

FINANCE & ADMINISTRATION COMMITTEE MEETING

Monday October 3rd, 2016

6:00 p.m.

Hampden Town Office

1. Meeting Minutes – September 19th, 2016
2. Review & Sign Warrants
3. Old Business
4. New Business
 - a. MRC Board of Directors Election – Candidate nomination form
 - b. Review of rules of procedure under Robert's Rules of Order for Motions to Consider
 - c. Discussion on borrowing terms for November referendum questions
 - d. Request for Councilor disclosure statements for any potential or perceived conflict or special interest under Section 3.5.F.3 Code of Ethics Ordinance- requested by Councilor McAvoy
 - e. Reconsideration of request for authorization for cutting, stumping, grinding, permitting and site preparation on the Lura Hoit Pool site for the purpose of additional recreational fields and parking
 - f. Request for Councilor disclosure statements for any potential or perceived conflict or special interest under Section 3.5.F.3 Code of Ethics Ordinance – requested by Councilor McAvoy
 - g. Consideration of request to use Recreation Area reserve funds (account number 3-767-00), for the purpose of site work for additional recreational fields (up to \$50,000) and wetlands delineation and DEP permitting for additional parking (up to \$30,000), both at the Lura Hoit Pool site

- h. Request for Councilor disclosure statements for any potential or perceived conflict or special interest under Section 3.5.F.3 Code of Ethics Ordinance – requested by Councilor McAvoy
- i. Request for Council waiver of the bid procedure guidelines for authorized activities at the Lura Hoit Pool site
- j. Review and approval of proposed FY17 Service Charges
- k. Consideration of proposed Council Order 2016-03 establishing Confined Space Entry Policy
- l. Consideration of the proposed Business Park TIF professional fee reimbursement agreement

5. Public Comment

6. Committee Member Comments

7. Adjournment

FINANCE & ADMINISTRATION COMMITTEE MEETING

Monday September 19th, 2016

MINUTES – DRAFT

Hampden Town Office

Attending:

<i>Councilor Greg Sirois, Chair</i>	<i>Town Manager Angus Jennings</i>
<i>Mayor David Ryder</i>	<i>Assessor Kelly Karter</i>
<i>Councilor Ivan McPike</i>	<i>Resident Cynthia Gardella</i>
<i>Councilor Mark Cormier</i>	<i>Resident Janet Hughes</i>
<i>Councilor Terry McAvoy</i>	<i>Resident Nichole Sirois</i>
<i>Councilor Dennis Marble</i>	<i>Resident Paul Phelps</i>
<i>Councilor Stephen Wilde (arr. 6:05)</i>	<i>Other residents (names unknown)</i>

Chairman Sirois called the meeting to order at 6 p.m.

1. **Meeting Minutes – September 8th, 2016** – *Motion by Councilor Marble seconded by Councilor McPike to approve the minutes as written. Approved 6-0.*
2. **Review & Sign Warrants** – *Warrants were reviewed and signed by Committee members.*
3. **Old Business**
 - a. **Consideration of amendments to Town Council Rules** – *Manager Jennings summarized the revisions made based on the Committee's direction at the September 8 meeting. Motion by Councilor McPike, seconded by Councilor McAvoy to approve the Council Rules as amended. [Councilor Wilde arrived at the meeting.] Motion passed 6-1 with Councilor Wilde opposed.*
4. **New Business**
 - a. **Consideration of the nomination of Cynthia Gardella to the Dyer Library Board of Trustees** – *Chairman Sirois invited Ms. Gardella to introduce herself and discuss her interest in serving on the Library Board. She is a Professor of Psychology at the University of Maine and said she has lived in Hampden for 15 years. She expressed her longstanding interest in the Library, her family's use of the Library, and*

her interest in children's programming and expanded programming for teens. Motion by Councilor McPike seconded by Councilor Marble to recommend Council appointment of Cynthia Gardella to the Library Board of Trustees. Motion passed 7-0.

- b. Consideration of ratifying the Environmental Trust Committee's appointment of Ken White as the Neutral Member of the Environmental Trust Committee –** *Motion by Councilor McPike seconded by Mayor Ryder to recommend Council ratification of Ken White's appointment to the Environmental Trust Committee. Motion passed 7-0.*
- c. Tax assessment and valuation report for the Skehan Center – requested by Councilor McAvoy –** *Manager Jennings invited Assessor Kelly Karter to present to the Committee the assessed valuations of the Historic Hampden Academy, which comprises four real estate parcels. Assessor Karter presented last year's and current year's valuations, and the underlying methodology, noting that current year's valuations increased to reflect improvements that have been made to the property. She noted that there are documented environmental remediation that will be needed to bring portions of the property into productive use, and that the fact these sections are not in use results in a reduction of assessed values. Councilor McAvoy asked whether another building would be treated the same way, and Assessor Karter responded that while the actual conditions of each property may differ, the methodology and approach is the same. Manager Jennings asked that she provide a brief summary of the value approach and the income approach to assessments of commercial property, and she did so. Councilor McAvoy asked why the building next door is valued for \$2.2 Million. Assessor Karter said that the building was sold for \$900,000, then major improvements were made after this sale including lab space, electrical, and renovations down to the studs. From an assessing standpoint it is a very different building than the Historic Hampden Academy.*
- d. MRC Board of Directors Election – Candidate nomination form –** *Councilor McPike noted that he has served on the MRC Board in the past. Councilor Sirois said he thinks Hampden should have representation on this Board. Manager Jennings noted that, a year ago, the town attorney had advised that the Manager's presence on the MRC Board would have represented a conflict of interest, but that this was in significant part – if not wholly – due to the then-pending permitting, and the Manager's role in that process on the Town's behalf. He suggested that an updated opinion from the town attorney be requested regarding the potential for a member of the Council to*

serve this role. The Committee agreed, and this item will be continued to the next agenda.

- e. **Consideration of request for authorization to designate Manager Jennings as the voting delegate for the Town of Hampden at the Maine Municipal Association Annual Business meeting – Motion by Councilor McPike, seconded by Councilor Marble, to recommend that the Council designate Manager Jennings as the voting delegate for the Town of Hampden at the Maine Municipal Association Annual Business meeting. Motion passed 7-0.**

- f. **Consideration of request to use Matching Grant Reserve funds in the amount of \$571.66 as the Town's share of an MMA Safety Grant award of \$1,142.41 for the purchase of a ballistic shield – Councilor McPike said that, once a ballistic shield is obtained, it should be put in a truck so it's ready when and where needed. Motion by Councilor Marble, seconded by Councilor McAvoy, to recommend Council authorization of \$571.66 from the Matching Grant Reserve as the Town's share of an MMA Safety Grant award of \$1,142.41 for the purchase of a ballistic shield. Motion passed 7-0.**

- g. **Consideration of request for authorization for cutting, stumping, grinding, permitting and site preparation on the Lura Hoit Pool site for the purpose of additional recreational fields and parking – referral from Services Committee – Prior to Committee discussion of this item Councilor McAvoy introduced a Point of Order. He stated that, due to Councilor Sirois' wife serving on the Bronco Travel Soccer Club (BTSC) Board, he feels there is a need for the Committee to determine if a conflict of interest exists.**

Due to the nature of the Point of Order, Councilor Sirois turned over chairmanship of this portion of the meeting to Mayor Ryder. Councilor Sirois said that, for the good of the town, he would be willing to abstain from votes.

Mayor Ryder said that the proposal does not relate solely to the BTSC. Councilor McAvoy said that the need for fields is due to the loss of use of the Bouchard Fields, and that new fields would benefit BTSC. Mayor Ryder said that the athletic fields may not be limited to soccer fields, and may include fields that would be used by, for instance, Little League.

Councilor Marble said that he sees merit in Councilor McAvoy's point, and that this should be resolved one way or another given the importance of this matter. Resident Janet Hughes asked Councilor Sirois whether he would abstain only from tonight's votes or also from

future votes, but Mayor Ryder responded that under the Council Rules it is not Councilor Sirois' decision but rather whether the Council (or Committee) approves his ability to abstain. He put to a vote of the six members other than Councilor Sirois the question of whether Councilor Sirois should abstain. The vote was split, 3-3, with Councilors McAvoy, Wilde and Marble voting that he should abstain and Councilors Ryder, Cormier and McPike voting that he should not abstain. Mayor Ryder declared that the vote was a tie, and did not pass for lack of a majority.

Councilor Marble noted that, because he was not in attendance at last week's Services Committee meeting at which this matter was referred, he is supportive of the project generally but would like to better understand what exactly is being proposed.

Mayor Ryder said that he'd like to prepare the site for future work, including cutting trees, stumping and grinding, and using the grindings around the site perimeter. He said that DEP approval would be needed to add impervious surface to the site and for stormwater management. Reserve funds were budgeted for the DEP permitting process.

Councilor McAvoy said that the figure of \$3,500 per acre at ten acres had been discussed at the Services Committee, and he asked how we got to the proposal for \$50,000. Mayor Ryder said that \$50,000 is what's budgeted and would get us started in moving forward.

Councilor Marble sought to clarify that a "yes" vote would authorize referral to the Council. He asked whether anything had been done or would be done to notify the public. Mayor Ryder said there would be notice to neighbors and a display board at the town offices and pool.

Motion by Councilor McPike seconded by Councilor Marble to refer this question to Council with a favorable recommendation.

During discussion, Councilor McAvoy asked Manager Jennings whether this was a capital project. Manager Jennings said that it is his opinion that the project as a whole is a capital project, noting that the IRS considers a capital project an investment in permanent or long-term improvements that add value to property. Councilor McAvoy referred to Sec. 705 of the Town Charter which set out the requirements for a Capital Program, including a list of all capital projects with cost estimates, recommended time schedules, and estimated annual operating and maintenance costs. He said that it appears to him this will be a once a year funding item, and asked if there is a mechanism other than the Capital Program to undertake such a project.

Mayor Ryder said that he doesn't know that the initial work would represent an improvement to the property. He does not see a capital improvement taking place. Councilor McAvoy asked at what point does it become a capital project. Mayor Ryder said that it doesn't add value until the Council approves construction of athletic fields, parking etc.

Resident Janet Hughes asked a question about project costs. Mayor Ryder said that the agenda item delineates eligible expenses. Councilor McAvoy said that the initial steps should be considered part of a capital project, and that the Town Charter is very prescriptive. Mayor Ryder said that it hasn't been called a capital project.

Manager Jennings discussed the relationship between the Capital Program and reserve funding. He said that, until this recent FY17 budget cycle, he is not aware that the Council has ever formally adopted a Capital Program in the form prescribed by Charter, but that many capital projects have been undertaken over the years. He said that he had organized the budgeting process such that the Capital Program would provide a basis for proposed reserve funding, and that the numbers in the reserve budget were reflective of the Capital Program. He brought this forward because he thought the approach made sense, but that he's not aware that there's a requirement that it be handled this way. He said that, while the Capital Program is surely not perfect, it is a major improvement from previous budget cycles in which no Capital Program of any kind was approved. He said that the Capital Program includes all information that was available at the time regarding project costs, timelines etc., but that the Town does not have the finance staff capacity to work up detailed costs, including operations and maintenance costs, for every item in the Capital Program. He cautioned against the "perfect becoming the enemy of the good."

Councilor Marble noted that the Council has been talking about the need for more athletic fields in some form or another for over a year.

Councilor McPike's motion was put to a vote and passed 5-2, with Councilors Cormier and Wilde opposed.

Councilor McAvoy made a motion for reconsideration, to take place at the October 17 Finance Committee meeting. Mayor Ryder noted that the Council Rules allow for a motion to reconsider from a member who voted in the majority (which Councilor McAvoy did). At 6:55 PM, he called for a 5-minute recess to review procedural requirements.

The Committee reconvened at 7:00 PM, and Mayor Ryder said that the Council Rules allow for reconsideration but do not allow the member

making the motion to dictate on what date reconsideration will take place. The Council Rules provide for reconsideration "at the same, or the next stated meeting, but not afterwards." He said that this item would be reconsidered at the October 3 meeting of the Finance Committee.

- h. Consideration of request to use Recreation Area reserve funds (account number 3-767-00), for the purpose of site work for additional recreational fields (up to \$50,000) and wetlands delineation and DEP permitting for additional parking (up to \$50,000), both at the Lura Hoit Pool site – This item was not taken up because there was not enough time prior to the Council meeting scheduled to begin at 7 PM.**
- i. Request for Council waiver of the bid procedure guidelines for authorized activities at the Lura Hoit Pool site – This item was not taken up because there was not enough time prior to the Council meeting scheduled to begin at 7 PM.**

5. Public Comment – Resident Paul Phelps said he was glad to see the Council focused on the need for more athletic fields. Councilor McAvoy said he would like more public exposure and transparency, and would like the Town Manager to get the word out.

6. Committee Member Comments – None.

7. Adjournment

The meeting was adjourned at 7:02 p.m.

Respectfully submitted –
Angus Jennings, Town Manager



Angus Jennings <townmanager@hampdenmaine.gov>

RE: FW: Emailing: 151111174404.PDF

1 message

Edmond J. Bearor <ebearor@rudmanwinchell.com>
To: Angus Jennings <townmanager@hampdenmaine.gov>
Cc: "Lynn E. Brochu" <lbrochu@rudmanwinchell.com>

Thu, Sep 29, 2016 at 4:49 PM

Angus,

I have considered the question of whether there is an actual or potential conflict in the event a Hampden Councilor serves simultaneously on the Board of Directors of the Municipal Review Committee, (MRC), given the fact that the town and the MRC are contractually obligated to each other by virtue of the Joinder Agreement entered into earlier this year by the parties. I don't think there is a conflict. To the extent that MRC decisions on issues having a unique impact on Hampden that wouldn't be similar to the impact on the other communities which contract with MRC, then I would advise the Councilor to abstain from such discussion. Likewise, should the town face a situation that is potentially adverse to the MRC, the Councilor might, and I emphasize might, be well advised to abstain from participating in any deliberation and decisions. However, in both instances, the facts of the situation would need to be examined to make a determination of whether there was a conflict.

So, in short, I don't believe there is an inherent conflict in holding the two positions simultaneously. Rather, the situation needs to be monitored for specific matters that might give rise to recusal, lest one try to serve two masters at once and do a disservice to each.

**MUNICIPAL REVIEW COMMITTEE, INC.
2016 Election – BOARD OF DIRECTORS
NOMINATION FORM**

Submitted by MRC Member: _____
(Town/city/county/regional association)

Nominee Name: _____

Circle and list all that apply to Nominee for questions 1. through 3. below:

1. YES / NO - Legal Resident of MRC Member: _____
2. YES / NO - Elected or Appointed Official of MRC Member: _____
3. YES / NO – Employee of MRC Member: _____

Mailing Address: _____

Telephone: _____ FAX: _____ Email: _____

The below provided biographical information is to be provided by the nominee. The information, as provided, will accompany the voting ballot provided for the MRC membership's consideration.

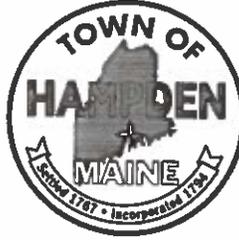
Biography:

REMINDER: The final slate is limited to the first nine (9) nominations received

Please return this form by mail on or before October 19, 2016 to:
Municipal Review Committee, Inc.
395 State Street
Ellsworth, Maine 04605

Delivery via FAX is permitted at: (207) 667-2099 Attn: Greg Lounder or via email attachment to: glounder@mrcmaine.org

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



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

TO: Finance Committee
FROM: Angus Jennings, Town Manager
DATE: September 27, 2016
RE: Procedural interpretation, Motions to Reconsider

Following the previous Finance Committee meeting, at which a motion to reconsider resulted in the postponement of one item until October 3, I have reviewed the relevant sections of Robert's Rules of Order ("RROO") to determine the appropriate procedure for handling such a motion in the future.

It appears to me that a motion to reconsider:

- a. must be seconded in order to be taken up (RROO p. 309, item 4; and p. 320, line 15); and
- b. requires a majority vote in order to go into effect (RROO p. 309, item 7).

If a motion to reconsider is within a "standing or special committee," its adoption requires a two-thirds vote (RROO p. 319, item 3). It will be important to clarify, in the Council Rules, whether Committees are considered (and would operate under RROO for) standing or special committees, or operate in the same manner as the Council.

With regard to the timing of reconsideration, if a motion to reconsider is approved, RROO provides that "privilege [be] accorded the mover in regard to the time at which reconsideration takes place" (RROO p. 312, line 22 to p. 313 line 2). This section continues, "So long as business is not unreasonably delayed and the mover of the reconsideration acts in good faith, he is entitled to have it take place at a time he feels will make for the fullest and fairest reexamination of the question."

Because the motion to reconsider at the previous meeting was introduced at 6:55 PM (shortly before the 7 PM Council meeting), there was not time to get to a clear answer on this procedure, so the motion was accepted as made (without a second or a vote).

In keeping with that motion, the item for reconsideration will be included on the 10/3 Finance and Council agendas. The two items that did not come up in Finance for lack of time will also be on the 10/3 agendas.

I have attached relevant excerpts that inform my opinion on this matter, and have included this procedural matter on Monday's Administration & Finance Committee agenda for discussion and clarification.

1 If it is desired to take up the question at a later time, there may be added to either of the above forms, for example, the words, "and that the resolution be considered at 4 P.M." (in which case it is a general order for that time), or, "and that it be made a special order for . . ."

5 If the motion to discharge the committee is adopted and includes no provision for reconsideration at a later time, and if the question was referred while pending (by means of the subsidiary motion to *Commit*), the chair announces the result and immediately states the question brought out of committee. For example:

CHAIR: There are two thirds in the affirmative and the committee is discharged. The question is now on the resolution, "*Resolved*, . . ."

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§37. RECONSIDER

Reconsider—a motion of American origin—enables a majority in an assembly, within a limited time and without notice, to bring back for further consideration a motion which has already been voted on. The purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the vote.

To provide both usefulness and protection against abuse, the motion to *Reconsider* has the following *unique characteristics*:

30 a) It can be made only by a member who voted with the prevailing side. In other words, a reconsideration can be moved only by one who voted *aye* if the motion involved was adopted, or *no* if the motion was lost. (In standing and special committees, the motion to *Reconsider* can be made by any member who did not vote on the losing

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side—including one who did not vote at all.) It should be noted that it is possible for a minority to be the prevailing side if a motion requiring a two-thirds vote for adoption is lost. A member who voted by ballot may make the motion if he is willing to waive the secrecy of his ballot. Also, if the motion to be reconsidered was adopted by unanimous consent, all the members present at the time of the adoption are in the same position as if they had voted on the prevailing side and qualify to move to reconsider. This requirement for making the motion to *Reconsider* is a protection against its dilatory use by a defeated minority—especially when the motion is debatable (see Standard Characteristic 5, below) and the minority is large enough to prevent adoption of the *Previous Question* (16). When a member who cannot move a reconsideration believes there are valid reasons for one, he should try, if there is time or opportunity, to persuade someone who voted with the prevailing side to make such a motion. Otherwise, he can obtain the floor while no business is pending and briefly state his reasons for hoping that a reconsideration will be moved, provided that this does not run into debate; or, if necessary while business is pending, he can request permission to state such reasons (see, *Request for Any Other Privilege*, pp. 287-88).

b) The making of this motion is subject to time limits, as follows: In a session of one day—such as an ordinary meeting of a club or a one-day convention—the motion to *Reconsider* can be made only on the same day the vote to be reconsidered was taken. In a convention or session of more than one day, a reconsideration can be moved only on the same day the original vote was taken or on the next succeeding day within the session on which a business meeting is held. These time limitations do not apply to standing or special committees (see pp. 318-19).

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- 1 c) The *making* of this motion has a higher rank than its *consideration*; that is, the motion can be made and seconded at times when it is not in order for it to come before the assembly for debate or vote. In such a case it can be taken up later, even after it would be too late to move it in the first place. If the motion to *Reconsider* is introduced at a time when it cannot be taken up, the chair does not state the question on it as pending, but asks the secretary to record the motion as made and seconded. This temporarily suspends any action growing out of the vote it is proposed to reconsider. While a motion to reconsider the vote on a main motion has this status, a member can bring the motion before the assembly at any time when its consideration is in order. When he does this, he is said to *call up* the motion to *Reconsider*. Except by unanimous consent, a motion to *Reconsider* that has not been finally disposed of cannot be withdrawn after it is too late to renew it; that is, it can be withdrawn only within the same time limits as for making the motion in the first place.

Standard Descriptive Characteristics

The motion to *Reconsider*:

- 25 1. a) With respect to *making* the motion, takes precedence over any other motion whatever and yields to nothing.* The making of this motion is in order when any other question is pending, and also after the assembly has voted to adjourn, if the member rose and addressed the chair before the chair de-

*The motion to *Reconsider* has a special form known as *Reconsider and Enter on the Minutes*, however, which outranks the regular form of the motion (see pp. 321-24).

- clared the meeting adjourned. If a reconsideration appears to require immediate action in the latter case, the vote on adjourning should be retaken. Even while an order for the *Previous Question* is in effect on a motion which is immediately pending, until the chair actually begins to take the vote, the making of a motion to *Reconsider* an earlier vote on another question is in order.*
- b) With respect to its *consideration*, has only the same rank as that of the motion to be reconsidered, although it has the right of way in preference to any new motion of equal rank until such a motion has been stated by the chair as pending. (The procedure for calling up a motion to *Reconsider* in preference to a main motion just made by someone else, and relating to another matter, is similar to that described for moving to *Take from the Table*; see 34.) Provided that no question is pending, the reconsideration of a vote disposing of a main motion, either temporarily or permanently, can be taken up even while the assembly is in the midst of taking up the general orders.

2. Can be applied to the vote on any motion except: (a) a motion which can be renewed (see pp. 328-29); (b) an affirmative vote whose provisions have been partly carried out;** (c) an affirmative vote in the nature of a contract when the party to the contract has been notified of the outcome; (d) any vote which has caused something to be done that it is impossible to undo; (e) a vote on a motion to *Reconsider*; or (f) when practically

*The *Previous Question* itself can be reconsidered only before any vote has been taken under it.

**Exception (b) does not apply to a motion to *Limit or Extend Limits of Debate*, on which the vote can be reconsidered even if such an order has been partly carried out.

1 the same result as desired can be obtained by some
 other parliamentary motion. In the case of subsidiary or
 incidental motions that adhered to a main motion,
 5 however, *Reconsider* can be applied only in such a way
 that the reconsideration takes place while the main mo-
 tion to which they adhered is pending—either before
 the main motion is voted on or when it is being recon-
 sidered at the same time. The same is true where one
 10 subsidiary or incidental motion adheres to another; for
 example, *Reconsider* can be applied to the vote on a sec-
 ondary amendment only in such a way that the recon-
 sideration takes place before the primary amendment
 involved is voted on or while the primary amendment is
 being reconsidered.

15 By application of these principles, it follows that cer-
 tain motions cannot be reconsidered, while in the case of
 others only the vote on an affirmative result can be re-
 considered, and with still others, only the vote on a neg-
 ative result. (See tinted pp. 47-48 for a list of the motions
 20 in each of these categories; see also Standard Characteris-
 tic 8 in the sections on each individual motion.)

The motion to *Lay on the Table* can be applied to the
 motion to *Reconsider*. Motions to *Postpone to a Certain*
Time, to *Limit or Extend Limits of Debate*, and for the
 25 *Previous Question* can also be applied to it when it is de-
 batable (see Standard Characteristic 5). When a motion
 to *Reconsider* is postponed or laid on the table, all ad-
 joining questions are also postponed or go to the table.
 Motions to *Postpone Indefinitely*, *Amend*, or *Commit*
 cannot be applied to a motion to *Reconsider*.

30 3. Is in order (with respect to *making* the motion) even
 after another person has been assigned the floor, so long
 as he has not actually begun to speak. The *calling up* of a
 motion to *Reconsider* is out of order when another has
 35 the floor.

4. Must be seconded at the time it is made. Unlike the
 making of the motion, which must be done by a person
 who voted with the prevailing side, the seconding can
 be done by any member regardless of how he voted on
 5 the motion to be reconsidered. The *calling up* of the
 motion to *Reconsider* does not require a second.

5. Is debatable in all cases in which the motion proposed to
 be reconsidered is debatable, and when debatable, opens
 to debate the merits of the question whose reconsidera-
 10 tion is proposed. (See pp. 317-18, however, regarding a
 series of motions proposed to be reconsidered, and the
 question that is opened to debate in such a case.) When
 the motion proposed to be reconsidered is not debat-
 able—either because of its nature or because it is subject
 to an unexhausted order for the *Previous Question* 15
 (16)—the motion to *Reconsider* is undebatable. Simi-
 larly, if the *Previous Question* is in effect on a pending
 question or series of questions, and if a motion which is
 proposed to be reconsidered adheres to these pending
 20 question(s) in such a way that the reconsideration must
 be taken up before the *Previous Question* is exhausted,
 both the motion to *Reconsider* and the motion to be re-
 considered are undebatable—even if the latter motion
 was open to debate as its earlier consideration and the
Previous Question was ordered later.

6. Is not amendable.

7. Requires only a majority vote, regardless of the vote nec-
 25 essary to adopt the motion to be reconsidered. (But see pp.
 318-19 for a different rule in the case of standing and
 special committees.)

8. Cannot be reconsidered. If it is voted on and lost, the
 motion to *Reconsider* cannot be renewed except by
 unanimous consent. By the same principle, no question
 can be reconsidered twice unless it was materially
 30 amended during its first reconsideration.
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1 Further Rules and Explanation

5 **EFFECT OF MAKING A MOTION TO RECONSIDER.** The effect of *making* a motion to *Reconsider* is the suspension of all action that depends on the result of the vote proposed to be reconsidered, either until the assembly takes up the motion to *Reconsider* or until its effect terminates, as explained below.

10 *Actions That Are Suspended.* Cases where the making of a motion to *Reconsider* suspends action are not necessarily limited to the proposed reconsideration of a vote that was affirmative and that authorized or ordered the action that is suspended. A motion to *Reconsider* a negative vote may also cause suspension of some other action that was approved after the motion to be reconsidered was lost, if the adoption of the motion to be reconsidered would make the other action impossible. For example, assume that: (a) A motion to spend all of an available sum of money for library books is voted down. (b) A motion to spend the same money for athletic equipment is then made and adopted. (c) Before this equipment is purchased, it is moved to reconsider the vote on the motion to spend the money for books. If the motion to use the money for books is reconsidered and adopted, it will be impossible to buy athletic equipment. Therefore, the purchase of the athletic equipment must be held up until the reconsideration of the purchase of library books is completed or disposed of.

25 *Termination of the Suspension.* When a motion to *Reconsider* is made, any resulting suspension of action remains in effect either (a) until the motion to *Reconsider* has been voted on and, if the motion is adopted, until the reconsideration is completed; or (b) if the motion to *Reconsider* is not taken up, until the suspension terminates as follows: if no more than a quarterly time interval (p. 88) will elapse until the next regular session, the suspension terminates with

1 the adjournment of the next regular session; but if more than a quarterly time interval will intervene before the next regular session, the suspension terminates with the end of the same session in which the motion is made. If the motion to *Reconsider* is not called up within these limits of time, the situation becomes the same as if there had been no such motion, and the vote which it was proposed to reconsider—and any other action held up because of the proposed reconsideration—comes into full force, as if in effect, so far as applicable, from the time the vote was originally taken.

15 **TAKING UP THE MOTION TO RECONSIDER AT THE TIME IT IS MADE.** If a motion to *Reconsider* is made at a time when it can be taken up—that is, when the motion proposed to be reconsidered would be in order initially—the chair immediately states the question on the motion to *Reconsider* as pending before the assembly. In proposing a reconsideration of the vote on a main motion, it is usually better to make the motion to *Reconsider* when no other business is pending and the motion can be taken up immediately—unless it appears that there may be no such opportunity or there is an important reason for doing otherwise.

20 Whenver the motion to *Reconsider* is taken up, as noted in Standard Characteristic 5, it is debatable if the motion proposed to be reconsidered is debatable, and debate can go into the merits of the question proposed to be reconsidered. The right of each member to debate the motion to *Reconsider* is separate from the original consideration of the motion proposed to be reconsidered. Therefore, even if a member exhausted his right to debate in the original consideration and the motion to *Reconsider* is taken up on the same day, he still has the right to speak the regular number of times (twice unless the assembly has a special rule providing otherwise) in debate on the motion

1 to *Reconsider*. (For rules affecting a member's right to debate in the reconsideration if the motion to *Reconsider* is adopted, see pp. 313-14.)

5 If a motion to *Reconsider* is voted on and lost, the vote which it proposed to reconsider, and any action held up because of the proposed reconsideration, comes into full force, effective from the time the first vote was taken.

CALLING UP THE MOTION TO RECONSIDER

10 If a motion to *Reconsider* that involves a main motion cannot be taken up when it is made, then as long as its suspending effect lasts it can be called up and acted upon, when no question is pending, at any regular or adjourned meeting, or at any special meeting if announced in the call of that meeting. To call it up, a member obtains the floor and says, "Mr. President, I call up the motion to reconsider the vote on the motion . . . [identifying it]." No second is necessary, since the motion to *Reconsider* was seconded at the time it was made. When this motion is called up, the chair immediately states the question on it as pending (see *Form and Example*).

20 *Privilege Accorded the Mover in Regard to the Time at Which Reconsideration Takes Place.* Although any member can call up the motion to *Reconsider* as just described, usually no one but the mover of the reconsideration calls it up on the day the motion is made—at least in cases where the session is to last beyond that day and there is no need for immediate action. The reason is that the mover may wish time to assemble new information, or—if the reconsideration is moved on the same day the original vote was taken—he may want the unrestricted debate that will be allowable if the motion is taken up on another day (see below). So long as business is not unreasonably delayed and the mover of the reconsideration acts in good faith, he is entitled to have it take place at a time he feels will

make for the fullest and fairest reexamination of the question.

5 *Duty of the Chair When Failure to Call Up the Motion May Do Harm.* In cases where a failure to call up a motion to *Reconsider* may do harm, the chair has the duty to point out the situation to the assembly. Suppose, for example, that in a meeting of an ordinary society that will meet within a quarterly time interval (p. 88), there has been a motion to *Reconsider* a vote to do something that can only be done before the next meeting. Should the present meeting adjourn without taking up the motion to *Reconsider*, the measure proposed to be reconsidered would be killed unless an adjourned meeting or special meeting were held to consider it. Therefore, if this meeting seems on the point of adjourning before the motion to *Reconsider* has been taken up, the chair should explain the facts and suggest that someone call up the motion. If it has been moved to adjourn under these circumstances, the motion to *Adjourn* can be withdrawn or voted down—or the time can be fixed for an adjourned meeting, which can be done either before or after the vote on adjournment has been taken (see *Fix the Time to Which to Adjourn*, 22).

25 **EFFECT OF ADOPTION OF THE MOTION TO RECONSIDER; RULES GOVERNING DEBATE ON THE RECONSIDERATION.** The effect of the adoption of the motion to *Reconsider* is immediately to place before the assembly again the question on which the vote is to be reconsidered—in the exact position it occupied the moment before it was voted on originally.

30 Rules governing debate on the reconsideration of the vote are as follows:

Reconsideration of a Vote on the Same Day. A member's right to debate the reconsideration of a vote is independent of the extent to which he took part in debate on

1 the motion to *Reconsider*. If the reconsideration takes place on the same day as the first consideration, however, anyone who exhausted his right to debate in the first consideration will not be able to speak on it again during the reconsideration, without permission of the assembly. (But such a member can pursue an equivalent purpose while the motion to *Reconsider* is pending, since the motion proposed to be reconsidered is also open to discussion in debate on the motion to *Reconsider*.)

10 *Reconsideration of a Vote on a Later Day.* Every member's right to debate in the reconsideration of a question begins over again, regardless of speeches made previously, if reconsideration takes place on a day other than that on which the vote to be reconsidered was taken.

15 *Reconsideration Under an Order Limiting or Extending Limits of Debate.* If a vote on one of a series of motions is taken under an order limiting debate or for the *Previous Question*, and then is reconsidered before such an order is exhausted (as explained in the sections on those motions, 15 and 16), the same restrictions continue to apply to debate both on the motion to *Reconsider* and on the reconsideration. In the case of reconsidering a motion similarly covered by an unexhausted order extending limits of debate, the extension applies only to the reconsideration itself, not to debate on the motion to *Reconsider*. When reconsideration takes place after exhaustion of the *Previous Question* or a limitation or extension of debate, these orders do not come back into force, and debate or amendment is subject to the ordinary rules.

30 RECONSIDERATION OF SUBSIDIARY, PRIVILEGED, AND INCIDENTAL MOTIONS. Conditions under which subsidiary, privileged, or incidental motions can be reconsidered depend on what other motions are pending at the time the reconsideration is moved, as follows:

1 To *Reconsider a Subsidiary, Privileged, or Incidental Motion: Reconsideration Moved While the Main Question Is Pending.* When a main motion is pending (with or without a series of adhering motions) and it is moved to reconsider the vote on a related subsidiary, privileged, or incidental motion, the motion to *Reconsider* becomes (a) immediately pending or (b) pending at a lower position in the series, depending on whether the motion proposed to be reconsidered would then be in order if moved for the first time.

10 Referring to case (a) above, the motion to *Reconsider* becomes the immediately pending question at once if no other motions that would take precedence over the motion proposed to be reconsidered are also pending (see 5 and 6; see also the chart on tinted pp. 3-5). For example, assume that it is moved and seconded to reconsider a negative vote on a motion to refer the pending main question to a committee. If the main question is now pending alone, or if no other questions are pending except motions to *Postpone Indefinitely* or to *Amend* (which rank below the motion to *Commit*), the chair at once states the question on the motion to *Reconsider* as immediately pending.

20 On the other hand, referring to case (b) above, if a series of motions is pending with the main question and one or more of them would take precedence over the related motion whose reconsideration is proposed, the motion to *Reconsider* does not become the immediately pending question when it is moved, but it becomes pending as one of the series, at a position corresponding to the rank of the motion proposed to be reconsidered. In such a case, the motion to *Reconsider* is taken up immediately after voting has been completed on all motions that would take precedence over the motion to be reconsidered if that were pending. For example, suppose that while a main motion, an amendment, and a motion to lay the pending questions on the table are pending, it is moved to reconsider a previous negative vote on referring the same main question and amendment to a

1 committee. The order of rank, from highest to lowest, of
 the four motions is: (1) *Lay on the Table*, (2) *Commit*, (3)
Amend, and (4) the main motion. This is the order in
 which these motions would be voted on, and the reverse of
 5 the order in which they would be made. The procedure in
 this instance is as follows: The chair takes note of the fact
 that the motion to *Reconsider* has been made and seconded,
 instructing the secretary to record it. He then proceeds to
 take the vote on the motion to *Lay on the Table*. If that mo-
 10 tion is lost, he automatically states the question on the mo-
 tion to reconsider the vote on the referral to the committee,
 since the motion to *Commit* is next lower in rank. If the
 motion to *Reconsider* is adopted, the motion to *Commit* is
 then reconsidered and voted on again; and if this is lost, the
 15 question is then stated on the amendment. (If the motion
 to *Lay on the Table* is adopted, then whenever the questions
 are taken from the table, the immediately pending question
 is the motion to *Reconsider*, and from this point the proce-
 dure is the same as above.)

20 If the reconsideration of a primary amendment is
 moved while another amendment of the same degree is
 pending, the pending amendment is disposed of first. Then
 the chair states the question on the motion to reconsider
 the amendment previously acted upon.

25 When it is moved to reconsider a debatable subsidiary
 or incidental motion which relates to a pending main ques-
 tion or a series of pending questions (in which case the mo-
 tion to *Reconsider* is debatable, as noted in Standard
 Characteristic 5), debate on the motion to *Reconsider* can
 30 go into the merits of the motion *proposed to be reconsidered*,
 but not into the merits of any other pending question. For
 example, in the debate on a motion to reconsider an
 amendment to the pending main question, the merits of the
 amendment are open to discussion, but not those of the
 35 main question apart from the amendment.

1 *To Reconsider an Adhering Subsidiary or Incidental Mo-
 tion: Reconsideration Moved After the Main Question Has
 Been Acted Upon.* If it is desired to reconsider the vote on
 5 a subsidiary or incidental motion (an amendment, for ex-
 ample) after the main question to which it adhered has been
 finally disposed of (by adoption, rejection, or indefinite
 postponement), the vote on the main question, or on its
 indefinite postponement, must also be reconsidered (see
 10 also Standard Characteristic 2). In such a case, one motion
 to *Reconsider* should be made to cover both the vote on the
 subsidiary or incidental motion whose reconsideration is
 desired, and the vote on the main question (or its indefinite
 postponement). The member who makes this motion to
 15 *Reconsider* must have voted with the prevailing side in the
 original vote on the subsidiary or incidental motion—that
 is, on the motion which will be reconsidered first if the re-
 consideration takes place.

The same principle applies to the reconsideration of a
 20 secondary amendment after the related primary amend-
 ment has been voted on. If such a reconsideration is desired
 while the main question is still pending, the primary
 amendment must also be reconsidered. If it is desired to re-
 consider the secondary amendment after the main question
 25 has been finally disposed of, the secondary amendment, the
 primary amendment, and the main question must all be re-
 considered, and one motion to *Reconsider* should be made
 covering the votes of these three motions.

When a motion to *Reconsider* covers the votes on two or
 30 more connected motions, not all of these questions can be
 discussed in debate on the motion to *Reconsider*; but only the
 one that will be voted on first if the motion to *Reconsider* is
 adopted. Thus, if the motion is to reconsider the votes on a
 resolution, a primary amendment, and a secondary amend-
 35 ment, only the secondary amendment is open to debate in
 connection with debate on the motion to *Reconsider*. If this

1 motion to *Reconsider* is adopted, the chair states the ques-
 tion on the secondary amendment and recognizes the
 mover of the reconsideration as entitled to the floor. The
 question is now in exactly the same condition as it was just
 5 before the original vote was taken on the secondary amend-
 ment.

If a main motion is included in a series covered by a sin-
 gle motion to *Reconsider*, as just described, the reconsid-
 eration is in order at the same times as if it had been moved
 10 to reconsider the main motion alone. If the motion to *Re-*
consider is made at a time when it cannot be taken up, it sus-
 pends action in the way described on pages 310-311 and
 stands until called up, subject to the same conditions as if it
 applied only to the main motion.

15 If a motion to reconsider the vote on an adhering sub-
 sidiary or incidental motion (an amendment, for example)
 is made after the main question to which it adheres has
 been either postponed to a certain time or laid on the table,
 the motion to reconsider is properly noted and is taken up
 20 in due course (pp. 320-21) if and when the main motion is
 again brought before the assembly. The same is true if the
 motion to reconsider the adhering subsidiary or incidental
 motion was made before, but was not called up before, the
 main question was postponed or laid on the table. On the
 25 other hand, if a main question is referred to a committee,
 no motion to reconsider the vote on an adhering subsidiary
 or incidental motion is in order while the question is in the
 hands of the committee, and any such motion to reconsider
 that was made but not taken up prior to referral is thereafter
 30 ignored.

RECONSIDERATION IN STANDING AND SPE-
 CIAL COMMITTEES. Reconsideration in a standing or
 a special committee (50) differs from reconsideration in a
 35 meeting of the assembly in the following respects:

1) A motion to reconsider a vote in the committee can be
 made and taken up *regardless of the time that has elapsed*
 since the vote was taken, and there is no limit to the
 number of times a question can be reconsidered.

2) The motion can be made by any member of the com-
 mittee who *did not vote with the losing side*; or, in other
 words, the maker of the motion to *Reconsider* can be
 one who voted with the prevailing side, or one who did
 not vote at all, or even was absent.

3) Unless all the members of the committee who voted
 with the prevailing side are present or have been noti-
 fied that the reconsideration will be moved, it requires
 a *two-thirds vote* to adopt the motion to *Reconsider*.

In other respects, reconsideration in a committee is the
 same as in a meeting of the society or its board. A vote can-
 not be reconsidered in a committee of the whole.

Form and Example

This motion may be made in forms such as the following:

- a) For the reconsideration of a main question: "I move to
 reconsider the vote on the resolution relating to the an-
 nual banquet. I voted for [or "against"] the resolution." 25
- b) To move the reconsideration of a subsidiary, privileged,
 or incidental motion related to the main question, while
 the main question is pending: "I move to reconsider the
 vote on the amendment to strike out 'Friday' and insert
 'Saturday.' I voted for [or "against"] the amendment." 30
- c) When the reconsideration of a subsidiary or incidental
 motion is desired after the main question to which it
 adhered has been acted upon: "I move to reconsider
 the votes on the resolution relating to the annual ban-
 quet and on the amendment to strike out 'Friday' and

1 insert 'Saturday.' I voted for [or "against"] the amendment."

5 If the maker of the motion to *Reconsider* fails to state which side he voted on, the chair, before making any other response, directs the member to do so:

10 CHAIR: The member moving the reconsideration must state how he voted on the resolution ["motion," "amendment," etc.].

If the resolution was adopted by unanimous consent, the chair should ask whether the member was present at the time. If the member did not vote with the prevailing side, another member who did so can make the motion to *Reconsider*, if he desires. The motion must be seconded.

15 If it is in order to take up the motion to *Reconsider* when it is made, the chair immediately states the question as follows:

20 CHAIR: It is moved and seconded to reconsider the vote on the following resolution [reading it].

If it is not in order to take up the motion to *Reconsider* when it is moved, the chair says instead:

25 CHAIR: It is moved and seconded to reconsider the vote on the resolution relating to . . . The secretary will make a note of it.

He then continues with the pending business.

30 When it is in order to call up the motion to *Reconsider* and a member wishes to do so, the member rises and addresses the chair:

MEMBER A (obtaining the floor): I call up the motion to reconsider the vote [or "votes"] on . . .

The chair proceeds:

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§37 CHAIR: The motion to reconsider the vote [or "votes"] on . . . is called up. The question is on the motion to reconsider . . . [etc.].

5 If a reconsideration that could not be taken up when it was moved is one that later comes before the assembly automatically, then when that point is reached, the chair says, for example:

10 CHAIR: The question is now on the motion to reconsider the vote on the amendment to . . .

After debate on a motion to *Reconsider*, assuming that this motion is adopted, the chair puts the question and states the result as follows:

15 CHAIR: As many as are in favor of reconsidering the vote on the resolution relating to the annual banquet, say *aye*. . . Those opposed, say *no*. . . The ayes have it and the vote on the resolution is reconsidered. The question is now on the resolution, which is . . . [etc.].

Or:

25 CHAIR: The ayes have it and the votes on the resolution and the amendment are reconsidered. The question is now on the amendment, which is . . . [etc.].

Note that if the result of the vote on the motion to *Reconsider* is negative, it is the only vote taken. But if the motion to *Reconsider* is adopted, this is followed—after any debate—by the taking of the vote or votes that are consequently reconsidered.

Reconsider and Enter on the Minutes

35 *Reconsider and Enter on the Minutes* is a special form of the motion to *Reconsider* that has a different object from

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the regular motion. Its purpose is to prevent a temporary majority from taking advantage of an unrepresentative attendance at a meeting to vote an action that is opposed by a majority of a society's or a convention's membership. The effect of this form of the motion arises from the fact that when it is moved—on the same day that the vote to be reconsidered was taken—it cannot be called up until another day, even if another meeting is held on the same day.* Thus, with a view to obtaining a more representative attendance, it ensures reconsideration of a question on a different day from the one on which the question was put to vote.

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15 DIFFERENCES FROM THE REGULAR FORM OF THE MOTION. *Reconsider and Enter on the Minutes* differs from the regular form of *Reconsider* in the following respects:

- 1) It can be moved only on the same day that the vote proposed to be reconsidered was taken. The regular form of the motion to *Reconsider* can be used on the next succeeding day within the session on which a business meeting is held.
- 2) It takes precedence over the regular motion to *Reconsider*. Also, this motion can be made even after the vote has been taken on the motion to *Reconsider*; provided that the chair has not announced the result of the vote. In this case the regular motion to *Reconsider* is then ignored. If it were not for the rule that the motion to *Reconsider and Enter on the Minutes* takes precedence over the regular motion to *Reconsider*, the motion to *Reconsider and Enter on the Minutes* would generally be forestalled by the regular motion, which would be voted

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* For an exception, see item (6) below.

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down, and then *Reconsider and Enter on the Minutes* could not be moved.

3) It can be applied only to votes that finally dispose of main motions; that is, to: (a) an affirmative or negative vote on a main motion; (b) an affirmative vote on postponing indefinitely; or (c) a negative vote on an objection to the consideration of a question, if the session extends beyond that day.

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4) It cannot be applied to votes on motions whose object would be defeated by a delay of one day. For example, a motion asking a visitor to address a convention the following day cannot have this motion applied to it.

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5) If more than a quarterly time interval (p. 88) will intervene before the next regular business session, it cannot be moved at the last business meeting of the current session.

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6) It cannot be called up on the day it is made, except that when it is moved on the last day—but not the last meeting—of a session of an organization that is not scheduled to meet again within a quarterly time interval (p. 88), it can be called up at the last business meeting of the session.

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After a motion to *Reconsider and Enter on the Minutes* has been called up, its treatment is the same as that of the regular motion to *Reconsider*. The name of this form does not imply that the regular motion to *Reconsider* is not also recorded in the minutes.

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PROCEDURE FOR USE OF THE MOTION. To illustrate the use of this form of the motion, suppose that at a long meeting of a county historical society, many members have left, unknowingly leaving a quorum composed mainly of a small group determined to commit the society to certain action that a few of those present believe would be opposed by most of the membership. A member in op-

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1 position can prevent the vote on such action from becoming final by moving "to reconsider and enter on the minutes the vote on . . ." To be in a position to do this, such a member—detecting the hopelessness of preventing an affirmative result on the vote—should vote in the affirmative himself. If the motion to *Reconsider and Enter on the Minutes* is seconded, all action required by the vote proposed to be reconsidered is suspended, and there is time to notify absent members of the proposed action.

10 If no member of the temporary minority voted on the prevailing side and it is too late for anyone to change his vote (see p. 395), notice can be given that a motion to rescind the vote will be made at the next meeting. At this next meeting, provided that such notice has been given, the motion to *Rescind* can then be adopted by a majority vote.

PROTECTING AGAINST ABUSES OF THE MOTION. The motion to *Reconsider and Enter on the Minutes* may occasionally be subject to attempted abuse, particularly in ordinary societies with single-meeting sessions, since it gives any two members power to hold up action taken by a meeting. In the average organization this motion should generally be reserved for extreme cases, and should be regarded as in order only when final decision on the question could, if necessary, wait until the next regular meeting, or when an adjourned or special meeting to take it up is a practical possibility.

If an actual minority in a representative meeting makes improper use of this motion by moving to reconsider and enter on the minutes a vote which requires action before the next regular meeting, the remedy is to fix the time for an adjourned meeting (9, 22) on another suitable day when the reconsideration can be called up and disposed of. In such a case, the mere making of a motion to set an adjourned meeting would likely cause withdrawal of the motion to *Reconsider and Enter on the Minutes*, since its object would be defeated.

RENEWAL OF MOTIONS; DILATORY AND IMPROPER MOTIONS

§38. RENEWAL OF MOTIONS

1 If a motion is made and disposed of without being adopted, and is later allowed to come before the assembly after being made again by any member in essentially the same connection, the motion is said to be *renewed*. Renewal of motions is limited by the basic principle that an assembly cannot be asked to decide the same, or substantially the same, question twice during one session—except through a motion to reconsider a vote (37) or a motion to rescind an action (35), or in connection with amending something already adopted (see also pp. 72-73). A previously considered motion may become a substantially different question through a significant change in the wording or because of a difference in the time or circumstances in which it is proposed, and such a motion may thus be in order when it could not otherwise be renewed.

20 The rules restricting renewal of motions do not apply to any motion that was last disposed of by being withdrawn. A motion that is withdrawn becomes as if it had never been made and can be renewed whenever it would be originally in order, since the assembly was never asked to decide it.

Town of Hampden
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TO: Finance Committee

FROM: Angus Jennings, Town Manager

DATE: September 27, 2016

RE: Borrowing terms for November referendum questions

As you know, the form of the November referendum Ordinances approved by the Town Council on September 8 included a Financial Statement of the Town Treasurer. In that Financial Statement, as required by law, I prepared my best estimate of the total costs for each borrowing item based on assumptions of interest rates (based on conversations with Bond Counsel and local bankers) and length of borrowing.

At the Council's September 19 hearing, the Council approved use of Ballot Consolidation for the November election. As a result, the information in the Financial Statements reviewed at the September 8 hearing – which had initially been intended to accompany the referendum questions on the ballot itself – will now be shared with voters through informational handouts that we prepare locally. This information will not be on the ballot itself.

This additional flexibility provided by the Ballot Consolidation format leads me to bring to the Finance Committee a recommendation to advertise estimates of borrowing terms that differ from those reviewed at the September 8 hearing. Those borrowing terms were based on a 15-year term, but a 15-year term would cost voters substantially more in interest than would a shorter term. (The 15-year term was initially prepared in response to Councilor McAvoy's request that a longer borrowing term be used in order to reduce annual payments). See attached estimates.

It is my opinion that we should modify the assumptions in the Financial Statements presented to voters to reflect a shorter term of borrowing, and reduced interest (and overall) costs. If the Finance Committee recommend borrowing based on a shorter term, I think that the information presented to voters will be more accurate relative to what is likely to occur if the referendum questions are approved.

Preliminary Estimates of Borrowing Terms, Town of Hampden

Trial Scenarios:

Annual Debt Service, 20 years

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
Rte 1A	\$600,000	0.0253	\$38,413	\$286,648
Sewer WWTP	\$300,000	0.0253	\$19,206	\$59,196
Sewer Bills	\$258,810	0.0386	\$18,690	\$76,415

Annual Debt Service, 15 years

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
Rte 1A	\$600,000	0.0253	\$48,318	\$124,776
Sewer WWTP	\$300,000	0.0253	\$24,159	\$62,388
Sewer Bills	\$258,810	0.0386	\$22,890	\$84,538

Annual Debt Service, 10 years

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
Rte 1A	\$600,000	0.0253	\$68,286	\$82,864
Sewer WWTP	\$300,000	0.0253	\$34,143	\$41,432
Sewer Bills	\$258,810	0.0385	\$31,427	\$55,463

Annual Debt Service, 7 years

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
Rte 1A	\$600,000	0.0242	\$93,695	\$55,868
Sewer WWTP	\$300,000	0.0242	\$46,848	\$27,934
Sewer Bills	\$258,810	0.0346	\$41,948	\$34,827

Annual Debt Service, 5 years

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
Rte 1A	\$600,000	0.0192	\$127,379	\$36,896
Sewer WWTP	\$300,000	0.0192	\$63,690	\$18,448
Sewer Bills	\$258,810	0.0299	\$56,113	\$21,754

Assumed Terms:

Annual Debt Service, 15 years

	<u>Principal</u>	<u>Interest</u>	<u>Ann. Payment</u>	<u>Total Interest</u>
Rte 1A	600,000	2.60%	48,562	\$128,429
Sewer WWTP	300,000	2.60%	24,281	\$64,214
Sewer Bills	258,810	3.90%	22,953	\$85,487

TOWN OF HAMPDEN

Financial Statement
Route 1A Bond

1. Total Town Indebtedness

A. Bonds outstanding and unpaid *	\$4,924,040
B. Bonds authorized and unissued	\$1,200,000
C. Bonds to be issued under this Ordinance:	\$600,000
TOTAL	\$6,724,040

* Excludes the Town's share of the \$22,187,352 debt of RSU 22 outstanding, approximately 90% of which will be paid by the State.

2. Costs

At an estimated interest rate of 2.6% for a term of 15 years, the estimated costs of this bond issue will be:

Principal	\$600,000
Interest	\$128,429
Total Debt Service	\$728,429

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the approval by the councilors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Angus Jennings
Treasurer
Town of Hampden, Maine

TOWN OF HAMPDEN
Financial Statement
Improvements to Wastewater Biotower

1. Total Town Indebtedness

A. Bonds outstanding and unpaid*	\$4,924,040
B. Bonds authorized and unissued	\$1,200,000
C. Bonds to be issued under this Ordinance:	\$300,000
TOTAL	\$6,424,040

* Excludes the Town's share of the \$22,187,352 debt of RSU 22 outstanding, approximately 90% of which will be paid by the State.

2. Costs

At an estimated interest rate of 2.6% for a term of 15 years, the estimated costs of this bond issue will be:

Principal	\$300,000
Interest	\$ 64,214
Total Debt Service	\$364,214

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the approval by the councilors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Angus Jennings
Treasurer
Town of Hampden, Maine

TOWN OF HAMPDEN

**Financial Statement
Overdue Wastewater Treatment and Maintenance Costs**

1. Total Town Indebtedness

A. Bonds outstanding and unpaid *	\$4,924,040
B. Bonds authorized and unissued	\$1,200,000
C. Bonds to be issued under this Ordinance:	\$258,810
TOTAL	\$6,382,850

* Excludes the Town's share of the \$22,187,352 debt of RSU 22 outstanding, approximately 90% of which will be paid by the State.

2. Costs

At an estimated interest rate of 3.9% for a term of 15 years, the estimated costs of this bond issue will be:

Principal	\$258,810
Interest	\$85,487
Total Debt Service	\$344,297

3. Validity

The validity of the bonds is not affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the approval by the councilors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

Angus Jennings
Treasurer
Town of Hampden, Maine

Finance 4-d
4-f
4-h



Angus Jennings <townmanager@hampdenmaine.gov>

agenda items

1 message

Terry McAvoy <mcavoytowncouncil@hampdenmaine.gov>
To: Angus Jennings <townmanager@hampdenmaine.gov>

Wed, Sep 28, 2016 at 8:02 AM

Good morning, Angus.

Please add the following items to the agendas for the finance committee and Town Council meetings on 10-3-16. Immediately preceding each item which relates to the rec field expansion please include as an agenda item: Councilor conflict of interest. Let me know if there is any question about what it is I am asking for. Terry

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 Town 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.

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

Confidential Information: Any information, whether oral, written, digital or electronic, 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. §405 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, approval with conditions or denial of any application by the Town Council or Council 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 a member of any appointed committee, board or commission of the Town Council.

Sec 3. Standards of Conduct.

The purpose of this Code of Ethics is to establish standards of conduct for all Town Councilors and 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 or Council Appointees 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 Disclosure of Confidential Information: No Town Councilor or Council Appointee shall, without proper legal authorization, disclose confidential information concerning the property, employees or applicants for employment, 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. Information received and discussed during an executive session of the Hampden Town Council or any Town Board, Committee, or Commission pursuant to 1 M.R.S. §405 shall be considered within the constraints of this subsection, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.3 Gifts and Favors: No Town Councilor or Council Appointee shall solicit or 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 Council Appointee: 1) solicit or accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties or 2) solicit or grant in the discharge of his or her official duties any improper favor, service or thing of value. The foregoing is not intended to prohibit normal social practices where gifts from friends, associates, and relatives are appropriate for certain occasions.

3.4 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.

3.5 Conflicts of Interest.

A. Deliberation and Vote Prohibited

1. No Town Councilor or 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:
 - a. The Town Councilor or Council Appointee, or a member of their immediate family; or
 - b. A business in which the Town Councilor or Council Appointee, or a member of their immediate family, serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
 - c. Any other person or business with whom the Town Councilor, or Council Appointee, or a member of their immediate family, are in

business or are negotiating, or have an arrangement concerning future employment.

2. No Town Councilor or 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. A member of their immediate family; or

b. A person with whom either the Town Councilor or Council Appointee, or his or her immediate family, are in business.

B. Disclosure of Conflict. Any Town Councilor or Council Appointee 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 or Council Appointee is present. Additionally, any Town Councilor or Council Appointee who believes that any fellow Town Councilor or Council Appointee, or a member of such fellow Town Councilor's or 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 Council Appointee, and disclosure has been made as described above, such individual's fellow Town Councilors or Council Appointees 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 Council Appointee present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Councilor's or 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 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.

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 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.

E. Personal Interest. Nothing herein shall be construed to prohibit any Town Councilor or Council Appointee 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.

F. Disclosure Statement. By no later than January 15th of each year, or within fifteen (15) days of being sworn in for a Town Councilor elected at a special election to fill a vacancy, every Town Councilor shall file a completed disclosure form with the Town Clerk. Within thirty (30) days after his or her appointment, every 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 fiscal 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 which does business or may potentially do business with the Town. 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 Council Appointee shall amend his or 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 Ordinance, a list prepared by the Treasurer of those persons or entities doing business with the Town 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.

Sec 4. Political Activities.

No Town Employee, Town Councilor or 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 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 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 Council Appointee from participating in the political process in their private capacity as candidates for elected office or as private citizens.

Sec 5. Incompatible Employment or Office.

No Town Councilor or 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 Councilor or 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.

Sec 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 into executive session pursuant to 1 M.R.S. §405 for purposes of informal discussion of and resolution of an ethical issue. During such session, the Councilor shall specify which area(s) of this Ordinance he or she feels have been breached and by whom. After discussion among all Councilors, the Town Council shall leave executive session, and may proceed with

formal action only by majority vote of the Councilors not alleged to have breached the ethical standards.

- A. 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.
- B. All procedures under this section shall be in accord with due process requirements, including, but not limited to, a right to notice and hearing.
- C. The Council may elect to give written warning in lieu of any other remedy or civil penalty available under this Ordinance or any other law or ordinance.

Sec 7. Ethics in Contracting.

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

7.1 Gratuities and Kickbacks

- A. **Gratuities.** It shall be a violation of this Ordinance for any person to offer, give, or agree to give any Town Councilor or 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 Ordinance 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 Ordinance to solicit, offer, give, accept, or receive any such gratuity or offer of employment in violation of applicable State or Federal Law.

7.2 Prohibition against Contingent Fees

It shall be a violation of this Ordinance 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.

7.3 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 Ordinance by a Town Councilor or a Council Appointee or other person may be recovered from both the Town Councilor or Council Appointee concerned and from the other person concerned.

7.4 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.

7.5 Penalties and Sanctions

- A. In addition to the recoveries provided in Subsections 7.3 and 7.4 above, any violation of Section 7 shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this Section 7 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 Section 7 or upon finding a violation by the Town Council or any 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 Section 7.5 shall also terminate the contractor's right to receive further payment thereunder.

- D. The provisions of this Section 7 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.

Sec 8. Penalties for Town Council or Town Council Appointees.

Any Town Councilor or Council Appointee 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.

Sec 9. Severability.

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

Sec 10. Repeal of Prior Ordinance

The existing Code of Ethics Ordinance adopted on May 15, 2000 is hereby repealed in its entirety.

Sec 11. Effective Date

Pursuant to Section 213(c) of the Town Charter, the foregoing provisions shall be effective 30 days after the adoption of this Ordinance by the Town Council.

ADOPTED BY TOWN COUNCIL: May 7, 2012
Effective Date: June 6, 2012



TOWN OF HAMPDEN
Town Councilor
DISCLOSURE STATEMENT

Councilor _____

Term _____

Please list the name of each person or entity doing business with the Town in an amount in excess of \$1,000.00 from which you or a member of your immediate family receives money or other thing of value in excess of \$1,000.00. (Section 3.5.F.1 Code of Ethics Ordinance)

Please list the name of each entity doing business with the Town in an amount in excess of \$1,000.00 for the preceding calendar year in which you, or a member of your immediate family has a financial interest in an amount in excess of \$1,000.00, including shares of stock. (Section 3.5.F.2 Code of Ethics Ordinance)

Please list the name of each nonprofit and/or for profit entity doing business with the Town in which you or a member of your immediate family is a member of its Board of Directors. Please provide a brief description of the purpose of the board or office, a short summary of your duties relative to said board, term of office, and whether or not you or your family member receives compensation exceeding \$100.00 in the aggregate annually. (Section 3.5.F.3 Code of Ethics Ordinance)

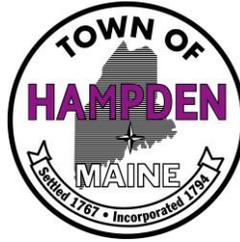
Dated: _____

Personally appeared the above named Councilor _____ and made oath to the truth of the above statements.

Before Me: _____
Notary Public/Municipal Clerk

4-e
4-g
4-i

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



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

TO: Finance Committee & Town Council
FROM: Angus Jennings, Town Manager
DATE: September 15, 2016
RE: Requests for Committee and Council approvals re Lura Hoit Pool site

As you know, the 2015 Recreation Plan (excerpted attached) prioritizes the identification of land for additional playing fields, development of additional fields, and increased parking at the Lura Hoit Pool site. The identification of a location for recreational field space is also identified as an implementation strategy in the 2010 Comprehensive Plan. Resources toward these efforts were approved through the allocation of funding to the Recreation Area Reserve account within the FY17 budget. The amounts of said allocations were based on amounts in Items R-1 and R-2 within the Capital Program (online at <http://www.hampdenmaine.gov/budget>).

Working with the Services Committee, Mayor Ryder has led an effort to identify such land, to evaluate suitability for field space, and to evaluate potential to expand parking at the Pool site. He has also met with, and conducted site walks with, prospective contractors and volunteers, as has been reported to the Services Committee. Wetlands delineation was completed and presented at the August Services Committee meeting, and at the September 12 meeting the Committee was presented with a concept plan for additional field space and parking. A copy of the concept plan, which includes the wetlands delineations, is attached.

At its September 12 meeting, the Services Committee referred to Council (by a vote of 5-1, with Councilor McAvoy opposed) a recommendation to authorize tree cutting, stumping and grinding on the Lura Hoit Pool site based on the concept plan. This matter is also brought to the Finance Committee and Council as a request for authorization to use budgeted Recreation Area Reserve funds for this purpose, as well as in support of DEP permitting and related activities that would be required under the Site Location Law in order to add impervious area to the site.

The Services Committee favored an incremental approach to this project, rather than completing full engineering plans and costing out the entire project, with the goal of reducing project costs, and preserving flexibility on project implementation based on resources if and as they become available in the future. The Committee discussed the need to proceed incrementally such that each "phase" would result in a stable interim outcome, understanding that full project implementation would be a multi-phase, multi-year undertaking the completion of which would require future identification of resources. In short, if an interim phase is complete, and the full plan is never realized,

the project would be undertaken in a way to ensure that the interim phase would stand alone in a manner that is stable and functional.

In order to bring this project forward, the Town will require support services from independent contractors in several areas, which may include (but is not necessarily limited to) survey, civil engineering, stormwater management, forestry, site work including grading and erosion controls, and construction (i.e. paving, field space, fencing etc., but not including new structures). The work would proceed in sequence, and based on advance preparation of an overall project management plan establishing scopes of work and scheduling for the various parties (including in-house Town resources) involved with the project.

In the interest of facilitating project management given the number of variables inherent in moving from concept plan to project execution, a request is also presented to waive the Bid Procedure Guidelines pursuant to Section 4 ("unusual circumstances"). If this authorization is approved, contractor selection would proceed under a quotation system handled by the Town Manager, through which work scopes would be provided to multiple vendors, with solicitation of qualifications submittals and "apples to apples" cost proposals.

If this project is authorized, my office would lead an effort to bring greater public attention to this initiative, both on an informational basis and in solicitation of community support. (It is believed that pro bono resources may also become available which could reduce direct expenses). Limits of clearing would be established and marked in the field prior to work going forward. Just as was done prior to the tree cutting in Dorothea Dix Park last September, we would also notify site abutters prior to any field work taking place. In short, Town staff, under my oversight, would work diligently to apply best management practices to the work we would undertake.

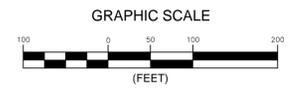
We are also corresponding with DEP, and have a meeting scheduled, in order to ensure that we navigate all State permitting as required.



- NOTES:**
1. WETLAND/STREAM DATA PROVIDED BY TOWN OF HAMPDEN.
 2. EXISTING CONDITIONS INFORMATION BASED ON PUBLICLY AVAILABLE DATA (E.G. MEGIS)
 3. PROPERTY LINES BASED ON TAX MAP DATA ONLY.

LEGEND:

	TRAIL
	TREELINE
	STREAM
	NATURAL GAS PIPELINE
	WETLAND BOUNDARY
	WETLAND



ISSUED FOR DISCUSSION

THE INFORMATION CONTAINED HEREIN IS STRICTLY CONFIDENTIAL AND IS THE SOLE PROPERTY OF THE PROJECT OWNER.

DATE: SEPTEMBER 9, 2016 SCALE: 1"=100' DRAWN: SJF DESIGN: TMH APPROVER: TMH

ONLY VALID WITH ORIGINAL STAMP

NO.	REVISIONS:	APPD:	DATE:
A	ISSUED FOR DISCUSSION	TMH	XXX

TITLE:	PRELIMINARY LAYOUT
PROJECT:	TOWN OF HAMPDEN RECREATIONAL FIELDS
CLIENT:	TOWN OF HAMPDEN HAMPDEN, MAINE

SGC PROJECT NUMBER	
DRAWING NUMBER	SK-001
REVISION	
SHEET NUMBER	1 OF 1

The project list is not a fixed element and reflects both committee input, staff input, and survey result input. Future circumstances, especially availability of funding may change priorities or require reprioritization of items. The Action Program is shown in a table format at the end of this section.

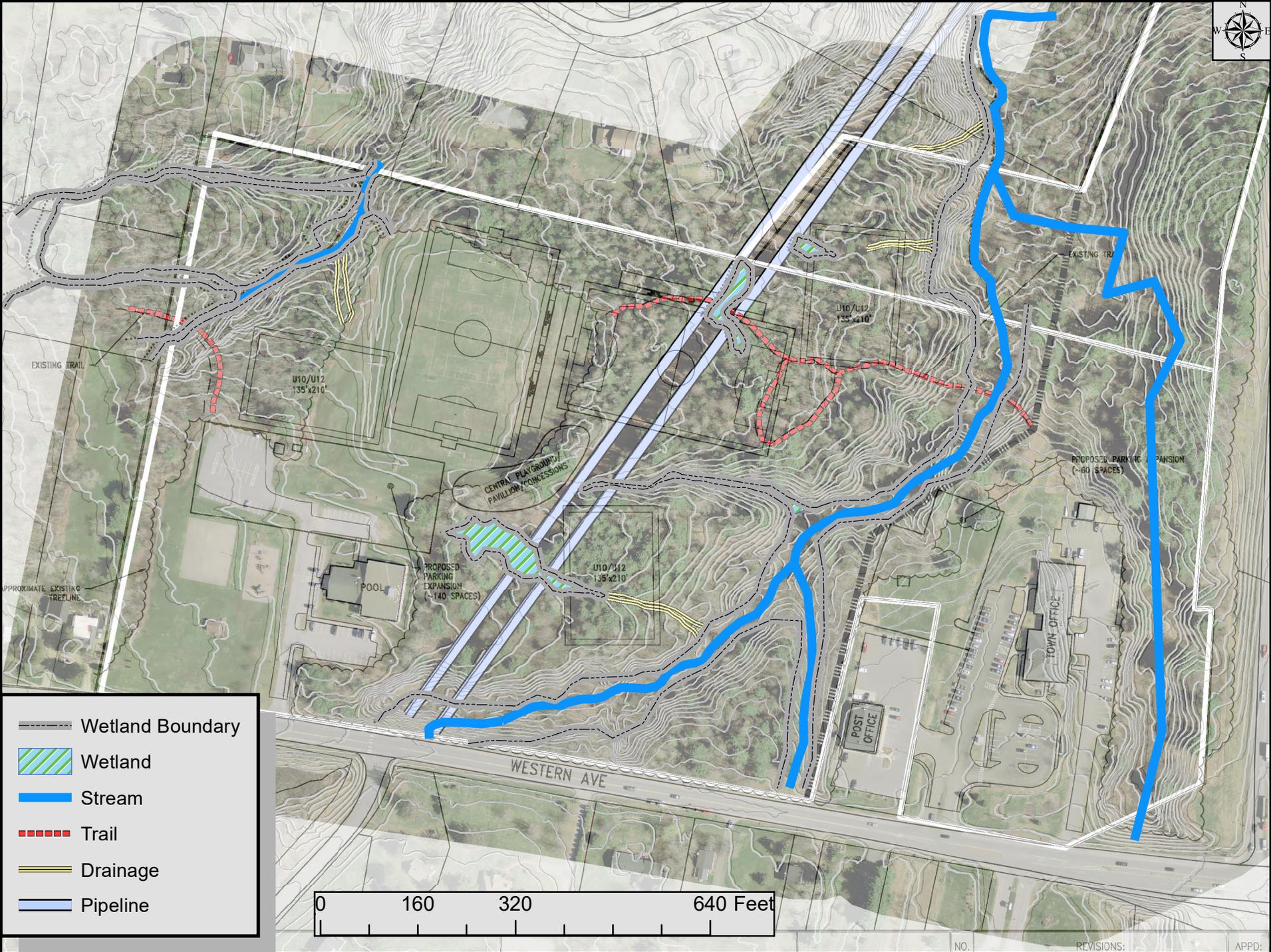
Financing Potential Improvements

Funding for recreation and parks maintenance, and capital improvements can come from a range of sources including user fees, local, state, and federal grant monies, private donors, business sponsorships, and department reserve funds. In addition, some projects may receive assistance in other forms such as volunteer services, equipment services, or donation of supplies.

In order to avoid liability issues due to poor maintenance, the Town of Hampden may wish to consider due diligence for existing field and facilities needs.

Action Item	Priority Level	Relates to Goal #	Justification
Land identification and acquisition for 50+ acres for future field and facility development	1	1/2	Current participation levels and future growth of programs and participant levels depend on the ability to “house” these users for their chosen activity. Currently two Affiliated programs are utilizing private lands to accommodate their program, and the department is leasing space for offices, indoor department programming, and department storage. Provisions should be made to accommodate growing needs for services.
Increase Parking at the Lura Hoyt Pool Fields (Recreation portion of shared parking lot)	3	1/2	Current participation levels exceed the number of vehicles able to be accommodated in the parking lot with overflow for the recreation parking on Western Avenue. On a Saturday game parked cars on Western Avenue typically stretch from Evergreen Drive to the Town Office, and safety is a real concern for driver visibility and traffic flow.
Develop Additional Sports Field(s) for Soccer and Football Programming	1	1	Field space needs to satisfy current program participation levels with potential loss of HO Bouchard complex due to development (end of 2015) and other privately owned field spaces that could become unavailable for use in the future.
Negotiate Lease extension with HHA LLC for Skehan Recreation Center space back to 5 years, then renewable yearly, with opt out clause with one year notice by either party	1	1/2	Currently the Town is half way through the current lease agreement period of 5 years. The Skehan Center space has been successful in supporting indoor program opportunities paid entirely through user and rental fees of the Recreation Department. In consideration with the 2015 Recreation Planning Survey results over 80% of the respondents felt and indoor facility was of some importance or more to the future of recreation opportunities in Hampden.
Address facility maintenance and safety issues at VFW Recreation facility to provide safe recreation experience for user groups	2	1/2	2 Tennis Courts and 3 Outdoor Basketball Courts located at the VFW Recreation facility need resurfacing and relining to fill in large cracking on play surface. In addition, fill should be added to the parking lot side of the Outdoor Basketball Courts to even out the elevation between the parking lot and the court surface.
Creation and adoption of a	3	1/3	In order to plan for budgeting of maintenance items, safety

long term written maintenance plan for facilities and park areas			concerns of facilities and park areas, and regular maintenance and upkeep items that will potentially avoid costly repairs.
Promotion of available parks/trails, and the amenities that can be accessed onsite	4	3	The 2015 Recreation Plan showed a high priority for need for parks/trails maintenance/upgrade/expansion, but low user levels or lack of knowledge of available areas for use.
Research park and trail opportunities for assistance with park/trail maintenance, and/or park trail creation. This would include grant funding or manpower to complete these opportunities.	5	3	Gaining the knowledge and understanding of what opportunities exist for assistance with town parks and trails will help with feasibility for these type of projects for the future of Hampden. Many grant opportunities have set criteria to apply and may require proposals that identify matching fund sources. In addition, grant funding cycles are lengthy and oftentimes prospective projects must be submitted well in advance of actual project occurring.
Reestablishment of a third full time department position with benefits to assist with current department services and growth, paid exclusively from the department enterprise budget.	2	2	Additional program offerings and additional department revenue may be possible with the addition of a full time position. Currently, the taxation budget pays for two full time positions with benefits (Department Director and Assistant Director) with much of the responsibilities of these positions being administrative and supervisory. An additional full time position with benefits would be attractive to securing a quality employee who understands the time demands for a recreational position, and has interest in gaining hands on experience in department programming and operations.



-  Wetland Boundary
-  Wetland
-  Stream
-  Trail
-  Drainage
-  Pipeline



DEP Questions

Note - these are questions Sean Currier and I prepared for our meeting with DEP on Sept. 22.

Tiffany LaClair
Environmental Specialist II
Bureau of Land Resources
Eastern Maine Regional Office
Maine Department of Environmental Protection
207-215-7346

- 1) **Is the Site Law (Site Location of Development) the only permit we would need to cut trees, grub, install new athletic fields and associated parking?**
- 2) **Would a permit associated with the athletic fields preclude us from developing the parcel further? What would be necessary if we modify (add buildings) at a later date?**
- 3) **What is the maximum area of the wetlands that can be disturbed on the parcel? What is the maximum area of the parcel that can be disturbed?**
- 4) **Can wetlands be filled with a "Permit by Rule" and what protocol needs to be followed to do so (field verification of area filled, etc)?**
- 5) **Can we build a gravel access road across the drainage ditch to join the two sides of the parcel from the Town Office to the Pool?**
- 6) **What is the maximum impervious area we can have if we obtain the Site Law permit?**
- 7) **Are there timing restrictions with different phases of construction that need to be adhered to?**
- 8) **Does this parcel need a Natural Resource Protection Act Permit?**
- 9) **Are State provided 2' contours acceptable for the permit or does the site need to be surveyed for engineering quality accuracy?**
- 10) **If stumping / grubbing occurs prior to issuance of Site Law permit, what erosion controls are required to ensure no impact on resource areas (wetlands)?**

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



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

TO: Town Council
Administration & Finance Committee

FROM: Angus Jennings, Town Manager

DATE: September 27, 2016

RE: Recommended approval of FY17 Service Charges

The attached service charge calculations are brought forward for Council review and approval. The Service Charge is calculated based on the formula set forward in Sec. 4 of the Service Charge Ordinance, a copy of which is attached.

Last year, a question arose regarding whether the Assessor's determination of charges takes into account the organization's prior year's gross annual revenues. The answer is no, not at this stage of the process. An organization's gross annual revenues are not considered in calculating the Service Charge; rather, an organization may petition the Council to reduce its Service Charge to ensure that it does not exceed 2% of the organization's gross annual revenues. (See Sec. 6 of the Ordinance).

In the event that one or more organizations seek a reduction in their Service Charge, the organization would be required to submit an audited financial statement of its prior year's operations, and the 2% limitation on Service Charge would be based on that amount.

Upon Council approval, Service Charges will be levied in the amounts indicated (attached).

cc: Kelly Karter, Assessor

**Town of Hampden
RECEIVED**

SEP 26 2016

**Office of the
Town Manager**

To: Angus Jennings, Town Manager
From: Kelly Karter, Assessor *Kelly*
RE: Service Fee Calculations
Date: September 26, 2016

Following is a listing of the calculated service fees that apply to residential property according to our Service Fee Ordinance.

I have added wording to the billing regarding the financial information for each entity as of June 30, 2016, per Tom Russell's suggestion.

Acadia Hospital dba Aspenledge is back in the listing this year as they are occupying and using the facility, making it exempt from taxation

The list is as follows:

Penquis Mental Health	\$ 1,992.51
Community Housing of Maine	\$ 2,145.78
OHI George St.	\$ 2,139.36
OHI Patterson Rd.	\$ 1,662.39
Medical Care Development	\$ 5,386.85
The Housing Foundation	\$22,507.11
Acadia Hospital Corp/Aspenledge	\$ 4,008.60
Total Service Fees	\$39,842.57

These fees have been calculated according to the ordinance. Some will change once the financials are submitted.

MEMO

To: Angus Jennings, Town Manager

From: Kelly Karter *Kelly*

Date: September 26, 2016

Subject: Penquis Mental Health Service Charge

In accordance with the Service Charge Ordinance approved by the Hampden Town Council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: Penquis Mental Health

Property Location: 1012 Carmel Road North
Hampden, Maine 04444

Legal Description: Map 1 Lot 31-A
Book 11872 Page 215

2013 Municipal Budget	\$ 7,617,880 (Original Budget Less Gen. Asst. of \$10,000)
Divided By Total Valuation	\$646,097,160 (=0.01179)
Times the Just Value	\$ 169,000
Service Charge Due	\$ 1,992.51

MEMO

To: Angus Jennings, Town Manager

From: Kelly Karter



Date: September 26, 2016

Subject: Community Housing of Maine

In accordance with the Service Charge Ordinance approved by the Hampden Town Council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: Community Housing of Maine

Property Location: 177 Canaan Road
Hampden, Maine 04444

Legal Description: Map 5 Lot 27-A
Book 10137 Page 137

2016/2017 Municipal Budget \$ 7,617,880 (Original Budget Less Gen. Asst. of \$6,000)

Divided By Total Valuation \$646,097,160 (=0.01179)

Times the Just Value \$ 182,000

Service Charge Due \$ 2,145.78

MEMO

To: Angus Jennings, Town Manager

From: Kelly Karter *Kelly*

Date: September 26, 2016

Subject: OHI

In accordance with the Service Charge Ordinance approved by the Hampden Town Council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: OHI

Property Location: 35 George St
Hampden, Maine 04444

Legal Description: Map 23 Lot 70-C
Book 9404 Page 115

2013 Municipal Budget \$ 7,617,880 (Original Budget Less Gen. Asst. of \$6,000)

Divided By Total Valuation \$646,097.160 (=0.01179)

Times the Just Value \$ 184,000

Service Charge Due \$ 2,169.36

MEMO

To: Angus Jennings

From: Kelly Karter *Kelly*

Date: September 26, 2016

Subject: OHI

In accordance with the Service Charge Ordinance approved by the Hampden Town Council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: OHI

Property Location: 143 Patterson Road
Hampden, Maine 04444

Legal Description: Map 5 Lot 39
Book 9144 Page 102

2016/17 Municipal Budget \$ 7,617,880 (Original Budget Less Gen. Asst. of \$6,000)

Divided By Total Valuation \$646,097,160 (=0.01179)

Times the Just Value \$ 141,000

Service Charge Due \$ 1,662.39

MEMO

To: Angus Jennings, Town Manager

From: Kelly Karter *Kelly*

Date: September 26, 2016

Subject: Medical Care Development; DBA Hampden Meadows

In accordance with the Service Charge Ordinance approved by the Hampden Town Council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: Medical Care Development; DBA Hampden Meadows

Property Location: 1282 Kennebec Road
Hampden, Maine 04444

Legal Description: Map 1 Lot 23-A
Book 5818 Page 81

2013 Municipal Budget	\$ 7,617,880 (Original Budget Less Gen. Asst. of \$6,000)
Divided By Total Valuation	\$646,097,160 (=0.01179)
Times the Just Value	\$ 456,900
Service Charge Due	\$ 5,386.85

MEMO

To: Angus Jennings, Town Manager

From: Kelly Karter *Kelly*

Date: September 26, 2016

Subject: The Housing Foundation

In accordance with the Service Charge Ordinance approved by the Hampden Town Council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: The Housing Foundation

Property Location: 113 Western Avenue
Hampden, Maine 04444

Legal Description: Map 31 Lot 8
Book 4249 Page 321

2016/2017 Municipal Budget \$ 7,617,880 (Original Budget Less Gen Asst of \$6,000)

Divided By Total Valuation \$646,097,160 (=0.01179)

Times the Just Value \$ 1,909,000

Service Charge Due \$22,507.11

MEMO

To: Angus Jennings, Town Manager

From: Kelly Karter *Kelly*

Date: September 26, 2016

Subject: Acadia Hospital Corp.; DBA Aspenledge

In accordance with the Service Charge Ordinance approved by the Hampden Town council on May 18, 1992, I submit the following calculations for the 2016/2017 fiscal year.

Property Owner: Acadia Hospital Corp.; DBA Aspenledge

Property Location: 25 Mayo Road
Hampden, Maine 04444

Legal Description: Map 6 Lot 29-A
Book 5027 Page 71

2012 Municipal Budget	\$ 7,617,880 (Original Budget Less Gen. Asst. of \$6,000)
Divided By Total Valuation	\$646,097,160 (=0.01179)
Times the Just Value	\$ 340,600
Service Charge Due	\$ 4,008.60

TOWN OF HAMPDEN

SERVICE CHARGE ORDINANCE

Sec. 1. Authority. This Ordinance is enacted pursuant to 30-A M.R.S.A. § 3001 and 36 M.R.S.A. § 652(1)(L).

Sec. 2. Purpose. The purpose of this Ordinance is to establish an annual service charge to recover the cost of providing municipal services, other than education and general assistance, to owners and/or occupants of certain institutional and organizational real property which is otherwise exempt from state or municipal taxation.

Sec. 3. Creation of Service Charge. An annual service charge is hereby established, effective with the municipal fiscal year commencing on July 1, 1992. The service charge shall be levied by the municipal officers against all residential property owned by an organization or institution if the property is otherwise totally exempt from property taxation and is used to provide rental income. The service charge shall not apply to student housing or parsonages.

Sec. 4. Calculation of Service Charge. The service charge shall be calculated according to the actual cost of providing municipal services to the property in question and the persons who use that property. Municipal services shall include, without limitation, the following: fire protection, police protection, road maintenance and construction, traffic control, snow and ice removal, sewer service, sanitation services, and any other services. For the purpose of this Ordinance, municipal services shall not include education and general assistance. The service charge for each property shall be determined in accordance with the following formula:

$$\frac{B}{V} \times JV = SC$$

where:

B = Budget for the current fiscal year for municipal services, except education and general assistance

V = Total taxable valuation of municipality for the current fiscal year

JV = Just Value of property in question

SC = Service Charge of property in question.

The Assessor shall provide the municipal officers with the following information at the time of the annual tax commitment: (1) list of property to which a service charge is applicable under this ordinance, (2) total taxable valuation of the municipality for the current fiscal year, and (3) the just value of the properties in question. The Town Manager shall provide the municipal officers with the amount of the budget for municipal services for the current fiscal year, along with a proposed service charge for each property based on the foregoing formula.

Sec. 5. Levy of Service Charge. The municipal officers shall levy the annual service charge on the tax exempt property subject to a service charge under this Ordinance, and shall establish a due date for payment of the same. The Treasurer shall send a statement to every affected property owner setting forth the amount of the service charge levied on the subject property.

Sec. 6. Limitation on Service Charges. The total service charges levied by the municipal officers under this Ordinance against any institution or organization shall not exceed 2% of the gross annual revenues of that institution or organization. Provided, however, that in order to qualify for the foregoing limitation, the institution or organization shall file with the municipal officers an audit of the revenues of the institution or organization for its last fiscal year which ended immediately prior to the municipal fiscal year for which the service charge was levied. The municipal officers shall abate the service charge amount that is in excess of 2% of the gross annual revenues.

Sec. 7. Collection. Unpaid service charges shall be collected in any manner available to the municipality, including, without limitation, the procedure provided in 38 M.R.S.A. § 1208, as may be amended from time to time.

Sec. 8. Use of Revenues. Revenues accrued from service charges shall be used, as much as possible, to fund the cost of providing the municipal services which were considered in calculating the service charges.

Sec. 9. Appeals. Any institution or organization may challenge the decision of the municipal officers to levy a particular service charge or the amount of a particular service charge by filing an appeal with the Board of Assessment Review. Such appeals shall be filed in writing with the Town Clerk within 60 days of the date on which notice is provided to the institution or organization by the Treasurer under Sec. 5 above indicating the amount of the service charge levied by the municipal officers. The Board of Assessment Review shall conduct a public hearing on the appeal and shall issue a written decision thereon within 60 days of the date that the appeal was filed with the Town Clerk. Failure to issue a decision on an appeal within 60 days of the date the application was filed shall be deemed to

be a denial thereof. The appeal shall be processed in accordance with all applicable laws or ordinances, and such rules of procedure as may be established by or for the Board of Assessment Review. Any decision by the Board may be appealed to Superior Court by an aggrieved party pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Sec. 10. Severability. Should any provisions of this Ordinance be declared invalid by the Courts, such decision shall not invalidate any other provision of this Ordinance.

Adopted By Hampden Town Council: 5/18/92

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Finance 4-K

fax: (207) 862-5067
Email:
townmanager@hampdenmaine.gov

TO: Finance Committee and Town Council
FROM: Angus Jennings, Town Manager
DATE: September 29, 2016
RE: Proposed Confined Space Entry Policy

DPW Director Currier, working with Public Safety Director Rogers, has recommended the attached Confined Space Entry Policy.

This policy would simply codify current practice. At this time, no Town staff have the proper equipment or training to conduct confined space entries. Director Currier advises that the training requirements are substantial.

If the Town's capacity to perform such entries changes in the future this proposed policy could be revisited at that time.

David I. Ryder (Mayor, Dist. 4)
Stephen L. Wilde (1)
Dennis R. Marble (2)

TOWN OF HAMPDEN
IN THE TOWN COUNCIL

Terry McAvoy (3)
Gregory J. Sirois (A/L)
Mark S. Cormier (A/L)
Ivan P. McPike (A/L)

Order 2016-03
Adoption: October 03, 2016

ORDER ESTABLISHING CONFINED SPACE ENTRY POLICY

BACKGROUND: The Town of Hampden has multiple types of confined spaces that need servicing from time to time. Any repairs, maintenance or inspection (by entry) to a confined space shall be completed by outside contractors, not Town employees.

A "confined space" is defined as a space large enough and so configured that an employee can bodily enter and perform assigned work; and has limited or restricted means for entry or exit; and is not designed for continuous employee occupancy.

ORDERED, that the Town Council hereby approves the following policy to govern confined space entry:

No confined spaces (permitted or non-permitted) shall be entered by a Town of Hampden employee for any reason other than for emergency rescues by properly trained public safety personnel with the proper rescue equipment. Confined spaces needing attention will be entered by hired contractors with the proper training and equipment (gas meter, ventilators, fall protection, retrieval devices, etc.) to do the confined space entry.

This Order may be modified or rescinded in the future by Council vote based on changes to Town of Hampden equipment and/or training.

Town Clerk:

ORDERED by a majority of the Town Council:

Paula Scott

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



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

TO: Finance Committee and Town Council

FROM: Angus Jennings, Town Manager

DATE: September 29, 2016

RE: Business Park TIF

Please find attached the proposed Scope of Services and Professional Fee Reimbursement Agreement for the Business Park TIF. The Scope of Services was reviewed and referred by the P&D Committee at their September 21 meeting. The Professional Fee Reimbursement Agreement will be reviewed by the Finance Committee this Monday and, upon their referral, taken up by the Council the same evening.

As you know, pursuant to the Development Agreement between the Town and Sargent Corp., the costs for consultant and legal fees for the TIF will be borne by Sargent; however, the Town would be Rudman Winchell's client for this project, and would handle invoices through an escrow account funded by Sargent.

The Scope of Services reflects input from me, the Assessor, the Town Planner, and Rudman Winchell. I shared this latest draft with Chip Laite and Brent Hartley at Sargent Corp earlier this week, and spoke with Brent this afternoon. Chip is on vacation this week so will not have the opportunity to review this draft until Monday. If Sargent would like to see revisions, we hope to get these finalized and agreed during the day on Monday so the Council can approve these documents that night. This milestone will be important to maintain the overall project timeline.

SCOPE OF SERVICES

HAMPDEN BUSINESS PARK TAX INCREMENT FINANCING (TIF) DISTRICT

Project Summary:

Designation and approval of a municipal Tax Increment Financing (TIF) District and District development program for the Hampden Business and Commerce Park, under Title 30-A, Chapter 206, Maine Revised Statutes.

Working closely with the Town of Hampden's Town Planner, Town Assessor and other Town staff, Rudman Winchell will provide all consulting and legal services necessary to create and obtain local approval and final DECD approval of the TIF District and District development program, including any related TIF credit enhancement agreement.

Background:

In 2001 and 2002, the Town of Hampden created the Hampden Business and Commerce Park on land owned by the Town. In April 2014, the Town entered into a development agreement with Sargent Corporation and affiliated Sargent entities for completion of roads and other infrastructure in the park that remained undeveloped at that time. In return for Sargent's work, Sargent received an option to acquire certain lots in the park for \$1.00 each, upon completion of infrastructure improvements serving the lots concerned. The development agreement also provides for designation of a TIF district for the park, and a TIF credit enhancement agreement between the Town and Sargent, providing Sargent with partial reimbursement of property taxes paid on account of new taxable development on certain lots within the park.

Disclosure:

Rudman Winchell attorney Erik M. Stumpfel Esq. served as counsel to Sargent Corporation in negotiating the 2014 development agreement with the Town. Due to attorney Stumpfel's prior involvement on behalf of Sargent, provision of legal services to the Town in connection with the project is contingent on a written conflict waiver from Sargent Corporation, currently being secured.

Acceptance of this proposal by the Hampden Town Council will be deemed to constitute a conflict waiver on the part of the Town.

Specific Services:

A number of steps are necessary to designate a TIF district and obtain final approval from DECD. The Town of Hampden, through its Town Planner and other Town staff, can undertake and perform a number of these steps. We propose that the necessary steps and tasks be allocated between Rudman Winchell and the Town as follows:

(1) *Determine the area to be included in the TIF district.* Under the development agreement, the TIF District must include the business park. The District may also include other areas where the Town wants to encourage development or create TIF-funded improvements. These additional areas need not be contiguous with the Business and Commerce Park. A district map, showing the selected areas, must be prepared.

Allocation: The Town shall designate what additional areas, if any, are to be included in the TIF district, and shall provide all necessary mapping.

(2) *Prepare and write a development program.* The development program provides a description of the District and the goals and objectives of the TIF District designation. The development program also includes a list of TIF-eligible projects to be funded by the Town with the Town's share of TIF district revenues.

Allocation: The proposed development program will be prepared by Rudman Winchell economic development consultant Noreen Norton, in consultation with the Town Planner and the Town Council's Planning & Development committee.

(3) *Determine the "capture" percentage* (= the percentage of new taxable value to be included in the TIF district). For most TIFs, this figure is 100%. However Hampden, with some recent exceptions, has often limited the capture percentage to the percentage of taxes reimbursed to the project developer under a negotiated credit enhancement agreement. The capture percentage, and whether to set the percentage at a level that will generate Town TIF revenues in addition to amounts reimbursed to the developer under a CEA, are policy questions for the Town.

Allocation: Town of Hampden.

(4) *Prepare TIF revenue projections and "tax shift" calculations.* TIF revenue projections and tax shift calculations are required elements of a final TIF application to DECD. The tax shift projections measure the impact of the TIF district designation on State funding formulas and county taxes on an annual basis, for the full term of the district.

Allocation: Rudman Winchell, Noreen Norton. This shall include a presentation to the Town Council or its Planning & Development Committee (which may be a component of a larger presentation).

(5) *Prepare TIF public hearing notice and advertisement.* Maine's TIF statute requires the Town to conduct at least one advertised public hearing prior to final action by the Town Council on the TIF.

Allocation: Rudman Winchell, Noreen Norton (with review by legal counsel).

(6) *Prepare information materials for public hearing.*

Allocation: Rudman Winchell, Noreen Norton. Noreen's materials may be supplemented by Town-prepared materials.

(7) *Attend and present information at the TIF public hearing.*

Allocation: Rudman Winchell, Noreen Norton / Erik Stumpfel.

(8) *Prepare form of Town Council's approval vote.*

Allocation: Rudman Winchell, Erik Stumpfel.

(9) *Prepare minutes of TIF public hearing and Town Council vote.*

Allocation: Town of Hampden.

(10) *Prepare TIF credit enhancement agreement.* A TIF credit enhancement agreement typically refunds a portion of property taxes generated by new development in the TIF district to the project developer. In this instance, the material terms of the CEA have already been negotiated as part of the 2014 development agreement. Accordingly, the task for this project is limited to preparing a CEA document in accordance with the previously negotiated terms.

Allocation: Rudman Winchell, Noreen Norton / Erik Stumpfel.

(11) *Prepare DECD application exhibits.* Required exhibits to the final DECD application include TIF District and area maps; a certification of the District's "original assessed value" by the Town's assessor; the TIF revenue projections and tax shift calculations; evidence of compliance with the TIF public hearing requirement, including minutes of the public hearing; and an attested copy of the final approval vote by the Town Council. Copies of any approved credit enhancement agreements for the District must also be provided with the application.

Allocation: The Town will be responsible for preparing the TIF District and area maps; the assessor's OAV certificate; minutes of the TIF public hearing; and an attested copy of the Town Council's final approval vote. Rudman Winchell (Noreen Norton) will be responsible for preparing all other exhibits.

(12) *Prepare and assemble final application to DECD.*

Allocation: Rudman Winchell, with data input as needed from the Town.

(13) *Pre-meeting with DECD to vet (Smitty: "test drive") the application; additional meetings with DECD as necessary.*

Allocation: Rudman Winchell, Noreen Norton / Erik Stumpfel, including advance notification of the meeting to the Town Manager.

(14) *Legal review and advice, as needed.*

Allocation: Rudman Winchell, Erik Stumpf

Compensation:

All consulting and legal services for the project will be provided at Rudman Winchell's standard municipal rate of \$175 per hour, with a total project "not-to-exceed" cap of seventeen thousand dollars (\$17,000.00).

Town of Hampden Maine Professional Fee Reimbursement Agreement

This AGREEMENT is made this _____ day of _____, 2016 by and between the **Town of Hampden Maine**, a municipal corporation and body politic located in Penobscot County, Maine (hereinafter "Municipality"), and **Sargent Corporation**, a business corporation organized and existing under the laws of the State of Maine, with offices at 378 Bennoch Road Stillwater (Old Town) Maine and 489 Odlin Road, Bangor Maine, hereinafter referred to as the "Developer."

RECITALS

WHEREAS, the Municipality and the Developer have agreed to apply for designation of a tax increment financing district (the "District") within the Municipality, the adoption of a development program for the District and the execution of a credit enhancement agreement, all pursuant to Title 30-A Maine Revised Statutes, Chapter 206, for the benefit of the Developer's planned development project (the "Project");

WHEREAS, the Municipality plans to prepare and submit an application to the State of Maine Department of Economic and Community Development for approval of the District designation and a development program for the District, and anticipates engaging an outside consultant and legal counsel for that purpose; and

WHEREAS, the Municipality will incur certain costs in connection with its preparation and municipal approval of the District, the District development program and related documents and agreements and submission to DECD; and

WHEREAS, the Municipality has requested that the Developer reimburse the Municipality for the aforementioned costs, as such costs will be solely and directly attributable to the Municipality's review of the application, are not provided for in the Municipality's budgets, and should be borne by the Developer and not by the Municipality or its residents.

NOW, therefore, the Developer hereby agrees to reimburse the Municipality for reasonable expenses incurred by the Municipality in connection with the Municipality's preparation and approval of the District, the District development program and related documents and submission to DECD, up to but not exceeding Seventeen Thousand and Five Hundred Dollars (\$17,500.00) (the "Fee Cap").

1.0 REIMBURSABLE COSTS

"Reimbursable Costs" shall mean of all reasonable and documented outside professional costs, legal fees, accounting, application fees, mailing charges, travel, or other costs reasonably incurred by the Municipality in preparing and approving the District's designation and the District development program, including preparation of related documents and agreements, including credit enhancement agreements, if any. The Developer agrees to pay such Reimbursable Costs, in a cumulative amount not to exceed Five Hundred Dollars (\$500.00),

whether or not the District is ultimately approved by both the Municipality and State of Maine Department of Economic and Community Development.

2.0 MUTUAL ACCEPTANCE OF COSTS

It is understood that the Municipality has engaged Rudman Winchell to provide consulting and legal services in connection with the Municipality's review of the application ("Municipality Legal Counsel"). It is understood and agreed by the parties that the Municipality's engagement of consultant Noreen Norton and legal counsel Erik Stumpfel for these purposes and consistent with the Fee Cap is reasonable and necessary for the purposes contemplated herein.

3.0 TIMING OF REIMBURSEMENT PAYMENTS

The Developer agrees to promptly reimburse the Municipality for all Reimbursable Costs as follows. The Municipality shall submit monthly invoices to the Developer for Reimbursable Costs incurred by the Municipality during the preceding month. The Municipality's invoices to the Developer shall be based on invoices that have been received by the Municipality from Municipality Legal Counsel, or others, even though not yet paid by the Municipality. The Developer shall pay each invoice issued to the Developer by the Municipality in full, within twenty (20) days following the Developer's receipt of the invoice concerned. If Developer disagrees with any portion of an invoice, it shall notify the Municipality in writing the amount in dispute and the reason for its disagreement within twenty (20) days after receipt of the invoice, and shall pay the portion not in dispute. Developer may at any time (including up to one (1) year after the termination or expiration of this Agreement) audit or request reasonable additional supporting documentation for any invoice and the Municipality agrees to make its employees, consultants and agents available to answer Developer's questions about invoices.

4.0 REPRESENTATIONS AND WARRANTIES

4.1 Developer Representations and Warranties. Developer makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) *Existence and Good Standing.* Developer is validly existing as a business corporation in the State of Maine and is authorized to do business within the State of Maine.

(b) *Approval and Authorization.* Developer has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder. Developer is duly authorized to execute and deliver this Agreement and perform all of its duties and obligations contained herein, and, to the extent permitted by applicable law, this Agreement constitutes a valid and legally binding obligation of Developer, enforceable in accordance with its terms.

4.2 Municipality Representations and Warranties. The Municipality makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) *Existence and Good Standing.* The Municipality validly exists as a political subdivision in good standing under the laws of the State of Maine.

(b) *Approval and Authorization.* The Municipality has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder. The Municipality has duly authorized the execution and delivery of this Agreement and the Municipality's performance of all of its duties and obligations contained herein, and, to the extent permitted by applicable law, this Agreement constitutes a valid and legally binding obligation of the Municipality, enforceable in accordance with its terms.

(c) *Lack of Relation to Municipality's Determinations.* The Developer's payments under this Agreement, which are being made at the Municipality's request, shall not influence or have any bearing whatsoever upon the Municipality's determination with respect to any application.

5.0 ENTIRE AGREEMENT

The entire Agreement between the parties with respect to the subject matter hereunder is contained in the Agreement. There are no other understandings, representations or agreements nor incorporated herein.

6.0 MODIFICATION

No waiver, alteration or modification of any of the provisions of this Agreement shall be enforced unless in writing and signed by both parties to this Agreement.

7.0 GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Maine, without regard to the conflict of laws provisions in such state.

8.0 NOTICES

All notices, requests, demands and other communication hereunder shall be in writing and shall be deemed to have been duly given (i) when delivered by messenger or by reputable national overnight courier service, (ii) three (3) business days after mailing when mailed by certified or registered mail (return receipt requested), with postage prepaid and addressed to the parties at their respective addresses shown below or at such other address as any party may specify by written notice to the other party, or (iii) when delivered by facsimile transmission (with automatically generated confirmation of receipt) to the parties at the facsimile numbers listed below:

a. **If to the Developer:**

Sargent Corporation
378 Bennoch Road
Stillwater (Old Town) Maine 04489

Tel. (207) 827-4435
Fax (207) 827-6150

b. If to the Municipality:

Town Manager
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Tel. (207) 862-3034
Fax (207) 862-5067

Either party may change the name(s) and or address(es) to which notice is to be addressed by giving the other party notice in the manner herein set forth.

9. MISCELLANEOUS

9.1 Exercise of Rights and Waiver. The failure of any Party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by any Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

9.2 Severability. In the event that any clause, provisions or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be affected, impaired or invalidated and shall remain in full force and effect.

9.3 Headings and Construction. The section headings in this Agreement are inserted for convenience of reference only and shall in no way effect, modify, define, or be used in construing the text of the Agreement. Where the context requires, all singular words in the Agreement shall be construed to include their plural and all words of neuter gender shall be construed to include the masculine and feminine forms of such words. Notwithstanding the fact that this Agreement has been prepared by one of the Parties, all of the Parties confirm that they and their respective counsel have reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties. This Agreement is to be construed as a whole and any presumption that ambiguities are to be resolved against the primary drafting party shall not apply.

9.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed as of the date first written above.

SARGENT CORPORATION
DEVELOPER

By: _____
Name:
Title:
Duly Authorized

TOWN OF HAMPDEN
MUNICIPALITY

By: _____
Name: Angus Jennings
Title: Town Manager
Duly Authorized

DRAFT