Julie Johnston – Application for Reappointment to Board of Appeals
 - b. Attorney Attendance at Council Meetings – Mayor Duprey
 - c. Route 1A MDOT Project – Funding
 - d. Elm Street East Culvert Project – Infrastructure Committee Recommendation
5. Public Comment
6. Committee Member Comments

FINANCE & ADMINISTRATION COMMITTEE MEETING MINUTES

Tuesday, January 21, 2014

Attending:

Mayor Carol Duprey	Councilor Jean Lawlis
Councilor David Ryder	Town Manager Susan Lessard
Councilor Greg Sirois	Residents
Councilor Ivan McPike	
Councilor William Shakespeare	
Councilor Tom Brann	

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

1. Review & Sign Warrants – Warrants were reviewed and signed by Committee members. Mayor Duprey asked if the Town purchased refurbished ink cartridges for its printers because they were much cheaper than new ones. The Town Manager will check on this and report back.
2. Financial Statements – December 2013 – The Town Manager presented the financial statements for the year through 12/31/2013.
3. Old Business
 - a. Town Council Rules – Review - Prior to discussion of the Rules, Councilor Brann objected to this item being on the agenda because it had not been referred to the Finance & Administration Committee by the Town Council and because he believed that discussion of the rules of the Council should take place in Council Meetings that are broadcast to the public so that more people can view the discussions and not in a Committee session which is not broadcast. Mayor Duprey had prepared some proposed rule changes that she distributed to all councilors. Discussion continued between councilors as to whether or not the rules should be discussed in Committee or in an open Council meeting. Public Comment on the item from Cindy Philbrick indicated that former Mayor Hughes had discussed meeting rules at a Council meeting when she was appointed as Mayor. Former Mayor Janet Hughes indicated that she had not discussed Council rules when she was appointed Mayor. The matter was tabled on a 4-3 vote of the Council (Lawlis, Brann, Shakespeare opposed).
4. Real Heroes Breakfast –
 - a. Councilor Shakespeare introduced the item for the purpose of determining whether the Committee supported the Town sponsoring a table for \$750 for this event. Councilor Sirois stated that he felt that the Red Cross was a worthwhile organization and would be attending for his business affiliation but that since the Town had restricted funding local organizations due to budget issues that he could not support the Town funding participation. Motion by Councilor Shakespeare, seconded by Councilor Ryder not to sponsor a table at the Real Heroes Breakfast. Unanimous vote in favor. Mayor Duprey

encouraged others to attend the breakfast and to support the Red Cross.

5. New Business

a. Kids Korner Fees – Employees – The Town Manager discussed the long-term practice of Town Employees who live in Hampden being allowed to send their children to Kid's Korner at no cost with the Committee. At the present time there are two employees who utilize this benefit. Included in the packet was a memo from the Kid's Korner Director outlining the revenue cost to the Town for the benefit at the present time. The revenue loss for the two current 'spots' filled by the children of employees is approximately \$3500 per child. In consideration of the fact that the Town has now also taken on the Skehan Center and proposes to fund that operation solely from revenues, the question is whether or not the Town should continue this practice. While there are currently two – the possibility exists that more employees with young children may wish to take advantage of the benefit. Resident Janet Hughes suggested that the Committee should meet with the Acting Recreation Director to discuss this before making changes. Motion by Councilor Lawlis, seconded by Councilor Ryder to recommend that the employee discount be discontinued but that they should be allowed to enroll without going through the waiting-in-line process. Vote 2 – 5. Motion failed. Motion by Councilor Lawlis, seconded by Councilor McPike to discontinue the employee discount for Kid's Korner for employees. Mayor Duprey abstained. Vote 4-2. Further discussion of implementation will be held at a future Finance Committee meeting.

6. Public Comment – Lisa Carter, Western Avenue stated that she objects to the harassment and intimidation by Councilor Brann of the Mayor during the item on Council Rules. Further, that the public has better things to do than come to a meeting expecting to discuss an agenda item and have it be put off. Terry McAvoy stated that the employee benefit for kid's korner should be treated as taxable income. Alex King offered that the Kid's Korner employee benefit was long-standing practice and should be implemented in the next fiscal year to allow participants sufficient time to find alternate child care.

7. Committee Member comments – None

Motion by Councilor McPike, seconded by Councilor Sirois to adjourn at 6:58 p.m.
Unanimous vote in favor.

Respectfully submitted,

Susan Lessard
Town Manager

HAMPDEN TOWN COUNCIL RULES

1. The Town Council shall only act by ordinance, order, or resolve. All ordinances, orders, and resolves shall be confined to one subject, which shall be clearly expressed in the title. All orders and resolves shall be dated, numbered, and signed by the Town Clerk and the Town Councilors will receive a copy.
2. In all motions of command, the form of expression shall be 'ordered' and in all motions concerning principles, facts, or purposes, the form shall be 'resolved'.
3. The name of the Council member or other person, persons, or group requesting an item on the agenda will be indicated on the agenda with the said item.
4. As a matter of courtesy, conduct for all Council and Committee meetings shall be as follows:
 - a. Cell phones shall be silenced during Council & Committee meetings by Town Councilors, staff, and the general public.
 - b. Councilors and staff shall refrain from texting or emailing during all Council or Committee meetings.
 - c. Cell phone use, texting, and email may be done during breaks in regular or special Council meetings or committee meetings.
5. Town Councilors shall participate in Freedom of Information Act training within 120 days of being sworn in as a Town Councilor and documentation of that training shall be filed with the Town Clerk.
6. Town Councilors shall participate in Elected Officials training offered by the Maine Municipal Association within the first year of office.
7. A New Councilor orientation packet shall be provided to all Councilors at the time they are sworn in.
8. Excused absences for Councilors for Council meetings may be granted as the result of illness, vacation, work commitments, or family illness.
9. The Mayor shall take the chair at the appointed time for the meeting, call the members to order, and proceed to the following order of business:
 - A. Consent Agenda
 1. Signatures – Treasurer's Warrants, etc
 2. Secretary's Report
 3. Communications
 4. Reports
 - B. Public Comments
 - C. Policy Agenda
 1. Public Hearings
 2. Nominations-Appointments – Elections
 3. Unfinished Business
 4. New Business
 - D. Committee Reports
 - E. Manager's Report

F. Councilor Comments

G. Adjournment

10. In the absence of the Mayor, the Deputy Mayor shall preside over the Town Council meeting. In the absence of the Deputy Mayor, the Mayor shall appoint, in advance, another Council to chair the meeting.
11. When a question is under debate, the Mayor shall receive no motion but to adjourn, or for the previous question, to lay on the table, or to postpone to a day certain, or to refer to a committee or some administrative official or to amend, or to postpone indefinitely; which several motions shall have precedence in order in which they stand arranged.
12. When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion or reconsideration is decided, that vote shall not be reconsidered.
13. When any member is about to speak, they shall respectfully address the Mayor, confine themselves to the question under debate, and avoid personalities. No member speaking shall be interrupted by another but by a call to order, or to correct a mistake.
14. Every member present, when a question is put, shall give their vote, unless the Council, for special reasons, shall excuse them. Application to be so excused must be made before debate on the issue and the decision on the application shall be made by a majority vote of the council without debate.
15. The rules cannot be dispensed with or suspended if one or more members of the council shall object. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.
16. Any person wishing to address the Town Council will be given the opportunity to do so in accordance with the following procedure:
 - a. Persons wishing to address the Council on an item which appears on the agenda shall wait until the Mayor announces the consideration of such item, at which time they may address the Council on that particular item. There shall be a five minute limit on such comments per person, per item. In the event that a large number of persons wish to speak on an issue, this limit may be changed to insure that all who wish to speak have the opportunity to do so. Once public comment on an item has closed and a motion and second has been made by members of the Town Council, further public comment is only allowed if approved by a unanimous vote of the Town Council.
 - b. Any person wishing to address the Council on an item not appearing on the agenda shall be allowed to do so only in that section of the agenda referred to as "Public Comments". There shall be a five minute limit on such

comments per person per subject raised. Items heard during Public Comment may be agendaed for a subsequent meeting or referred to a Committee or staff member for discussion/action. No votes may be taken by the Council on a subject raised during Public Comment without a vote by the Council to set aside the rules and add it to the regular agenda for consideration.

- c. Any person wishing to address the Council shall signify their desire by raising their hand and, when recognized by the Mayor, such person shall thereupon request permission to address the Council, giving their name and address and then designating the subject matter on which they desire to address the Council.

17. At the commencement of the Calendar year, or as soon thereafter as possible, there shall be chosen the following Committees, each Committee to consist of three (3) members of the Council as the Mayor may designate, or, upon a motion, the Council may ballot.

- a. Finance & Administration – The purpose of this committee shall be to review all items related to their fiscal impact on the Town as well as all matters that pertain to items of administrative procedures. This committee will also have the responsibility for the review and signature of all payment warrants.
- b. Services Committee – The purpose of this committee shall be to review all matters related to services provided by the Town related to recreation, parks, trails, the library, the pool, and other items related to non-emergency or public works services provided in the community
- c. Infrastructure – The purpose of this Committee shall be to review all matters pertaining to public infrastructure including buildings, roads, and all town capital equipment.
- d. Planning & Development – The purpose of this Committee shall be to review all matters related to all ordinances of the Town and all proposals for economic & community development.
- e. Communications – The purpose of this Committee shall be to review all matters related to the Town Website, Town Newsletter, Town Cable Channel 7, and other town sponsored communication activities.

18. Committee procedure shall be governed as follows:

- a. All Committees will be required to post an agenda at least 48 hours prior to the meeting and no issue may be voted on unless it is agendaed.
- b. It shall be the responsibility of the Committee Chair to discuss the development of the meeting agenda with the assigned staff person at least 24 hours before the meeting is required to be posted.

- c. The assigned staff member shall prepare and post the agenda.
 - d. Draft minutes of each meeting will be prepared by the staff member supporting the committee within three business days.
 - e. Committee meeting minutes shall be posted on the Town website following their voted approval by the Committee.
 - f. Non-committee Council members attending a Committee meeting will have voting rights if they have been present for the entire discussion of an issue, providing that at least two of the three appointed members of the committee are present.
 - g. Two appointed members of the Committee shall constitute a quorum
 - h. The Mayor shall serve as an ex-officio member of all committees with the exception of Finance & Administration, and shall serve as a member and Chairperson of that Committee. The Mayor, when serving as an ex-officio member, shall not count as an appointed member for the purpose of establishing a quorum at all other Committee meetings.
19. The Mayor of the Council may appoint members of the Council and/or citizens of the Town to special committees as authorized by the Council. No Committee shall have the power of executive action unless specifically authorized and shall report back to the Council for action on its recommendations or proposals.
20. In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Roberts Rules of Order" shall be taken as authority to decide the course of proceedings.
21. The first and third Mondays of each month are designated as 'regular' council meetings with the provision that a unanimous vote of the council would cancel a meeting. Whenever a regular meeting falls on a legal holiday, such meeting will take place the following day.
22. Special meetings of the Town Council may be scheduled for other dates for special purposes. The agendas for such meetings shall be posted at the Post Office, Town Office, Town Bulletin Board, on the Town website, no less than 72 hours in advance of the meeting (unless an emergency meeting is needed for the purpose of dealing with an unanticipated Town emergency, in which case posting shall be to all normal posting locations and via email to local print media as soon as it is identified that a meeting will be held). The agenda for a Special Meeting shall be prepared as follows;
- A. Call to order
 - B. Subject(s) for meeting
 - C. Adjourn

The general public shall be allowed to comment on subjects at Special meetings in the same manner as for Regular Council meetings. There shall be no general Public Comment section for items not contained on the agenda for Special Council meetings.

23. Any item on the consent agenda can be set aside for discussion at the request of any Councilor, prior to a motion on the remainder of the consent agenda.
24. Council Meetings shall not extend beyond 10 p.m. without an affirmative vote of the Town Council.
25. The Councilor Comment section of the agenda is reserved for the purpose of enabling any Council member to discuss matters not previously mentioned on the agenda. No official Council action can be taken at this time.

This policy replaces the Council Rules last updated February 19, 2008

Adopted by Town Council: May 21, 2012

Mayor Duprey Proposed Changes

Language added ~~Language removed~~

HAMPDEN TOWN COUNCIL RULES

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5. Town Councilors shall participate in Freedom of Information Act training within 120 days of being sworn in as a Town Councilor and documentation of that training shall be filed with the Town Clerk.
6. It is recommended that Town Councilors shall participate in Elected Officials training offered by the Maine Municipal Association within the first year of office.
7. A New Councilor orientation packet shall be provided to all Councilors at the time a minimum of one week prior to being they are sworn in.
- ~~8. Excused absences for Councilors for Council meetings may be granted as the result of illness, vacation, work commitments, or family illness.~~
8. Place new language about missing meetings as per new adopted charter here.
9. The Mayor shall take the chair at the appointed time for the meeting, call the members to order, and proceed to the following order of business:
 1. Pledge of Allegiance.
 - A. Consent Agenda
 1. Signatures – Treasurer's Warrants, etc
 2. Secretary's Report
 3. Communications
 4. Reports

- B. Public Comments
- C. Policy Agenda
 - 1. Public Hearings
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9a. At the request of the Mayor, an invitation may be extend for someone to sing the National Anthem immediately following the Pledge of Allegiance.

- 10. In the absence of the Mayor, the Deputy Mayor shall preside over the Town Council meeting. In the absence of the Deputy Mayor, the Mayor shall appoint, in advance, another Councilor to chair the meeting.
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- 24. Council Meetings shall not extend beyond 9:30p.m. without an affirmative vote of the Town Council.
- 25. The Councilor Comment section of the agenda is reserved for the purpose of enabling any Council member to discuss matters not previously mentioned on the agenda. Councilors are to refrain from slanderous, negative remarks towards citizens or groups of citizens and mentioning a citizen by name in a negative way is not allowed. No official Council action can be taken at this time.
- 26. Councilors are forbidden from trying to use position as a town elected official to influence an employee of the town to bend rules or laws for the benefit of the councilor or the councilors family members.

This policy replaces the Council Rules last updated May 21, 2012

Adopted by Town Council: _____

TO: Town Council
FROM: Sue Lessard, Town Manager
DATE: January 30, 2014
RE: Town Attorney at Council Meetings

The Mayor requested that this item be placed on the agenda for discussion at the next Finance & Administration Committee and Town Council meeting. Attached is a breakdown of the cost for the Town Attorney attending Council meetings for the past two and a half years. The arrangement for Council meetings limits his fee to 2 hours no matter how long the Council meeting is. I have attached a breakdown of the fees charged for the past two and half years for attendance at Council meetings. It gives the date, the length of the Council meeting, the adjusted rate per hour based on meeting length, and the total paid. There is no minimum paid per meeting. In addition, there is no annual retainer paid for the Town Attorney. He is paid only for hours either in attendance at Council meetings or working on assigned projects.

Mayor Duprey asked me to call the Town Attorney and ask him not to attend this meeting so that the Council could discuss whether or not to continue the practice of having the Town Attorney at Council meetings.

BILLED HOURS AT COUNCIL MEETINGS FOR TOM RUSSELL
7/2011 - 12/2013

46

DATE	BILLED HOURS	ACTUAL HOURS	RATE	AMT PAID
7/18/2011	1.5	1.5	\$145.00	\$217.50
8/1/2011	2	2.5	\$116.00	\$290.00
8/15/2011	2	2.6	\$111.54	\$290.00
9/19/2011	2	3.3	\$87.88	\$290.00
10/3/2011	2	3.3	\$87.88	\$290.00
10/17/2011	2	2.7	\$107.41	\$290.00
11/14/2011	2	3.1	\$93.55	\$290.00
11/21/2011	2	2	\$145.00	\$290.00
12/5/2011	2	2.7	\$107.41	\$290.00
12/19/2011	2	3.3	\$43.94	\$145.00
1/3/2012	2	3.8	\$78.95	\$300.00
2/6/2012	2	3.2	\$93.75	\$300.00
3/19/2012	2	3.5	\$85.71	\$300.00
4/2/2012	2	2.5	\$120.00	\$300.00
4/23/2012	2	3.5	\$85.71	\$300.00
5/7/2012	2	2.5	\$120.00	\$300.00
5/21/2012	2	2	\$150.00	\$300.00
6/4/2012	2	3.1	\$96.77	\$300.00
6/18/2012	2	3.3	\$90.91	\$300.00
7/13/2012	1.7	1.7	\$150.00	\$255.00
8/6/2012	2	2	\$150.00	\$300.00
8/20/2012	1	1	\$150.00	\$150.00
9/4/2012	1.6	1.6	\$150.00	\$240.00
9/17/2012	2	2.4	\$125.00	\$300.00
10/1/2012	1.7	1.7	\$150.00	\$255.00
10/15/2012	1.6	1.6	\$150.00	\$240.00
10/29/2012	0.8	0.8	\$150.00	\$120.00
11/19/2012	0.9	0.9	\$150.00	\$135.00
12/3/2012	1.3	1.3	\$150.00	\$195.00
12/17/2012	1.4	1.4	\$150.00	\$210.00
1/7/2013	0.9	0.9	\$150.00	\$135.00
1/22/2013	1.8	1.8	\$150.00	\$270.00
2/4/2013	0.9	0.9	\$150.00	\$135.00
2/19/2013	0.7	0.7	\$150.00	\$105.00
3/4/2013	0.9	0.9	\$150.00	\$135.00
4/1/2013	2	2.4	\$125.00	\$300.00
5/6/2013	2	3.3	\$90.91	\$300.00
5/20/2013	2	3.8	\$78.95	\$300.00
6/3/2013	2	2.9	\$103.45	\$300.00
6/17/2013	2	2.5	\$120.00	\$300.00
7/1/2013	1.1	1.1	\$150.00	\$165.00
7/15/2013	2	2.7	\$111.11	\$300.00
8/5/2013	2	2.8	\$107.14	\$300.00
8/19/2013	0.9	0.9	\$150.00	\$135.00
10/7/2013	2	2.4	\$125.00	\$300.00

BILLED HOURS AT COUNCIL MEETINGS FOR TOM RUSSELL
7/2011 - 12/2013

10/21/2013	2	2.4	\$125.00	\$300.00
11/18/2013	2	2.8	\$107.14	\$300.00
12/2/2013	2	3.2	\$93.75	\$300.00
12/16/2013	2	2.7	\$111.11	\$300.00
				\$12,462.50

2.5 year =
avg. \$ 4985/yea

4c

<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____



**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO MAIN RD IN HAMPDEN (RTE 1A)

<i>(MaineDOT Use Only)</i>	
Project Location: <u>Hampden</u>	Estimated Municipal Share: <u>\$124,145.26</u>
State WIN #: <u>20388.00</u>	Vendor Customer #: <u>17A13701</u>
Federal Aid Project #: <u>NHP-2038(800)</u>	Agreement Begin Date: _____
	Agreement End Date: <u>(3 years from the date last signed below)</u>

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "Department") and the Town of Hampden, a municipal corporation located in the County of Penobscot (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Main Road (Rte 1A), in Hampden, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- Appendix A – Project scope, cost sharing, and payment schedule
- Appendix B – Bicycle/Pedestrian Facility Maintenance
- Appendix B – Landscape Maintenance
- Appendix B – Lighting/Flashing Beacon Operation and Maintenance
- Appendix B – Traffic Signal Operation and Maintenance
- Appendix B – Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- Appendix C – Additional work requested by Municipality

- A.** The Department agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by the Department and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B.** The Department shall be the sole administrator of this contract. The Department will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither the Department nor its contractors will be required to pay for inspections and permits from the Municipality.
- C.** The Department reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. The Department also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D.** Upon acceptance of plans, specifications and estimates, the Department shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, the Department will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify the Department of any questions or concerns. If the Department is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of the Department.
- E.** The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by the Department. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F.** The Municipality agrees to allow the Department's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by the Department. The development of the Traffic Control Plan will follow the process outlined below:
1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 5. The Municipality will have the opportunity to review and comment.
- G.** The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H.** The Municipality will, at no cost to the Department, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold the Department harmless from any claims for damages occurring as a result thereof.

- I.** The Municipality agrees that during and after construction it will apply the requirements of the most recent version of the Department's "Utility Accommodation Policy" as the minimum guidelines not withstanding any municipal rules that are more lenient.
- J.** To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K.** The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by the Department in its most recent "*Rules, Regulations and Policies for Highway Openings*", which is incorporated herein and made a part hereof by reference.
- L.** The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M.** The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N.** When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O.** The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P.** The Department shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to the Department's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with the Department, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q.** To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless the Department, its officers, agents and employees from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the Municipality, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R.** The Department may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by

the Department or specifically as the result of any failure by the Municipality to perform any of the services required under this Agreement to the satisfaction of the Department.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. If the Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations, standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees that although the execution of this agreement by the Department manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of the Department.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed below.

Town of Hampden

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Susan M. Lessard, Town Manager

By: _____
Bradford P. Foley, Program Manager,
Highway Program

(Date Signed)

(Date Signed)

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A
PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
 Transportation Improvement Project

MUNICIPALITY OF Town of Hampden

PROPOSED IMPROVEMENTS TO Main Road (Rte 1A)

FEDERAL AID PROJECT NO. NHP 2038(800)
 STATE PROJECT IDENTIFICATION NUMBER (WIN) 20388.00

Project Scope:

Funding Outline: The Total Project Estimated Cost is \$541,735.12, and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		State Share		Federal Share				Total Cost
					MPO Portion		MaineDOT Portion		
	%	\$	%	\$	%	\$	%	\$	\$
Preliminary Engineering	10	2,000		2,000			80	16,000	20,000
Right of Way	0	0	0	0			0	0	0
Construction	10	51,173.51		51,173.51			80	409,388.10	511,735.12
Construction Engineering	80	1,000		1,000			80	8,000	10,000
PROJECT SHARES		\$54,173.51		\$54,173.51		\$		\$433,388.10	\$541,735.12
Total Cost of Additional Work Requested by Municipality (Below)	100%	69,971.75							
TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)		\$124,145.26							

(Check if applicable)

Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
Removal of existing curb and sidewalk pavement. Replace cwith concrete curb, regrade and pave sidewalk areas as designated in the contract book.	\$69,971.75
TYPE OF WORK	COST
TYPE OF WORK	COST
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$69,971.75

Payment:

The Municipality shall submit payment to the Department within 30 days from the invoice date.

1. Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - c. 100% of all additional work requested by the Municipality (when applicable).
2. **Final Voucher Payment to the Contractor.** A final bill will be created following the Department's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which the Department will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Entity Name	Receivable Amount	Estimated Invoice Date
Town of Hampden	\$97,058.51	May 5, 2014
Town of Hampden	\$27,086.75	Oct 31, 2014
	\$	
	\$	
	\$	
	\$	

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF Town of Hampden

PROPOSED IMPROVEMENTS TO Main Road (Rte 1A)

FEDERAL AID PROJECT NO. NHP-2038(800)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 20388.00

1. Description of Work Being Added to Project By The Municipality:

Remove existing HMA curb and sidewalk pavement on west side(Rt.) of project. Replace curb with concrete curb, regrade and pave existing sidewalk with 2" of HMA.

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No - Disregard this Section, or Yes - as follows:

- a) All plans and specifications shall conform to the standards used by the Department as set forth in the latest version of its "*Highway Design Guide*" and "*Standard Details for Highways and Bridges*" and comply with the Department's Utility Accommodation Policy as set forth in its "*Policy On Above Ground Utility Locations*".
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in the Department's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to the Department and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay the Department's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by the Department. A copy of the

Department's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying the Department in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of the Department.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay the Department, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, the Department agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless the Department determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.

COMMITMENT & INTEGRITY
DRIVE RESULTS

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F 207.945.1

4d

December 16, 2013



Chip Swan
Public Works Director
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Re: Elm Street Slope Stabilization – Preliminary Assessment

Dear Chip:

As requested, we have investigated the feasibility, cost and permitting requirements for your approach to resolve the issues on Elm Street. We understand it is your intention to use large diameter riprap to stabilize the easterly slope. We visited the Site to observe the condition of the road, culvert and guardrail and to approximate the grades and conditions of the surrounding terrain. Attached is a concept sketch of the existing grades we observed as well as a sketch of the solution you've described. The sketches are not a completed design document but simply a sketch which allowed us to estimate volumes and to approximate the impact from a permitting perspective.

We have assumed that 100 LF of the road will be completely reconstructed within the current alignment (50 LF either direction centered on the culvert). This will include construction of a 1:1 slope on the downstream side of the culvert with large diameter riprap, fill behind the riprap, geotextile fabric, replacement of the existing 36" CMP culvert with a 36" RCP culvert, repair of current road base and subbase material, new guardrail, repaving and landscaping for slope stabilization. In addition, we have allotted \$5,000 for construction of a temporary widening of the road to allow traffic to pass during the construction period. Once construction has progressed, we have assumed material from the temporary widening can be used elsewhere on the project. We have attached a cost estimate for the proposed concept as discussed above.

The work as described will require a Natural Resources Protection Action (NRPA) Permit by Rule (PBR) due to work within a stream (the drainage running through the culvert). This work will also fall under the "Slope Stabilization" and "Stream Crossing" sections of Best Management Practices, which requires that the rip-rapped area not exceed a 1:1 slope. The permit will also fall under the "Adjacent Activities" section due to the toe of the slope being within 75' of the Souadabscook Stream.

The solution that you have proposed will likely provide a sufficient short to medium term solution to the erosion and sloughing issues present on Elm Street. As we've discussed, a geotechnical evaluation of the Site would be necessary to insure that the repairs are more long term. We have received a verbal estimate of \$4,500 from Fessenden Geo-Environmental Services to perform test borings and provide a geotechnical investigation with slope stabilization recommendations. Let me know if this is something you would like to proceed with and we would be happy to coordinate it for you.



If you have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

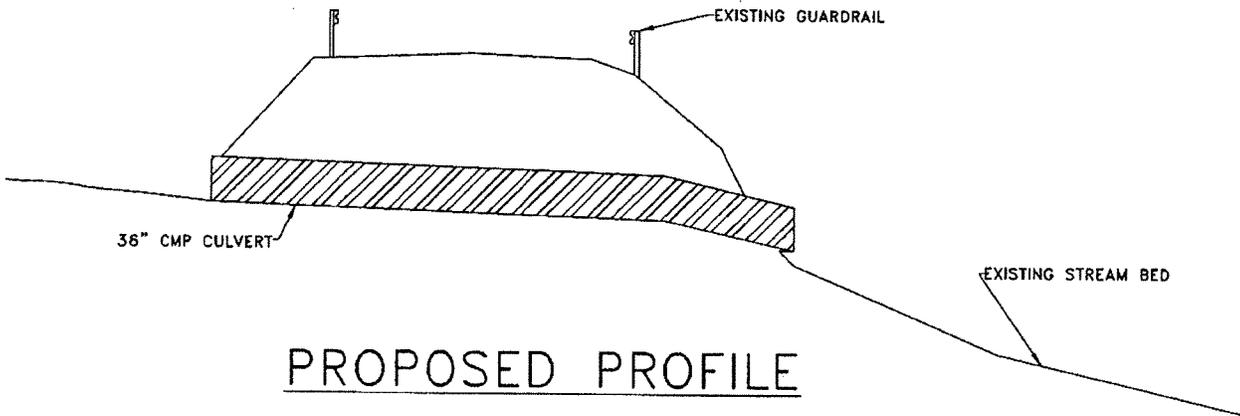
WOODARD & CURRAN INC.

A handwritten signature in cursive script that reads "James D. Wilson".

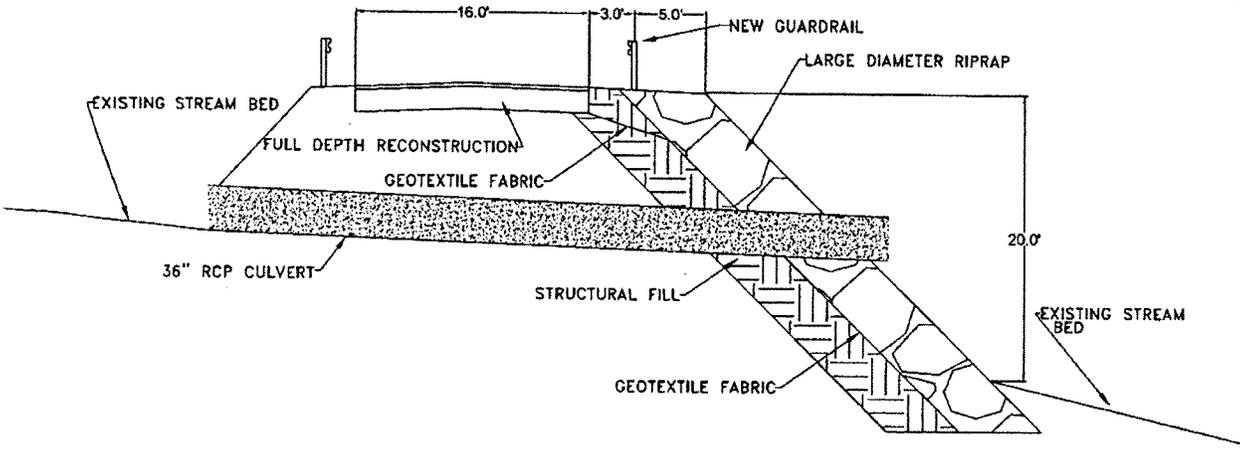
James D. Wilson, P.E.
Senior Project Manager

JDW/ces
213357.09

EXISTING PROFILE



PROPOSED PROFILE



JOB NO: 1021333706 DATE: 08/20/2013 SCALE: 1/4" = 1'-0"	FIGURE 1
TOWN OF HAMPDEN ELM STREET EAST ROAD AND DRAINAGE IMPROVEMENTS	
EXISTING AND PROPOSED CONDITIONS	
DESIGNED BY: CES DRAWN BY: CES	CHECKED BY: JDN HAMPDEN, ELM ST. DRG
85 Middlesex St., Portland, Maine 04102 WWW.PEACE.COM WWW.PEACEENGINEERING.COM COMMITMENT & INTEGRITY MAKE RESULTS	
WOODWARD & CURRAN	



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Suite 501 T 207.945.510;
Bangor, Maine 04401 F 207.945.549;
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TOWN OF HAMPDEN
Elm Street East - Road & Drainage Improvements
Opinion of Probable Cost
December 16, 2013

Elm Street East Road & Drainage Improvements					
No.	Description	Unit	Estimated Quantity	Unit Price	Value
1	Administrative (5% of Construction Cost)	LS	1	\$3,000.00	\$3,000.00
2	Large Diameter Riprap	CY	150	\$120.00	\$18,000.00
3	Structural Fill	CY	125	\$25.00	\$3,125.00
4	Geotextile Fabric	SY	300	\$2.00	\$600.00
5	36" RCP Culvert	LF	50	\$175.00	\$8,750.00
6	Pavement Repair - Town Roads	SY	200	\$55.00	\$11,000.00
7	Aggregate Subbase	CY	75	\$28.00	\$2,100.00
8	Aggregate Base	CY	50	\$27.00	\$1,350.00
9	Guardrail - New	LF	100	\$55.00	\$5,500.00
10	Landscaping	LS	1	\$3,000.00	\$3,000.00
11	Temporary Road	LS	1	\$5,000.00	\$5,000.00
Construction Subtotal					\$61,425.00
Contingency (10%)					\$6,142.50
Design/Admin (15%)					\$9,213.75
Permitting					\$1,500.00
Geotechnical Engineering					\$4,500.00
Project Total					\$67,567.50



