

FINANCE COMMITTEE MEETING

Monday, July 18, 2011

5:00 p.m.

Hampden Town Office

1. Review Minutes of 6/20/2011
2. Review & Signature of Warrants
3. Financial Statements – June 30
4. Old Business
 - a. Brush Truck Bid Results
 - b. Council Rules/Code of Ethics
5. New Business
 - a. Bangor Region Development Alliance Dues
6. Public Comment
7. Committee Member Comments

FINANCE COMMITTEE MEETING
Monday, June 20, 2011

Attending:

Councilor Kristen Hornbrook	Mayor Janet Hughes
Councilor Jean Lawlis	Councilor Tom Brann
Councilor William Shakespeare	Councilor Andre Cushing
Councilor-Elect Shelby Wright	Town Manager Sue Lessard

1. Minutes of June 6, 2011 meeting – Motion by Councilor Shakespeare, seconded by Councilor Lawlis to approve the minutes with no changes or corrections. Unanimous vote.
2. Review of Warrants – The warrants presented lacked only the signature of Councilor Cushing. He signed them as presented.
3. Old Business
 - a. Maine Power Options – Fuel Bid Results – The Town Manager reported that the Maine Power Options bid process for fuel resulted in the award of the contract to RH Foster for a low bid price of rack plus 14.90 cents per gallon. The new contract will begin on July 1, 2011. The town will have the opportunity, if the price goes down, to lock in at a fixed price later in the season.
 - b. Update – MDOT Sidewalk Grant – The Town Manager reported that the MDOT TIP (Transportation Improvement Program) included \$8,000 for engineering related to the sidewalk continuation from where it ends on Western Avenue to Mayo Road. This would indicate that the Town may be successful in the grant application made to MDOT for the continuation of that sidewalk.
4. New Business
 - a. Lights at the Marina Parking Lot – The Town Manager presented a report provided by Paul Philbrick of ELCO Electric as to the condition of the lights around the parking lot at the Marina. The condition is such that repair is no longer a feasible option. The subject was referred to the Infrastructure Committee for investigation and a recommendation at their meeting on Monday, June 27th.
5. Public Comment - None
6. Committee Member Comments
 - Councilor Shakespeare asked if the grant applications filed for the Western Avenue sidewalk required that the Town have a Comprehensive Plan. The Manager replied that the two applications went to two different entities and that she was sure that at least one of them did not – and that the other one may have, but she would check and report back on that at the next meeting.

- Councilor Hornbrook asked whether the Town had information on when Dunkin Donuts would be opening. The Manager reported that she did not have that information at this time.
- Councilor Cushing reported that it was his intention to continue discussions with MDOT and the Department of Education related to a sidewalk extension from the 202/9 intersection at least as far as Roe Village.
- The Town Manager reported that the \$50,000 for wetland mitigation by MSAD #22 had not been invoiced by the town because the legal document related to exactly what was being transferred has not be provided.

Motion by Councilor Hughes, seconded by Councilor Lawlis to adjourn at 6:45 p.m. Unanimous vote.

Respectfully submitted,

Susan Lessard
Town Manager

4-a

TOWN OF HAMPDEN

**BRUSH TRUCK
BID SHEET**

June 15, 2011
12:00 PM

BIDDER	BID AMOUNT
Fire Tech & Safety of New England	\$111,463.00
Southern Fire Service & Sales	\$125,683.00

The Town of Hampden hereby ordains:

TOWN OF HAMPDEN
Code of Ethics

Section 1. Statement of Purpose. The purpose of this Ordinance is to establish ethical standards of conduct for town officials by setting forth those acts or actions that are incompatible with the best interests of the Town of Hampden, and by requiring disclosure of certain interests of town officials in matters affecting the Town.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated:

Confidential Information: any information, oral or written, which comes to the attention of, or is available to, a town official only because of his or her position with the town and which is not a matter of public record. Information received or discussed during an executive session called pursuant to 1 M.R.S.A. § 405 et seq. shall be considered confidential information, and shall not be disclosed to any third party unless permitted by affirmative vote of the body which held the executive session.

Financial Interest: a direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock.

Immediate Family: Spouse, parents and children.

Special Interest: a direct or indirect interest having a peculiar benefit to an individual or an identifiable group, whether economic or otherwise, which benefit would accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval of any application by the Town Council or any committee, board or commission of the Town, and which interest is not shared by the general public.

Town Official: an employee of the Town, or a member of the Town Council or any committee, board or commission of the Town.

Section 3. Conflicts of Interest.

A. Deliberation and vote prohibited. No town councilor, committee member, board member or commission member shall, in such capacity with the Town, participate in the deliberation or vote, or otherwise take part in the decisionmaking process, on any agenda item before the body of which he or she is a member if he or she, or a member of his or her immediate family, has a financial or special interest, other than an interest held by the public generally.

B. Disclosure of conflict. Any town councilor, committee member, board member or commission member who believes he or she, or a member of his or her immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before the body on which he or she serves shall disclose the nature and extent of such interest, and the town clerk or his or her designee shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the Town Council, committee, board or commission at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the town councilor, committee member, board member or commission member is present. Additionally, any town councilor, committee member, board member or commission member who believes that any fellow town councilor, committee member, board member or commission member, or a member of such fellow town councilor's, committee member's, board member's or commission member's immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the town clerk or his or her designee shall make a record of such disclosure.

C. Determination of conflict. Once the issue of conflict has been raised relative to an individual town councilor, committee member, board member or commission member and disclosure has been made as provided above, such individual's fellow town councilors, committee members, board members or commission members shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each town councilor, committee member, board member or commission member present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual councilor's, committee member's, board member's or commission member's alleged conflict of interest.

- (1) All votes of conflicts of interest questions shall be recorded. A majority vote shall determine the question, but a vote by committee may later be reviewed by the full body of which the committee is a part upon that body's consideration of the same agenda item.
- (2) Upon determination that a conflict of interest in fact exists, the town councilor, committee member, board member or commission member concerned shall be excused from participating in any discussion, deliberation or vote on the relevant agenda item.
- (3) In lieu of the vote required by this Subsection, the Town Council, committee, board or commission, upon motion and by majority vote, may defer the conflict of interest question in order to require further information not immediately available or may require confirmation of information disclosed, so that consideration of the relevant agenda item shall be postponed to a more appropriate time.

D. Avoidance of appearance of conflict. To avoid the appearance of a violation of this Section, once any individual town councilor, committee member, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflicts of interest questions relating to the agenda item concerned have been determined as provided in Subsection C above, said individual shall not participate in the consideration or discussion of the agenda item on which he or she has a conflict. Nothing herein shall require an individual councilor, committee member, board member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by the other members and the right to abstain from voting on the item has been granted.

E. Personal interest. Nothing herein shall be construed to prohibit any town councilor, committee member, board member or commission member from representing his or her own personal interest by appearing before his or her collective body on any such agenda item, as long as the representation occurs in the area of the meeting room occupied by applicants or members of the general public.

Section 4. Political Activities. No town employee, town councilor, committee member, board member or commission member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties of the Town. In conjunction therewith, no town employee, town councilor, committee member, board member or commission member may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election for public office, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from town employees for political purposes. No town councilor, committee member, board member or commission member may distribute handbills or pamphlets while he or she is performing official functions or duties on behalf of the Town, unless such distribution has been authorized by the body of which he or she is a member. Nothing herein shall be construed to prohibit any town employee, town councilor, committee member, board member or commission member from participating in the political process in their private capacity as candidates for elected office or as private citizens.

Section 5. Incompatible employment or office. No town employee, town councilor, committee member, board member or commission member shall occupy any other office, elected or appointed, in any other governmental entity when the duties of such office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this section, the occupancy of any office, elected or appointed, with any other governmental entity by any town councilor, committee member, board member or commission member is hereby prohibited in the following circumstances:

A. Where the duties of the other office make it a physical impossibility to discharge the duties of the town position;

B. Where one office is subordinate to the other;

- C. Where one office carries the power of removal of the other; or
- D. Where the occupancy of both offices is prohibited by the town charter or other provisions of law.

Section 6. Personnel Matters.

A. No town councilor, committee member, board member or commission member shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for town employment or town employee where said applicant or employee is:

- (1) A member of the councilor's, committee member's, board member's or commission member's immediate family; or
- (2) A person with whom either the councilor, committee member, board member, commission member, or a member of his or her immediate family, is in business.

B. Except as authorized under the Town's Personnel Rules and Regulations, no town employee shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for town employment or town employee where said applicant or employee is:

- (1) A member of the town employee's immediate family; or
- (2) A person with whom either the town employee, or a member of his or her immediate family, is in business.

Action by a town employee shall be deemed authorized under this subsection when such action is permitted under the Town's Personnel Rules and Regulations or when the town council has waived those rules so as to allow creation of a supervisory relationship that would otherwise violate the Personnel Rules.

Section 7. Gifts. No town councilor, employee, board member, committee member or commission member shall directly or indirectly solicit any gift, or accept or receive any gift whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could reasonably be inferred the gift was intended as influence, or could reasonably be expected to influence, in the performance of official duties, or was intended as a reward for any official action on the part of said employee, councilor, committee member, board member or commission member. The foregoing is not intended to prohibit normal social practices where gifts from friends, associates and relatives are appropriate for certain occasions.

Section 8. Investments in Conflict with Official Duties. No town councilor, employee, board member, committee member or commission member shall invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction which would create an ongoing conflict with one's official duties.

Section 9. Confidential Information. No town councilor, employee, board member, committee member or commission member shall, without proper legal authority, disclose confidential information concerning the property, government or affairs of the Town, nor shall he or she use such information to advance his or her financial or private interest or the financial or private interest of others.

Section 10. Penalties. Any person who violates a provision of the Ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 for each offense, which civil penalty shall inure to the benefit of the Town. In addition, violation of this Ordinance shall constitute cause for censure by the body of which the person is a member, after notice and hearing conducted by that body.

Section 11. Board of Ethics.

A. There is hereby created and established a Board of Ethics consisting of three (3) regular members and two (2) alternate members who shall hold no other office or employment with the Town. All members shall be residents of the Town, and shall be appointed by the Town Council. The terms of office for all members shall be three (3) years, provided, however, that those first appointed may be appointed for shorter terms to create staggered terms. The Board shall annually elect a chairperson and secretary, and may adopt rules for the conduct of its business. The chairperson shall designate an alternate member to participate and vote in Board proceedings if a regular voting member is incapable or unavailable to serve or is disqualified from participation because of a conflict of interest.

B. The Board shall have the authority to issue advisory opinions on questions referred to it relating to conflicts of interest under Section 3 or the incompatibility of employment or office under Section 5.

C. When a public official does not voluntarily refrain from participation in a matter and there is a question as to the existence of a conflict of interest under the provisions of Section 3 or there is a question of the existence of an incompatibility of office under Section 5, the matter may be referred to the Board for an advisory opinion on the matter in accordance with the following:

- (1) A public official may request that the question of whether he or she has a conflict of interest or holds an incompatible office be referred to the Board,

- (2) Two or more members of a town body may request that the question of whether a member of that body has a conflict of interest or holds an incompatible office be referred to the Board, or
- (3) A resident of the Town may request that the question of whether a member of any town body has a conflict of interest or holds an incompatible office be referred to the Board.

D. Any request for a referral to the Board and the reasons therefor shall be submitted in writing to the town clerk or his or her designee, and shall be placed on the council agenda for the next available regularly scheduled meeting of the Town Council. Upon a vote of two-thirds (2/3) of the members of the Town Council present and voting, the matter subject to the request shall be referred to the Board for an advisory opinion.

E. Upon referral, the Board shall provide notice of and conduct a hearing on the matter or question referred to it. Upon conclusion of the hearing, the Board shall conduct its deliberations on the matter or question referred to it, and shall issue a written advisory opinion on the same. The opinion shall be filed with the town clerk, or his or her designee, and a copy shall be provided to the affected public official and the chairperson of the town body of which the public official is a member.

Section 12. Severability. If any provision of this Ordinance is held to be invalid by a court, such invalidity shall not affect any other provision of this Ordinance.

Adopted: 5-15-00

Effective: 6-14-00

5-a

Bangor Region Development Alliance

c/o Packard Judd Kaye
40 Summer Street, Suite 4
Bangor, ME 04401

Invoice

Invoice #: 76
Invoice Date: 5/28/2011
Due Date: 7/6/2011
Project:
P.O. Number:

Bill To:

Town of Hampden
Dean Bennett
Director of Economic Development
106 Western Avenue
Hampden, ME 04444

Date	Description	Amount
6/7/2011	<p>Annual membership dues: 2011 -- 2012</p> <p style="text-align: center;">Acct. No. _____</p> <p style="text-align: center;">_____ DEPARTMENT HEAD SIGNATURE</p> <p style="text-align: center;">DATE _____</p> <p style="text-align: center;">RECEIVED JUN 07 2011</p> <p style="text-align: center;">BY: _____</p>	3,265.00

Total	\$3,265.00
Payments/Credits	\$0.00
Balance Due	\$3,265.00