

FINANCE COMMITTEE MEETING

Monday, December 5, 2011

5:30 p.m.

Hampden Town Office

1. Review Minutes of 11/21/2011
2. Review & Signature of Warrants
3. Old Business
 - a. Code of Ethics Review
4. New Business
 - a. Council Rules Review
5. Public Comment
6. Committee Member Comments

FINANCE COMMITTEE MEETING MINUTES

November 21, 2011

Attending:

Councilor Andre Cushing
Councilor Jean Lawlis
Councilor Shelby Wright
Councilor William Shakespeare

Councilor Tom Brann
Town Manager Susan Lessard
Residents

The meeting was opened at 6:18 p.m. by Councilor Cushing.

1. Review Minutes of 10/17/2011 – Motion by Councilor Wright, seconded by Councilor Shakespeare to approve the minutes, vote 5-0.
2. Review & Signature of Warrants – Warrants were reviewed and signed by Committee members. Since Mayor Hughes was going to be absent from this meeting, she had reviewed the warrants prior to the meeting and signed them.
3. Old Business
 - a. Personnel Handbook – The Town Manager presented the draft of the personnel handbook that codifies all the rules that relate to employees of the Town. Motion by Councilor Lawlis, seconded by Councilor Shakespeare to recommend to the Council that the Personnel Handbook be introduced for Public Hearing. Vote 5 – 0.
4. New Business
 - a. Carole & Aubrey Hoyle – Request to Purchase Map 9, Lot 66 – The Town Manager presented the additional information supplied by the Assessor and Code Officer regarding the value of the lot in question and if it had any development potential. The land is constrained by wetlands and setbacks and is not buildable. Motion by Councilor Wright, seconded by Councilor Shakespeare to recommend to the Council the sale of Map 9 lot 66 to abutters Carol and Aubrey Hoyle for \$100. Vote 5 – 0.
 - b. Design and Consulting Services – Betsy Poulin – Marina Project – The Town Manager presented the recommendation of the Planning and Development Committee to contract with Betsy Poulin for technical services related to the Marina project for a cost not to exceed \$9,500 to be paid for from the Chevron grant escrow. Motion by Councilor Lawlis, seconded by Councilor Shakespeare to recommend to the Council that they approve

the Planning and Development Committee recommendation to contract with Betsy Poulin for design and technical services related to the Marina Project for a cost not to exceed \$9,500 to be paid from proceeds of the Chevron grant. Vote 5 – 0.

- c. Contract – In Depth Archeology – Marina Project – The Town Manager explained that the Maine Historic Preservation Commission is requiring a Phase I Archeological survey of the marina project area. The Economic and Community Development Director sent out requests to all agencies identified by MHPC who do this work and In Depth Archeology was the low bidder who could do the work the quickest. Planning and Development Committee recommends hiring In Depth Archeology for the Phase I Archeological survey for a price of \$6,300 to be paid from Chevron grant funds. Motion by Councilor Wright, seconded by Councilor Shakespeare to recommend to the Council that they approve the contract with In Depth Archeology for a Phase I Archeological survey for the price of \$6,300 to be funded from the Chevron grant. Vote 5 -0.

5. Public Comment - None

6. Committee Member Comments – None

The meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Susan Lessard
Town Manager

3a

TO: Hampden Town Council
FROM: Sue Lessard, Town Manager
DATE: 11/30/2011
RE: Code of Ethics

Enclosed with this packet is draft of the Code of Ethics that the Finance Committee has been discussing over the past several months. It does not include a Board of Ethics, it incorporates a disclosure requirement for councilors and their appointees, and it expands on the issue of ethics in contracting. The draft does not reflect the individual wishes of all councilors, but the 'consensus' of the group as it was last reviewed.

The 'political activities' section was the most controversial discussed. I have made no changes to that section in the draft, and I have asked Tom Russell, as part of his review, for any other requirements in this regard imposed by other levels of government on local government.

The sections related to contracting and disclosures were taken from the Code of Ethics of the City of Bangor.

The Town of Hampden hereby ordains:

**TOWN OF HAMPDEN
Code of Ethics**

Section 1. Declaration of Policy. The proper operation of democratic government requires that Town Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors and their appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors and all members and associate members of any Board or Committee appointed by the Council. This Code of Ethics is not intended to deny Council members nor Board or Committee members their constitutional rights nor violate their civil rights.

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

Business: Any corporation, partnership, individual sole proprietorship, joint venture, or any other legally recognized entity, organized for the purposes of making profit.

Board Member: Any person elected to membership or associate membership on a Town board or appointed to such a board by or under the authority of the Town Council.

Censure: a judgment or resolution condemning a person for misconduct.

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.

Council Appointee – any *sworn* member or associate member of any board or committee appointed by the Town Council including but not limited to appointed Board members, Committee members, and Commission members.

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

Immediate Family – Spouse, children, parents, brothers, and sisters. This includes family members related by marriage and adoption.

Special Interest: A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may 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 thereof, by the Town Council or their appointees, and which interest is not shared by the general public.

Town Councilor: Sworn member of the Hampden Town Council

Town Employee: Any individual working for, on a permanent or temporary basis, and drawing a salary, wages or stipend from the Town of Hampden. The term "Town employee" shall not include consultants or professional personnel providing services to the Town as independent contractors under a written professional services contract or other similar engagement.

Town Official: A member of the Town Council or any appointed committee, board or commission of the Town Council.

Sec 3. Standard of Conduct:

The purpose of this Code of Ethics is to establish standard of conduct for all Town Councilors and Town Council appointees by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Hampden.

3.1 Statutory Standards: There are certain provisions of the general statutes of the State of Maine, which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all Town Councilors of the Town of Hampden whenever applicable, as if more fully set forth herein, to wit:

- 17 MRSA §3104 Conflicts of Interest; Purchases by the State
- 17-A MRSA §456 Tampering with Public Records or Information
- 17-A MRSA §602 Bribery in Office with Political Matters
- 17-A MRSA §603 Improper Influence
- 17-A MRSA §604 Improper Compensation for Past Action
- 17-A MRSA §605 Improper Gifts to Public Servants
- 17-A MRSA §606 Improper Compensation for Services
- 17-A MRSA §607 Purchase of Public Office

- 17-A MRSA §608 Official Oppression
- 17-A MRSA §609 Misuse of Information
- 17-A MRSA §903 Misuse of Entrusted Property
- 21-A MRSA §504 Persons Ineligible to Serve
- 30-A MRSA §2605 Conflicts of Interest
- 30-A MRSA §5122 Interest of Public Officials, Trustees of Employees

3.2 Conflicts of Interest: No Town Councilor or Town Council Appointee shall participate directly or indirectly by means of deliberation, voting, approval or disapproval, or recommendation, or otherwise take part in the decision making 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 that possessed by the public generally, in such purchase, award, or approval, held by:

- 3.2.1 The Town Councilor/Appointee or a member of their immediate family; or
- 3.2.2 A business in which the Town Councilor/Appointee or a member of their immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
- 3.2.3 Any other person or business with whom the Town Councilor/Appointee or a member of their immediate family are in business or are negotiating, or have an arrangement concerning future employment.

No Town Councilor or Town Council Appointee shall participate directly or indirectly by means of deliberation, approval or disapproval, or recommendation of an application, purchase, contract, or other legal matter, or in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, where said applicant or employee is:

- A member of their immediate family; or
- A person with whom either the Town Councilor or Town Council Appointee of his/her immediate family are in business.

3.3 Disclosure of Confidential Information: No Town Councilor or Council appointee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he or she use such information to advance the financial or private interest of him or herself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town Councilor or Council appointee only because of his or her position with the Town, and is not a

matter of public record. Information received and discussed during an executive session of the Hampden Town Council or any Town Board, Committee, or Commission shall be considered within the constraints of this section, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.4 Gifts and Favors: No Town Councilor, or Town Council Appointee shall accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor, or Town Council Appointee: 1) accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official service or thing of value; 2) grant in the discharge of his or her official duties any improper favor, service or thing of value.

3.5 Use of Town Property: No Town Councilor or Council Appointee shall use, or permit the use of, any Town-owned property including, but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established for the public at large.

3.6 Conflicts of Interest

- A) **Deliberation and Vote Prohibited.** No Town Councilor or Town Council Appointee shall, in such capacity with the Town, participate in the deliberation or vote, or otherwise take part in the decision making 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 or Town Council Appointee who believes he or she 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 taking up for consideration, recommendation, discussion or vote and at which the Town Councilor or Town Council Appointee is present. Additionally, any Town Councilor or Town Council Appointee who believes that any fellow Town Councilor or Town Council Appointee, or a member of such fellow Town Councilor's or Town Council Appointee'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 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.** In the event that a conflict has been raised relative to an individual Town Councilor or Town Council Appointee, and disclosure has been made as described above, such individual's fellow Town Councilors or Town Council Appointee's 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 or Town Council Appointee present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual councilor's, appointee'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 Boards, Committees, and Commissions may later be reviewed by Town Council upon the Town Council's consideration of the same agenda item.
 - 2) Upon determination that a conflict of interest in fact exists, the Town Councilor or Town Council Appointee concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.
 3. In lieu of the vote required by this subsection, the Town Council, upon motion and by majority vote may refer the conflict of interest question to the Town Attorney for a legal opinion, or may table its consideration of the relevant agenda item. In the event a majority of the Town Council, Board, or Commission concerned, or Committee thereof, shall require disclosure of further information not immediately available, or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.
 4. **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 immediately remove him or herself from the meeting room or to the area of the room occupied by the general public. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. 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 other members and the right to abstain from voting on the item has been granted.

5. **Personal Interest.** Nothing herein shall be construed to prohibit any Town Councilor or Town Council Appointee from representing his 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.

D. Disclosure Statement. Within fifteen (15) days after each annual municipal election every Town Councilor shall file a completed disclosure form with the Town Clerk. Within thirty (30) days after his or her appointment, every Town Council Appointee shall file a completed disclosure form with the Town Clerk. Such forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

1. The name of each person or entity whether incorporated or not, doing business with the Town in an amount in excess of \$1000 during the preceding calendar year from which such disclosing party or member of his immediate family has received money or other thing of value in an amount in excess of \$1000 during the preceding calendar year, including, but not limited to campaign contributions, where applicable

2. The name of each entity, whether incorporated or not, doing business with the Town in an amount in excess of \$1000 for the preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1000, including, but not limited to, the ownership of shares of stock

3. The name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board. For such entity, such disclosing party shall provide the following information:

- a. a brief description of the purpose of each board and/or office

- b. a short summary of such disclosing party's or family member's duties relative to any such board and/or office
- c. The term of service on each such board and/or office; and
- d. Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this section "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.

4. Every Town Councilor or Town Council Appointee shall amend his/her annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each amendment shall be made within fifteen days following the occurrence which requires the amendment.

5. The Town Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the Town Council/Board/Committee of each disclosing party within thirty days of filing.

6. For the purposes of this Code, a list prepared by the Finance Officer of those persons or entities doing business with the City in an amount in excess of \$1000 for the preceding year shall be determinative for purposes of reporting under this section. Income from and financial investments in, policies of insurance, and deposits from accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered a financial interest within the meaning of this section.

Section 4. Political Activities No Town Employee, Town Councilor, or Town Council Appointee 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 Councilor, or Town Council Appointee 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 or Town Council Appointee 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 Councilor, or Town Council Appointee 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 Councilor, or Town Council Appointee shall occupy any other office, elected or appointed, in another 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 Council or Town Council Appointee 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; or
- B. Where one office is subordinate to the other; or
- 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 by other provisions of law.

Section 6 Violations of Ethical Standards by Councilors. When any Councilor believes there has been a breach of the ethical standards set forth herein by another Town Councilor, he or she may ask to enter executive session for purposes of informal discussing and resolving an ethical issue. During such session, the Councilor shall specify which area(s) of the ordinance he or she feels have been breached and by whom. After discussion among all Councilors, the Council shall leave executive session, and the Council may proceed with formal action only by majority vote of the Councilors not so named in the preliminary resolution as described in the Town Charter.

- 6.1 Based on information provided in said executive session, The Town Attorney shall provide the Council with an opinion on whether the cited matter(s) constitute a violation of this ordinance.
- 6.2 All procedures under this section shall be in accord with due process requirements, including, but not limited to, a right to notice and hearing
- 6.3 The Council may elect to give written warning in lieu of the provision for removal from office detailed in the Town Charter.

Section 9 Ethics in Contracting. The provisions of this Subsection shall apply to all persons doing business with the Town of Hampden as vendors, suppliers and contractors submitting bids or proposal in response to a Town solicitation or advertisement.

9.1 Gratuities and Kickbacks

- A. Gratuities. It shall be a violation of this Code for any person to offer, give, or agree to give any Town Councilor, of Town Council appointee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or award pertaining to a Town purchase order, contract, construction contract, or professional services contract, or with respect to any

solicitation, advertisement, request for bids, request for proposals, or any bid, proposal, or other response thereto.

B. Kickbacks. It shall be a violation of this Code for any person to solicit, offer, give, accept, or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a Town of Hampden contract for construction, procurement or professional services. To be valid, any disclosure under this paragraph must be made in writing to the Town of Hampden Town Manager prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this Code to solicit, offer, give, accept, or receive any such gratuity or offer of employment in violation of applicable State or Federal Law.

9.2 Prohibition against Contingent Fees

It shall be a violation of this Code for a person to be retained, or to retain a person, to solicit or secure a Town contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

9.3 Recovery of Value Transferred or Received in Breach of Ethical Standards

The value of anything transferred or received in breach of the ethical standards of this Code by a Town Councilor or a Town Council appointee or other person may be recovered from both the Town Councilor/Appointee concerned as from the other person concerned.

9.4 Recovery of Kickbacks by the Town

Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the Town and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

9.5 Penalties and Sanctions

- a. In addition to the recoveries provided in Subsection 9.4 above, any violation of subsection shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this subsection shall be fined not less than three times the value of any improper gift or kickback paid, solicited, or received, or \$500, whichever is greater. The penalties

provided in this paragraph shall be in addition to any penalties imposed under State or Federal Law.

- b. Upon conviction of a violation of this subsection 9.4 or upon finding a violation by the Town Council or any Town Council appointee following written notice and hearing, the Town Council may impose one or more of the following sanctions on the person, firm, or corporation convicted or found to be in violation:
 - i. written warnings or reprimands
 - ii. termination of contracts
 - iii. debarment or suspension of Town purchasing
- c. Termination of a contract under this paragraph shall also terminate the contractors right to receive further payment thereunder
- d. The provisions of this section shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any Town of Hampden construction, procurement, or professional services contract with a base bid in excess of \$10,000. In the case of a professional services contract, the 'base bid price' shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Section 10 Personnel Matters. No Town Councilor or Town Council Appointee shall participate, by means of deliberation, approval or disapproval or recommendation in the decision to hire, promote, discipline, and 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:

- a) A member of the councilor's or council appointee's immediate family;
or
- b) A person with whom either the council or council appointee's of his or her immediate family is in business.

Section 12 Penalties for Town Council or Town Council Appointees. Any person who violates a provision of this 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 Town Council after notice and hearing conducted by that body.

Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.



Current

3a

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

4a

TO: Finance Committee Members
FROM: Sue Lessard, Town Manager
DATE: 11-30-2011
RE: Town Council Rules

The purpose of this memo is to list subjects that have been mentioned during the review of the Code of Ethics as topics for discussion when the Council Rules were discussed. Council members may have others, but those that I have from my list are, in no particular order of importance;

1. Committee Structure, names, definitions to conform to changes made in 2009
2. Time limitations (consistent with Roberts Rules of Order) for speakers under public comments for both the Public Comments section of the agenda and on individual agenda items
3. Regulation of the Use of cell phones, email, texting during council/committee meetings
4. Inclusion of the Deputy Mayor position and protocol for chairing of meetings in the absence of both the Mayor and Deputy Mayor
5. Definition of 'regular' and 'special' meetings of the Town Council

HAMPDEN TOWN COUNCIL RULES

4a

1. The Town Council shall act only 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 all 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. 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. COUNCILORS COMMENTS
 - G. ADJOURNMENT
5. When a question is under debate, the Mayor shall receive no motion but to adjourn, or for the previous question, or 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.
6. 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.
7. 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.

HAMPDEN TOWN COUNCIL RULES

8. 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.
9. 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.
10. Any person wishing to address the Town Council will be given an 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. However, once the council has begun its deliberations on an item, no person shall be permitted to address the council on such item.
 - 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".
 - 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 then designating the subject matter on which they desire to address the council.
11. At the commencement of the municipal 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) Appointments Committee;
It shall be the purpose of the Appointments Committee to seek out individuals within the community to best serve in various positions on town boards and committees.
 - b) Charter and Ordinance Committee;
It shall be the purpose of the Charter and Ordinance Committee to assist with revisions and amendments to the town charter and various town ordinances so as to enable the town to reflect reasonable and consistent regulations.
 - c) Community Services Committee;
It shall be the purpose of the Community Services Committee to advise on matters of community recreation and development, parks and reserves,

HAMPDEN TOWN COUNCIL RULES

sports grounds, public halls, libraries, walkways, camping grounds, community and cultural facilities, and property management.

- d) Economic Development Committee;
It shall be the purpose of the Economic Development Committee to assist the community in becoming more "user friendly" for new and existing business, and to encourage ideas and support for a proactive economic development base.
 - e) Finance Committee;
It shall be the purpose of the Finance Committee to oversee treasurer's warrants for daily expenditures, to facilitate resolution of financial issues as they arise within the community such as debt obligations, major investments, etc.
 - f) Public Safety Committee;
It shall be the purpose of the Public Safety Committee to assist the public safety director with the emergency departments of police, fire and ambulance in the director's efforts to provide top quality emergency service to the entire community.
 - g) Public Works & Solid Waste Committee;
It shall be the purpose of the Public Works & Solid Waste Committee to advise on matters related to flood control, streets, sidewalks, lanes, bridges, drainage sewers, sewage disposal, water services, traffic safety, transportation, public transit, garbage collection and disposal, town cleanliness, pest and insect control; and also to provide input and research, on various environmental and solid waste issues including, but not limited to, recycling, demolition debris disposal and disposal fees.
 - h) Communications Committee;
It shall be the purpose of the Communications Committee to advise and assist the Town Manager, or town staff person whom he/she may designate on matters of communication related to citizen services including but not limited to the town newsletter, the town website, the town cable channels, and town sponsored communication activities. (2/19/08)
12. 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.
13. 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.

HAMPDEN TOWN COUNCIL RULES

14. 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 on the following day.
15. Any item on the consent agenda can be set aside for discussion at the request of any member, prior to a motion on the remainder of the consent agenda.
16. Councilors Comments - This section 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.

