

**BRUNSWICK TOWN COUNCIL**

**Agenda**

**August 4, 2014**

**6:00 P.M. – Executive Session**

**7:00 P.M.**

**Council Chambers**

**Town Hall**

**85 Union Street**

**Executive session – Personnel matter regarding the Town Manager search per 1 M.R.S.A. §405(6)(A)**

Roll Call

Pledge of Allegiance

Acknowledgment that meeting was properly noticed

Public Comment

Correspondence

Council Committee Updates

Adjustments to the Agenda

**MANAGER’S REPORT**

- a) Sewer District update on pending charter changes due to recent state law change
- b) Acceptance of a donation of \$2,000 to fund Project Lifesaver (*Action required*)
- c) Nomination papers availability
- d) Update on train idling issue
- e) Update on Longfellow Avenue parking

**NEW BUSINESS**

99. The Town Council will consider creating a Finance Committee, and will take any appropriate action. (Councilor Brayman)

**ACTION**

100. The Town Council will receive a list of properties acquired through the tax lien foreclosure process and will take any appropriate action. (Manager)

**ACTION**

101. The Town Council will consider authorizing the execution of the Maine Natural Resource Conservation Program Project Agreement relating to the removal of an earthen dam and the restoration of approximately 55.3 acres of wetlands at the Kate Furbish Preserve, and will take any appropriate action. (Manager)

**ACTION**

102. The Town Council will consider setting a public hearing for September 2, 2014, for “An Ordinance Authorizing Storm Drain Improvements and Reconstruction of Nancy Drive, Patricia Road and Pierce Lane, with Total Project Costs Not to Exceed \$580,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$580,000 (plus the cost of issuance),” and will take any appropriate action. (Manager)

**ACTION**

103. The Town Council will consider setting a public hearing for September 2, 2014, for “An Ordinance Authorizing the Acquisition of a Trackless Sidewalk Tractor and Associated Attachments, with Total Project Costs Not to Exceed \$146,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$146,000 (plus cost of issuance),” and will take any appropriate action (Manager)

**ACTION**

104. The Town Council will consider adopting “A Resolution Authorizing the Overexpenditure of the 2013-14 Appropriation for Technology Services by an Amount Not to Exceed \$40,000,” and will take any appropriate action. (Manager)

**ACTION**

105. The Town Council will consider approving “A Resolution Authorizing Forgiveness of the Balance of an Advance to the School Department for the Renovation of Hawthorne School in the Amount of \$186,580,” and will take any appropriate action. (Manager)

**ACTION**

106. The Town Council will consider appointments to the Town’s Boards and Committees, and will take any appropriate action. (Appointments Committee)

**ACTION**

**CONSENT AGENDA**

- a) Approval of the Minutes of July 21, 2014
- b) Approval of gas utility location permit applications for Maine Natural Gas for sections of Elm Street, Middle Street, Everett Street and Swett Street

**Brunswick Town Council**  
**Agenda**  
**August 4, 2014**  
**Council Notes and Suggested Motions**

**Executive session – Personnel matter regarding the Town Manager search per 1 M.R.S.A. §405(6)(A)**

*Suggested motion:*

Motion to go into executive session for a personnel matter regarding the Town Manager search per 1 M.R.S.A. §405(6)(A)

**COUNCIL COMMITTEE UPDATES**

Councilors with information on the Committees they are involved with will share information with the Council and public.

**MANAGER’S REPORT**

- a) Sewer District update on pending charter changes due to recent state law change: Leonard Blanchette from the Sewer District will update the Council on pending Sewer District charter changes that are being required by a recent state law change (P.L. 2013, ch. 555). Copies of a memo from Pierce Atwood to the Sewer District, outlining the changes they need to make, and the state law, are included in your packet.

*Suggested motion:* No motion is required.

- b) Acceptance of a donation of \$2,000 to fund Project Lifesaver (Action required): This item is for the Town to accept and expend a donation of \$2,000 to help fund the Police Department’s participation in Project Lifesaver. This program provides monitoring transmitters for family members with autism or Alzheimer’s/dementia. The devices are radio transmitters, which would allow the Police to quickly locate the wearer if he/she wanders off. The hope is that by quickly locating a wandering loved one, they will be found before they come to harm. The remainder of the cost will be funded by another donation the Council has already accepted. A copy of a memo from Captain Waltz is included in your packet.

*Suggested Motion:*

Motion to accept and expend a donation of \$2,000 to fund a portion of the Brunswick Police Department’s participation in Project Lifesaver.

- c) Nomination papers availability: Nomination papers for Town Council and School Board are available and need to be returned no later than Friday, September 5<sup>th</sup>. Districts 5 and 7, and one of the At-Large seats for both the Town Council and School Board will be up for election in November.

*Suggested Motion:* No motion is required.

- d) Update on train idling issue: Mr. Eldridge will provide an update on the issue. He hopes to receive a list of alternatives from NNEPRA that will be provided to the Council once it is received.

*Suggested Motion:* No motion is required.

- e) Update on Longfellow Avenue parking: The Police Department will update the Council and public on the possibility of making some changes to parking restrictions on Longfellow Avenue.

*Suggested Motion:* No motion is required.

## **NEW BUSINESS**

99. This item, sponsored by Councilor Brayman, returns from your last meeting and asks the Council to consider creating a Finance Committee. A copy of the draft charge will be included in your packet.

*Suggested motion:*

Motion to approve creating a Finance Committee, as attached.

100. This item provides the Council with a list of properties acquired through the tax lien foreclosure process. Mr. Eldridge is recommending that the Town Council direct the Finance Committee to review the individual cases to make recommendations to the full Council. Copies of a memo from Mr. Eldridge, a list of properties, and the Town's tax-acquired policy are included in your packet.

*Suggested motion:*

Motion to send the list of properties acquired through the tax lien foreclosure process to the Finance Committee to review and make recommendations for further actions at the September 2, 2014 meeting.

101. This item is to authorize execution the Maine Natural Resource Conservation Program Project Agreement relating to the removal of an earthen dam and the restoration of approximately 55.3 acres of wetlands at the Kate Furbish Preserve. The Council approved the Town applying for this grant, with the Maine Coastal Heritage Trust administering it, in September 2013. Staff reported back to the Council on February 3, 2014, that the Maine Natural Resources Conservation Program (MNRCP) approved the funding in the amount of \$136,000. The next step is approval of the agreement that allows the Department of Environmental Protection and Army Corps of Engineers to release the funds. Mr. Farrell, Mr. Eldridge and Councilor Walker have been working with the appropriate entities to ensure that the Town's intended uses of trail creation and conservation/recreational use will be allowed under this agreement. The agreement would prohibit buildings and other types of development, uses that had also been prohibited under the terms of the Navy conveyance. Copies of the agreement and surveys are included in your packet.

Suggested motion:

Motion to authorize the Town Manager to execute on behalf of the Town, the Maine Natural Resource Conservation Program Project Agreement relating to the removal of an earthen dam and the restoration of approximately 55.3 acres of wetlands at the Kate Furbish Preserve.

102. This item is to set a public hearing for September 2, 2014, for “An Ordinance Authorizing Storm Drain Improvements and Reconstruction of Nancy Drive, Patricia Road and Pierce Lane, with Total Project Costs Not to Exceed \$580,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$580,000 (plus the cost of issuance).” This item was discussed and approved as part of the CIP process. At that time, the project was estimated to cost \$500,000, all to be funded with bond proceeds. The current estimated cost is \$580,000. The recommendation is that the entire cost be funded with bond proceeds. Copies of the draft ordinance and cost estimate are included in your packet.

Suggested motion:

Motion to set a public hearing for September 2, 2014, for “An Ordinance Authorizing Storm Drain Improvements and Reconstruction of Nancy Drive, Patricia Road and Pierce Lane, with Total Project Costs Not to Exceed \$580,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$580,000 (plus the cost of issuance).

103. This item is to set a public hearing for September 2, 2014, for “An Ordinance Authorizing the Acquisition of a Trackless Sidewalk Tractor and Associated Attachments, with Total Project Costs Not to Exceed \$146,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$146,000 (plus cost of issuance).” Originally, this tractor was to be funded through the Public Works Vehicle Replacement Fund. During the 2014-15 budget deliberations, funding to that reserve fund was reduced by \$100,000. Citing the necessity of replacing the tractor, Mr. Eldridge indicated that he would recommend funding its acquisition with debt. Copies of the draft ordinance and cost estimate are included in your packet.

Suggested motion:

Motion to set a public hearing for September 2, 2014, for “An Ordinance Authorizing the Acquisition of a Trackless Sidewalk Tractor and Associated Attachments, with Total Project Costs Not to Exceed \$146,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$146,000 (plus cost of issuance).”

104. This item is to consider adopting “A Resolution Authorizing the Overexpenditure of the 2013-14 Appropriation for Technology Services by an Amount Not to Exceed \$40,000.” As discussed at the last meeting, these overexpenditures should have been addressed at the year-end meeting. A copy of the resolution is included in your packet.

Suggested motion:

Motion to adopt “A Resolution Authorizing the Overexpenditure of the 2013-14 Appropriation for Technology Services by an Amount Not to Exceed \$40,000.”

105. This item considers approving “A Resolution Authorizing Forgiveness of the Balance of an Advance to the School Department for the Renovation of Hawthorne School in the Amount of \$186,580.” In 2009, the Town Council adopted a Bond Ordinance Authorizing the Issuance of Bonds and Notes in and Amount not to Exceed \$375,000 to Finance Improvements at Hawthorne School in order to Convert the Property to Educational and Office Uses. Subsequently, the Town authorized an advance (aka internal loan) from the Town’s general fund to finance the project authorized in the bond ordinance. The School Department completed the renovations at a total cost of \$365,287, which was to be repaid to the general fund over five years. In the 2012-13 Budget, the Council suspended repayment of the advance. In the following year’s budget discussion, the Manager expressed the understanding and affirmation of the Council that the remaining balance of the advance be forgiven. What this resolution will do is provide formal action on this forgiveness of remaining debt. Copies of a memo from Mr. Eldridge and a draft resolution are included.

Suggested motion:

Motion to adopt “A Resolution Authorizing Forgiveness of the Balance of an Advance to the School Department for the Renovation of Hawthorne School in the Amount of \$186,580.”

106. At this time the Appointments Committee will make nominations to fill vacancies on Town Boards and Committees. Copies of the report and applications are included in your packet.

Suggested Motion:

Nominations will be made, with no seconds required, and the Council will then vote on the nominations.

**CONSENT AGENDA**

- a) Approval of the Minutes of July 21, 2014: A copy of the minutes is included in your packet.
- b) Approval of gas utility location permit applications for Maine Natural Gas for sections of Elm Street, Middle Street, Everett Street and Swett Street: Copies of information on the applications are included in your packet, with explanations below.

In application ULP 2014-17, Swett Street Maine Natural Gas seeks authorization to install a 2” gas main from the existing gas main located on the south side of High St across from the east side Swett St. The proposed gas main will run northerly along the west side of Swett St about 1 foot inside the paved way. Approximately 620 feet of 2” gas main.

In application ULP 2014-18, Everett Street Maine Natural Gas seeks authorization to install a 2” gas main from the proposed gas main to be located on the west side of Middle Street. The new gas main will run from the proposed gas main across Middle

Street to a point on the north side of Everett about 3 feet within the road, continuing along Middle Street 3 feet within the road to a point west of Fairpoint's building where it will transition to the sidewalk and run to Maine Street. Approximately 575 feet of 2" gas main.

In application ULP 2014-19, Middle Street Maine Natural Gas seeks authorization to install a 2" gas main from the proposed gas main to be located on the west side of the apron at Hannaford. The proposed gas main will run northerly about 3 feet within the paved way to a point across from the north side of Everett Street. Approximately 280 feet of 2" gas main.

In application ULP 2014-20, Elm Street Maine Natural Gas seeks authorization to install a 2" gas main from the existing gas main located on the east side of Union Street at south side of Elm Street. The proposed gas main will run easterly in the sidewalk on the south side of Elm Street to Maine Street. Approximately 960 feet of 2" gas main.

*Suggested Motion:*

Motion to approve the Consent Agenda.

*Suggested Motion:*

Motion to adjourn the meeting.

# MANAGER REPORT A BACK UP MATERIALS

**MEMORANDUM**

**TO:** Brunswick Sewer District

**FROM:** Pierce Atwood LLP

**RE:** Effect of Standard Sewer District Enabling Act on Brunswick Sewer District Charter

**DATE:** July 10, 2014

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You asked us to analyze how the Brunswick Sewer District's Charter will be affected by the Standard Sewer District Enabling Act, P.L. 2013, ch. 555, which was adopted during the last legislative session.

In this memo, we will discuss the impact of the Act on the District's Charter. The discussion will focus primarily on how the Charter is automatically amended by the provisions of the new law, summarizing in each case both how the Charter is affected and why. The memo also includes as Appendix A a table summary of the additions and revisions to the Charter itself. Finally, for your convenience, Appendix B includes a copy of the new statute for reference.

**I. Overview and Application**

The new Standard Sewer District Enabling Act, which is codified in Title 38, Sections 1031-1055 of the Maine Revised Statutes (M.R.S.), takes effect on August 1, 2014. By its terms, this new law combined all state laws related to sewer districts under one statute, and carried forward and revised certain prior provisions of Maine law that impact the Charter.

The Act is intended to apply to both existing and future sewer districts, and thus attempts to promote uniformity of certain key provisions among sewer districts, while still allowing some flexibility. As a result, some provisions apply to all existing and future charters automatically, some apply only to future charters automatically, some are mandatory but not set forth explicitly in the Act, and some are optional. Section 1033 of the Act describes the law's different sections and how they are to be applied to existing charters. Giving the complexity of the Act, this language is difficult to interpret, and therefore must be parsed carefully to identify whether and how the District's Charter will be affected.

For these purposes, the most significant provisions are those listed in Subsection 1 of Section 1033, as the Act provides that these sections are "incorporated into the private and special laws governing a sewer district, and any part of a sewer district Charter not in conformity

with the [those] provisions is void.” 38 M.R.S. § 1033(1). Furthermore, each of the listed provisions themselves specifically includes a provision that the language “is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district’s charter not in conformity with this subsection is void.” See e.g., 38 M.R.S. § 1036(7). Stated another way, the provisions of the Act that are listed in Subsection 1 apply automatically to all charters in Maine as of August 1, 2014, by operation of law, and anything to the contrary will be invalidated.<sup>1</sup>

Subsection 2 of § 1033 of the Act next lists several provisions that are somewhat confusingly described as “mandatory.” These provisions, however, are only mandatory for new sewer districts that are created after the passage of the Act. This is because Maine follows a general rule of statutory construction that provisions in a statute are assumed to operate prospectively only, unless the legislature specifically states that it wants them to operate retroactively, as well (such as in Subsection 1). See 1 M.R.S. § 302. Because the provisions in Subsection 2 do not state that they are to be applied retroactively, these provisions do not automatically apply to an existing charter. Therefore, for the District’s purposes, these would only affect the Charter if the District were to adopt them.

Subsection 3 then states that except as provided in Subsection 1 or 2, or as otherwise provided in the Act, the provisions of the Act do not apply unless a charter specifically adopts them. This is apparently intended to clarify the Legislature’s intent that the first two subsections can apply automatically, whereas the remaining provisions would have to be adopted affirmatively.

Subsection 4 then sets out several general topics that must be addressed in a charter, although the Act does not itself provide explicitly what must be included. These provisions are largely administrative in nature, covering issues such as the name and territorial limits of the district. These provisions have already been address by the District’s existing Charter, and therefore no changes are required to meet these standards. This memo will not address any of these provisions further.

Finally, Subsection 5 sets out a series of “optional” provisions that sewer districts may adopt voluntarily.

## **II. Effects on the District’s Charter**

In this part of the memo, we identify those provisions of the Act that automatically amend the District’s Charter (unless the District opts-out, as described in footnote 1). These are the provisions identified in Subsection 1 of Section 1033. Because the District’s Charter does

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<sup>1</sup> The Act provides an escape hatch from these provisions, which allows a sewer district to amend its charter explicitly to opt-out of the new language. See e.g., 38 M.R.S. § 1036(7) (subsection deemed incorporated automatically, “unless the...charter expressly references this subsection...and specifically provides that [it] does not apply”).

not currently reflect certain aspects of these provisions, it is necessary to review the sections to provide an overview of the impacts to the Charter.<sup>2</sup>

#### A. Trustees

The first mandatory provision of the Act is provided in 38 M.R.S. § 1036(7), which provides:

##### § 1036. Trustees

**7. Trustees compensation; applicable to all sewer districts.** *The trustees of a sewer district receive compensation as recommended by the trustees and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the sewer district, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws. Compensation for duties as trustees must be based on an amount specified in the bylaws for each meeting actually attended plus reimbursement for travel and expenses, with the total not to exceed a specific amount as specified in the bylaws. Compensation schedules in effect on January 1, 2013 continue in effect until changed.*

**8. Trustees retirement; applicable to all sewer districts.** *A person who has not been a trustee of a sewer district prior to January 1, 1987, or who is not a full-time employee, is not eligible to become a member of the Maine Public Employees Retirement System as a result of the person's selection as a trustee.*

Subsection 7 is nearly identical to that already provided at Section 13(4) of the Charter. Therefore, there is no change to the Charter required.

In contrast, with regard to Subsection 8, the Charter does not currently address Trustee retirement, and thus the language of this § 1036(8) has been incorporated into the Charter by the Act.<sup>3</sup> This language modifies Section 13 of the charter, which deals with issues related to the trustees.

#### B. Coordination with Municipal Officials

Next, the Act sets out at 38 M.R.S. § 1037 the following requirements for coordination with municipal officials:

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<sup>2</sup> While the Act provides that the provisions listed in this section of the memo are automatically incorporated into a sewer district's charter, note that some of these provisions appear to have been previously incorporated into all sewer district charters by 38 M.R.S. § 1252.

<sup>3</sup> Although § 1036(8) is not listed in § 1033(1) as an automatically incorporated provision, the actual language of § 1036(8) provides that that section is automatically incorporated into all sewer district charters. Thus, it appears that the Legislature's intent was to include § 1036(8) as one of the mandatory provisions that is automatically incorporated into existing sewer district charters.

**§ 1037. Coordination with municipal planning; applicable to all sewer districts**

*The following provisions facilitate coordination of municipal planning and sewer extension planning.*

**1. Growth management.** *The trustees of a sewer district shall cooperate with municipal officials in the development of municipal growth management and other land use plans and ordinances.*

**2. Development that affects the district.** *Municipal officers shall cooperate with the trustees of a sewer district during the consideration of development applications that may affect the operations of the sewer district.*

Regarding Subsection 1, Section 24(5) of the Charter currently provides that, prior to authorizing any sewer extensions, the Trustees shall notify the Town Council and consult with the Planning Board to assure conformity with their comprehensive plans and other public policies relating to growth and development. While the current language of the Charter is arguably consistent with the language of the Act, the Act seems to impose slightly broader obligations, as it requires the Trustees to “cooperate” with municipal officials on developing plans and ordinances, not just to notify and consult with them. To be sure, this is a close call, and there is likely only limited difference between cooperating and consulting, as a practical matter. The conservative interpretation would be that this is slightly broader than what exists in the current Charter, and therefore, this provision probably amends Section 24(5).

Regarding Subsection 2, the District’s Charter does not currently include a requirement for municipal officials to cooperate with the Trustees. This section of the Act thus also amends Section 24(5).

**C. Eminent Domain**

The Act provides in 38 M.R.S. § 1040 the following language regarding eminent domain authority for sewer districts:

**§ 1040. Right of eminent domain; applicable to all sewer districts**

*The authority and procedures for the exercise of eminent domain by a sewer district must conform to sections 1152, 1152-A, 1153 and 1154. In addition, a sewer district may not take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of the public utility in the performance of a public duty, unless expressly authorized by a special Act of the Legislature.*

The District’s eminent domain authority in Section 23(1) of the Charter is similar, but not identical to, this new language. Both authorize the use of eminent domain in accordance with 38 M.R.S. §§ 1152, 1152-A, and 1153. In addition, in Section 23(2), the Charter also provides that appeals are governed by 38 M.R.S. § 1154, just as in the new act. The one difference is that the Charter refers to 38 M.R.S. § 1252(2) for restrictions on takings of property or facilities of any other public utility. This new Act, however,

has repealed 38 M.R.S. § 1252, and therefore the Charter is amended to add the language stating specifically that a sewer district may not take by right of eminent domain property or facilities of any other public utility. This is, substantively, identical to the existing charter, and therefore the impact of the change is negligible.

#### **D. Sewer Extensions**

Next, the Act provides in 38 M.R.S. § 1042 a detailed set of required provisions establishing a process for obtaining written agreement from the municipality that a proposed sewer extension is consistent with municipal plans and ordinances, and setting out an appeal process with the State to resolve disputes.

#### **§ 1042. Sewer extensions; applicable to all sewer districts**

*Sewer extensions are governed by this section.*

*1. Written assurance from municipality. A sewer district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:*

*A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and*

*B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.*

*If the municipal officers fail to issue a response to a written request from a sewer district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.*

*Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension, the trustees of the sewer district shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass.*

*2. Review of municipal decision; applicable to all sewer districts. For an inter-municipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the Department of Agriculture, Conservation and Forestry for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter 4, the following procedures apply to the review by the Department of Agriculture, Conservation and Forestry.*

A. The Department of Agriculture, Conservation and Forestry may request any additional information from the sewer district, the municipality or the department. All information requested must be submitted within 30 days of the request, unless an extension is granted by the Department of Agriculture, Conservation and Forestry.

B. Within a reasonable time, the Department of Agriculture, Conservation and Forestry shall hold a hearing. The Department of Agriculture, Conservation and Forestry shall give at least 7 days' written notice of the hearing to the sewer district, the municipality and the party that requested the hearing. The hearing is informal and the Department of Agriculture, Conservation and Forestry may receive any information it considers necessary.

C. Within 15 days of the hearing and within 60 days of the request for review, the Department of Agriculture, Conservation and Forestry shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the Department of Agriculture, Conservation and Forestry constitutes final agency action.

D. Notwithstanding section 1, if the Department of Agriculture, Conservation and Forestry determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the Department of Agriculture, Conservation and Forestry shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use and the sewer district may construct the sewer extension.

The Charter does not currently require written assurance from the affected municipality that both sewer extensions and the developments they are to serve are consistent with municipal plans and ordinances or a review process to challenge such determinations. Thus, the language of this § 1042 has been incorporated into the Charter by the Act. It further revises Section 24(5), addressed above.

#### E. Leases

The Act next sets out at 38 M.R.S. § 1045 powers to enter into lease and leaseback transactions, as follows:

#### **§ 1045. Lease of property; applicable to all sewer districts**

*A sewer district may enter into a lease and leaseback transaction with respect to some or all of its real or personal property, other than land, and may take all other necessary action, including, but not limited to, the granting of mortgages and liens, to effectuate the transaction. For purposes of this section, "lease" includes a lease of any length, including leases that may be defined as sales for income tax purposes.*

The Charter does not allow specifically for lease and leaseback transactions. Although the District already has broad authority to acquire and hold land by "purchase, lease or otherwise" under Section 12, the Charter does not specifically address lease and leaseback arrangements. Thus, this language is more specific, and has accordingly probably been incorporated into the Charter by the Act.

#### **F. Enforcement Authority**

The Act next sets out the following provision in 38 M.R.S. § 1046 regarding enforcement:

##### **§ 1046. Enforcement**

*Sewer districts have enforcement powers as specified in this section.*

**1. Violation of standards by an industrial user; applicable to all sewer districts.** *A sewer district may seek in a civil action injunctive relief from an industrial user that violates a pretreatment standard or requirement, administered by the sewer district. The sewer district may seek a civil penalty of up to \$1,000 per day for each violation by an industrial user of a pretreatment standard or requirement.*

\* \* \*

**4. Connections not required; applicable to all sewer districts.** *An existing building that is already served by a private sewer system is not required to connect with a sewer or drain of a sewer district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate applicable law or ordinance applicable to the connection with a sewer or drain or a sewer district or any applicable requirements of the state plumbing code, as determined by the municipal plumbing inspector or the municipal plumbing inspector's alternate, or, in the event that both are trustees or employees of the sewer district, the Department of Health and Human Services, Division of Health Engineering.*

With respect to Subsection 1, the Charter does not currently include specific enforcement authority, beyond its emergency powers to take specific actions to protect public health and to place liens on property. The language of this section, which allows the District to seek civil penalties of industrial users that violate pretreatment standards, has therefore been incorporated into the Charter by the Act, probably in the listing of general powers in Section 21.

With respect to Subsection 4, this language is nearly identical to that already provided at Section 26(2) of the Charter. Therefore, there is no change required.

## **G. Rates and Fees**

Next, the Act sets out at 38 M.R.S. § 1048 the following requirements for rates and fees:

### **§ 1048. Rates and fees**

*1. Uniform rates. Rates must be uniform within a standard district whenever the cost to the standard district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform, except that:*

\* \* \*

*B. Trustees may reduce the impact fee or connection fee, as those terms are defined in Title 30-A, section 5061, for sewer service to newly constructed affordable housing in accordance with Title 30-A, chapter 202-A.*

\* \* \*

*5. Adoption of rate schedule. Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule. The trustees shall publish the proposed rates and notice of the hearing not less than once in a newspaper having a general circulation in the district not less than 7 days prior to the hearing. The standard district shall mail to each ratepayer a notice of the public hearing and the proposed rate at least 14 days prior to the hearing.*

Regarding Subsection 1(B), the Charter provides in Section 32(1) that rates must be uniform throughout the District, but allows the Trustees in Section 32(2) to make reasonable abatements, apparently for any customer, "of any rates as they deem proper." Thus, the Charter would already appear to allow a reduction in impact or connection fees for newly constructed affordable housing, and no change to the Charter would be necessary.

Regarding Subsection 5, this language about holding hearings to adopt new rate schedules is nearly identical to that already provided at Section 32(3) of the Charter. Therefore, there is no change required for this provision, either.

## **H. Landlord Access to Tenant Billing Information**

The Act next sets out required provisions specific to landlord/tenant matters under 38 M.R.S. § 1051, as follows:

**§ 1051. Landlord access to tenant bill payment information; applicable to all sewer districts**

*If a tenant is billed for sewer service provided to property rented by the tenant and nonpayment for the service may result in a lien against the property, the sewer district shall provide to the landlord or the landlord's agent, on request of the landlord or the landlord's agent, the current status of the tenant's account, including any amounts due or overdue.*

The current version of Section 35(3) of the Charter is arguably consistent with this provision of the statute. The current language of the Charter, however, only provides for notice to "owners" after three months, and does not specifically address a landlord/tenant situation or provide that accounts must be shared "on request." Thus, this language probably modifies Section 35(3) of the Brunswick Charter by specifying that the landlord may request the status of a tenant's account at any time when a lien is possible due to overdue payments.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FOURTEEN

S.P. 579 - L.D. 1532

**An Act To Provide Model Language for Standard Sewer District Charters**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 5 MRSA §18251, sub-§3, ¶B**, as enacted by PL 2003, c. 630, Pt. A, §3, is amended to read:

B. An elected official or an official appointed for a fixed term. Special provisions apply to certain officials as follows:

- (1) Membership of trustees of a water district is governed by Title 35-A, section 6410, subsection 8;
- (2) Membership of trustees of a sanitary district is governed by Title 38, section 1104; and
- (3) Membership of trustees of a sewer district is governed by Title 38, section ~~4252~~ 1036, subsections 7 and 8;

**Sec. 2. 14 MRSA §6321, 4th ¶**, as amended by PL 2007, c. 391, §9, is further amended to read:

For purposes of this section, "public utility easements" means any easements held by public utilities, as defined in Title 35-A, section 102; sewer districts, as defined in Title 38, section ~~4254~~ 1032, subsection 3 or 4; or sanitary districts, as formed under Title 38, chapter 11.

**Sec. 3. 30-A MRSA §2356, sub-§3**, as amended by PL 1995, c. 616, §1, is further amended to read:

**3. Trustees' compensation; water districts and sewer districts.** This chapter does not affect the procedures concerning changes in the compensation of trustees of water districts and sewer districts as provided in Title 35-A, section 6410, subsection 7; and Title 38, section ~~4252~~ 1036, subsection 5 7.

**Sec. 4. 30-A MRSA §5061, sub-§5**, as enacted by PL 2007, c. 174, §2, is amended to read:

**5. Sewer utility.** "Sewer utility" means a municipal sewer department, a sewer district as defined in Title 38, section ~~4254~~ 1032, subsection 3 or 4 or a sanitary district formed under Title 38, chapter 11.

**Sec. 5. 33 MRSA §593-A, sub-§1, ¶B**, as enacted by PL 2003, c. 526, §1, is amended to read:

B. "Utility" means a public utility as defined in Title 35-A, section 102, sanitary district established under Title 38, chapter 11 or sewer district as defined in Title 38, section ~~4254~~ 1032, subsection 3 or 4.

**Sec. 6. 38 MRSA c. 10** is enacted to read:

## **CHAPTER 10**

### **STANDARD SEWER DISTRICT ENABLING ACT**

#### **SUBCHAPTER 1**

#### **GENERAL PROVISIONS**

##### **§1031. Short title**

This chapter may be known and cited as "the Standard Sewer District Enabling Act."

##### **§1032. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

**1. Charter.** "Charter" means a private and special law or series of private and special laws that establishes a sewer district and defines its responsibilities and authorities.

**2. Rates.** "Rates" means a rate, toll, rent, assessment, supplemental charge or other lawful charge established by a sewer district pursuant to its charter.

**3. Sewer district.** "Sewer district" means a district, including a multipurpose district and standard district, created by a private and special law of the State whose purposes include collection, interception and treatment of sewerage. Except as otherwise provided in this chapter or other applicable law, "sewer district" does not include a district whose sewerage activities are confined to interception and treatment.

**4. Standard district.** "Standard district" means a sewer district that is formed and chartered by a private and special law in conformance with this chapter.

**§1033. Scope and application**

The provisions of this chapter apply as follows.

**1. Applicable to all sewer districts.** Except as otherwise provided in the statutory provisions listed in this subsection or in subsection 6, the following provisions are incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with the following provisions is void.

- A. Section 1036, subsection 7;
- B. Section 1037;
- C. Section 1040;
- D. Section 1042;
- E. Section 1045;
- F. Section 1046, subsection 1 and subsection 4;
- G. Section 1048, subsection 1, paragraph B and subsection 5; and
- H. Section 1051.

**2. Mandatory provisions from former chapter 12.** The following provisions apply to all sewer districts:

- A. Section 1038;
- B. Section 1049;
- C. Section 1050;
- D. Section 1054; and
- E. Section 1055.

**3. Standard provisions.** Except as provided in subsections 1 and 2 or other express provisions of this chapter, the provisions of this chapter do not apply to a sewer district unless the charter of that district incorporates those provisions.

**4. Mandatory provisions.** Provisions governing the following aspects of a standard district are not included in this chapter and must be otherwise specified in a standard district charter:

- A. The corporate name of the standard district;
- B. The territorial limits of the standard district;
- C. The number of trustees of the standard district, which in accordance with section 1036 may not be less than 3;
- D. The appointing authority responsible for appointing or the method of electing the first board of trustees;
- E. The terms of the trustees who are elected or appointed subsequent to the first board. Terms of the first board are determined pursuant to section 1036, subsection 4;

- F. Whether the trustees, subsequent to the first board, are appointed or elected; and
- G. The procedures for the local referendum on the creation of the standard district.

**5. Optional provisions.** A standard district charter may include provisions relating to the following:

- A. Special qualifications of trustees;
- B. Election of trustees by other than at-large elections as provided in section 1036, subsection 1. Any provision for election of trustees by other than at-large elections must establish voting districts in conformance with the judicial principle of one person, one vote;
- C. Additional purposes and powers of the standard district, such as authority to buy out an existing sewer company or to provide water or other utility services;
- D. Areas outside the standard district's territory in which the standard district is authorized to provide sewer services or accept sewage or septage;
- E. Areas outside the standard district's territory in which the standard district is authorized to locate facilities;
- F. Notwithstanding section 1053, a specific debt limit;
- G. Towns with which the standard district is authorized to contract to provide sewer service; and
- H. Any other provisions or duties necessary to accomplish the legislative purposes for creating the standard district.

**6. Limited sewer districts; exception.** Except as otherwise provided in this subsection or other applicable law, a sewer district whose sewerage collection activities are limited to collection performed pursuant to a contract with one or more municipalities is exempt from the requirements of this chapter. The sewerage collection activities may include the ownership, maintenance or operation of the collection facilities but not the fixing of rate schedules for their use. If the sewer district owns the collection facilities used under the contract, the sewer district is subject to the requirements of section 1042.

**7. Guidelines for modified charters.** As determined appropriate by the Legislature, a standard district charter may include provisions that differ from the provisions in this chapter.

**§1034. Exemption from taxation**

A standard district is a public municipal corporation within the meaning of Title 36, section 651 and the property of the district is exempt from taxation to the extent provided in that section.

**§1035. Legislative amendment of charters**

Prior to acting on a proposed sewer district charter amendment, the joint standing committee of the Legislature having jurisdiction over energy and utility matters shall

request written comments from the municipalities that lie in whole or in part within the sewer district.

## **SUBCHAPTER 2**

### **GOVERNANCE**

#### **§1036. Trustees**

All of the affairs of a standard district must be managed by a board of trustees whose members must be residents of the standard district. The number of trustees must be specified in the standard district's charter and may not be less than 3. After selection of the first board, each trustee is nominated and elected or appointed as provided in the charter creating the standard district and in accordance with subsection 1 or 2, as applicable. If the charter does not indicate whether trustees are appointed or elected, after the selection of the first board the trustees must be elected in accordance with subsection 1.

**1. Nominations and elections; vacancies.** Nominations and elections of trustees must be conducted in accordance with the laws relating to municipal elections in Title 30-A, chapter 121, and all elections must be conducted by secret ballot in accordance with Title 30-A, section 2528.

When the term of office of a trustee expires, the trustee's successor is elected at large by a plurality vote of the voters of the standard district. For the purpose of election, a special election must be called and held on the date established by the trustees. The election must be called by the trustees of the standard district in the same manner as town meetings are called and, for this purpose, the trustees are vested with the powers of municipal officers. A vacancy is filled in the same manner for the unexpired term by a special election called by the trustees of the standard district.

The trustees shall acquire a complete list of all the registered voters residing in the standard district. The trustees may acquire this list or portions of the list from the registrar of any town within the standard district. The town may charge a fee for providing the list. The list acquired by the trustees governs the eligibility of a voter. Voters who reside outside the territorial limits of the standard district, as defined in its charter, are not eligible voters. All warrants issued for elections by the trustees must show that only the voters residing within the territorial limits of the standard district are entitled to vote.

**2. Appointments.** If the charter creating a standard district specifies that the trustees are appointed, the appointments must be made as provided in the charter.

**3. Eligibility requirements.** When a trustee ceases to be a resident of a standard district, the trustee shall vacate the office of trustee and the vacancy is filled as provided in subsections 1 or 2, as applicable. All trustees are eligible for reelection or reappointment, but a person who is a municipal officer, as defined in Title 30-A, section 2001, subsection 10, of any town located, in whole or in part, within the standard district is not eligible for appointment, nomination or election as a trustee of that standard district.

**4. First board.** The first board is appointed or elected as provided in the charter creating the standard district. At the first meeting, the initial trustees shall determine by agreement or, failing to agree, shall determine by lot the term of office of each trustee. The terms of the trustees must be determined in accordance with the following table.

<u>Total number of trustees</u>	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
<u>3</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>4</u>	<u>1</u>	<u>1</u>	<u>2</u>
<u>5</u>	<u>1</u>	<u>2</u>	<u>2</u>
<u>6</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>7</u>	<u>2</u>	<u>2</u>	<u>3</u>
<u>8</u>	<u>2</u>	<u>3</u>	<u>3</u>
<u>9</u>	<u>3</u>	<u>3</u>	<u>3</u>
<u>10</u>	<u>3</u>	<u>3</u>	<u>4</u>
<u>11</u>	<u>3</u>	<u>4</u>	<u>4</u>
<u>12</u>	<u>4</u>	<u>4</u>	<u>4</u>
<u>13</u>	<u>4</u>	<u>4</u>	<u>5</u>
<u>14</u>	<u>4</u>	<u>5</u>	<u>5</u>
<u>15</u>	<u>5</u>	<u>5</u>	<u>5</u>

The trustees shall enter on their records the determination made. Vacancies are filled pursuant to subsection 1 or 2, as applicable.

At the first meeting, the trustees shall organize by electing from among their members a chair and a clerk, by adopting a corporate seal and by electing a treasurer who may or may not be a trustee.

**5. Organization; conduct of business.** Within one week after each annual appointment or election, the trustees of a standard district shall meet for the purpose of electing a chair, treasurer and clerk in accordance with subsection 4 to serve for the ensuing year and until their successors are elected or appointed and qualified. The trustees, from time to time, may choose and employ and fix the compensation of any other necessary officers and agents, who serve at the pleasure of the trustees. The treasurer shall furnish bond in the sum and with sureties approved by the trustees. The standard district shall pay the cost of the bond.

The trustees may adopt and establish bylaws consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the standard district and perform other acts within the powers delegated by law to the trustees.

The trustees must be sworn to the faithful performances of their duties including the duties of a member who serves as clerk or clerk pro tem. The trustees shall publish an annual report that includes a report of the treasurer.

Business of the standard district must be conducted in accordance with the applicable provisions of the Freedom of Access Act.

**6. Decisions of the board.** All decisions of the board of trustees must be made by a majority of those present and voting, except that a vote to approve the issuing of any bond, note or other evidence of indebtedness payable within a period of more than 12

months after the date of issuance must be approved by a majority of the entire board. A quorum of the board of trustees consists of the total number of authorized trustees divided by 2 and, if necessary to obtain a whole number, the resulting number rounded up to the next whole number.

Trustees are subject to the conflict of interest provisions of Title 30-A, section 2605.

**7. Trustees compensation; applicable to all sewer districts.** The trustees of a sewer district receive compensation as recommended by the trustees and approved by majority vote of the municipal officers in municipalities representing a majority of the population within the sewer district, including compensation for any duties they perform as officers as well as for their duties as trustees. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws. Compensation for duties as trustees must be based on an amount specified in the bylaws for each meeting actually attended plus reimbursement for travel and expenses, with the total not to exceed a specific amount as specified in the bylaws. Compensation schedules in effect on January 1, 2013 continue in effect until changed.

This subsection is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this subsection is void, unless the sewer district's charter expressly references this subsection or former section 1252, subsection 5 and specifically provides that this subsection or former section 1252, subsection 5 does not apply.

**8. Trustees retirement; applicable to all sewer districts.** A person who has not been a trustee of a sewer district prior to January 1, 1987, or who is not a full-time employee, is not eligible to become member of the Maine Public Employees Retirement System as a result of the person's selection as a trustee.

This subsection is deemed to be incorporated into the private and special laws governing sewer district, and any part of a sewer district charter not in conformity with this subsection is void, unless the sewer district's charter expressly references this subsection or former section 1252, subsection 6 and specifically provides that this subsection or former section 1252, subsection 6 does not apply.

**9. Expenses.** The trustees of a standard district may obtain an office and incur necessary expenses.

**10. Recall.** A trustee may be recalled under the following provisions.

A. The eligible voters of a standard district may petition for the recall of any trustee after the first year of the term for which the trustee is elected by filing a petition with the municipal clerk, or the county commissioners in the case of unorganized territory, demanding the recall of the trustee. A trustee may be subject to recall for misfeasance, malfeasance or nonfeasance in office. The petition must be signed by eligible voters of that portion of the standard district that that trustee represents equal to at least 25% of the vote cast for the office of Governor at the last gubernatorial election within that portion of the standard district. The recall petition must state the reason for which removal is sought.

B. Within 3 days after the petition is offered for filing, the official with whom the petition is left shall determine by careful examination whether the petition is sufficient and so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate must state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, the petition must again be carefully examined to determine sufficiency and a certificate stating the findings must be attached. Immediately upon finding an original or amended petition sufficient, the official shall file the petition and call a special election to be held not less than 40 days nor more than 45 days from the filing date. The official shall notify the trustee against whom the recall petition is filed of the special election.

C. The trustee against whom the recall petition is filed must be a candidate at the special election without nomination, unless the trustee resigns within 10 days after the original filing of the petition. There may not be a primary. Candidates for the office may be nominated under the usual procedure of nomination for a primary election by filing nomination papers, not later than 5 p.m., 4 weeks preceding the election and have their names placed on the ballot at the special election.

D. The trustee against whom a recall petition has been filed shall continue to perform the duties of the trustee's office until the result of the special election is officially declared. The person receiving the highest number of votes at the special election is declared elected for the remainder of the term. If the incumbent receives the highest number of votes, the incumbent continues in office. If another receives the highest number of votes, that person succeeds the incumbent, if that person qualifies, within 10 days after receiving notification.

E. After one recall petition and special election, no further recall petition may be filed against the same trustee during the term for which the trustee was elected.

**§1037. Coordination with municipal planning; applicable to all sewer districts**

The following provisions facilitate coordination of municipal planning and sewer extension planning.

**1. Growth management.** The trustees of a sewer district shall cooperate with municipal officials in the development of municipal growth management and other land use plans and ordinances.

**2. Development that affects the district.** Municipal officers shall cooperate with the trustees of a sewer district during the consideration of development applications that may affect the operations of the sewer district.

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 9 and specifically provides that this section or former section 1252, subsection 9 does not apply.

**§1038. Reorganization as sanitary districts**

A sewer district existing on January 1, 2013 may, but is not required to, reorganize as a sanitary district under the Maine Sanitary District Enabling Act by referendum in accordance with section 1101, subsection 1-A. The referendum may be initiated by the voters or by a majority of the trustees.

**SUBCHAPTER 3**

**POWERS**

**§1039. Powers**

Except as otherwise provided by law, for the purposes of its incorporation, a standard district may locate, construct and maintain pipes, drains, sewers, conduits, treatment plants, pumping stations and other necessary structures and equipment for the collection, interception and treatment of sewerage, commercial and industrial waste and storm and surface water for the health, welfare, comfort and convenience of the inhabitants of the standard district.

All incidental powers, rights and privileges necessary to accomplish the objectives of this chapter are granted to a standard district.

**§1040. Right of eminent domain; applicable to all sewer districts**

The authority and procedures for the exercise of eminent domain by a sewer district must conform to sections 1152, 1152-A, 1153 and 1154. In addition, a sewer district may not take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of the public utility in the performance of a public duty, unless expressly authorized by a special Act of the Legislature.

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 2 and specifically provides that this subsection or former section 1252, subsection 2 does not apply.

**§1041. Crossing other public utilities and railroad corporations**

If a standard district, in constructing, maintaining or replacing any of its facilities, must cross property of another public utility or railroad corporation, the standard district must obtain the consent of the other public utility or railroad corporation and undertake the work in accordance with conditions established by agreement. If, within 30 days after requesting consent, the standard district fails to reach an agreement with the public utility or railroad corporation the standard district may petition as follows.

**1. Public utility.** In the case of crossing property of a public utility, the standard district may petition the Public Utilities Commission to determine the time, place and manner of crossing. All work done on the property of the public utility must be done

under the supervision and to the satisfaction of the public utility or as prescribed by the Public Utilities Commission.

**2. Railroad corporation.** In the case of crossing the property of a railroad corporation, the standard district may petition the Department of Transportation to determine the time, place and manner of crossing. All work done on the property of the railroad corporation must be done under the supervision and to the satisfaction of the railroad corporation or as prescribed by the Department of Transportation.

All work under this section must be done at the expense of the standard district.

**§1042. Sewer extensions; applicable to all sewer districts**

Sewer extensions are governed by this section.

**1. Written assurance from municipality.** A sewer district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:

A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and

B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

If the municipal officers fail to issue a response to a written request from a sewer district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.

Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension, the trustees of the sewer district shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass.

**2. Review of municipal decision; applicable to all sewer districts.** For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the Department of Agriculture, Conservation and Forestry for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter 4, the following procedures apply to the review by the Department of Agriculture, Conservation and Forestry.

A. The Department of Agriculture, Conservation and Forestry may request any additional information from the sewer district, the municipality or the department. All information requested must be submitted within 30 days of the request, unless an extension is granted by the Department of Agriculture, Conservation and Forestry.

B. Within a reasonable time, the Department of Agriculture, Conservation and Forestry shall hold a hearing. The Department of Agriculture, Conservation and Forestry shall give at least 7 days' written notice of the hearing to the sewer district, the municipality and the party that requested the hearing. The hearing is informal and

the Department of Agriculture, Conservation and Forestry may receive any information it considers necessary.

C. Within 15 days of the hearing and within 60 days of the request for review, the Department of Agriculture, Conservation and Forestry shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the Department of Agriculture, Conservation and Forestry constitutes final agency action.

D. Notwithstanding section 1, if the Department of Agriculture, Conservation and Forestry determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the Department of Agriculture, Conservation and Forestry shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use and the sewer district may construct the sewer extension.

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 7 and specifically provides that this subsection or former section 1252, subsection 7 does not apply.

#### **§1043. Conditions for carrying out work**

When a standard district enters, digs up or excavates any public way or other land to lay or maintain its sewers, drains or pipes, constructing manholes or catch basins or other appurtenances or for any other purpose, the work must be done expeditiously. On completion of the work the standard district shall restore the public way or land to its condition prior to such work or to a condition equally good. If the work is being undertaken in a municipality and could potentially endanger travel on a public way, the municipal officers of the municipality in which the work is being done may order a temporary closing of the public way and of any intersecting way. Upon request of the standard district, the public way must remain closed to public travel until the municipal officers of the unit of local government determines the public way is restored to a condition safe for traffic. If the work is being undertaken in an unorganized territory and could potentially endanger travel on a public way, the commissioners of the county where the public way is located may order a temporary closing of the public way and of any intersecting way. Upon request of the standard district, the public way must remain closed to public travel until the county commissioners determine the public way is restored to a condition safe for traffic.

#### **§1044. Contracts**

A standard district, through its trustees, in order to carry out the purposes of its incorporation, may contract with a person, standard district, utility or corporation or with a municipality, the State or other governmental entity whether located inside or outside the boundaries of the standard district.

### **§1045. Lease of property; applicable to all sewer districts**

A sewer district may enter into a lease and leaseback transaction with respect to some or all of its real or personal property, other than land, and may take all other necessary action, including, but not limited to, the granting of mortgages and liens, to effectuate the transaction. For purposes of this section, "lease" includes a lease of any length, including leases that may be defined as sales for income tax purposes.

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 10 and specifically provides that this subsection or former section 1252, subsection 10 does not apply.

### **§1046. Enforcement**

Sewer districts have enforcement powers as specified in this section.

#### **1. Violation of standards by an industrial user; applicable to all sewer districts.**

A sewer district may seek in a civil action injunctive relief from an industrial user that violates a pretreatment standard or requirement, administered by the sewer district. The sewer district may seek a civil penalty of up to \$1,000 per day for each violation by an industrial user of a pretreatment standard or requirement.

This subsection is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this subsection is void, unless the sewer district's charter expressly references this subsection or former section 1252, subsection 8 and specifically provides that this subsection or former section 1252, subsection 8 does not apply.

**2. Injury to property of standard districts.** A person may not place, discharge or leave any offensive or injurious matter or material on or in the conduits, catch basins or receptacles of a standard district formed under this chapter contrary to its regulations or knowingly injure any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the standard district.

A person who violates this subsection is liable to pay twice the amount of the damages to the standard district to be recovered in any proper action and is subject to a civil penalty not to exceed \$2,500 for each violation, payable to the standard district. The civil penalty is recoverable in a civil action.

**3. Required connection.** Except as provided in subsection 4, upon receiving a request from a standard district to connect a building located in the territory of the standard district that is accessible to a sewer or drain of the standard district and that is intended for human habitation or occupancy or that has facilities for discharge or disposal of waste water or commercial or industrial waste, the owner of that building shall arrange to have the building connected through a sanitary sewer or drainage system to the standard district's accessible sewer or drain in the most direct manner possible. If feasible, each building requiring connection must have its own separate connection. The connection must be completed within 90 days of the receipt by the owner of the request,

or within any extended period requested by the owner and agreed to by the trustees. For purposes of this subsection, "owner" includes the owners of record or any person against whom property taxes on the building are assessed.

A person who receives a notice in accordance with this subsection to connect to a building and fails to connect to the building in accordance with this subsection is subject to a civil penalty not to exceed \$2,500, payable to the standard district. This penalty is recoverable in a civil action.

**4. Connections not required; applicable to all sewer districts.** An existing building that is already served by a private sewer system is not required to connect with a sewer or drain of a sewer district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate applicable law or ordinance applicable to the connection with a sewer or drain or a sewer district or any applicable requirements of the state plumbing code, as determined by the municipal plumbing inspector or the municipal plumbing inspector's alternate, or, in the event that both are trustees or employees of the sewer district, the Department of Health and Human Services, Division of Health Engineering.

This subsection is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this subsection is void, unless the sewer district's charter expressly references this subsection or former section 1252, subsection 3 and specifically provides that this subsection or former section 1252, subsection 3 does not apply.

**5. Permissive connection.** A person not otherwise required to connect a private sewer into a sewer of a standard district may connect to the standard district's sewer if that person obtains a permit from the standard district and pays any charges required by this subsection. The clerk of the standard district shall record the permit in the records of the standard district.

A. If construction of the standard district's sewer is complete at the proposed point of entry of the private sewer and the standard district has established an entrance charge for entry at that location, the person seeking to connect the private sewer at that location shall pay the entrance charge before the connection is undertaken.

B. If the standard district's sewer is under construction and not completed at the point of the proposed entry of the private sewer, the person seeking to connect the private sewer at that location is not required to pay an entrance charge.

#### **§1047. Inspection of sewers**

The officers or agents of a standard district have free access to all premises served by the standard district's sewers, at all reasonable hours, for inspection of plumbing and sewage fixtures, to ascertain the quality and quantity of sewage discharged and the manner of discharge, and to enforce this chapter and the rules prescribed by the trustees of the standard district.

### **SUBCHAPTER 4**

### **RATES AND FEES**

## **§1048. Rates and fees**

A person, firm and corporation, whether public, private or municipal, shall pay to the treasurer of a standard district the rates established by the trustees for the sewer or drainage service used or available with respect to their real estate as long as those rates are consistent with this section.

**1. Uniform rates.** Rates must be uniform within a standard district whenever the cost to the standard district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform, except that:

A. A standard district may establish a higher rate in sections where, for any reason, the cost to the standard district of construction and maintenance, or the cost of service, exceeds the average as long as the higher rates are uniform throughout the sections where the rates apply; and

B. Trustees may reduce the impact fee or connection fee, as those terms are defined in Title 30-A, section 5061, for sewer service to newly constructed affordable housing in accordance with Title 30-A, chapter 202-A.

This paragraph is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this paragraph is void, unless the sewer district's charter expressly references this paragraph or former section 1252, subsection 12 and specifically provides that this paragraph or former section 1252, subsection 12 does not apply.

**2. Multidistrict rates.** Notwithstanding any other provision of law, a standard district that shares, supplies or contracts for services with another district shall establish rates mutually agreeable to the trustees of each participating district.

**3. Readiness to serve.** A standard district's rates may include readiness to serve rates charged against owners of real estate abutting or accessible but not connected to sewers or drains of the standard district, whether or not the real estate is improved.

**4. Interest on late payments.** A standard district may charge and collect interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

**5. Adoption of rate schedule.** Prior to the adoption of a new rate schedule, the trustees shall hold a public hearing regarding the proposed rate schedule. The trustees shall publish the proposed rates and notice of the hearing not less than once in a newspaper having a general circulation in the district not less than 7 days prior to the hearing. The standard district shall mail to each ratepayer a notice of the public hearing and the proposed rate at least 14 days prior to the hearing.

This subsection is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this subsection is void, unless the sewer district's charter expressly references this subsection or former section 1252, subsection 1 and specifically provides that this subsection or former section 1252, subsection 1 does not apply.

**6. Revenue from rates.** Rates established by the trustees in accordance with this chapter must be fixed and adjusted so as to produce in aggregate revenue at least sufficient, together with any other revenues, to:

A. Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the standard district;

B. Pay the principle of, premium, if any, and interest on all bonds and notes issued by the standard district under this chapter as they become due and payable;

C. Create and maintain reserves as may be required by any trust agreement or resolution securing bonds and notes;

D. Provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the standard district; and

E. Pay or provide for all amounts that the standard district may be obligated to pay or provide for by law or contract, including any resolution or contract with or benefit of the holders of its bonds and notes.

**7. Rates in an unorganized territory.** If a standard district encompasses unorganized territory, rates applicable to real estate in that unorganized territory must be charged against the person or entity in possession of the real estate.

**8. Civil action for unpaid rates.** If rates under this section are not paid, and a standard district does not collect unpaid rates as a qualified sewer district under section 1050, then the standard district may maintain a civil action against the person who has not paid rates for the amount of the unpaid rates plus 10% interest.

**9. Disconnection of water service for nonpayment of sewer services.** If a standard district is part of a multidistrict utility that is a consumer-owned water utility, the utility may disconnect water service for failure to pay for sewer service in accordance with Title 35-A, section 6111-C.

**§1049. Waiver of sewer district lien foreclosure**

A sewer district, including but not limited to a qualified sewer district subject to section 1050, may use the following provisions to waive a lien foreclosure.

**1. Waiver.** The treasurer of a sewer district, including a qualified sewer district, when authorized by the trustees of the sewer district, may waive the foreclosure of a sewer district lien mortgage created pursuant to the sewer district's charter by recording in the registry of deeds a waiver of foreclosure before the period for the right of redemption from the lien mortgage has expired. The lien mortgage remains in full effect after the recording of a waiver. Other methods established by law for the collection of any unpaid rate are not affected by the filing of a waiver under this section.

**2. Form.** The waiver of foreclosure under subsection 1 must be substantially in the following form.

The foreclosure of the sewer lien mortgage on real estate for charges against.....(NAME) to.....(NAME OF SEWER DISTRICT)

dated.....and recorded in the.....County Registry of Deeds in Book....., Page..... is hereby waived.

The form must be dated, signed by the treasurer of the sewer district and notarized. A copy of the form must be provided to the party named on the lien mortgage and each record holder of a mortgage on the real estate.

**§1050. Qualified sewer districts; collection of unpaid rates**

The provisions of this section apply only to a qualified sewer district.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible sewer district" means a sewer district whose charter does not establish, or authorize the district to establish, a lien on real estate served by the district.

B. "Qualified sewer district" means an eligible sewer district that has satisfied the requirements of subsection 4; or a standard district unless this section is expressly excluded from the standard district's charter.

C. "Real estate" means an identified parcel of land and its improvements, if any, including, but not limited to, a mobile home.

**2. Lien.** There is a lien on real estate served or benefited by the sewers of the qualified sewer district to secure the payment of the qualified sewer district's rates. The lien established under this section takes precedence over all other claims on such real estate, except claims for taxes.

**3. Collection.** The treasurer of the qualified sewer district may collect rates and all rates must be committed to the treasurer. The treasurer may, after demand for payment, sue in the name of the qualified sewer district in a civil action in any court of competent jurisdiction for any rates remaining unpaid. In addition to other methods established by law for the collection of rates and without waiver of the right to sue for the collection of rates, the lien created under subsection 2 may be enforced in the following manner.

A. When rates have been committed to the treasurer of the qualified sewer district for collection, the treasurer may, after the expiration of 3 months and within one year after the date when the rates became due and payable, give to the owner of the real estate served, leave at the owner's last and usual place of abode or send by certified mail, return receipt requested, to the owner's last known address a notice in writing signed by the treasurer or bearing the treasurer's facsimile signature, stating the amount of the rates due, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rates and demanding the payment of the rates within 30 days after service or mailing, with \$1 added to the demanded rate for the treasurer and an additional fee to cover mailing the notice by certified mail, return receipt requested. The notice must contain a statement that the qualified sewer district is willing to arrange installment payments of the outstanding debt.

B. After the expiration of 30 days and within one year after giving notice pursuant to paragraph A, the treasurer of the qualified sewer district shall record in the registry of

deeds of the county in which the property of the person is located a certificate signed by the treasurer setting forth the amount of the rates due, describing the real estate on which the lien is claimed and stating that a lien is claimed on the real estate to secure payment of the rates and that a notice and demand for payment has been given or made in accordance with this section and stating further that the rates remain unpaid. At the time of the recording of the certificate in the registry of deeds, the treasurer shall file in the office of the qualified sewer district a true copy of the certificate and shall mail a true copy of the certificate by certified mail, return receipt requested, to each record holder of any mortgage on the real estate, addressed to the record holder at the record holder's last and usual place of abode.

C. The filing of the certificate in the registry of deeds creates a mortgage held by the qualified sewer district on the real estate described in the certificate that has priority over all other mortgages, liens, attachments and encumbrances of any nature, except liens, attachments and claims for taxes, and gives to the qualified sewer district all the rights usually possessed by mortgagees, except that the qualified sewer district as mortgagee does not have any right to possession of that real estate until the right of redemption has expired.

D. If the mortgage created under paragraph C, together with interest and costs, has not been paid within 18 months after the date of filing the certificate in the registry of deeds in accordance with paragraph B, the mortgage is foreclosed and the right of redemption expires. The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. In the event that the rate, with interest and costs, is paid within the period of redemption, the treasurer of the qualified sewer district shall discharge the mortgage in the same manner as provided for discharge of real estate mortgages.

E. The owner of the real estate shall pay the sum of the fees for receiving, recording and indexing the lien, or its discharge, as established by Title 33, section 751, plus \$13, plus all certified mail, return receipt requested, fees.

F. Not more than 45 days or less than 30 days before the foreclosing date of the mortgage created under paragraph C, the treasurer of the qualified sewer district shall notify the party named on the mortgage and each record holder of a mortgage on the real estate in a writing signed by the treasurer or bearing the treasurer's facsimile signature and left at the holder's last and usual place of abode or sent by certified mail, return receipt requested, to the holder's last known address of the impending automatic foreclosure and indicating the exact date of foreclosure. For sending this notice, the qualified sewer district is entitled to receive \$3 plus all certified mail, return receipt requested, fees, which must be added to and become a part of the amount due under paragraph E. If notice is not given in the time period specified in this paragraph, the person not receiving timely notice has up to 30 days after the treasurer provides notice as specified in this paragraph in which to redeem the mortgage. The notice of impending automatic foreclosure must be substantially in the following form:

**STATE OF MAINE**

**..... SEWER DISTRICT**

**NOTICE OF IMPENDING AUTOMATIC FORECLOSURE**

**SEWER LIEN**

**M.R.S.A., Title 38, section 1050**

**IMPORTANT: DO NOT DISREGARD THIS NOTICE**

**YOU WILL LOSE YOUR PROPERTY UNLESS**

**YOU PAY THE CHARGES, COSTS AND INTEREST FOR WHICH**

**A LIEN ON YOUR PROPERTY HAS BEEN CREATED BY THE**

**..... SEWER DISTRICT.**

**TO: .....**

**IF THE LIEN FORECLOSES,**

**THE ..... SEWER DISTRICT WILL OWN**

**YOUR PROPERTY, SUBJECT ONLY TO**

**MUNICIPAL TAX LIENS.**

**.....**

**District Treasurer**

G. The qualified sewer district shall pay the treasurer \$1 for the notice, \$1 for filing the lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the lien certificate must be paid by the qualified sewer district to the register of deeds.

H. A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the registry of deeds for more than one year, terminates all title of the qualified sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharge lien, unless the qualified sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

**4. Adoption; referendum.** An eligible sewer district may become a qualified sewer district in accordance with this subsection. The trustees of the eligible sewer district shall submit a proposal to become a qualified sewer district for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections in Title 30-A, chapter 121, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the eligible sewer district if the usual voting place for persons located within the district is located outside the territory of the district. For the purpose of registering voters, the registrar of voters must be in session on the regular work day preceding the election. The question presented must conform to the following form:

"Do you favor authorizing the (insert name of eligible sewer district) to become a qualified sewer district, allowing the district to exercise the lien authority established in the Maine Revised Statutes, Title 38, section 1050 with respect to unpaid rates?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the trustees and entered upon the eligible sewer district's records. Due certificate of the results must be filed by the clerk with the Secretary of State.

The eligible sewer district becomes a qualified sewer district under this section only upon acceptance of the question by a majority of the legal voters within the eligible sewer district voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the eligible sewer district.

**§1051. Landlord access to tenant bill payment information; applicable to all sewer districts**

If a tenant is billed for sewer service provided to property rented by the tenant and nonpayment for the service may result in a lien against the property, the sewer district shall provide to the landlord or the landlord's agent, on request of the landlord or the landlord's agent, the current status of the tenant's account, including any amounts due or overdue.

This section is deemed to be incorporated into the private and special laws governing a sewer district, and any part of a sewer district charter not in conformity with this section is void, unless the sewer district's charter expressly references this section or former section 1252, subsection 11 and specifically provides that this subsection or former section 1252, subsection 11 does not apply.

**SUBCHAPTER 5**

**BONDS, INVESTMENT AND DEBT LIMIT**

**§1052. Authorized to receive government aid, borrow money and issue bonds and notes**

A standard district is authorized to receive government aid, borrow money and issue bonds and notes in accordance with this section.

**1. Authorization of bonds.** A standard district may provide by resolution of its board of trustees, without district vote, for the borrowing of money and the issuance from time to time of bonds for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness;

B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the standard district or any municipality within the standard district or any person residing in unorganized territory encompassed by the standard district. The standard district may reimburse any municipality within the standard district or any person residing in unorganized territory encompassed by the standard district for any expenses incurred or paid by the municipality or person;

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, laying sewers, drains and conduits, constructing, maintaining and operating sewage and treatment plants or systems and making renewals, additions, extensions and improvements to the same and to cover interest payments during the period of construction and for any period after construction as the trustees may determine;

D. Providing reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds; and

E. Any combination of these purposes.

Bonds may be issued under this section as general obligations of the standard district or as special obligations payable solely from particular funds. The principal of, premium, if any, and interest on all bonds are payable solely from the funds provided for that purpose from revenues. For purposes of this section, "revenues" means and includes the proceeds of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by the standard district from the operation of its sewer system and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties. All bonds issued by a standard district under this section are legal obligations of the standard district, and a standard district whose charter includes this section is declared to be a quasi-municipal corporation within the meaning of Title 30-A, section 5701. Bonds may be issued under this section without obtaining the consent of any commission, board, bureau or agency of the State or of any municipality encompassed by the district and without any other proceedings or the happening of other conditions other than those proceedings or conditions that are specifically required by the standard district's charter or other applicable law. Bonds issued under this section do not constitute a debt or liability of the State or of any municipality encompassed by the standard district or a pledge of the faith and credit of the State or any such municipality, but the bonds are payable solely from the funds provided for that purpose, and a statement to that effect must be recited on the face of the bonds.

**2. Notes.** A standard district may provide by resolution of its trustees, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized under this section and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issue of these notes is governed by the applicable provisions of this chapter relating to the issue of bonds, except that notes in anticipation of revenue must mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals of grants or aids must mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issue of other notes, except that the period from the date of an original note to the maturity of any note issued to renew or pay the original note or the interest on a note may not exceed one year.

A standard district is authorized and empowered to enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the

financing of projects of the type that that district is authorized to carry out and to accept grants and borrow money from any government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the standard district.

**3. Maturity; interest; form; temporary bonds.** The bonds issued under this section must be dated, must mature at such time or times not exceeding 40 years from their date or dates and must bear interest at such rate or rates as may be determined by the trustees, and may be made redeemable before maturity, at the option of the standard district, at the price or prices and under the terms and conditions as fixed by the trustees prior to the issuance of the bonds. The trustees shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company inside or outside the State. Bonds must be executed in the name of the standard district by the manual or facsimile signature of the officer or officers as authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the standard district designated in the resolution. In case any officer, whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be such officer before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery.

Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under this section, all bonds issued under this section are negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the trustees may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The trustees may sell bonds, either at public or private sale and for the price as they determine to be for the best interests of the standard district. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in the manner and under the restrictions, if any, that the trustees provide, in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds and any trust agreement securing the bonds may contain limitations upon the issuance of additional bonds as the trustees determine proper, and these additional bonds must be issued under such restrictions and limitations prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the trustees may, under the same restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The trustees may provide for the replacement of any bond that is mutilated, destroyed or lost.

**4. Pledges and covenants; trust agreement.** In the discretion of the trustees of a standard district, each or any issue of bonds may be secured by a trust agreement by and between the standard district and a corporate trustee, which may be any trust company located within or outside the State.

A. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the standard district and any accounts and contract or other rights to receive the revenues of the money, whether then existing or coming into existence and whether then held or acquired by the standard district, and the proceeds of the revenues or the money, but may not convey or mortgage the sewer system or any other properties of the standard district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the standard district and the trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its sewer system or any of its other properties, the fixing and revising of rates, fees and charges, the application of the proceeds of bonds, the custody, safeguarding and application of revenues, defining defaults and providing for remedies in the event of defaults that may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the trustees determine reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any resolution or trust agreement is valid and binding and is deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and received by the standard district are immediately subject to the lien of the pledge without any physical delivery or segregation of the revenues and proceeds or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the standard district irrespective of whether those parties have notice of the lien.

B. The resolution authorizing the issuance of bonds under this section or any trust agreement securing those bonds may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves as may be provided in the resolution or trust agreement, must be set aside at regular intervals as provided in the resolution or trust agreement and deposited in a fund for the payment of the interest on and the principal of bonds issued under this section as the interest and principle become due and for the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money of the fund are subject to any regulations provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund must be a fund for the benefit of all bonds without distinction or priority of one over another.

**5. Trust funds.** Notwithstanding any other law, all funds received pursuant to the authority of a standard district's charter are trust funds, to be held and applied solely as provided in the charter of the standard district. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or bank, trust company or other fiscal agent to which, the funds are paid must act as trustee of the funds and must hold and apply the funds for the purposes of the standard district in accordance with its charter, subject to any regulations as may be provided in the resolution or trust agreement or as may be required by the charter of the standard district.

**6. Remedies.** A holder of bonds issued under this section or of any of the coupons appertaining to the bonds, and the trustee under a trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the standard district, protect and enforce all rights under the laws of the State, including this section, or under the resolution or trust agreement. A holder of bonds issued under this section or of any of the coupons appertaining to the bonds and the trustee under a trust agreement may enforce and compel the performance of all duties required by the standard district charter or by the resolution or trust agreement to be performed by the standard district or by any officer of the standard district, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the standard district.

**7. Refunding bonds.** A standard district by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at a time prior to the maturity or redemption of the refunded bonds that the board of trustees determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and any reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds that may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of those bonds, the security for those bonds, the rights of the holders and the rights, duties and obligations of the standard district in respect to those bonds are governed by the applicable provisions of the standard district charter relating to the issue of bonds other than refunding bonds.

**8. Tax exemption.** All bonds, notes or other evidences of indebtedness issued under the standard district's charter and the transfer of and the income from those bonds, notes or other evidences of indebtedness, including any profit made on the sale, are exempt from taxation in the State.

**9. Bonds declared legal investments.** Bonds and notes issued by a standard district under this section are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons

carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons authorized to invest in bonds or other obligations of the State may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are securities that may properly and legally be deposited with and received by any state, municipal or public officer, or any agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

**§1053. Debt limit; approval by voters of a standard district**

**1. Debt limit proposed.** Prior to issuing on behalf of a standard district any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance, the trustees shall propose a debt limit for the standard district that the trustees must submit for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections in Title 30-A, chapter 121, except the standard district's registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the standard district if the usual voting place for persons located in the standard district is located outside the territory of the standard district. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The question presented must be in substantially the following form:

"Do you favor establishing the debt limit of the (insert name of standard district) at (insert amount)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

**2. Results declared.** The results of the referendum held under subsection 1 must be declared by the trustees and entered upon the standard district's records. Due certificate of the results must be filed by the clerk with the Secretary of State.

**3. Effective date.** A debt limit proposal becomes effective upon its acceptance by a majority of the legal voters within the standard district voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the standard district.

**4. Total debt.** Trustees may not issue any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance unless the total amount of the debt issued by the trustees is no more than the amount approved by referendum under this section.

#### **§1054. Authority to increase debt limits; sewer districts**

**1. Debt limit.** Notwithstanding any provision of a sewer district's charter to the contrary, a sewer district may increase its debt limit by referendum in accordance with this section. A sewer district is not required to use the procedure provided by this section and may seek to increase its debt limit by any other lawful means, including pursuant to any other means described in the sewer district's charter or by seeking legislative amendment to its charter.

**2. Referendum.** If a sewer district chooses to increase its debt limit pursuant to this section, the governing body of the sewer district shall propose a new debt limit and submit the proposal for approval at a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections in Title 30-A, chapter 121, except the registrar of voters is not required to prepare or the clerk to post a new list of voters. The referendum may be held outside the territory of the sewer district if the usual voting place for persons located within the sewer district is located outside the territory of the sewer district. For the purpose of registering voters, the registrar of voters must be in session on the regular work day preceding the election. The question presented must conform to the following:

"Do you favor changing the debt limit of the (insert name of sewer district) from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the governing body of the sewer district and entered upon the sewer district's records. Due certificate of results must be filed by the clerk with the Secretary of State.

**3. Approval.** A debt limit proposal becomes effective upon its acceptance by a majority of the legal voters within the sewer district voting at the referendum. Failure of approval by the majority of legal voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The cost of referenda are borne by the sewer district.

#### **§1055. Mutual funds; sewer districts**

A sewer district may invest its funds, including sinking funds, reserve funds and trust funds, to the extent that the term of any instrument creating the funds does not prohibit the investment, in shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. This section is in addition to, and not in limitation of, any power of a sewer district to invest its funds.

**Sec. 7. 38 MRSA c. 12,** as amended, is repealed.

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# MANAGER'S REPORT - B BACK UP MATERIALS

Memorandum

To: TM Eldridge  
From: Capt. Waltz  
Re: Permission to Accept Donation of \$2,000  
Date: July 14, 2014

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Brunswick citizen, Ben McDorr has approached us and would like to donate \$2,000 (partially his money and partially donated by others) to the police department for the purpose of helping fund BPD's participation in a program called Project Lifesaver ([www.projectlifesaver.org](http://www.projectlifesaver.org)). This program provides monitoring transmitters which families can have loved ones with autism or Alzheimer's/dementia wear. The devices are radio transmitters which would allow us to quickly locate the wearer if he/she wanders off – similar to the way LoJack tracks a stolen car. The hope is that by quickly locating a wandering loved one, they will be found before they come to harm.

We estimate that it will cost at most \$7,000 to get the program up and running – purchase of the receiver, training on how to use it and a few transmitting bands (one of which will go to the McDorr family). We're still working out the details of the program, but other than our time, we expect the only cost to the PD to be the start-up costs. The cost of the transmitter bands (around \$300.00 one time fee) will be borne by family of the person signing up for the program as will the periodic battery replacement.

We intend to fund the balance of the startup costs with a \$5,000 unsolicited donation which was given to us last year by an anonymous donor (already accepted by council), that we set aside for a use we felt was appropriate.

May we request council permission to accept the \$2,000 donation?

**MANAGER'S REPORT - C  
NO BACK UP MATERIALS**

**MANAGER'S REPORT - D  
NO BACK UP MATERIALS**

**MANAGER'S REPORT - E  
NO BACK UP MATERIALS**

ITEM 99

BACK UP MATERIALS

**Town of Brunswick, Maine**  
**Finance Committee**

*Purpose.* The purpose of this policy is to establish the composition and responsibilities of the Town's Finance Committee.

*Members.* The Finance Committee shall be a standing committee of the Town Council. The Committee shall be comprised of three members of the Town Council appointed by the Council Chair. Members shall be appointed annually after the adoption of the annual budget and prior to July 1<sup>st</sup>. Members shall each serve terms of one year, concurrent with the July 1st to June 30th fiscal year. At its first meeting, the Committee shall select its chair and vice chair. Should, in the opinion of the Council Chair, circumstances require the extension of the Committee's term beyond the end of the fiscal year, the Chair shall announce his/her determination to the Town Council and the terms shall be temporarily extended. However, the terms shall not be extended for more than ninety days without a concurring vote of the Town Council. The succeeding Committee shall serve the remainder of the term until June 30, unless subsequently extended.

*Meetings.* The Committee shall meet at least once per month. The meeting dates shall be established at the Committee's first meeting. The Committee chair shall call additional meetings as the chair deems necessary, as voted by a majority of the Committee's members, or as directed by the Town Council. The Committee shall give public notice of its meetings in accordance with Maine's Freedom of Access Act (FOAA) and rules established by the Town Council. A majority of the members appointed to the Committee shall constitute a quorum. A majority of concurring votes shall be necessary to constitute an action on any matter.

*Responsibilities.* The Finance Committee shall perform the following tasks and functions:

1. Encourage and participate in long-range financial planning.
2. Review the annual budget as recommended by the Town Manager and provide commentary to the Town Council.
3. Review monthly budget to actual statements as prepared by the Finance Department.
4. Review ordinances, official statements and other documents connected with the issuance of debt.
5. Review the Town's risk management activities and insurance coverage.
6. Review, as requested, bid specifications and request for proposals for the purchase of goods or services.
7. In consultation the Town's administration, assist or prepare policies and/or procedures relating to the financial affairs of the Town.
8. The Finance Committee shall assume the duties of the Capital Improvement Plan Committee.
9. The Finance Committee shall assume the duties of the Audit Committee.
10. Review and report on the Town's investments.

11. Receive and review the reports and recommendations of the Town's Trust Fund Advisory Committee.
12. Perform such other tasks and functions as may be delegated to it by the Town Council from time to time.

The Finance Committee may adopt rules of procedure, consistent with this policy, to enable it to perform its functions.

*Conflict of Interest.* Members of the Finance Committee shall adhere to the conflict of interest policy was established by the Town Council in its Rules and Procedures.

*Administration.* The Finance Director shall be responsible to provide for the administration of the affairs of the Finance Committee, including preparing agendas and minutes, posting public hearings, handling correspondence, and maintaining all official records.

Proposed to Town Council: July 21, 2014

Adopted by Town Council:

**ITEM 100**

**BACK UP MATERIALS**



# Town of Brunswick, Maine

INCORPORATED 1739

OFFICE OF THE TOWN MANAGER

85 UNION STREET

BRUNSWICK, MAINE 04011-1583

TELEPHONE 207-725-6659

FAX 207-725-6663

## MEMORANDUM

TO: Town Council

FROM: John S. Eldridge  
Interim Town Manager

DATE: July 31, 2014

RE: Tax Acquired Properties

Attached is a list of properties which the Town has acquired through nonpayment of taxes. As specified in the Tax Acquired Real Estate Policy, the Town Manager presents the list of properties to the Town Council and makes recommendations on the disposition of each property. Given the complexities involved in each situation and the difficult nature of these decisions, I propose that the list be sent to the Finance Committee for review, and for the establishment of a sale date for selected properties. It will be the Town Council's decision whether to sell or retain the properties.

For information on the process which led up to this point, I offer the following timeline. Please note that the Tax Collector follows the process as set forth in Title 36 MRSA, Sections 942-943.

1. 30 Day Notice of Tax Lien – for taxes remaining unpaid within eight months after commitment. In Brunswick, this notice is mailed in mid-July for outstanding taxes from the prior fiscal year.
2. Recording of Tax Lien Certificate – filed with Cumberland County Registry of Deeds within 10 days after the end of the thirty-day period. This is also called a Tax Lien Mortgage. In Brunswick, the liens are registered in mid- to late-August.
3. 45-30 Day Notice of Impending Foreclosure – for taxes remaining unpaid, as automatic foreclosure date is approaching (18 months from lien date). In Brunswick, this notice is mailed in mid-January.
4. Foreclosure of Tax Lien Certificate – if taxes remain unpaid 18 months from the date of the Tax Lien Certificate, the mortgage is automatically foreclosed. In Brunswick, this occurs in mid- to late-February. For example, taxes committed in September 2011 and not paid as of August 2012 went to lien. These liens, if not paid, automatically foreclosed in February 2014.

Throughout the process, the Tax Collector makes every effort to inform and assist the tax-payer. Though not required, an additional reminder letter is mailed each year prior to the 30 Day Notice. Payments are accepted on any property at any time during the year, and calculations of

outstanding taxes and interest are provided upon request. After the automatic foreclosure, an informational letter is sent, along with a copy of the Town's Tax Acquired Real Estate Policy.

In June, prior to preparing this list of current tax acquired properties for the Town Council, letters were mailed to all prior owners advising them that the Town Manager was proceeding with his review for presentation to the Town Council. Another copy of the Tax Acquired Real Estate Policy was enclosed, along with a request to contact the Finance Office. All interested parties were given an opportunity to come in to discuss their situations and propose a resolution.

It should be noted that during this process we have spoken with many individuals and we recognize the best intentions of the prior owners to pay all obligations to re-acquire the properties. In several cases I have received assurances of payment within a reasonable time. I have separated the list of properties into three sections, based on the level of contact we have had with interested parties. Our hope is to hear from all prior owners on the list and to be able to provide this information to the Town Council.

At this time I recommend to the Council that the list of properties be sent to the Finance Committee for its consideration and review. Based upon more details on each of the properties, the Finance Committee will be in a position to make an informed recommendation to the full Council, and to establish a sale date for those properties the Council determines should be sold.

**Town of Brunswick**  
**Tax Acquired Properties**

Parcel	Location	Mobile Home	Total Due	Comments
051001000446	53 Theodore Dr	2002 Astro	\$3,150.77	Signed cert Mail, no contact
01101200A000	Old Portland Rd		\$545.45	No contact
011013000000	Old Portland Rd		\$3,253.66	No contact
011012000000	720 Old Portland Rd		\$18,745.14	No contact
051001000311	6 Tufton St	1989 Skyline	\$1,047.30	No contact
051001000035	38 Tufton St	1990 Commodore	\$4,032.02	No contact
022054000050	64 Linnell Circle	94 Skyline	\$2,245.67	Signed cert Mail, no contact
			<u>\$27,623.57</u>	
046012000000	403 Bath Rd		\$6,947.25	Discussions in progress
051001000025	18 Tufton St	2004 Fleetwood	\$2,889.46	Discussion on pmt.
U40012000000	53 Mere Pt Rd		\$13,295.55	Desires Pmt. Arrangement
051001000449	58 Theodore Dr	98 Clarion	\$785.56	Making pmts.
CC2047000000	60 Farley Rd		\$12,140.88	Discussion on pmt.
U40336000000	Parkview Circle		\$2,524.10	Bari Campobasso is PR
U08063000000	16 Jordan Ave		\$14,694.96	Discussion on pmt.
02701600F000	195 Casco Rd	68 Americana	\$8,782.86	Discussion on pmt.
MP4008000000	946 Mere Pt Rd		\$46,152.07	Discussion in progress
02900300A000	77 Bunganuc Rd		\$13,790.13	Discussion in progress
045003000131	22 Shea St	1995 Pinegrove	\$1,047.88	Making pmts.
045003000034	35 Karen Ln	1989 Skyline	\$854.24	No contact, small sporadic payments
			<u>\$123,904.94</u>	
022054000096	21 Lynch St	1988 Skyline	\$2,187.33	Pmt. Arrangement
051001000467	76 Theodore Drive	1987 Skyline	\$3,010.34	Pmt. Arrangement
045003000169	30 Long St	2003 Pinegrove	\$6,315.94	Pmt. Arrangement
051001000417	70 Franklin Pkwy	91 Commodore	\$1,381.68	Pmt. Arrangement
051001000288	45 Primrose Ln	2001 Marlette	\$2,748.31	Intends to sell
			<u>\$15,643.60</u>	

**TOWN OF BRUNSWICK**  
**TAX ACQUIRED REAL ESTATE**  
**POLICY**

Proposed to town council – March 18, 2013

Adopted by town council – March 18, 2013

**TOWN OF BRUNSWICK  
TAX ACQUIRED REAL ESTATE POLICY**

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Article 1. Purpose

- 1.1 Sections of Title 36 of the Maine Revised Statutes Annotated (MRSA) govern the collection of property taxes including the tax lien mortgage process. The tax lien mortgage process allows the Town to preserve its lien interest in real properties on which taxes remain unpaid. Should taxes remain unpaid, the lien process may result in the Town acquiring those properties. The purpose of this policy is to establish procedures for the review of properties on which a lien is about to foreclose and to establish procedures for the management, administration, and disposition of real property acquired by virtue of a tax lien mortgage foreclosure.

Article 2. Impending Foreclosure and Review of Properties

- 2.1 At the time of the mailing of the notice of impending foreclosure required under Title 36 MRSA section 943, the treasurer shall forward a copy of the list of properties subject to foreclosure to the town manager. The town manager, tax assessor, and codes enforcement officer are encouraged to review the list of properties subject to foreclosure to determine if it would be in the Town's best interest, as determined by the town manager, to waive foreclosure. Instances where the Town may not want to foreclose include but are not limited to:
- a. The property is known to have or is suspected of having environmental problems.
  - b. The property may be a hazard to the public health or welfare.
  - c. There is an easement on the property that makes the property an undesirable one to own.
  - d. The property has value only to the owner(s) and would have little or no market value.
- 2.2 Should the town manager determine it to be in the Town's best interest to waive foreclosure under Title 36 MRSA section 944 (1), the town manager shall make that recommendation to the town council at its next regularly scheduled meeting or at a special meeting if the next scheduled meeting would be after the foreclosure date. Should the town council vote to waive foreclosure, it shall notify the treasurer immediately so treasurer will have the opportunity to file the waiver of foreclosure prior to the date of foreclosure.

Article 3. Tax Acquired Property - Treasurer Notification to Prior Owner

- 3.1 Following the foreclosure of the tax lien mortgage, the treasurer, by certified mail return-receipt, shall notify the last known owner of record that his or her right to redeem the property has expired. The notification shall advise the last known owner of record that the property will be disposed of in accordance with this policy, a copy of which shall be included with the notification.

Article 4. Immediate Disposition of Tax Acquired Property

- 4.1 If the town manager determines it is in the Town's best interest to immediately dispose of the tax-acquired property, the town manager shall immediately make that recommendation to the town council. Reasons to immediately dispose of the property include but are not limited to:
- a. Potential liability in owning the property.
  - b. Rent or maintenance obligations resulting from the ownership of the property.
  - c. The property is a potential hazard to the public health or welfare.
- 4.2 The town council shall consider the town manager's recommendation and may dispose of the property on terms it deems advisable without regard to any other provisions of this policy.

Article 5. Management of Tax Acquired Property Pending Disposition

- 5.1 Until the disposition of tax acquired properties, responsibility for property management is delegated to the town manager who, at a minimum, shall:
- a. Determine whether the Town's best interest would be served by immediately disposing of the property in accordance with Article 4 of this policy.
  - b. Determine and obtain the level of insurance, if any, is necessary to protect the Town's interest in the property and to protect the Town from liability.
  - c. Determine if and when any occupants of tax acquired property should be required to vacate the property.

- d. Determine whether a rental fee should be charged to any occupants of the property. A rental fee shall not be imposed unless the Town has acquired sufficient liability insurance.

5.2 In the event the property is vacated for sixty (60) consecutive days, the town manager shall obtain liability coverage for the property.

#### Article 6. Review of Tax Acquired Properties

6.1 The treasurer shall prepare a list of properties acquired and forward a copy to the town manager.

6.2 The town manager shall review the properties, and may seek input from the appropriate Town boards and commissions. The tax-acquired properties shall be reviewed in accordance with the following categories and guidelines:

- a. Retain for public use.

By way of example, but not limitation, the Town may retain a property where:

- i. the property has or will have economic, recreational or conservation value to the Town.
- ii. the property has or will have potential for use as a public facility or an addition to public facilities.

- b. Retain on a temporary basis.

By way of example, but not limitation, the Town may retain a property on a temporary basis where:

- i. it's immediate sale would cause the occupants to be placed on public assistance.
- ii. it is determined that the property has significant potential for appreciation if held thereby increasing its value to the Town in a later sale.

- c. Sell the property with or without conditions.

The Town may sell properties with any conditions it deems to be in the best interest of the Town. The Town may also determine whether it wishes to consider proposed uses in the sale of properties.

- 6.3 The town manager shall classify the properties in one of the categories and make a recommendation to the town council for each property. On any property to be sold, the town manager shall recommend whether the proposed use for a property shall be a consideration in determining to whom a property shall be sold.
- 6.4 Prior to the delivery of the town manager's recommendations to the town council under article 6.3, any property acquired by the foreclosure of a tax lien may be re-acquired in accordance with article 7.1.
- 6.5 The town council shall review the town manager's recommendations and make the final determination regarding disposition. On properties to be sold, the town council shall determine whether a proposed use of the property shall be a consideration in any sale.

#### Article 7. Re-acquisition after Foreclosure

- 7.1 Pursuant to article 6.4, any property may be re-acquired prior to the town manager's recommendations to the town council. After the town council receives the town manager's recommendations, properties to be sold with or without conditions may be reacquired by the re-acquisition date established by the town council. In either case, the party from whom the property was acquired may re-acquire the property by paying all outstanding taxes, including estimated taxes for the current tax year if the conveyance is after April 1, interest, lien costs and any other costs relating to the property including, but not limited to legal, insurance, notice and advertising costs. The Town shall also require the payment of any other delinquent taxes or obligations due the Town. When a tax has been estimated to determine the re-acquisition price, the Town is not obligated to refund any amount later determined to be in excess of the estimate.
- 7.2 At the meeting when the town council makes its determination regarding the disposition of tax-acquired property pursuant to article 6, it shall also establish a final re-acquisition date for tax acquired property that it has determined will be sold. The final re-acquisition date shall be no more than ninety (90) days from the date the town council makes its determination regarding the disposition of a property.
- 7.3 Properties the town council has decided to retain for public use or to retain on a temporary basis may not be re-acquired, unless specifically authorized by the town council.

Article 8. Property to be Retained

- 8.1 If the property is retained for public use, the town council may direct the Town Attorney to pursue an action for equitable relief in accordance with the provisions of Title 36 MRSA section 946, as amended, as a means of securing clear title to the property.
- 8.2 The town council shall cause the tax-acquired property retained for public use to be managed and insured as it would any other municipal property.

Article 9. Property to be Sold - Sale Date, Notice of Sale, Bid Forms

- 9.1 At the meeting the town council makes its determination regarding the disposition of tax-acquired property and establishes a final redemption date for properties eligible to be redeemed, it shall also establish a sale date for properties it has determined will be sold. The sale date shall be at least thirty (30) days after the final re-acquisition date.
- 9.2 The town manager shall cause to be published a notice of the sale of the tax-acquired property in a local newspaper at least ten (10) days prior to the sale. The notice shall also be posted on the Town's website and in at least one other conspicuous place within the Municipal Building. The notice shall specify the time and date bids are due and the general terms of the bid. It shall also contain the following information for each piece of property:
- a. Brief description of the property. i.e. land, building, mobile home etc.
  - b. Location of the property.
  - c. Brief description of the conditions of the sale including whether a proposal regarding use shall be required.
  - d. The minimum bid. (required as deposit)

The notice of sale shall also contain the following statement: "The Town of Brunswick reserves the right to reject any or all bids, accept other than the highest bid and waive any of the requirements of its policy on tax acquired property should the town council, in its sole determination, judge such actions to be in the best interest of the Town of Brunswick."

- 9.3 All bids shall be on, or in, the form prescribed by the Town. At a minimum, the bid form shall contain:
- a. Name, address, and telephone number of the bidder.

- b. The amount of the bid in both written and numeric form.
- c. The Map, Lot, and Location of the property being bid.

When the town council has determined it wishes to consider a bidders' proposed use for a property in making the bid award, it shall also determine the form and content required for the submission of proposals.

- 9.4 The town manager shall, by certified mail return receipt, provide the party from whom the property was acquired a copy of the notice of the sale and bid forms. The town manager shall, by certified mail return receipt, provide a copy of the notice of the sale to the abutters of the acquired property.
- 9.5 All interested bidders shall be provided with a copy of the notice of sale and bid forms. All bids shall be submitted on forms prescribed by the town manager in an envelope clearly marked "Tax-Acquired Property Bid" and accompanied by a cashier's or certified check equal to the minimum bid. Each property being bid shall be bid in separate envelopes so that there is one property bid per envelope. Each envelope shall also indicate the Map and Lot of the property being bid. Bids shall be publicly opened and read on the date and at the time specified.

#### Article 10. Minimum Bid

- 10.1 Unless the town council stipulates otherwise, the minimum bid for any tax-acquired property shall be the total of all outstanding taxes, including estimated taxes for the current tax year if the conveyance is after April 1 and the exact amount of tax has not been determined, interest, lien costs and any other costs relating to the property including, but not limited to legal, insurance, notice, and advertising costs. The Town may refuse to award the bid to the party from whom the property was acquired unless all other obligations due from that party are also paid.

#### Article 11. Inspection of Property

- 11.1 The town manager shall provide all potential bidders with the opportunity to inspect the properties being offered for sale. This may be done in the manner the town manager deems to be in the Town's best interest. The Town and its employees shall refrain from making any representations regarding property condition or title.

## Article 12. Review and Award of Bids

- 12.1 The town manager shall review all bids and make recommendations to the town council. The town council shall determine which bid, if any, will be accepted. All bids shall be held until the town council makes its determination. No interest will be paid on the held bids unless the bids are held for more than seven (7) calendar days from the bid opening. If bids are held beyond seven (7) calendar days, interest will be paid on all held bids at the rate of 5% per annum. No interest will be paid on the accepted bid.
- 12.2 The Town of Brunswick reserves the right to reject any or all bids, accept other than the highest bid and waive any of the requirements of this policy should the town council, in its sole determination, judge such actions to be in the best interest of the Town of Brunswick. Instances where this right may be invoked include, but are not limited to:
- a. The town council may wish to sell the property to an abutting property owner rather than the highest bidder.
  - b. The town council may determine it prefers a use proposed by a party other than the highest bidder.
  - c. The town council may wish, but is by no means obligated, to sell the property to the party from whom the property was acquired rather than the highest bidder.
- 12.3 Should the town council reject all bids, the property may again be offered for public sale without notification to the prior owner or abutters.

## Article 13. Closing on Sale

- 13.1 The bid deposit of the successful bidder shall be retained as a credit towards the purchase price. All other deposits shall be returned to the bidders immediately upon notification of the successful bidder.
- 13.2 Full payment for the successful bidder is required within thirty (30) days from the date the bids are opened. Should the bidder fail to pay the full price within thirty (30) days, the Town shall retain the bid deposit and title to the property. The town council may review the bids submitted and offer the property to another bidder who shall have thirty (30) days to make payment in full or it may order that bids be solicited again.
- 13.3 Title to tax-acquired property shall be transferred only by means of a quit-claim deed. Unless otherwise advised by the Town Attorney, neither the Town and nor any of its employees shall make any representations regarding title to the property.

Article 14. Other Conditions

14.1 The successful bidder shall be responsible for the removal of all occupants and contents of purchased tax-acquired property.

Proposed to town council - March 4, 2013

Adopted by town council - March 18, 2013

ITEM 101

BACK UP MATERIALS

# MAINE NATURAL RESOURCE CONSERVATION PROGRAM PROJECT AGREEMENT

**Regulatory Entities:** Maine Department of Environmental Protection (DEP) and U.S. Army Corps of Engineers, New England District (Corps).

**Fund Administrator:** The Nature Conservancy, a District of Columbia nonprofit corporation with a local office in Brunswick, Maine (TNC).

**Cooperating Entity:** Maine Coast Heritage Trust, a non-profit corporation organized and existing under the laws of the State of Maine (MCHT or Cooperating Entity).

**Landowner:** Town of Brunswick, Maine (the Landowner).

**Project Name and Location:** Kate Furbish Preserve Stream Restoration Project, in the Town of Brunswick, Cumberland County, Maine (Project).

**Premises Covered by this Agreement:** Certain property located off of Merriconeag Road within the Kate Furbish Preserve in Brunswick, Cumberland County, Maine, containing approximately 55.3 acres, and shown on the map attached as Exhibit B (Premises).

**Description of Project:** This project will restore and enhance natural stream and stream associated wetland habitat through removal of an earthen dam on an unnamed stream that flows into Harpswell Cove within the 590-acre, town-owned Kate Furbish Preserve. Ongoing erosion into a vernal pool will be addressed through elimination of a stand of invasive *Phragmites australis* from a portion of the salt marsh immediately downstream of the impoundment, stabilization of exposed soils, and additional erosion control work in the project area. The project will restore natural stream flow and improve the water quality within the stream system that drains directly to commercially harvested shellfish flats. Included in the approximately 55.3 acre project area are estuarine intertidal coastal wetlands, which encompasses tidal waterfowl and wading bird habitat and *Spartina* salt marsh, one vernal pool and associated critical terrestrial habitat, stream habitat, and associated upland buffer (all of which will be further described and quantified in the restoration and enhancement Work Plan). It is anticipated that, once the dam is removed, the area currently impounded will revert to freshwater emergent wetland. It is understood that the above-stated acreages are approximate and that the actual acreage to be conserved will be determined by survey, GIS mapping, and the final restoration and enhancement Work Plan described below. The Premises lies within the Kate Furbish Preserve owned by the Town of Brunswick and the entire watershed of the unnamed stream to be restored is within the preserve. A portion of the watershed lies within the Maquoit and Middle Bay Focus Area for Statewide Ecological Significance. The Town intends to manage the preserve for its natural resource values, including non-motorized recreation, education and wildlife habitat and the Maine Coast Heritage Trust will be responsible for managing the restoration work and monitoring the results.

## **Project Cost:**

Maine Natural Resource Conservation Program (MNRCP) Contribution:	\$136,000
Other Project Cost:	\$ 0

**Management and Use of Premises:** No later than August 31, 2014, the Cooperating Entity shall submit to DEP and the Corps, for review and approval, a long-term Management Plan for the Premises that includes a detailed description of long-term management needs, the annual cost estimates to address them, and a funding mechanism to meet those needs. The approved Management Plan, as it may be amended from time to time by Agreement of the Cooperating Entity, DEP and the Corps, shall be kept on file in the offices of TNC. All use of the Premises shall be in accordance with the Management Plan. Without limiting the generality of the foregoing, the Cooperating Entity agrees that any construction or maintenance of trails shall be conducted in such a manner as to avoid all but de minimis disturbance to wetland habitat and buffers or habitat for sensitive species.

**Term of Monitoring Obligations:** The term of the Cooperating Entity's monitoring obligations, as more particularly described in General Provisions Section G, shall commence on the effective date of this Agreement and terminate six years following the completion of all enhancement activities set forth in the Work Plan, described below (the "Monitoring Term").

**Work Plan/Survey:** No later than August 31, 2014, the Cooperating Entity shall submit to TNC, for review and approval by TNC, DEP and the Corps, a detailed restoration and enhancement Work Plan, which includes a monitoring plan, following guidelines to be provided by TNC (based on the Corps' Mitigation Guidance document). Upon such approval, the Cooperating Entity shall fully implement such plan. In addition, the Cooperating Entity shall obtain a survey of the Premises, a copy of the deed to the Landowner, and reasonable evidence of the Town's title to the Premises; submit those documents to TNC for its review and approval; and record the survey with the Cumberland County Registry of Deeds along with the Notice of Project Agreement executed by the Landowner (as more particularly described in Section L of the General Provisions).

**Expiration of Funding Commitment:** TNC's obligation to pay the MNRCP Contribution to the Cooperating Entity shall expire, at TNC's option, on October 31, 2014.

**Payment:** TNC shall pay the MNRCP Contribution as follows: \$136,000 will be paid to the Cooperating Entity in accordance with a Payment Schedule to be provided to the Cooperating Entity by TNC following receipt and approval of the Work Plan and recording of the Survey and Notice of Project Agreement. Any additional project costs above the MNRCP award is the sole responsibility of the Cooperating Entity.

TNC, DEP, and the Cooperating Entity, mutually agree to perform this Agreement in accordance with Title 38 M.R.S. section 480-Z, as amended, and with the terms, conditions, plans, and specifications of the Project, incorporated herein by reference.

Subject to the availability of funds for this purpose, TNC hereby agrees, in consideration of the agreements made by MCHT herein, to pay to MCHT the MNRCP Contribution amount set forth above. MCHT hereby agrees, in consideration of the agreements made by TNC herein, to implement the Project in accordance with this Agreement.

**Exhibits:** The following exhibits are hereby incorporated into this Agreement:

Exhibit A General Provisions

Exhibit B Project Boundary Map

Exhibit C Notice of Project Agreement

In witness whereof, the parties hereto have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014 by their duly authorized representatives.

**THE NATURE CONSERVANCY**

By: \_\_\_\_\_  
Alexandre Mas,  
Director of Strategic Initiatives

**STATE OF MAINE  
Department of Environmental Protection**

By: \_\_\_\_\_  
Patricia W. Aho,  
Commissioner

**MAINE COAST HERITAGE TRUST**

By: \_\_\_\_\_  
Tim Glidden,  
Executive Director

**TOWN OF BRUNSWICK:**

By: \_\_\_\_\_  
Print Name:  
Title:

## **EXHIBIT A GENERAL PROVISIONS**

The Cooperating Entity specifically recognizes that the Project creates an obligation to restore, use and maintain the Premises consistent with Title 38 M.R.S. section 480-Z, and the following requirements:

**A. AUTHORITY:** The Cooperating Entity warrants and represents that: it possesses the legal authority to apply for the MNRCP Contribution and to otherwise carry out the Project in accordance with the terms of this Agreement; and that a resolution or similar action has been duly adopted by the governing body of the Cooperating Entity authorizing the filing of the application and implementation of the Project, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Cooperating Entity to act in connection with the application and to provide such additional information as may be required by TNC or the DEP and to enter into this Agreement. If the Cooperating Entity is a non-governmental organization, it shall provide TNC with a current certificate of good standing and a copy of its bylaws and articles of incorporation. In addition, the Cooperating Entity shall notify TNC immediately of any change in its corporate or tax status or operations, or if any official judicial, legislative, or administrative proceeding is instituted against the Cooperating Entity that may affect the commitments and obligations agreed to herein.

**B. USE OF FUNDS:** The Cooperating Entity shall use moneys received under this Agreement only for the purposes of accomplishing the Project.

**C. PAYMENT:** Payments shall be made to the Cooperating Entity in accordance with a Payment Schedule to be developed by TNC upon receipt and approval of the detailed Work Plan, described above.

**D. USE AND MAINTENANCE OF PREMISES:** Permits and licenses necessary for the implementation of this Agreement or use of the Premises shall be obtained and complied with by the Cooperating Entity. All costs of implementation of the Project shall be paid by the Cooperating Entity, except for the Maine Natural Resource Conservation Program Contribution to be provided by TNC as specified herein.

**E. RETENTION AND CUSTODIAL REQUIREMENTS FOR RECORDS:** The Cooperating Entity agrees to maintain records, documents and other evidence pertaining to all costs and expenses incurred in sufficient detail to reflect all costs and expenses for which payment or reimbursement is claimed. These records shall be maintained for a period of three years after the end of the Monitoring Term, or if there is no Monitoring Term, for a period of three years after closing on the purchase of the Premises. The records of the Cooperating Entity pertaining to the Project shall at all times within such three year period be available for inspection, review and audit by DEP and TNC. Any expenditure of the MNRCP Contribution by the Cooperating Entity that TNC determines, in its sole reasonable discretion, are not permitted hereunder shall be promptly repaid by the Cooperating Entity (or deducted from any subsequent payments hereunder by TNC).

**F. PROCUREMENT:** The Cooperating Entity shall follow its own policies with regard to documentation of procurements and maintain documentation of such policies. If the Cooperating Entity does not have written procurement policies, it shall retain documentation for procurements (over US \$5,000 outside the U.S. or over \$10,000 in the U.S.). Such documentation shall include sole source justification, if appropriate, or documentation of a competitive process or comparison shopping.

**G. REPORTING AND ANNUAL MONITORING REQUIREMENTS:** The Cooperating Entity shall report to TNC, the DEP and the Corps on the status of the Project, and on the condition of the Premises, following guidance provided by TNC. The Cooperating Entity shall send the report annually, not later than December 1 of each year, to: (a) the Agreement Administrator of DEP, at State House Station 17 Augusta, Maine 04333; (b) the Policy Analysis and Technical Support Branch, Regulatory Division, New England District Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751; and (c) The MNRCP Manager, The Nature Conservancy, 14 Maine Street, Brunswick, ME 04011.

**H. ASSIGNMENT:** This Agreement may not be assigned by the Cooperating Entity in whole or in part without the prior written consent of TNC and the DEP.

**I. LOBBYING AND POLITICAL CAMPAIGNING:** The Cooperating Entity shall not use any portion of funds transferred under this Agreement to engage in any lobbying activities. The Cooperating Entity shall not use any portion of funds transferred under this Agreement to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with Section 501(c)(3) of the US Internal Revenue Code.

**J. RIGHT OF ENTRY:** The DEP, the Corps and TNC, their employees, agents and representatives, shall each have the right to enter the Premises to assure compliance with the terms of this Agreement and any applicable laws.

**K. PRIOR NOTICE AND APPROVAL REQUIRED PRIOR TO TRANSFER OF PREMISES:** Prior to any encumbrance, assignment, disposition or transfer, in whole or in part, of the Premises or any interest therein, the Landowner shall provide at least sixty (60) days prior written notice of the same to the DEP and to the Corps, and shall obtain their written consent to such encumbrance, assignment, disposition, transfer, amendment or termination, as the case may be.

**L. NOTICE OF PROJECT AGREEMENT:** Prior to payment of any funds hereunder, the Cooperating Entity shall submit to TNC, for its approval, a notice of project agreement executed by the Landowner, substantially in the form attached hereto, and shall record such notice with the Cumberland County Registry of Deeds.

**M. ENFORCEMENT ALTERNATIVES:** In the event that the Cooperating Entity does not meet one or more of its obligations under this Agreement the DEP may exercise, in its sole discretion, all rights and remedies available at law or in equity. In the event that the DEP exercises any of such rights or remedies, the Cooperating Entity shall reimburse the DEP for its costs of enforcement and collection, including reasonable attorney fees.

**N. MEDIA ANNOUNCEMENTS:** The DEP, TNC and the Cooperating Entity shall have the opportunity to review and comment on proposed media announcements concerning the Project prepared by any party to this Agreement.

**O. INDEMNITY:** The Cooperating Entity shall defend, indemnify, and hold harmless TNC and DEP against any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of the Cooperating Entity's employees or agents in connection with this Agreement or the Premises. No legal partnership or agency relationship is established by this Agreement. No party is authorized or empowered to act as an agent, employee or representative of the others.

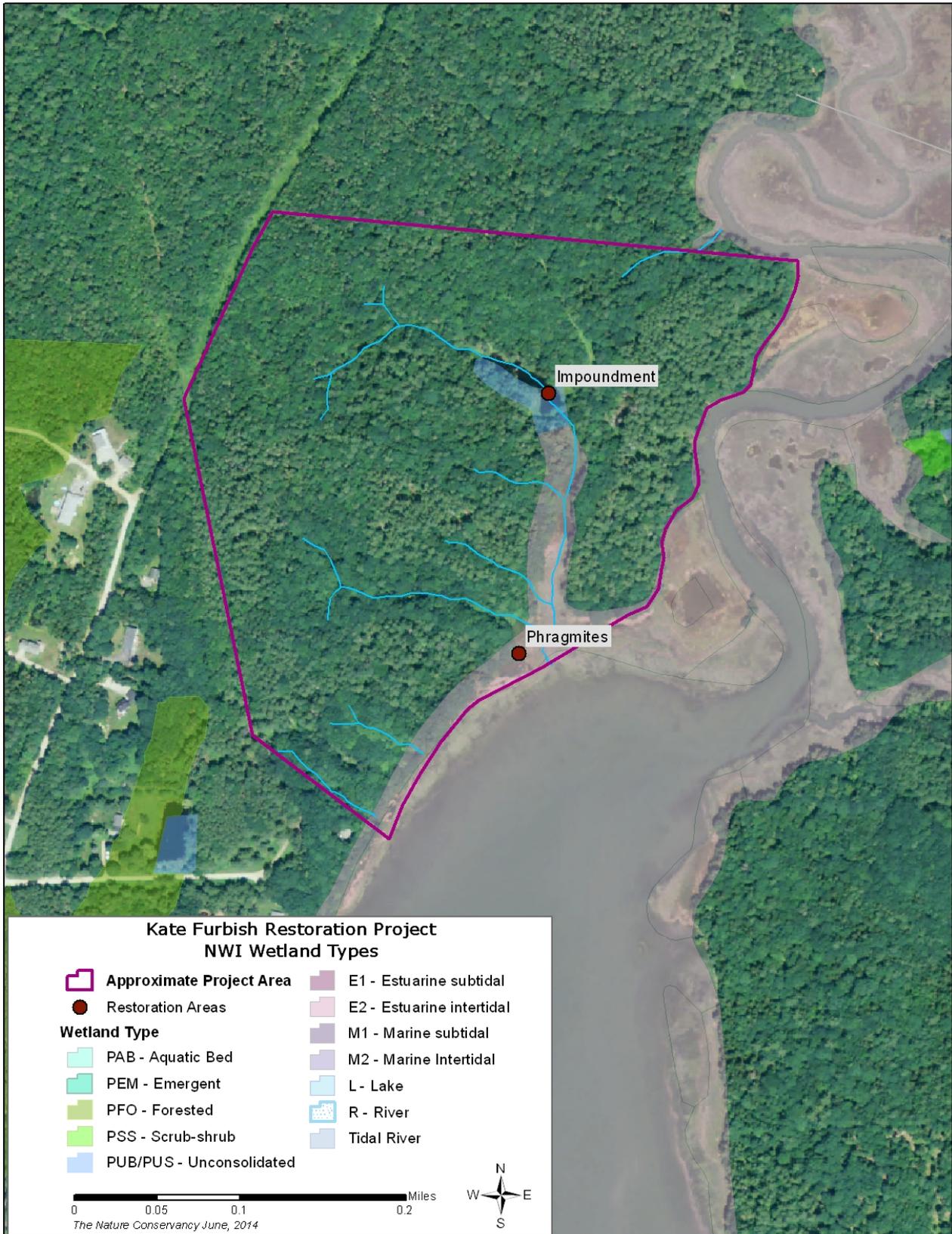
**P. TERMINATION:** TNC shall have the right to terminate this Agreement for any reason upon 30 days prior written notice to the Cooperating Entity, DEP and the Corps, in which event payment for work satisfactorily completed by the Cooperating Entity will be adjusted accordingly. Without limiting the generality of the foregoing, the Cooperating Entity understands that TNC may terminate this Agreement in the event that the Cooperating Entity is not making sufficient progress towards the completion of the Project, including, without limitation, raising sufficient funding to pay the Other Project Costs. In addition, it is understood that TNC shall have no obligation to provide funding under this Agreement beyond the Expiration Date.

**Q. CONFLICTS OF INTEREST:** Prior to the commencement of any work under this Agreement, the Cooperating Entity shall have executed and delivered to TNC a Disclosure Form regarding potential conflicts of interest, in a form provided to the Cooperating Entity by TNC. If any material misrepresentation in the Disclosure Form is discovered during the term hereof, TNC may elect to declare this Agreement null and void and any payments hereunder not yet expended shall be promptly returned to TNC.

**R. SUCCESSORS AND ASSIGNS:** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. In the event that the DEP ceases to exist, the rights and responsibilities of that party shall automatically be vested in any successor agency designated by the Legislature. Failing legislative designation, the successor agency shall be as determined by the Governor. In the event that TNC ceases to exist, the rights and responsibilities of that party shall vest in an entity designated by the DEP.

**S. AMENDMENT:** This Agreement may not be amended, in whole or in part, except with the written consent of all of the parties hereto.

# EXHIBIT B PROJECT MAP



**EXHIBIT C**  
**NOTICE OF PROJECT AGREEMENT**

**MAINE NATURAL RESOURCE CONSERVATION PROGRAM**  
**“Kate Furbish Preserve Stream Restoration Project”**

The **TOWN OF BRUNSWICK** (the “Owner”) is the owner of certain real property located in the Town of Brunswick, Cumberland County, State of Maine, more particularly described in the **Exhibit A** to which this Notice is attached (the “**Protected Property**”).

The Protected Property is being restored by Maine Coast Heritage Trust, a Maine non-profit corporation (“MCHT”) with funds received from The Nature Conservancy pursuant to a Maine Natural Resource Conservation Program Project Agreement between The Nature Conservancy (“TNC”), the State of Maine, Department of Environmental Protection (“DEP”), MCHT and the Landowner, dated \_\_\_\_\_ (the “Project Agreement”), a copy of which is kept at the offices of TNC, 14 Maine Street, Suite 401, Brunswick, Maine 04011 and the offices of DEP, State House Station 17, Augusta, Maine 04333.

The purpose of the Project Agreement is to provide funding to MCHT, pursuant to an In Lieu Fee Program Instrument between The State of Maine, Department of Environmental Protection and the New England District U.S. Army Corps of Engineers (the “Corps”), dated September 21, 2011 (the “In Lieu Fee Program Instrument”). The Landowner has agreed to join in the Project Agreement and to execute and record this Notice because of the Landowner’s support for the goals of the Project Agreement and for the benefits to the Protected Property resulting from such restoration. The Landowner agrees that the obligations of the Landowner set forth in the Project Agreement shall be a covenant running with the land, and shall be binding upon Owner, its successors and assigns as owner of the Protected Property.

The purpose of the In Lieu Fee Program Instrument is to acquire, restore and/or enhance, and to permanently protect, properties that will compensate for unavoidable adverse impacts to significant wildlife habitats, wetlands and other waters of the State of Maine resulting from activities authorized under the Maine Natural Resources Protection Act, the federal Clean Water Act and/or the federal Rivers and Harbors Act.

The Landowner has executed and recorded this Notice as notification and confirmation of its obligations, as set forth in the Project Agreement, to: 1) ensure the long-term conservation of the Protected Property in accordance with the terms of the Project Agreement; 2) refrain from converting any portion of the Protected Property to uses other than conservation; and 3) obtain the written consent of DEP and the Corps prior to encumbrance, assignment or disposition of any interest in the Protected Property.

The Protected Property shall not be conveyed, transferred, or further encumbered without including a specific reference to the terms and conditions of this Project Agreement, including the Book and Page of recording of this Notice.

**IN WITNESS WHEREOF**, the Landowner has set its hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2014.

TOWN OF BRUNSWICK

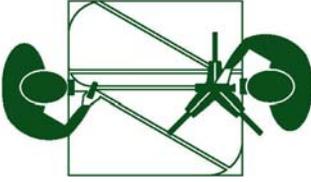
By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF  
COUNTY OF

On this \_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn did say that \_\_\_\_ is the \_\_\_\_\_ of the Town of Brunswick; and acknowledged said instrument to be the free act and deed of the Town.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



## Exhibit A

### Description of Land at Former Naval Air Station Brunswick, Brunswick, Maine Portion of Parcel REC-7 (Town of Brunswick) Maine Natural Resource Conservation Program Protected Property

A certain lot or parcel of land, with any improvements thereon, situated in the Town of Brunswick, County of Cumberland, State of Maine, as shown on a plan entitled "Boundary Survey Plan, Parcel REC-7, Former Naval Air Station Brunswick, ME", dated September 25, 2012, revised June 16, 2014, by Sitelines, PA (REC-7 Plan) and being more particularly described as follows:

Beginning on the northeasterly line of land now or formerly of Dana & Odile Mayo as described in deed recorded at the Cumberland County Registry of Deeds in Book 3592, Page 24, at the high water line of Merriconeag Brook;

Thence N 53°09'20" W along the northeasterly line of said Mayo, a distance of 50 feet, more or less, to a survey monument marking the northwesterly corner of said Mayo;

Thence continuing N 53°09'20" W along the northeasterly line of land now or formerly of Bruce & Joan Kidman as described in deed recorded at said registry in Book 16497, Page 337 and land now or formerly of Jeffrey & Karleen Smat as described in deed recorded at said registry in Book 12497, Page 262, a distance of 497.73 feet to a point;

Thence N 12°19'50" W along the easterly line of said Smat; Ellen H. Mulvaney Living Trust as described in deed recorded at said registry in Book 20305, Page 61; Benjamin & Kimberly Williamson as described in deed recorded at said registry in Book 27216, Page 71; a private road known as Libby Lane; Jon Johnson as described in deed recorded at said registry in Book 28571, Page 192; and Michael & Sarah Davis as described in deed recorded at said registry in Book 26090, Page 258, a distance of 1557.63 feet to a point;

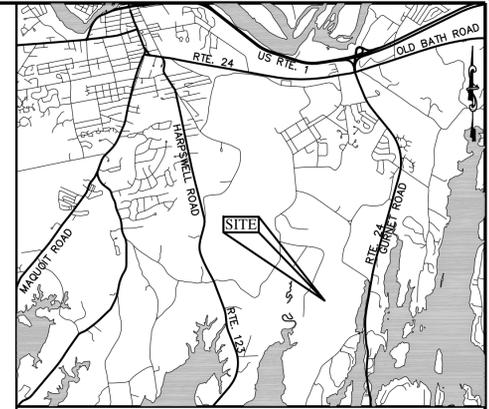
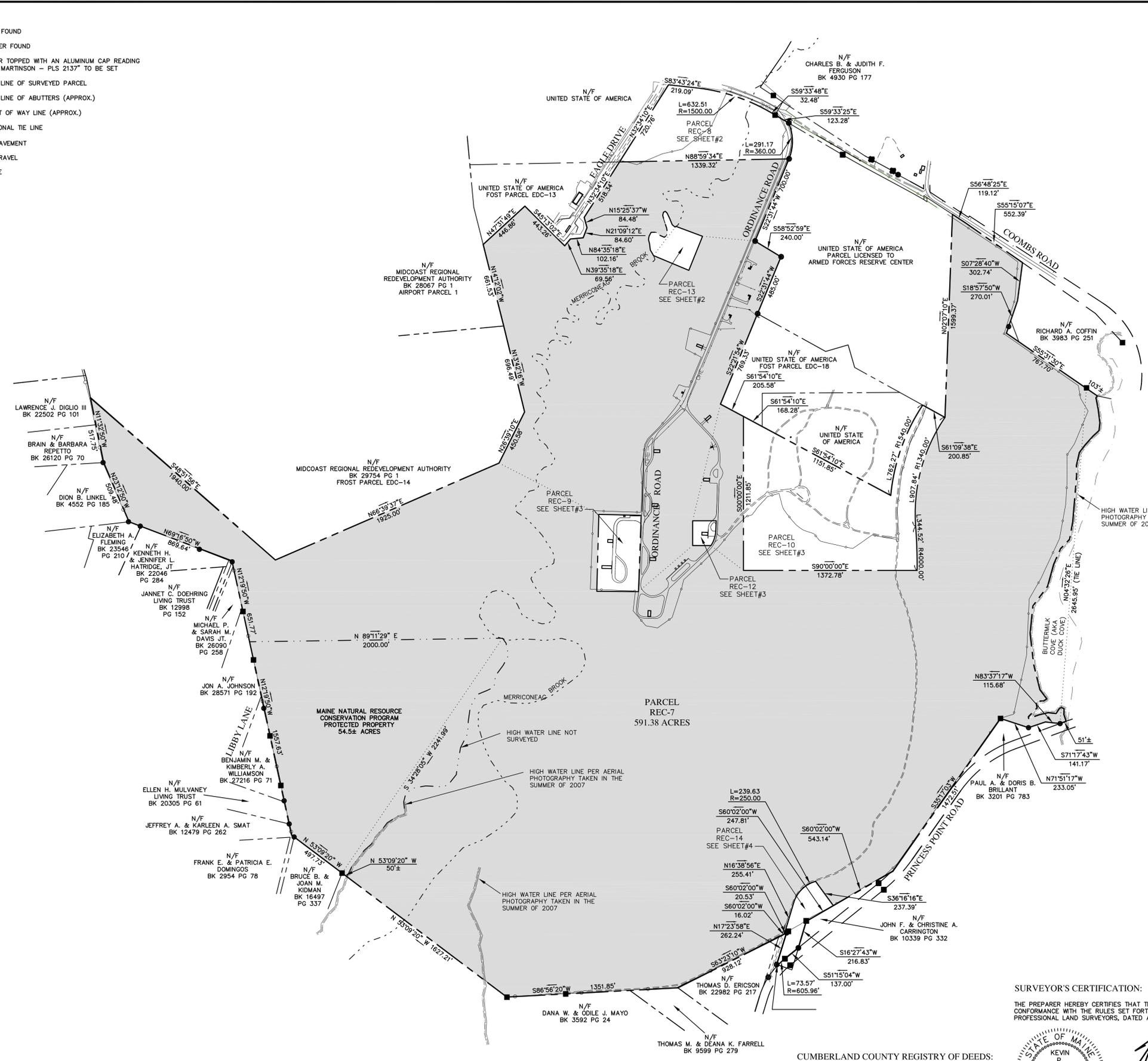
Thence S 89°11'29" W, a distance of 2000 feet to a point on the high water line of Merriconeag Brook. Said point bearing N 34°26'05" E, a distance of 2244.99 feet from the survey monument marking the northwesterly corner of said Mayo;

Thence in a general southwesterly direction along the high water line of Merriconeag Brook, a distance of 2550 feet, more or less, to the Point of Beginning.

Containing 54.5± acres, more or less.

**LEGEND**

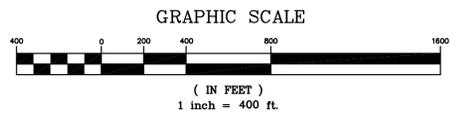
- MONUMENT FOUND
- IRON MARKER FOUND
- 5/8" REBAR TOPPED WITH AN ALUMINUM CAP READING "BRUCE W. MARTINSON - PLS 2137" TO BE SET
- BOUNDARY LINE OF SURVEYED PARCEL
- - - BOUNDARY LINE OF ABUTTERS (APPROX.)
- ROAD RIGHT OF WAY LINE (APPROX.)
- ..... COMPUTATIONAL TIE LINE
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- OHE— UTILITY LINE



**LOCATION MAP**  
SCALE: 1" = 5000'

**NOTES:**

- PLAN REFERENCE(S):**
  - a) PLAN ENTITLED "BOUNDARY SURVEY, NAVAL AIR STATION BRUNSWICK, BRUNSWICK, MAINE, FOR BRAC PROGRAM MANAGEMENT OFFICE", BY SEBAGO TECHNICS, INC., DATED AUGUST 2008.
  - b) PLAN ENTITLED "AMENDED SUBDIVISION PLAN, OF WILDWOOD ROUTE 24, BRUNSWICK, MAINE" BY BRIAN SMITH SURVEYING INC. RECORDED IN CUMBERLAND COUNTY REGISTRY OF DEED AS BOOK 180 PAGE 66 AMENDED BOOK 191 PAGE 29.
  - c) PLAN ENTITLED "PLAN OF FOST PARCEL EDC-7 NEPTUNE STREET, BRUNSWICK, MAINE" MADE FOR WRIGHT-PIERCE MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY BY TITCOMB ASSOCIATES DATED 10-27-2011
  - d) PLAN ENTITLED "PLAN OF FOST PARCEL EDC-HSG-MAIN-A & C FIRST STREET, BRUNSWICK, MAINE" MADE FOR WRIGHT-PIERCE MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY BY TITCOMB ASSOCIATES DATED 09-28-2011
- AREA INFORMATION:**
  - REC-7 AREA = 25,760,718 SQ.FT. 591.38 ACRES
  - REC-8 AREA = 586,210 SQ.FT. 13.46 ACRES
  - REC-9 AREA = 199,986 SQ.FT. 4.59 ACRES
  - REC-10 AREA = 1,310,226 SQ.FT. 30.08 ACRES
  - REC-12 AREA = 34,294 SQ.FT. 0.79 ACRES
  - REC-13 AREA = 98,388 SQ.FT. 2.26 ACRES
  - REC-14 AREA = 103,143 SQ.FT. 2.37 ACRES
- TAX MAP REFERENCE:**  
TAX MAP NOT ESTABLISHED YET
- BASIS OF BEARINGS:**  
BEARINGS ARE PER PLAN REFERENCE "A".



**SURVEYOR'S CERTIFICATION:**  
THE PREPARER HEREBY CERTIFIES THAT THIS SURVEY HAS BEEN UNDERTAKEN IN CONFORMANCE WITH THE RULES SET FORTH BY THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, DATED APRIL 1, 2001, FOR A BOUNDARY SURVEY.

CUMBERLAND COUNTY REGISTRY OF DEEDS:  
RECEIVED: \_\_\_\_\_  
AT \_\_\_ HRS \_\_\_ MIN \_\_\_ M, AND  
FILED IN PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
ATTESTED: \_\_\_\_\_ REGISTER

STATE OF MAINE  
KEVIN P. CLARK  
#2245  
PROFESSIONAL LAND SURVEYOR

KEVIN P. CLARK, PLS #2245  
JUNE 16, 2014  
DATE

NOT VALID UNLESS EMBOSSED HERE

1. 06-16-14 ADDED MNRCP PROTECTED PROPERTY RPL

**BOUNDARY SURVEY PLAN  
PARCEL REC-7**

FORMER NAVAL AIR STATION  
BRUNSWICK, MAINE

PREPARED FOR:  
THE TOWN OF BRUNSWICK BRUNSWICK, MAINE

**SITELINES, PA**  
ENGINEERS • PLANNERS • SURVEYORS  
LANDSCAPE ARCHITECTS  
8 CUMBERLAND STREET, BRUNSWICK, ME 04011  
207.725.1200 www.sitelinespa.com

FIELD WK: BWM/MIC/JJM	SCALE: 1" = 400'	SHEET:
DRN BY: RPL	JOB #: 1809.05	1 of 4
CH'D BY: BWM	SS:	
DATE: 09-18-12	FILE: 1809-05-SURVEY	

ITEM 102

BACK UP MATERIALS

**TOWN OF BRUNSWICK, MAINE**

**An Ordinance Authorizing Storm Drain Improvements and Reconstruction of Nancy Drive, Patricia Road and Pierce Lane, with Total Project Costs Not to Exceed \$580,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$580,000 (plus the cost of issuance)**

**WHEREAS**, the Town Council (the “Town Council”) of the Town of Brunswick (the “Town”) has an adopted a Capital Improvement Program for the fiscal years ending June 30, 2015-2019 (the “CIP”); and

**WHEREAS**, the CIP recommends a project to make storm drain improvements on Nancy Drive, and reconstruct Nancy Drive, Patricia Road and Pierce Lane, (the “Project”) and,

**WHEREAS**, the CIP contemplated a Project cost of \$500,000, all of which was expected to be funded through the issuance of general obligation bonds; and

**WHEREAS**, the Town Engineer has now estimated the total cost of the Project to be \$580,000,

**WHEREAS**, the Interim Town Manager is recommending that the entire Project cost be finance through the issuance of general obligation bonds; and

**WHEREAS**, the Charter of the Town of Brunswick, Maine (the “Charter”) requires that any capital acquisition to be financed solely or partly by the issuance of bonds or notes to be authorized by ordinance;

**NOW THEREFORE THE FOLLOWING ORDINANCE IS ADOPTED.**

**Section 1. Funding Sources and Appropriations.**

- a. A total five hundred and eighty thousand dollars (\$580,000), plus any additional amounts authorized under this ordinance, are appropriated to finance the cost of storm drain improvements on Nancy Drive and reconstruction of Nancy Drive, Patricia Road and Pierce Lane (the “Project”).
- b. The issue and sale of the Town’s general obligation bonds or notes (and notes in anticipation thereof) is authorized in an aggregate principal amount not to exceed five hundred and eighty thousand dollars (\$580,000), plus the cost of issuance. The proceeds of the bonds and notes are appropriated to finance the costs of the Project. The bonds and notes may also be used to reimburse the Town for any prior expenditures on the Project, or to refinance notes or advances as authorized herein.

**Section 2. Authorization to Develop, Construct, and Equip the Project.** The Town Manager is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town, such contracts, agreements, and other documents and certificates as the Town Manager may determine to be necessary or appropriate in connection with the Project. The aforementioned items shall be in such form and contain such terms and conditions as may be approved by the Town Manager. Such approval shall be

conclusively evidenced by the Town Manager's execution thereof, provided however, that the Town Manager may delegate the authority granted hereunder as the Town Manager deems appropriate.

**Section 3. Project Costs Defined.** The term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes:

- a. the cost of planning, surveys, engineering, feasibility studies, environmental studies and assessments, legal, accounting, and other professional services associated with the Project;
- b. the costs related to applying for and obtaining all permits, licenses, franchises, and the costs related to regulatory and judicial reviews;
- c. the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Project;
- d. the cost of all utility extensions and site improvements and development, including but not limited to the cost of demolition and removal of any structures appurtenant thereto;
- e. the cost of constructing the Project, and all costs determined by the Town Manager to be necessary to place the Project in service and ready for its intended use, including but not limited to, the cost of off-site improvements, and the cost of all labor, materials, building systems, machinery and equipment;
- f. the cost of insuring the Project while under construction and for a reasonable period upon substantial completion of the project, including builders risk, general liability, product liability, workers compensation and any other insurance costs the Town Manager determines is related to the Project;
- g. the costs of financing the Project including but not limited to financing charges and issuance costs, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses related to financing the Project;
- h. interest costs prior to and during construction and for a period not to exceed three years from the issue date of the bonds, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses related to the financing transaction;
- i. any other costs identified in the Project budget, and the cost of any other items or services deemed to be cost under generally accepted accounting principles ("GAAP") as determined by the Town's Finance Director.

**Section 4. Details of the Bonds or Notes.**

- a. Execution and Delivery of Bonds and Notes. The bonds and notes issued hereunder, and any issued as the result of exchanges or transfers, shall be signed by the Treasurer and be countersigned by the Chair of the Town Council. The bonds and notes shall have the seal of the Town affixed thereon, and be attested by the Town Clerk. The Treasurer and Chair of the Town Council, from time to time, shall execute such bonds and notes as may be required to provide for exchanges or transfers of bonds and notes hereinbefore authorized.
- b. Book Entry Certificates In lieu of physical certificates of the bonds and notes, the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such bonds and notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System. As an alternative to the provisions

herein regarding physical transfer of bonds, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in the Treasurer's opinion, appropriate in order to qualify the bonds for and participate in the Depository Trust Company Book-Entry Only System.

- c. Tax Exempt Bonds Option. The Treasurer and Chair of the Town Council are individually authorized to determine whether to issue the bonds and notes authorized herein as taxable bonds and notes or tax-exempt bonds and notes. To the extent such bonds and notes are issued as tax-exempt bonds, the Treasurer and Chair of the Town Council are individually authorized to covenant and agree, on behalf of the Town and for the benefit of the holders of such bonds and notes, that the Town will file any required reports and take any other action that may be necessary to ensure that interest on the bonds and notes will remain exempt from federal income taxation and that the Town will refrain from any action that would cause interest on the bonds and notes to be subject to federal income taxation.
- d. No Arbitrage Certification. The Treasurer and Chair of the Town Council are individually authorized to covenant and certify on behalf of the Town that no part of the proceeds of the bonds and notes shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such bonds or notes to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.
- e. Qualified Tax Exempt Obligations. The Treasurer is hereby authorized and empowered to take all such action as may be necessary to designate such bonds and/or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the Town's intention that the Treasurer, with advice of bond counsel, to make the required Section 265(b) election with respect to such bonds and notes, but only to the extent the election may be available and advisable as determined by the Treasurer.
- f. Principal Denominations. The principal amount of the bonds of the same maturity shall be such minimum denomination as the Treasurer, in the Treasurer's discretion, may approve.
- g. Maturities and Interest Rates. The maturity(ies), interest rate(s) and sale price of the bonds or notes issued hereunder shall be either sent out to bid or negotiated by the Treasurer in such manner as the Treasurer deems appropriate and in the best interest of the Town and the financing of the above-referenced Project. The Treasurer be and hereby is authorized to provide that any of the bonds or notes hereinbefore authorized may be made callable, with or without premium, prior to their stated dates of maturity. The bonds or notes hereby authorized shall be in such form and to otherwise contain such other terms and provisions as the Treasurer may approve, his or her approval to be conclusively evidenced by his/her execution thereof.
- h. Consolidation of Bond or Notes. Any or all of the bonds or notes issued hereunder may be consolidated with and become a part of any other issue of bonds or notes authorized to be issued by any previous or subsequent ordinance of the Town Council of the Town of Brunswick.

- i. Other Authorized Officials. If the Treasurer, Chair of the Town Council or Town Clerk are for any reason unavailable to approve and execute the bonds hereinbefore authorized or any other documents necessary or convenient to the issuance, execution and delivery of the bonds, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.
- j. Absence of Officials Prior to Delivery. If any of the officials of the Town who have signed or sealed the bonds or notes shall cease to be such officials before the bonds or notes signed and sealed shall have been actually authenticated or delivered by the Town, such bonds and notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds or notes had not ceased to be such officer or official; and also any such bonds and notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such bonds and notes, shall be the proper officials of the Town, although at the nominal date of such bonds and notes any such person shall not have been such officer or official.

#### **Section 5. Sale of Bonds or Notes and Registrar, Paying Agent and Transfer Agent**

- a. Official Statement. The Treasurer is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the bonds or notes. The Preliminary Official Statement and Official Statement shall be in such form and contain such information as may be approved by the Treasurer, with the advice of the underwriter for the bonds or notes and bond counsel for the Town. The distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the bonds or notes is approved.
- b. Counsel. The Treasurer is authorized to select Issuer Counsel, Bond Counsel and any other counsel the Treasurer deems necessary in connection with the planning, sale and issuance of the notes or bonds, and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.
- c. Underwriter. The Treasurer is authorized to select the underwriter for the bonds and notes, and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.
- d. Registrar, Paying Agent and Transfer Agent. The Treasurer is authorized to select the registrar, paying agent, and transfer agent for the bonds or notes and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services. The bonds and notes shall be transferable only on the registration books of the Town kept by the transfer agent. Upon surrender of the bonds or notes with an accompanying written instrument of exchange or transfer, executed by the registered owner or the owner's attorney, duly authorized in writing and satisfactory to the transfer agent, the Town and the transfer agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or

transfer. Subsequent to the first exchange or transfer, the cost of preparing new bonds or notes upon exchanges or transfer thereof shall be paid by the person requesting the same.

**Section 6. Refunding.** The Treasurer and Chair of the Town Council be and hereby are authorized to execute a refunding of general obligation bonds and notes herein authorized when the Treasurer and the Chair of the Town Council determine that such refunding is in the best interest of the Town. All delegated authority provided pursuant to this ordinance shall also apply to a refunding bond and note issue relating to the general obligation bonds and notes herein authorized.

**Section 7. Continuing Disclosure.** The Treasurer and Chair of the Town Council be and hereby are individually authorized to covenant, certify, and agree, on behalf of the Town, for the benefit of the holders of such bonds and notes, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c12-12 of the Securities and Exchange Commission are met.

**Section 8. Investment Earnings and Other Bond Proceeds.** Any investment earnings on the proceeds of the bonds and notes and any other unexpended proceeds thereof are appropriated for the following purposes:

- a. To any costs of the Project in excess of the amounts authorized herein;
- b. In accordance with the applicable terms and conditions of the Town's Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to interest on the bonds or notes, or to the Town's general fund;
- c. To any other qualified costs approved by the Town Council and not prohibited by the Town Charter or Ordinances, Maine law or the Internal Revenue Code.

**Section 9. Authority to Levy Tax for Debt Service.** In each of the years during which any of the bonds or notes are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds or notes, payable in such year, and the principal of such bonds maturing in such year.

**Section 10. Advances to Fund Project.** The Town is authorized to make advances, from the Town's general fund to a capital projects fund, in an aggregate amount not to exceed \$580,000, in anticipation of the issuance of bonds or notes, or for the purpose of financing any part of the Project. Advances used in lieu of bonds or notes authorized hereunder, are appropriated to finance the cost, or any part thereof, of the Project. The Treasurer is authorized to establish and amend all details of any advances including, but not limited to the term, interest rates, and payment schedule. The authority to issue the bonds and notes authorized herein shall remain and continue in full force and effect during the entire term of the advance(s). The proceeds of the bonds and notes issued hereunder may be used to repay the advance(s) of any portion thereof.

**Section 11. Declaration of Official Intent.** Advances from the Town's general fund may finance the original expenditures related to the Project. It is expected that those advances will be reimbursed in part or in whole by the issuance of bonds or notes authorized hereunder. It is the intent of the Town Council that this Ordinance shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation 1.150-2.

**Section 12. Abandonment of Borrowing Authority.** The Treasurer is empowered to declare abandoned, the authority to issue any bonds or notes the Treasurer deems to be in excess of the amount necessary to complete the Project. Such a declaration once made may not be reversed other than by ordinance.

Proposed to Town Council      August 4, 2014  
Public Hearing:                      September 2, 2014  
Adopted by Town Council:

**Preliminary Estimate of Probable Cost**

**Reconstruction & Storm Drain Improvements of Nancy Dr, Patricia Rd and Pierce Lane  
Town of Brunswick**

**Project Description:** Storm drain improvements and reconstruction of Nancy Drive in 2014 or Spring 2015. Nancy Drive to be repaved with binder only in 2014 if storm drain work completed in time. Reconstruction of Patricia Rd and Pierce Ln in 2015 with final paving of all three streets in 2015.

JAF, Public Works Department

Print Date: July 23, 2014

<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Estimated Total Cost</b>
<b>2014 Scope of Work (Nancy Dr)</b>				
<b>Install Storm Drain Improvements, River Rd &amp; Nancy Dr</b>				
15" ADS N-12 Storm Drain Line	90.0	l.f.	\$50.00	\$4,500
18" ADS N-12 Storm Drain Line	1,030.0	l.f.	\$60.00	\$61,800
24" ADS N-12 Storm Drain Line	760.0	l.f.	\$75.00	\$57,000
New or Replacement Pre-Cast 4' Dia Catch Basin, Complete	14.0	ea.	\$2,800.00	\$39,200
Traffic Control, Flaggers	320.0	hrs	\$25.00	\$8,000
Replace Asphalt Curb	210.0	l.f.	\$15.00	\$3,150
Replace HMA Asphalt Sidewalk	25.0	tons	\$175.00	\$4,400
Install Cast Iron Detectable Warning Field	16.0	s.f.	\$75.00	\$1,200
Install Pavement Markings		L.S.		\$500
Mobilize/Demobilize		L.S.		\$3,000
<b>Sub-Total for Storm Drain Contract</b>				<b>\$182,750</b>
<b>Public Works Crews to Improve Nancy Drive after Storm Drain Installed</b>				
Reclaim Nancy Drive (1,300' x 20')	4,044.4	s.y.	\$3.25	\$13,144
Add MDOT Grade A Gravel as Needed	876.3	c.y.	\$15.00	\$13,144
Install HMA Binder Course (1,300' x 28')	466.3	tons	\$80.00	\$37,303
Gravel for Driveway Aprons	108.3	c.y.	\$15.00	\$1,625
Install 12.5mm HMA Base Course for Driveway Aprons, 1.5" depth	87.8	tons	\$150.00	\$13,176
Mill Butt Joints	80.0	s.y.	\$20.00	\$1,600
Shoulder Gravel	96.3	c.y.	\$20.00	\$1,926
Topsoil	156.5	c.y.	\$20.00	\$3,130
General Supplies (Erosion control matls, grass seed, mulch, etc)		L.S.		\$8,000
<b>Sub-Total for Road Work</b>				<b>\$93,048</b>
<b>Total 2013 Nancy Dr Project Cost (Storm Drain + Road Work)</b>				<b>\$275,798</b>
Construction Contingency	<b>8%</b>			\$22,064
Update Storm Drain Final Design by Sitalines				\$4,000
<b>Total Nancy Drive 2014 Project Cost Including Contingency</b>				<b>\$302,000</b>
<b>2015 Scope of Work (Patricia Rd/Pierce Ln)</b>				
<b>Reconstruction by Town of Patricia Rd and Pierce Ln, no storm drain upgrades required</b>				
Reclaim Patricia Road (1,300' x 20')	4,044.4	s.y.	\$3.50	\$14,156
Reclaim Pierce Ln (600' x 28')	4,044.4	s.y.	\$3.50	\$14,156
Add MDOT Grade A Gravel as Needed	1,280.7	c.y.	\$15.00	\$19,211
Install 2" HMA Binder Course (1,900' x 28')	681.5	tons	\$80.00	\$54,519
Remove Pavement Aprons & Prepare Driveways for Paving	209.4	c.y.	\$15.00	\$3,142
Install 12.5mm HMA Base Course for Driveway Aprons, 1.5" depth	84.9	tons	\$150.00	\$12,737
Mill Butt Joints	160.0	s.y.	\$20.00	\$3,200
Install 9.5 mm HMA Top Course over Patricia/Pierce (1.5")	532.9	tons	\$90.00	\$47,961
Install 9.5 mm HMA Top Course over Nancy Dr (1.5")	368.9	tons	\$90.00	\$33,204
Install 9.5 mm HMA Top Course Driveway Aprons, Patricia/Pierce	84.9	tons	\$150.00	\$12,737
Install 9.5 mm HMA Top Course Driveway Aprons, 1.5", Nancy Dr	87.8	tons	\$150.00	\$13,176
Mill Butt Joints	240.0	s.y.	\$20.00	\$4,800
Shoulder Gravel	211.1	c.y.	\$22.00	\$4,644
Topsoil	228.7	c.y.	\$20.00	\$4,574
General Supplies (Erosion control matls, grass seed, mulch, etc)		L.S.		\$15,000
<b>Sub-Total for Road Work</b>				<b>\$257,216</b>
<b>Total 2015 Nancy Dr Project Cost (Storm Drain + Road Work)</b>				<b>\$257,000</b>
Contingency	<b>8%</b>			\$20,560
<b>Total Patricia Rd/Pierce Ln 2014/15 Project Cost Including Contingency</b>				<b>\$278,000</b>
<b>Grand Total Project Cost</b>				<b>\$580,000</b>
<b>Nancy Dr, Patricia Rd &amp; Pierce Ln Improvements (2014+2015)</b>				

ITEM 103

BACK UP MATERIALS

**TOWN OF BRUNSWICK, MAINE**

**An Ordinance Authorizing the Acquisition of a Trackless Sidewalk Tractor and Associated Attachments, with Total Project Costs Not to Exceed \$146,000 (plus any other authorized costs), and Further Authorizing Issuance of Bonds and Notes in an Amount not to Exceed \$146,000 (plus cost of issuance)**

**WHEREAS**, the Town Council (the “Town Council”) of the Town of Brunswick (the “Town”) adopted a Capital Improvement Program for the fiscal years ending June 30, 2015-2019 (the “CIP”); and

**WHEREAS**, the CIP recommends annual funding for the replacement of Public Works vehicles and equipment (“Public Works Vehicle Reserve”);

**WHEREAS**, prior to the adoption of the 2014-15 annual municipal budget, funding for the Public Works Vehicle Reserve was reduced by \$100,000; and

**WHEREAS**, at the time, the Interim Town Manager advised the Town Council that there was still a need to replace the Public Works trackless sidewalk tractor (the “Project”) and that he would recommend it be funded with general obligation bonds;

**WHEREAS**, during the CIP review process the Town Engineer estimated the total cost of the Project to be \$146,000;

**WHEREAS**, the Interim Town Manager is now recommending that the entire cost of the Project be funded with general obligation bonds; and

**WHEREAS**, the Charter of the Town of Brunswick, Maine (the “Charter”) requires that any capital acquisition to be financed solely or partly by the issuance of bonds or notes to be authorized by ordinance;

**NOW THEREFORE THE FOLLOWING ORDINANCE IS ADOPTED.**

**Section 1. Funding Sources and Appropriations.**

- a. A total one hundred and forty-six thousand dollars (\$146,000), plus any additional amounts authorized under this ordinance, are appropriated to finance the cost of a new trackless sidewalk tractor and associated attachments (the “Project”).
- b. The issue and sale of the Town’s general obligation bonds or notes (and notes in anticipation thereof) is authorized in an aggregate principal amount not to exceed one hundred and forty-six thousand dollars (\$146,000), plus the cost of issuance. The proceeds of the bonds and notes are appropriated to finance the costs of the Project. The bonds and notes may also be used to reimburse the Town for any prior expenditures on the Project, or to refinance notes or advances as authorized herein.

**Section 2. Authorization to Purchase and Equip the Project.** The Town Manager is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town, such contracts, agreements, and other documents and certificates as the Town Manager may determine to be necessary or appropriate in connection with the Project. The aforementioned items shall be in such form and contain such terms and conditions as may be approved by the Town Manager. Such approval shall be conclusively evidenced by the Town Manager's execution thereof, provided however, that the Town Manager may delegate the authority granted hereunder as the Town Manager deems appropriate.

**Section 3. Project Costs Defined.** The term "cost" or "costs" as used herein and applied to the Project, or any portion thereof, includes:

- a. the purchase price or acquisition cost of all or any portion of the Project;
- b. any other costs identified in the Project budget, and the cost of any other items or services deemed to be cost under generally accepted accounting principles ("GAAP") as determined by the Town's Finance Director.

**Section 4. Details of the Bonds or Notes.**

- a. Execution and Delivery of Bonds and Notes. The bonds and notes issued hereunder, and any issued as the result of exchanges or transfers, shall be signed by the Treasurer and be countersigned by the Chair of the Town Council. The bonds and notes shall have the seal of the Town affixed thereon, and be attested by the Town Clerk. The Treasurer and Chair of the Town Council, from time to time, shall execute such bonds and notes as may be required to provide for exchanges or transfers of bonds and notes hereinbefore authorized.
- b. Book Entry Certificates In lieu of physical certificates of the bonds and notes, the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such bonds and notes in book-entry form pursuant to the Depository Trust Company Book-Entry Only System. As an alternative to the provisions herein regarding physical transfer of bonds, and the Treasurer is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in the Treasurer's opinion, appropriate in order to qualify the bonds for and participate in the Depository Trust Company Book-Entry Only System.
- c. Tax Exempt Bonds Option. The Treasurer and Chair of the Town Council are individually authorized to determine whether to issue the bonds and notes authorized herein as taxable bonds and notes or tax-exempt bonds and notes. To the extent such bonds and notes are issued as tax-exempt bonds, the Treasurer and Chair of the Town Council are individually authorized to covenant and agree, on behalf of the Town and for the benefit of the holders of such bonds and notes, that the Town will file any required reports and take any other action that may be necessary to ensure that interest on the bonds and notes will remain exempt from federal income taxation and that the Town will refrain from any action that would cause interest on the bonds and notes to be subject to federal income taxation.
- d. No Arbitrage Certification. The Treasurer and Chair of the Town Council are individually authorized to covenant and certify on behalf of the Town that no part of the

proceeds of the bonds and notes shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such bonds or notes to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

- e. Qualified Tax Exempt Obligations. The Treasurer is hereby authorized and empowered to take all such action as may be necessary to designate such bonds and/or notes as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the Town’s intention that the Treasurer, with advice of bond counsel, to make the required Section 265(b) election with respect to such bonds and notes, but only to the extent the election may be available and advisable as determined by the Treasurer.
- f. Principal Denominations. The principal amount of the bonds of the same maturity shall be such minimum denomination as the Treasurer, in the Treasurer’s discretion, may approve.
- g. Maturities and Interest Rates. The maturity(ies), interest rate(s) and sale price of the bonds or notes issued hereunder shall be either sent out to bid or negotiated by the Treasurer in such manner as the Treasurer deems appropriate and in the best interest of the Town and the financing of the above-referenced Project. The Treasurer be and hereby is authorized to provide that any of the bonds or notes hereinbefore authorized may be made callable, with or without premium, prior to their stated dates of maturity. The bonds or notes hereby authorized shall be in such form and to otherwise contain such other terms and provisions as the Treasurer may approve, his or her approval to be conclusively evidenced by his/her execution thereof.
- h. Consolidation of Bond or Notes. Any or all of the bonds or notes issued hereunder may be consolidated with and become a part of any other issue of bonds or notes authorized to be issued by any previous or subsequent ordinance of the Town Council of the Town of Brunswick.
- i. Other Authorized Officials. If the Treasurer, Chair of the Town Council or Town Clerk are for any reason unavailable to approve and execute the bonds hereinbefore authorized or any other documents necessary or convenient to the issuance, execution and delivery of the bonds, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.
- j. Absence of Officials Prior to Delivery. If any of the officials of the Town who have signed or sealed the bonds or notes shall cease to be such officials before the bonds or notes signed and sealed shall have been actually authenticated or delivered by the Town, such bonds and notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such bonds or notes had not ceased to be such officer or official; and also any such bonds and notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such bonds and notes, shall be the proper officials of the Town, although at the nominal date of such bonds and notes any such person shall not have been such officer or official.

**Section 5. Sale of Bonds or Notes and Registrar, Paying Agent and Transfer Agent**

- a. Official Statement. The Treasurer is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the bonds or notes. The Preliminary Official Statement and Official Statement shall be in such form and contain such information as may be approved by the Treasurer, with the advice of the underwriter for the bonds or notes and bond counsel for the Town. The distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the bonds or notes is approved.
- b. Counsel. The Treasurer is authorized to select Issuer Counsel, Bond Counsel and any other counsel the Treasurer deems necessary in connection with the planning, sale and issuance of the notes or bonds, and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.
- c. Underwriter. The Treasurer is authorized to select the underwriter for the bonds and notes, and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.
- d. Registrar, Paying Agent and Transfer Agent. The Treasurer is authorized to select the registrar, paying agent, and transfer agent for the bonds or notes and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services. The bonds and notes shall be transferable only on the registration books of the Town kept by the transfer agent. Upon surrender of the bonds or notes with an accompanying written instrument of exchange or transfer, executed by the registered owner or the owner's attorney, duly authorized in writing and satisfactory to the transfer agent, the Town and the transfer agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer. Subsequent to the first exchange or transfer, the cost of preparing new bonds or notes upon exchanges or transfer thereof shall be paid by the person requesting the same.

**Section 6. Refunding.** The Treasurer and Chair of the Town Council be and hereby are authorized to execute a refunding of general obligation bonds and notes herein authorized when the Treasurer and the Chair of the Town Council determine that such refunding is in the best interest of the Town. All delegated authority provided pursuant to this ordinance shall also apply to a refunding bond and note issue relating to the general obligation bonds and notes herein authorized.

**Section 7. Continuing Disclosure.** The Treasurer and Chair of the Town Council be and hereby are individually authorized to covenant, certify, and agree, on behalf of the Town, for the benefit of the holders of such bonds and notes, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to ensure that the disclosure requirements imposed by Rule 15c12-12 of the Securities and Exchange Commission are met.

**Section 8. Investment Earnings and Other Bond Proceeds.** Any investment earnings on the proceeds of the bonds and notes and any other unexpended proceeds thereof are appropriated for the following purposes:

- a. To any costs of the Project in excess of the amounts authorized herein;
- b. In accordance with the applicable terms and conditions of the Town's Arbitrage and Use of Proceeds Certificate delivered in connection with the sale of the bonds or notes including, to the extent permitted thereunder, to interest on the bonds or notes, or to the Town's general fund;
- c. To any other qualified costs approved by the Town Council and not prohibited by the Town Charter or Ordinances, Maine law or the Internal Revenue Code.

**Section 9. Authority to Levy Tax for Debt Service.** In each of the years during which any of the bonds or notes are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said bonds or notes, payable in such year, and the principal of such bonds maturing in such year.

**Section 10. Advances to Fund Project.** The Town is authorized to make advances, from the Town's general fund to a capital projects fund, in an aggregate amount not to exceed \$146,000, in anticipation of the issuance of bonds or notes, or for the purpose of financing any part of the Project. Advances used in lieu of bonds or notes authorized hereunder, are appropriated to finance the cost, or any part thereof, of the Project. The Treasurer is authorized to establish and amend all details of any advances including, but not limited to the term, interest rates, and payment schedule. The authority to issue the bonds and notes authorized herein shall remain and continue in full force and effect during the entire term of the advance(s). The proceeds of the bonds and notes issued hereunder may be used to repay the advance(s) of any portion thereof.

**Section 11. Declaration of Official Intent.** Advances from the Town's general fund may finance the original expenditures related to the Project. It is expected that those advances will be reimbursed in part or in whole by the issuance of bonds or notes authorized hereunder. It is the intent of the Town Council that this Ordinance shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation 1.150-2.

**Section 12. Abandonment of Borrowing Authority.** The Treasurer is empowered to declare abandoned, the authority to issue any bonds or notes the Treasurer deems to be in excess of the amount necessary to complete the Project. Such a declaration once made may not be reversed other than by ordinance.

Proposed to Town Council: August 4, 2014  
 Public Hearing: September 2, 2013  
 Adopted by Town Council:

# H. P. FAIRFIELD, LLC

**BUDGET # 135539**



**"MUNICIPAL SPECIALISTS"**

PHONE: 207-885-4895 FAX: 866-896-9559

<http://www.hpfairfield.com>

FROM:

Travis Baker

65 Pleasant Hill Road

Scarborough, ME 04074

QUOTED TO: Town Of Brunswick  
106090 Public Works Dept.  
Brunswick, ME

DATE: March 28, 2014

CUSTOMER PHONE:

ATTN:

CUSTOMER FAX:

COMMENTS: 2014 Trackless Proposal

QTY	DESCRIPTION	PRICE	EXT. PRICE
1	NEW TRACKLESS MT6 SIDEWALK TRACTOR, 4 WHEEL DRIVE, TIER 3 ENGINE, HYDROSTATIC DRIVE, FULLY ARTICULATING AND OSCILLATING MAIN FRAME, 115 HP CUMMINS TURBO-CHARGED DIESEL ENGINE, 102 HP AT THE PTO, ROPS CERTIFIED SAFETY CAB, FULL INSTRUMENTATION, BARE AXLES WITH LIMITED SLIP, 16" RADIAL TIRES HYDRAULIC SYSTEM TO OPERATE ALL TRACTOR FUNCTIONS WITH JOYSTICK CONTROLS, A/C AND CAB PRESSURIZER, BACK UP ALARM, CAB MOUNTED STROBE, AIR RIDE HIGH BACK SEAT, JOYSTICK F/R BUTTON, PREPPED AND DELIVERED	\$145,888.00	\$145,888.00

ATTACHMENTS INCLUDED:

TRACKLESS 49" V-PLOW

TRACKLESS 7' ANGLE PLOW

TRACKLESS REAR MOUNT HYDRAULIC SANDER

TRACKLESS 51" RIBBON AUGER SNOWBLOWER

\*\*\* ONE YEAR WARRANTY PARTS AND LABOR \*\*\*

SIGNED *Travis Baker*

ACKNOWLEDGED

QUOTE TOTAL

\$145,888.00

**Serving New England for over 60 Years**

ITEM 104

BACK UP MATERIALS

**TOWN OF BRUNSWICK, MAINE**

**A Resolution Authorizing the Overexpenditure of the 2013-14 Appropriation for  
Technology Services by an Amount Not to Exceed \$40,000**

**WHEREAS**, the Town of Brunswick (the “Town”) adopted a Municipal Budget for the 2013-14 fiscal year (the “Budget”); and

**WHEREAS**, the Budget appropriated funds for the operation of its Technology Services Department; and

**WHEREAS**, the Technology Services Department experienced a number of unanticipated expenditures; and

**WHEREAS**, the Interim Town Manager, in monthly financial updates, informed the town Council that the actual expenditures of the Technology Department would substantially exceed the amount appropriated; and

**WHEREAS**, the Interim Town Manager has estimated that the unanticipated expenditures will exceed the amount budgeted by \$40,000, and

**WHEREAS**, section 508(a) of the Charter of the Town of Brunswick indicates that no department can exceed its gross budget appropriation except by vote of the council; and

**WHEREAS**, the Interim Town Manager has recommended approval of the additional expenditures; and

**WHEREAS**, the Town Council concurs with the Interim Town Manager’s determination;

**NOW THEREFORE BE IT RESOLVED:**

**Section 1. Expenditure Authorization.** The Town Council authorizes the overexpenditure of up to \$40,000 to fund unanticipated expenditures paid, or to be paid, from the Technology Services accounts for the fiscal year ended June 30, 2014.

**Section 2. Other Actions Authorized.** Any actions taken to date by the department or Interim Town Manager in connection with expenditures, paid or incurred, are hereby ratified, confirmed, and approved.

Proposed to Town Council: August 4, 2014

Adopted by Town Council:

**ITEM 105**

**BACK UP MATERIALS**

**MEMORANDUM**

TO: Town Council  
Town of Brunswick, Maine

FROM: John Eldridge  
Finance Director

DATE: July 31, 2104

RE: Resolution on School Advance Forgiveness  
Hawthorne School Renovation Project

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On May 18, 2009, the Town Council adopted a Bond Ordinance Authorizing the Issuance of Bonds and Notes in and Amount not to Exceed \$375,000 to Finance Improvements at Hawthorne School in order to Convert the Property to Educational and Office Uses. Subsequently, the Town authorized an advance (aka internal loan) from the Town's general fund to finance the project authorized in the bond ordinance. The School Department completed the renovations at a total cost of \$365,287, which was to be repaid to the general fund over five years.

Beginning in fiscal year 2010-11, the School Department included in its debt service budget, repayments of the funds advanced for the Hawthorne project. The Department also budgeted for the advance repayments in 2011-12. Because of the financial pressure on the 2012-13 school budget, the Department was allowed to suspend the payments for the 2012-13 fiscal year. The repayment amount was removed from the Department's debt service budget.

In the development of the 2013-14 budget the School Department's initial budget included funds to resume payments on the Hawthorne advance. Shortly beginning deliberations on the School Department's 2013-14 budget, the Town Manager and the Town Council discussed the intent of the prior year's action. Despite the School Department's inclusion of the repayment amount in its initial 2013-14 budget, there seemed to be a consensus that, rather than a suspension of payments, the remaining balance of the advance would be forgiven. However, we cannot find a formal Council vote to confirm that intent. Further support for that understanding of the Council's intent is evident from the fact that the School Department did not include any amount for the advance repayment in its 2014-15 budget submission.

We are recommending that the Town Council adopt a resolution formally recognizing that any balance remaining on the Hawthorne School project advance be forgiven as of June 30, 2014.

**TOWN OF BRUNSWICK, MAINE**

**A Resolution Authorizing Forgiveness of the Balance of an Advance to the School Department for the Renovation of Hawthorne School in the Amount of \$186,580**

**WHEREAS**, on May 18, 2009, the Town Council adopted a Bond Ordinance Authorizing the Issuance of Bonds and Notes in and Amount not to Exceed \$375,000 to Finance Improvements at Hawthorne School in order to Convert the Property to Educational and Office Uses (the “Project”); and

**WHEREAS**, on June 20, 2011, the Town Council adopted an amendment to the Hawthorne School Bond Ordinance to “authorize advances, from the Town’s general fund in an amount not to exceed \$375,000, to a capital projects fund, and appropriate those advances for the purpose of financing the Project”; and

**WHEREAS**, the Hawthorne School Project was completed for a total cost of \$365,287, with the agreement that the School Department would “repay” the advance over several years through appropriations in the annual budget; and

**WHEREAS**, the School Department included appropriations in the 2010-2011 and 2011-2012 budgets to “repay” the Town’s general fund, and reduce the total advanced amount; and

**WHEREAS**, during the development of the 2012-2013 budget the Town Council instructed the School Department to suspend its appropriations for the repayment of the advance; and

**WHEREAS**, on May 2, 2013 and May 6, 2013, during discussion of the 2013-2014 budget, the Town Manager expressed the understanding and affirmation of the Council that the remaining balance of the advance be forgiven; and

**WHEREAS**, the Interim Town Manager has determined that no formal action was taken by the Town Council to authorize forgiveness of the advance from the Town’s general fund; and

**WHEREAS**, on June 30, 2014 the remaining balance of the advance for the Hawthorne School Project was \$186,579.88; and

**WHEREAS**, the Interim Town Manager has recommended formal forgiveness of the remaining balance of the advance in an amount not to exceed \$186,580; and

**WHEREAS**, the Town Council concurs with the Interim Town Manager’s determination;

**NOW THEREFORE BE IT RESOLVED:**

**Section 1. Forgiveness Authorization.** The Town Council confirms and authorizes forgiveness of the remaining balance of the Town general fund advance to the School Department in an amount not to exceed \$186,580 in the fiscal year ended June 30, 2014.

**Section 2. Other Actions Authorized.** Any actions taken to date by the department or Interim Town Manager in connection with expenditures, advanced funds and repayments, are hereby ratified, confirmed, and approved.

Proposed to Town Council: August 4, 2014

Adopted by Town Council:

ITEM 106

BACK UP MATERIALS

# APPOINTMENTS COMMITTEE

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**To:**

Brunswick Town Council

**From:**

Gerald Favreau  
Chair Appointments Committee

**Date:**

July 27, 2014

Fellow Councilors,

On the evening of July 16, 2014, the Appointments Committee met to interview candidates/applicants for three (3) Committees.

**Recreation Commission**  
**Sewer District Trusties**  
**Zoning Board of Appeals**

The Appointments Committee is hereby (two members present) recommending for appointments as follows:

**To the Recreation Commission:**

Kristi Hatrick (Re-appointment) uncontested

**To the Sewer District Trusties:**

Douglas Rice (New appointment) uncontested

**To the Zoning Board of Appeals:**

Matthew D. Morgan (New appointment) uncontested

## **BRUNSWICK BOARD COMMISSION AND COMMITTEE CURRENT & UPCOMING OPENINGS FOR 2014**

The Brunswick Town Council will be holding interviews in July, for the following Board Commission and Committee vacancies listed below. Interested citizens should complete an application form, available in the Town Clerk's Office. Please return applications to the Town Clerk's Office by 4:30 P.M. on Monday, July 15, 2014, in order to be interviewed on Wednesday, July 17, 2014.  
Dates for August interviews – deadline Monday, August 18<sup>th</sup> for August 20<sup>th</sup> interview.

### **Existing Vacancies on Boards Commissions and Committees**

#### Assessment Review Board

1 member – 3 year term to expire on 01/01/2017

#### Conservation Commission

1 member – balance of 3 year term to expire on 05/01/2016

#### Downtown & Outer Pleasant Street Master Plan Implementation Committee

1 member - Pleasant Street Business Owner

1 member - Creative Economy

#### Fair Hearing Authority

3 members – balance of 3 year terms to expire on 10/01/2014

#### Marine Resource Committee

1 alternate member – Commercial Harvester - 3 year term to expire 05/01/2017

1 alternate member – Non License holder balance of 3 year term to expire 05/01/2015

#### Personnel Board

1 alternate member – balance of 3 year term to expire on 01/12/2015

#### Recreation Commission

1 member – balance of 3 year term to expire on 07/01/2016

#### Recycling Committee

1 member – 3 year term to expire on 01/01/2017

#### Sewer District Trustee

1 member – balance of 3 year term to expire on 04/01/2015

#### Zoning Board of Appeals

2 associate members – balance of 3 year terms to expire on 07/01/2016

1 associate member – balance of 3 year term to expire on 07/01/2015

### **Upcoming vacancies for 2014 (Please apply at least one month prior to the month vacancy occurs – you may apply for an upcoming vacancy at any time)**

#### May

##### Trust Fund Advisory Committee

1 member (citizen) – 3 year term to expire on 5/10/2017

#### July

##### Recreation Commission

1 member – 3 year term to expire on 07/01/2017

1 member – balance of 3 year term to expire on 07/01/2016

#### September

##### Water District - Brunswick

1 member – 3 year term to expire on 09/13/2017

#### October

##### Village Review Board

1 member (district resident) – 3 year term to expire on 10/20/2017

1 member (architect/historian) – 3 year term to expire on 10/20/2017

#### December

##### Zoning Board of Appeals

1 full member – 3 year term to expire on 12/18/2017

1 associate member – 3 year term to expire on 12/18/2017

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# Summary of Received Applications

7/15/2014

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Date of Application

## Recreation Commission

**Kristi**

**Hatrick**

**4 Micmac Ln**

**725-1232**

**6/25/2014**

Will this be a reappointment Yes

MembershipType:

Interview Time:

Wed., July 16, 2014, at 6:00 p

## Sewer District Trustees

**Douglas**

**Rice**

**26 Country Ln**

**725-2460**

**7/1/2014**

Will this be a reappointment No

MembershipType:

Interview Time:

Wed., July 16, 2014, at 6:15 p.

## Zoning Board of Appeals

**Matthew**

**Morgan**

**18 dunning St. Apt. 4**

**207 380 4503**

**7/15/2014**

Will this be a reappointment No

MembershipType: Associate

Interview Time:

Wed., July 16, 2014, at 6:30 p

TOWN OF BRUNSWICK  
Application for  
Appointment to Board/ Committee/ Commission

For Office Use Only	
62574	Date App.
	Received
	Date App.
	Entered
	Appointed

Full Name: KRISTI HATRICK Date 06.22.14

Street Address: 4 MICMAC LANE, BRUNSWICK

Home Telephone #: 725-1232 E-mail Address: kristihatrick@gmail.com I live in Council District #:

I wish to be considered for appointment to the:  
RECREATION COMMISSION  
(NAME OF BOARD/COMMITTEE/COMMISSION)

Check one or both:  
FULL MEMBERSHIP STATUS:  TERM BEGINS: 07.01.14  
and/or  
ASSOCIATE MEMBERSHIP STATUS:  TERM EXPIRES:

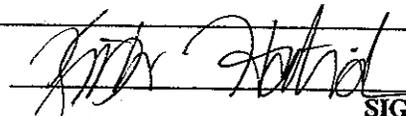
Do you currently serve on any Town Board/Committee/Commission?  If so, please state name of Board/Committee/Commission and the number of years of service:  
RECREATION COMMISSION Number of Years 5 Date term expires 06.30.14

Occupation: EXEC. DIR. OF NONPROFIT  
Employer: ARTS ARE ELEMENTARY Work Telephone #: 725-1232

List any civic organizations to which you belong:  
FIRST PARISH CHURCH

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:  
5 YRS. ON REC. COMM., 1 AS VICE CHAIR  
3 YRS. ON CHURCH COUNCIL OF FIRST PARISH CHURCH (LAY LEADERSHIP BOARD)  
2 AS CHAIR, 1 AS VICE CHAIR

Have you previously served on a Town board/committee/commission? YES If so, please list the board/committee/commission and years of service:  
5 YRS. ON RECREATION COMMISSION

  
SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form. Applications should be returned to the TOWN CLERK'S OFFICE, 28 Federal Street, Brunswick, Me 04011 - BY 4:30 P.M. on the date specified by the public notice.

You will be contacted to set up an interview with the Appointment Committee  
It is the intent of the Town to televise proceedings of Boards/Committees/Commissions

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 06/22/14 BY 60322 UCBAW/STP

Board/Committee/Commission Applying For: RECREATION COMMISSION

Term Length: 3 YEARS

1. Do you have any questions about what the Board/Committee/Commission does or on its charge?

NO.

2. Do you have any practical experience or formal education that would be relevant to the Board/Committee/Commission?

I HAVE SERVED ON THE RECREATION COMMISSION IN BRUNSWICK FOR 5 YEARS, ON THE CHURCH COUNCIL OF FIRST PARISH CHURCH IN BRUNSWICK FOR 3 YEARS (TWO AS CHAIR AND ONE AS VICE CHAIR) AND AS EXECUTIVE DIRECTOR OF ARTS AND ELEMENTARY FOR 2 YEARS. I HAVE A J.D. FROM WILLIAM & MARY AND WORKED AS AN ATTORNEY FOR 4 1/2 YEARS. I AM ALSO A MOTHER TO 2 ACTIVE KIDS, AGES 10 AND 7.

3. Why would you like to be on the Board/Committee/Commission?

I'D LIKE TO SEE THE POOL FEASIBILITY WORK THROUGH TO COMPLETION AND I'D LIKE TO CONTINUE TO WORK ON THE OPENING OF THE KATE FURBISH PRESERVE. I'D ALSO LIKE TO CONTINUE OUR WORK TOWARDS REALIZING THE FULL POTENTIAL OF THE NEW RECREATION CENTER.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

YES AND YES.

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

NO.

6. Do you have anything you would like to add?

IN MY 5 YEARS OF SERVICE I BELIEVE I HAVE MISSED ONE MEETING, OFTEN HAVING TO HIRE BABYSITTERS SO I CAN ATTEND. I HAVE SERVED ON THE SHAREHOLDERS' GROUP FOR THE FURBISH PRESERVE, ON THE POOL FEASIBILITY SUBCOMMITTEE, AND I CHAIRED THE BICYCLE SAFETY SUBCOMMITTEE. I HOPE MY ACTIVE, FAITHFUL PAST SERVICE TO THE RECREATION COMMISSION AND TO BRUNSWICK WILL SUPPORT MY REAPPOINTMENT.

7/16  
6:30 pm ?

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only	
7/15/14	Date App. Received
7/15/14	Date App. Entered
_____	Appointed

Full Name: Matthew D. Morgan Date 2/17/1987

Street Address: 18 Dunning St. Apt. 4 Home Phone # 380-4503

Cell/mobile Phone #: Same E-mail Address: mmorgan@mckeebillings I live in Council Dist. #: 6

I wish to be considered for appointment to the:

Zoning Board of Appeals  
(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS:	_____	TERM BEGINS:	<u>ASAP</u>
and/or			
ASSOC/ALT MEMBERSHIP STATUS:	<u>X</u>	TERM EXPIRES:	<u>7/1/2016</u>

Do you or any relative currently serve on any Town Board/Commission/Committee? No If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

\_\_\_\_\_ # of Years \_\_\_\_\_ Date term exp. \_\_\_\_\_ Relationship \_\_\_\_\_

Your occupation: Attorney

Employer: McKee Billings, LLC, PA Work Telephone #: 620-8294

List any civic organizations to which you belong:

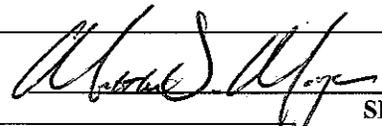
Maine State Bar Association, Maine Association of Criminal Defense Attorneys

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Member of the Portland Zoning Board of Appeals for over a year and a half.

Have you previously served on a Town board/commission/committee? Yes If so, please list the board/commission/committee and years of service:

Please see above answer.

 7/14/14  
SIGNATURE

PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT – PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Zoning Board of Appeals

Term Length: Remainder of 3 yr.

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

None. I am very familiar, given my prior experience on Portland's ZBA.

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

Yes. I am an attorney and have done considerable work around zoning, including taking a course specifically on land-use, prior service on a ZBA, and practical work as both a law clerk and attorney on land-use issues.

3. Why would you like to be on the Board/Commission/Committee?

I enjoy working on a board and enjoy questions about land-use. Additionally, I am new to Brunswick and would like the opportunity to get to know Brunswick better and to be an active member of the community.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

I am aware that the Board meets on an as-needed basis on week nights. I will certainly be able to attend most of the meetings.

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No.

6. Do you have anything you would like to add?

I have attached a resume to provide additional information about my background and I look forward to hearing from you.

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

## MATTHEW D. MORGAN

18 Dunning St., Apt. 4  
Brunswick, ME 04011

(207) 380-4503/mmorgan@mckeebillings.com

### BAR ADMISSION

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State of Maine, 2012

U.S. Federal Court for the District of Maine, 2013

### EDUCATION

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University of Maine School of Law, Portland, Maine

*J.D., magna cum laude*, May 2012

- Class Rank: 9/83
- Research Editor, *Ocean and Coastal Law Journal*
- Published comment: THE AQUAADVANTAGE SALMON: WHO OWNS GENETICALLY MODIFIED ANIMALS?, *OCLJ* (Vol.17, No. 1).
- Maine Association for Public Interest Law Fellow, Summer 2010

Bates College, Lewiston, Maine

*B.A., magna cum laude*, Political Science with Honors Thesis; Minor: Latin, May 2009

- NESAC Spring All-Sportsmanship Award for Bates Rowing, 2009
- Community Based Research Fellow, Summer 2008

### SELECTED EXPERIENCE

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McKee Billings, LLC, PA, Augusta, Maine

*Associate Attorney*, June 2013-Present

- General civil, criminal, and family law practice.
- Submit pleadings and motions in criminal and civil matters.
- Appear for court hearings and trials in administrative, criminal, and family law matters.

State of Maine Judicial Branch, Bangor, Maine

*Foreclosure Diversion Law Clerk*, August 2012-June 2013

- Reviewed all residential foreclosure summary judgment motions for judicial regions 5-8.
- Drafted decisions and orders for Superior Court Justices in complex real estate cases at a variety of litigation stages, including after review of pleadings, motions and attending hearings.

Law Office of Jack D. Miller, Esq., Portland, Maine

*Research Associate*, January 2011-June 2012

- Researched a variety of insurance law issues in Maine and Connecticut.
- Assisted in drafting answers, motions, and discovery requests.

Cumberland County District Attorney's Office, Portland, Maine

*Assistant District Attorney Intern*, June 2011-June 2012

- Appeared in court on a regular basis for arraignments, pretrial conferences, hearings, and trials.
- Charged defendants, made plea offers, and contacted victims for input as to restitution and sentencing.
- Analyzed driving records, bail bonds, pre-trial contracts, and state and national criminal records.

City of Portland, Portland, Maine

*Zoning Board of Appeals Member*, January 2011-August 2012

- Applied City of Portland zoning ordinances to fact specific cases for granting or denying variances, conditional use permits, and recreational permits.
- Participated in bi-monthly meetings to address public concerns and issue the Board's rulings.

Pine Tree Legal Assistance, Lewiston, Maine

*Intern*, September-January 2007; Summer 2008; *MAPIL Fellow*, Summer 2010

- Worked on small claims and eviction cases, researched HUD regulations, and submitted an administrative complaint with affidavits taken from interviews with Somali clients. Also assisted with foreclosure and eviction client intake.

## **SKILLS & INTERESTS**

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Trained and Certified in Westlaw and Lexis.

Proficient with various software applications, including HTML and Java Script.

Enjoy fly fishing, fly tying, and the outdoors in general.

## **REFERENCES**

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### **Prof. Jennifer Wriggins**

Associate Dean for Research and Professor of Law

University of Maine School of Law

246 Deering Avenue

Portland, ME 04102

207-780-4503

wriggins@usm.maine.edu

### **Matthew C. Dyer, Esq.**

Pine Tree Legal Assistance Inc.

37 Park Street, Suite 401

P.O. Box 398

Lewiston, ME 04243-0398

207-784-1558 ext. 6201

mdyer@ptla.org

### **Zachary L. Heiden, Esq.**

Legal Director

ACLU of Maine Foundation

121 Middle Street, Suite 301

Portland, Maine 04101

(207) 774-5444

heiden@mclu.org

TOWN OF BRUNSWICK  
Application for  
Appointment to Board/ Committee/ Commission

For Office Use Only	
7-1-14	Date App.
	Received
	Date App.
	Entered
	Appointed

Full Name: DOUGLAS A. RICE Date 6/25/14

Street Address: 26 COUNTRY LANE

Home Telephone #: (207) 725-2460 E-mail Address: BANDRICE@COMCAST.NET I live in Council District #: 4

I wish to be considered for appointment to the:

SEWER DISTRICT BOARD OF TRUSTEES  
(NAME OF BOARD/COMMITTEE/COMMISSION)

Check one or both:

FULL MEMBERSHIP STATUS:

TERM BEGINS: \_\_\_\_\_

ASSOCIATE MEMBERSHIP STATUS:

TERM EXPIRES: 4/01/15

Do you currently serve on any Town Board/Committee/Commission? YES If so, please state name of Board/Committee/Commission and the number of years of service:

TOWN COUNCIL Number of Years 1 Date term expires \_\_\_\_\_

Occupation: CIVIL ENGINEER

Employer: WRIGHT-PIERCE Work Telephone #: (207) 725-8721

EXT 3760

List any civic organizations to which you belong:

KNIGHTS OF COLUMBUS

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

CIVIL ENGINEER, TOWN COUNCIL - 2 TERMS

Have you previously served on a Town board/committee/commission? YES If so, please list the board/committee/commission and years of service:

CODES REVIEW COMMITTEE, TOWN CENTER BOARD

MEREPOINT BOAT LAUNCH, COOKS CORNER SUBSTATION

BRUNSWICK PLANNING BOARD (CO-CHAIR)

SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form. Applications should be returned to the TOWN CLERK'S OFFICE, 28 Federal Street, Brunswick, Me 04011 - BY 4:30 P.M. on the date specified by the public notice.

You will be contacted to set up an interview with the Appointment Committee

It is the intent of the Town to televise proceedings of Boards/Committees/Commissions

~~It is the intent of the Town to televise proceedings of Boards/Committees/Commissions~~

Board/Committee/Commission Applying For: SEWER DISTRICT BOARD OF TRUSTEES

Term Length: BALANCE OF A THREE YEAR TERM TO EXPIRE 4/01/2015

1. Do you have any questions about what the Board/Committee/Commission does or on its charge?

NO

2. Do you have any practical experience or formal education that would be relevant to the Board/Committee/Commission?

- LICENSED PROFESSIONAL ENGINEER (CIVIL)
- WORKED ON SEWER SYSTEM DESIGNS
- MANAGE ENGINEERING PROJECTS
- CONSTRUCTION INSPECTION

3. Why would you like to be on the Board/Committee/Commission?

- SERVICE TO COMMUNITY
- APPLY WORK EXPERIENCE/KNOWLEDGE TO BOARD

4. Are you aware of the time involved and would you be able to attend most of the meetings?

YES

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

NO

6. Do you have anything you would like to add?

[Empty lines for additional information]



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# CONSENT AGENDA - A BACK UP MATERIALS

**Draft**  
**BRUNSWICK TOWN COUNCIL**  
**Minutes**  
**July 21, 2014**  
**6:45 P.M. – Executive Session**  
**7:00 P.M.**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Councilors Present:** Chair Benet Pols, W. David Watson, Stephen S. Walker, Suzan Wilson, John M. Perreault, Gerald E. Favreau, Jane F. Millett, Sarah Brayman, and John Richardson, Jr.

**Councilors Absent:** None

**Town Staff Present:** John Eldridge, Finance Director/Interim Town Manager; Fran Smith, Town Clerk/Assistant to the Town Manager; Anna Breinich, Director of Planning and Development; John Foster, Public Works Director; Linda Smith, Business Development Manager; Mark Waltz, Police Captain; Julie Henze, Deputy Finance Director; Steve Langsdorf, Town Attorney; Terry Goan, Police Officer; and TV video crew.

Chair Pols called the meeting to order and called the roll.

**Executive Session: consultations with legal counsel regarding pending or contemplated litigation [1 M.R.S.A. §405(6)(E)]**

**Chair Pols moved, Councilor Millett seconded, to go into executive session for a consultation with legal counsel regarding pending or contemplated litigation [1 M.R.S.A. §405(6)(E)] The motion carried with nine (9) yeas.**

**Public Comment**     *(Time item discussion began was 7:14 p.m.)*

**Rosalie Paul**, Peace Works, invited the public to the Peace Fair on August 2<sup>nd</sup>.

**Richard Fisco**, 2 Lincoln Street, spoke about developing better schools and a police department that will cost the Town less money. He requested a meeting for area citizens to discuss ways to improve the town government.

**Correspondence**     *(Time item discussion began was 7:19 p.m.)*

Councilor Perreault spoke about comments he received from the Brunswick West group and their questions regarding the storm water issues surrounding the layover facility; responses from the appropriate people have not yet come back the Town Manager. He also mentioned an email from Ms. Powers regarding a scam with someone posing as a representative of Comcast.

**Council Committee Updates** (*Time item discussion began was 7:24 p.m.*)

Reports were given on the Sidewalk Committee, Solid Waste Committee, and information on the solar project at Brunswick Landing.

*(A copy of the Sidewalk Committee's report will be attached to the official minutes.)*

**Adjustments to the Agenda**

**Councilor Walker moved, Councilor Wilson seconded, to add an executive session at the end of the meeting to discuss acquisition of real property per 1 M.R.S.A. §405(6)(C). The motion carried with nine (9) yeas.**

**MANAGER'S REPORT:**

**(a) Financial Update** (*Time item discussion began was 7:38 p.m.*)

Mr. Eldridge provided this update on the financial status of the Town at the end of the fiscal year.

**(b) Nomination Papers availability** (*Time item discussion began was 7:40 p.m.*)

Fran Smith, Town Clerk, provided this information.

**(c) MMA Annual Election of Vice President and Executive Board** (*Action Required*) (*Time item discussion began was 7:42 p.m.*)

Mr. Eldridge spoke regarding this item.

**Councilor Richardson moved, Councilor Perreault seconded, to approve the slate of nominations for the MMA Vice President and Executive Committee Members as presented on the attached ballot. The motion carried with nine (9) yeas.**

*(A copy of the ballot will be attached to the official minutes.)*

**(d) Approval of ballot for MMA's Legislative Policy Committee** (*Action Required*) (*Comes back from July 7<sup>th</sup> meeting*) (*Time item discussion began was 7:43 p.m.*)

Mr. Eldridge and Chair Pols spoke regarding the item.

**Chair Pols moved, Councilor Richardson seconded, to support Elinor Multer for the MMA 2014-2016 Legislative Policy Committee. The motion carried with nine (9) yeas.**

**(e) Update on ZORC schedule** (*Time item discussion began was 7:45 p.m.*)

**Town Council Minutes**

**July 21, 2014**

**Page 3**

Anna Breinich spoke regarding this item, and responded to questions from Chair Pols, Councilor Brayman, Councilor Millett, Councilor Watson, and Councilor Walker.

*(A copy of the schedule will be attached to the official minutes.)*

**(f) Update on quiet zones and train idling (Time item discussion began was 7:56 p.m.)**

Mr. Eldridge and Mr. Foster provided this update.

Mr. Foster responded to questions from Councilor Perreault and Councilor Brayman.

Chair Pols, Councilor Richardson, Councilor Millett, and Councilor Perreault spoke regarding this item.

*(A copy of a memo from John Foster will be attached to the official minutes.)*

**(g) Update on the CDBG grant for the Greater Brunswick Housing Corporation (Time item discussion began was 8:14 p.m.)**

Mr. Eldridge spoke regarding this item and responded to questions from Councilor Brayman.

Linda Smith, and John Hodge from the Greater Brunswick Housing Corporation, spoke regarding this item and responded to questions from Councilor Favreau.

**PUBLIC HEARING**

- 94. The Town Council will hold a public hearing on applications for a special amusement licenses, and will take any appropriate action. (Manager) (Time item discussion began was 8:18 p.m.)**

**Special Amusement**

**Hung Alan Hoang  
D/B/A: Lemongrass LLC  
212 E Maine Street**

**Hung Alan Hoang**

**Raven's Roost  
Sr. & II  
D/B/A Raven's Roost  
103 Pleasant Street**

**Raven Wing, Ronald Wing**

Chair Pols opened the public hearing; hearing no comments, he closed the public hearing.

**Chair Pols moved, Councilor Favreau seconded, to approve applications for special amusement licenses for Lemongrass, located at 212 E Maine Street, and Raven's Roost, located at 103 Pleasant Street. The motion carried with nine (9) yeas.**

95. The Town Council will hear public comments on amendments to the Zoning Ordinance to consider the rezoning of the MU1 (Rural Mixed Use 1 - Lower Bath Road) District within the Town's Growth Area to CC (Cooks Corner Center) District and remaining lands outside the Growth Area rezoned to CR2 (Country Residential 2) thereby eliminating the MU1 District in total, and will take any appropriate action. (Manager) (*Time item discussion began was 8:20 p.m.*)

Mr. Eldridge and **Charles Frizzle**, Chair of the Planning Board, spoke regarding this item.

Chair Pols opened the public hearing.

The following people spoke regarding this item.

**Rachel Louder**, 84 Old Bath Road

**Ted Crooker**, Storer Road

Chair Pols closed the public hearing.

#### **MOTION**

**Councilor Watson moved, Councilor Favreau seconded, to adopt amendments to the Zoning Ordinance to consider the rezoning of the MU1 (Rural Mixed Use 1 - Lower Bath Road) District within the Town's Growth Area to CC (Cooks Corner Center) District and remaining lands outside the Growth Area rezoned to CR2 (Country Residential 2,) thereby eliminating the MU1 District in total.**

Councilor Perreault asked questions, to which Mr. Frizzle and Mr. Crooker responded.

Councilor Brayman, Chair Pols, Councilor Watson asked questions, to which Ms. Breinich responded.

Councilor Walker, Chair Pols, Councilor Richardson, Councilor Millett, and Councilor Brayman spoke regarding this item.

**Councilor Richardson moved, Chair Pols seconded, to table the item. The motion carried with six (6) yeas. Councilor Brayman, Councilor Walker, and Councilor Millett were opposed.**

**Chair Pols moved, Councilor Wilson seconded, to set a public hearing for August 4, 2014, regarding amendments to the Zoning Ordinance to consider the rezoning of the MU1 (Rural Mixed Use 1 - Lower Bath Road) District within the Town's Growth Area to CC (Cooks Corner Center) District as proposed by the Zoning Rewrite process and expected to be brought forward in the near future.**

Councilor Walker, Councilor Wilson, Councilor Richardson, Councilor Brayman, Councilor Walker, and Councilor Millett spoke on this item.

**VOTE ON MOTION**

**Chair Pols moved, Councilor Wilson seconded, to set a public hearing for August 4, 2014, regarding amendments to the Zoning Ordinance to consider the rezoning of the MU1 (Rural Mixed Use 1 - Lower Bath Road) District within the Town's Growth Area to CC (Cooks Corner Center) District as proposed by the Zoning Rewrite process and expected to be brought forward in the near future. The motion carried with six (6) yeas. Councilor Walker, Councilor Millett, and Councilor Brayman were opposed.**

96. The Town Council will hear public comments on amendments to Chapter 15 ("Traffic and Vehicles – Article IV - Stopping, Standing, Parking") regarding making a section of upper Park Row from South Street to College Street two hour parking only, and will take any appropriate action. (Manager) *(Time item discussion began was 9:13 p.m.)*

Mr. Eldridge spoke regarding this item.

Chair Pols opened the public hearing

**Randy Nichols**, Bowdoin College  
**Joe Ciarrocca**, Harpswell Road

Chair Pols closed the public hearing.

Councilor Brayman, Councilor Richardson, and Councilor Watson asked questions, to which Catherine Longley from Bowdoin College responded.

Councilor Millett and Councilor Perreault asked questions, to which Captain Waltz responded.

**Councilor Favreau moved, Councilor Richardson seconded, to adopt amendments to Chapter 15 ("Traffic and Vehicles – Article IV - Stopping, Standing, Parking") regarding making a section of upper Park Row from South Street to College Street two hour parking only. The motion carried with nine (9) yeas.**

*(A copy of adopted amendments and maps will be attached to the official minutes.)*

97. The Town Council will hear public comments on amendments to the General Assistance Maximums, and will take any appropriate action. (Manager) *(Time item discussion began was 9:36 p.m.)*

Mr. Eldridge spoke regarding this item.

Chair Pols opened the public hearing; hearing no comments, he closed the public hearing.

Councilor Favreau and Councilor Watson asked questions, to which Mr. Eldridge responded.

**Councilor Walker moved, Councilor Wilson seconded, to adopt amendments to the General Assistance Maximums for increases to GA overall maximums. The motion carried with nine (9) yeas.**

*(A copy of adopted amounts will be attached to the official minutes.)*

### **NEW BUSINESS**

**98. The Town Council will consider creating a Finance Committee, and will take any appropriate action. (Councilor Brayman) (Time item discussion began was 9:39 p.m.)**

Councilor Brayman and Mr. Eldridge spoke regarding this item.

Councilor Millett asked a question, to which Mr. Eldridge responded.

Chair Pols, Councilor Richardson, and Councilor Wilson spoke regarding this item.

This item will be brought back at a future meeting.

### **CONSENT AGENDA** *(Time item discussion began was 9:53 p.m.)*

- a) **Approval of the Minutes of July 1, 2014**
- b) **Approval of the Minutes of July 7, 2014**
- c) **Approval of quitclaim deeds for the following: mobile home on land depicted as Map 051 Lot 001 Sub 000 Typ 051; a mobile home on land depicted as Map 051 Lot 001 Sub 000 Typ 110; a mobile home on land depicted as Map 025 Lot 016 Sub 000 Typ 012; a mobile home on land depicted as Map 025 Lot 016 Sub 000 Typ 031; a mobile home on land depicted as Map 022 Lot 054 Sub 000 Typ 070; a mobile home on land depicted as Map 045 Lot 003 Sub 000 Typ 051; a parcel of land with any buildings depicted as Map G01 Lot 002 Sub 000 Typ 000; and a parcel of land with any buildings depicted as Map U11 Lot 033 Sub 000 Typ 000.**
- d) **Approval of gas utility location permit application for a section of Spring Street**

Councilor Brayman spoke regarding the Consent Agenda.

**Councilor Perreault moved, Councilor Favreau seconded, to approve the Consent Agenda. The motion carried with nine (9) yeas.**

*(A copy of materials for CA-C and CA-D will be attached to the official minutes.)*

**Town Council Minutes**

**July 21, 2014**

**Page 7**

**Executive Session: Acquisition of real property [1 M.R.S.A. §405(6)(C)]**

**Chair Pols moved, Councilor Perreault seconded, to go into executive session to discuss acquisition of real property per 1 M.R.S.A. §405(6)(C). The motion carried with nine (9) yeas.**

**Councilor Watson moved, Councilor Favreau seconded, to adjourn the meeting. The motion carried with nine (9) yeas.**

The meeting adjourned at 10:10 p.m.

**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT [WWW.BRUNSWICKME.ORG](http://WWW.BRUNSWICKME.ORG).**

*Frances Smith*

*Town Clerk/Assistant to the Town Manager*

*July 28, 2014*

August 4, 2014

*Date of Approval*

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Council Chair

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# CONSENT AGENDA - B BACK UP MATERIALS

## MEMORANDUM

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TO: John Eldridge, Town Manager  
FROM: John A. Foster, Director, PWD  
DATE: July 28, 2014  
SUBJECT: Utility Location Permits

Attached, for presentation to the Town Council are four applications for Utility Location Permits received from Maine Natural Gas.

In application ULP 2014-17, Swett Street Maine Natural Gas seeks authorization to install a 2" gas main from the existing gas main located on the south side of High St across from the east side Swett St, the proposed gas main will run northerly along the west side of Swett St about 1 foot inside the paved way. Approximately 620 feet of 2" gas main.

In application ULP 2014-18, Everett Street Maine Natural Gas seeks authorization to install a 2" gas main from the proposed gas main to be located on the west side of Middle Street. The new gas main will run from the proposed gas main across Middle St to a point on the north side of Everett about 3 feet within the road, continuing along Middle St 3 feet within the road to a point west of Fairpoint's building where it will transient to the sidewalk and run to Maine St. Approximately 575 feet of 2" gas main.

In application ULP 2014-19, Middle Street Maine Natural Gas seeks authorization to install a 2" gas main from the proposed gas main to be located on the west side of the apron at Hannford, the proposed gas main will run northerly about 3 feet within the paved way to a point across from the north side of Everett St. Approximately 280 feet of 2" gas main.

In application ULP 2014-20, Elm Street Maine Natural Gas seeks authorization to install a 2" gas main from the existing gas main located on the east side of Union St at south side of Elm St, the proposed gas main will run easterly in the sidewalk on the south side of Elm St to Maine St. Approximately 960 feet of 2" gas main.

Brunswick Public Works Department has no objection to these underground utility lines as proposed, providing it is approved subject to the following conditions:

1. The final location is subject to adjustment, as determined necessary by the Town Engineer, to provide adequate clearance from any underground facilities located by field verification by each utility.
2. All work is subject to compliance with the Town's Street Opening and road restoration requirements.
3. Maine Natural Gas has agreed to replace the sidewalks on the south side of Elm St, the west side of Middle St, and the north side of Everett St.

**Town of Brunswick  
Public Works Department**

***Application for Utility Location Permit***

DATE July 21, 2014

Permit Number: ULP2014-17  
(to be provided by Town)

The Maine Natural Gas and \_\_\_\_\_  
(Name of Utility) Joint Utility Name (if applicable)

duly authorized under the laws of the State of Maine to construct, maintain and  
operate a natural gas distribution system  
(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A M.R.S.A., Section 2503, and 17-229 C.M.R. Chapter 205, for a Location Permit for the following installation in the Town of Brunswick.

Provide a Brief Description. (Attach both a general location map and a detailed plan of the installation indicating the exact utility location with offsets for centerline or edge or right of way provided.):

Name of Street: Swett Street  
Starting Point: High Street End Point: Route One

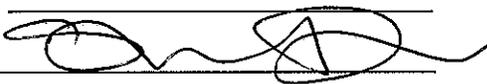
Maine Natural Gas proposes to install a 2-inch High Density Polyethylene (HDPE) gas main on Swett Street. The proposed gas main extension will extend from High Street to Route One heading north and will be located in the outer edge of the roadway on the western side within the right of way. Maine Natural Gas will work with utilities and relocate main as necessary.

Minimum Depth of Cover 36" (if applicable) Maximum PSI 60 (if applicable)

"Any person, firm or corporation owning property which abuts the public way described above and claiming to be adversely affected by this proposed location, may file a written objection with the Town of Brunswick Public Works Dept, 9 Industry Rd, Brunswick, ME 04011, stating the cause of said objection within fourteen (14) days after the publication of this notice. The written objection must be served by delivery in hand or by registered certified mail".

The text of this application  will  will not be published\*: Publish Date: \_\_\_\_\_

Name of Newspaper: \_\_\_\_\_

Signature of Utility: 

Print Name and Title: Sheena Bitetti – Gas Engineer

\*If publication is chosen, the entire application above the double line is to be published. Submit completed applications to the address provided above in the objection statement.

**Town of Brunswick  
Public Works Department**

***Application for Utility Location Permit***

DATE July 21, 2014

Permit Number: ULP2014-18  
(to be provided by Town)

The Maine Natural Gas and \_\_\_\_\_  
(Name of Utility) Joint Utility Name (if applicable)

duly authorized under the laws of the State of Maine to construct, maintain and  
operate a natural gas distribution system  
(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A M.R.S.A., Section 2503, and 17-229 C.M.R. Chapter 205, for a Location Permit for the following installation in the Town of Brunswick.

Provide a Brief Description. (Attach both a general location map and a detailed plan of the installation indicating the exact utility location with offsets for centerline or edge or right of way provided.):

Name of Street: Everett Street  
Starting Point: Middle Street End Point: Maine Street

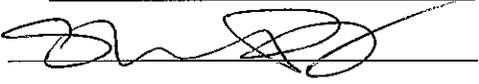
Maine Natural Gas proposes to install a 2-inch High Density Polyethylene (HDPE) gas main on Everett Street. The proposed gas main extension will extend from Middle Street to Maine Street heading east and will be located in the roadway on the northern side within the right of way. Maine Natural Gas will work with utilities and relocate main as necessary.

Minimum Depth of Cover 36" (if applicable) Maximum PSI 60 (if applicable)

"Any person, firm or corporation owning property which abuts the public way described above and claiming to be adversely affected by this proposed location, may file a written objection with the Town of Brunswick Public Works Dept, 9 Industry Rd, Brunswick, ME 04011, stating the cause of said objection within fourteen (14) days after the publication of this notice. The written objection must be served by delivery in hand or by registered certified mail".

The text of this application  will  will not be published\*: Publish Date: \_\_\_\_\_

Name of Newspaper: \_\_\_\_\_

Signature of Utility: 

Print Name and Title: Sheena Bitetti – Gas Engineer

\*If publication is chosen, the entire application above the double line is to be published. Submit completed applications to the address provided above in the objection statement.

**Town of Brunswick  
Public Works Department**

***Application for Utility Location Permit***

DATE July 21, 2014

Permit Number: ULP2014-19  
(to be provided by Town)

The Maine Natural Gas and \_\_\_\_\_  
(Name of Utility) Joint Utility Name (if applicable)

duly authorized under the laws of the State of Maine to construct, maintain and  
operate a natural gas distribution system  
(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A M.R.S.A., Section 2503, and 17-229 C.M.R. Chapter 205, for a Location Permit for the following installation in the Town of Brunswick.

Provide a Brief Description. (Attach both a general location map and a detailed plan of the installation indicating the exact utility location with offsets for centerline or edge or right of way provided.):

Name of Street: Middle Street  
Starting Point: Elm Street End Point: Everett Street

Maine Natural Gas proposes to install a 2-inch High Density Polyethylene (HDPE) gas main on Middle Street. The proposed gas main extension will extend from Elm Street to Everett Street heading north and will be located in the roadway on the western side within the right of way. Maine Natural Gas will work with utilities and relocate main as necessary.

Minimum Depth of Cover 36" (if applicable) Maximum PSI 60 (if applicable)

"Any person, firm or corporation owning property which abuts the public way described above and claiming to be adversely affected by this proposed location, may file a written objection with the Town of Brunswick Public Works Dept, 9 Industry Rd, Brunswick, ME 04011, stating the cause of said objection within fourteen (14) days after the publication of this notice. The written objection must be served by delivery in hand or by registered certified mail".

The text of this application  will  will not be published\*: Publish Date: \_\_\_\_\_

Name of Newspaper: \_\_\_\_\_

Signature of Utility: 

Print Name and Title: Sheena Bitetti – Gas Engineer

\*If publication is chosen, the entire application above the double line is to be published. Submit completed applications to the address provided above in the objection statement.

**Town of Brunswick  
Public Works Department**

***Application for Utility Location Permit***

DATE July 21, 2014

Permit Number: ULP2014-20  
(to be provided by Town)

The Maine Natural Gas and \_\_\_\_\_  
(Name of Utility) Joint Utility Name (if applicable)

duly authorized under the laws of the State of Maine to construct, maintain and  
operate a natural gas distribution system  
(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A M.R.S.A., Section 2503, and 17-229 C.M.R. Chapter 205, for a Location Permit for the following installation in the Town of Brunswick.

Provide a Brief Description. (Attach both a general location map and a detailed plan of the installation indicating the exact utility location with offsets for centerline or edge or right of way provided.):

Name of Street: Elm Street  
Starting Point: Union Street End Point: Maine Street

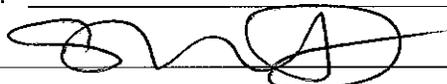
Maine Natural Gas proposes to install a 2-inch High Density Polyethylene (HDPE) gas main on Elm Street. The proposed gas main extension will extend from Union Street to Maine Street heading east and will be located in the sidewalk on the southern side within the right of way. Maine Natural Gas will work with utilities and relocate main as necessary.

Minimum Depth of Cover 36" (if applicable) Maximum PSI 60 (if applicable)

"Any person, firm or corporation owning property which abuts the public way described above and claiming to be adversely affected by this proposed location, may file a written objection with the Town of Brunswick Public Works Dept, 9 Industry Rd, Brunswick, ME 04011, stating the cause of said objection within fourteen (14) days after the publication of this notice. The written objection must be served by delivery in hand or by registered certified mail".

The text of this application  will  will not be published\*: Publish Date: \_\_\_\_\_

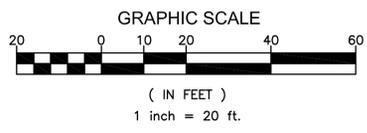
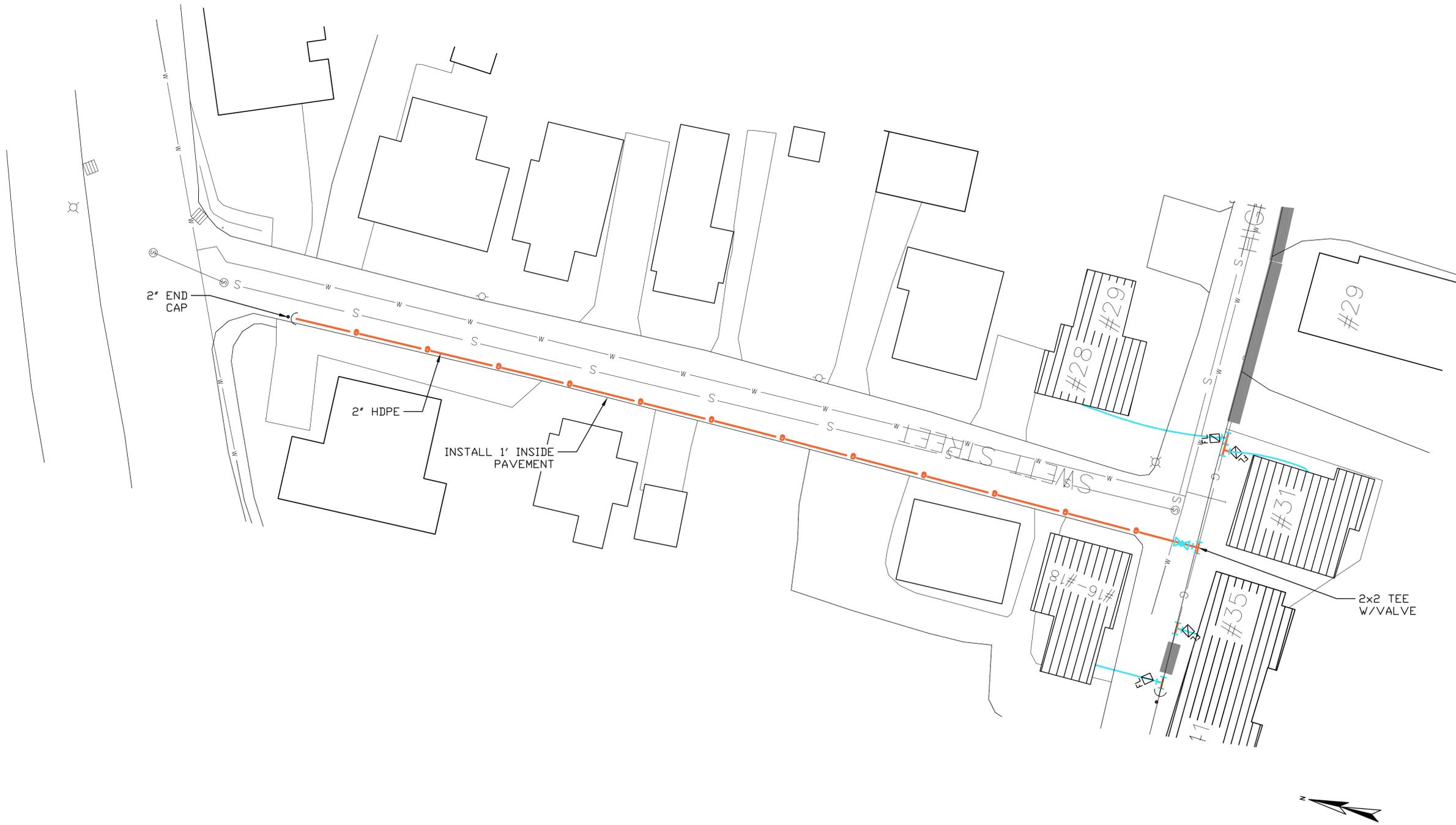
Name of Newspaper: \_\_\_\_\_

Signature of Utility: 

Print Name and Title: Sheena Bitetti – Gas Engineer

\*If publication is chosen, the entire application above the double line is to be published. Submit completed applications to the address provided above in the objection statement.

CONTRACTOR TO MAINTAIN 36" DEPTH. CONTRACTOR TO VERIFY ALL UTILITIES AND KEEP MINIMUM CLEAR DISTANCE REQUIRED. CONTRACTOR TO COORDINATE WITH TOWN OF BRUNSWICK AND UTILITIES.



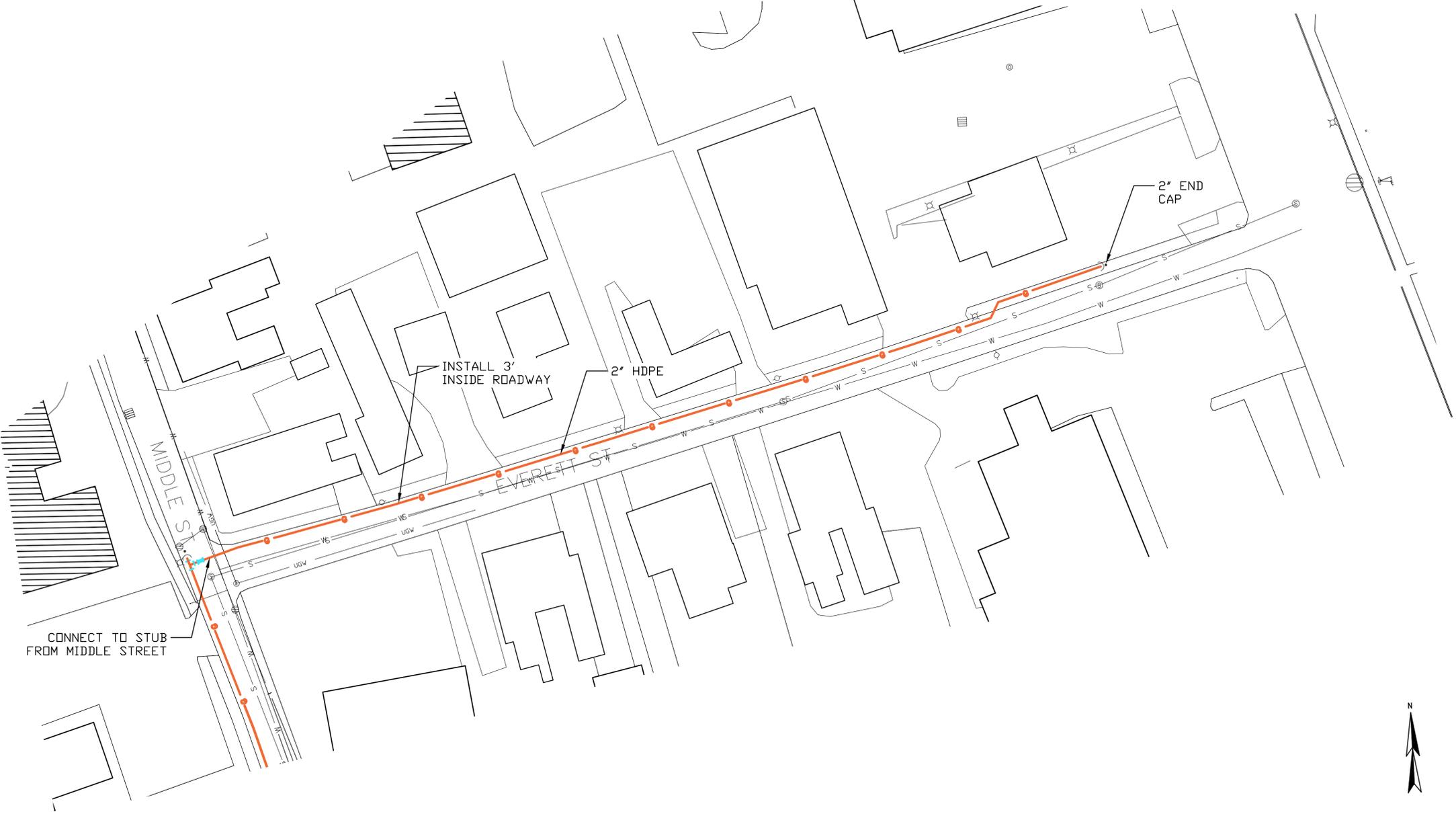
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CHECKED BY		7/21/14
DATE 07/21/2014		
APPROVED BY		
DATE		
BOOK NO.		
PROJECT NO. 7R-13070		
SCALE 1" = 40'		
NO. SUBMISSIONS/REVISIONS		
UTILITY LOC. PERMIT		
DATE		
PROJECT NO.		
SCALE		
PLOTTED		7/21/2014



MAINE NATURAL GAS  
 GAS MAIN EXPANSION  
 BRUNSWICK, MAINE  
 SWETT STREET

DRAWING  
 C-1

CONTRACTOR TO MAINTAIN 36" DEPTH. CONTRACTOR TO VERIFY ALL UTILITIES AND KEEP MINIMUM CLEAR DISTANCE REQUIRED. CONTRACTOR TO COORDINATE WITH TOWN OF BRUNSWICK AND UTILITIES.

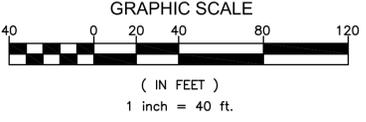


CONNECT TO STUB FROM MIDDLE STREET

INSTALL 3' INSIDE ROADWAY

2" HDPE

2" END CAP



NO.	SUBMISSIONS/REVISIONS	UTILITY LOC. PERMIT	APPROD. DATE
1			7/21/14
2			
3			
4			

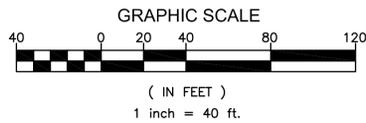
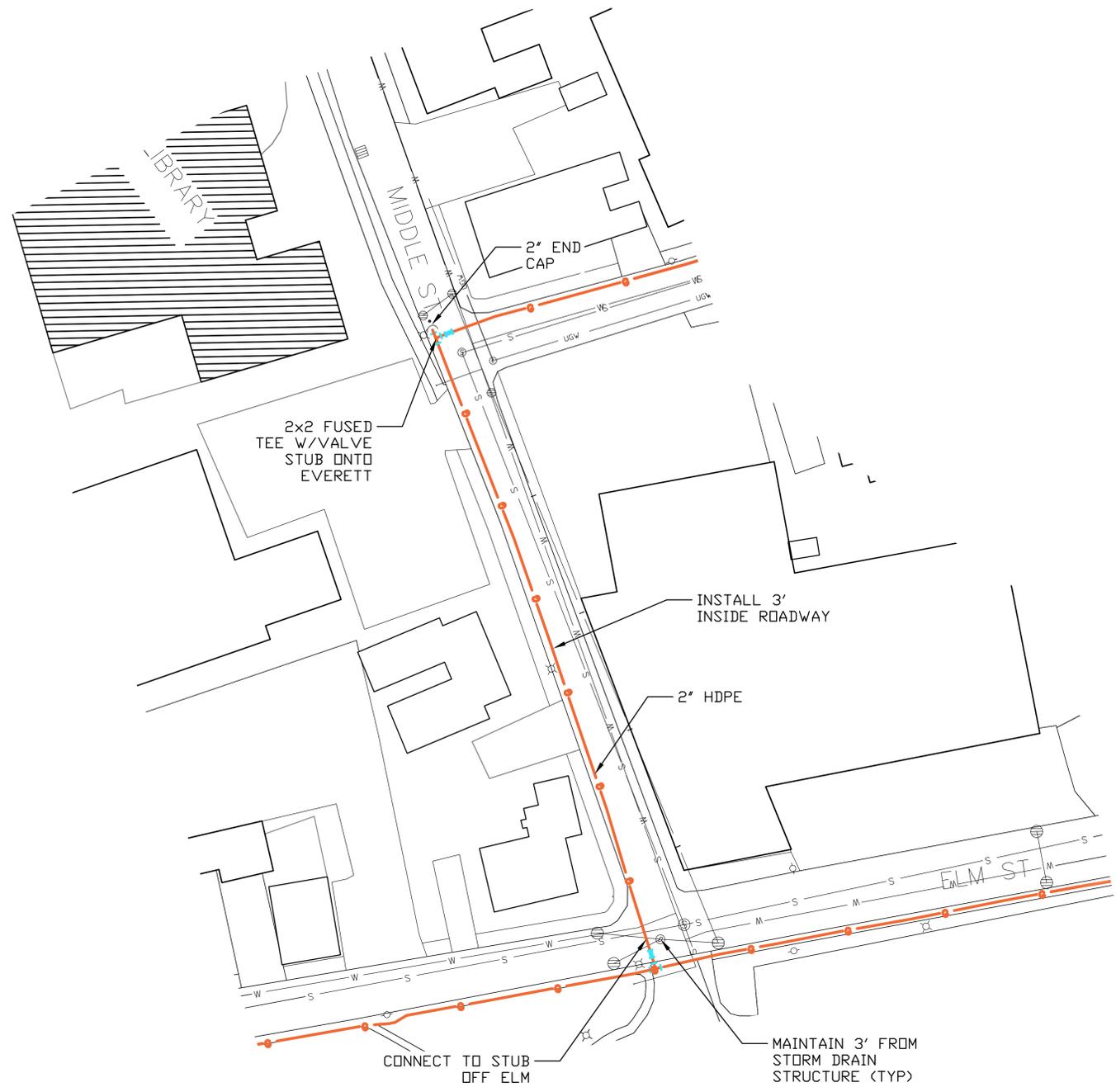
DRAWN BY SMB  
 CHECKED BY  
 DATE 07/21/2014  
 APPROVED BY  
 DATE  
 BOOK NO. 7R.13059  
 PROJECT NO. 7R.13059  
 SCALE 1" = 40'



MAINE NATURAL GAS  
 GAS MAIN EXPANSION  
 BRUNSWICK, MAINE  
 EVERETT STREET

DRAWING  
 C-1

CONTRACTOR TO MAINTAIN 36" DEPTH. CONTRACTOR TO VERIFY ALL UTILITIES AND KEEP MINIMUM CLEAR DISTANCE REQUIRED. CONTRACTOR TO COORDINATE WITH TOWN OF BRUNSWICK AND UTILITIES.



NO.	SUBMISSIONS/REVISIONS	UTILITY LOC. PERMIT	APPD	DATE
1				7/21/14

DRAWN BY SMB	DATE 07/21/2014
CHECKED BY	APPROVED BY
DATE	DATE
BOOK NO.	PROJECT NO. 7R-13047
SCALE 1" = 40'	

9 Industrial Parkway, Brunswick, Maine 04011

MAINE NATURAL GAS  
GAS MAIN EXPANSION  
BRUNSWICK, MAINE

MIDDLE STREET

